

## **SECTION 2 (POST AWARD ACTIVITIES)**

### **1.0 ACCEPTANCE OF CONTRACT PERFORMANCE BANK GUARANTEE**

#### **2.0 (CPG)/Initial Security Deposit (ISD):**

1.1.1 After issuing the Letter Of Intent (LOI) or DWO/DPO, in cases where LOI is not applicable, the Contractor will have to submit the Contract Performance Bank Guarantee (CPG)/Initial Security Deposit (ISD) as stipulated in the LOI/DWO/DPO. It will be ensured that the Earnest Money submitted by the Contractor along with his bid is kept valid till acceptance of the CPG/ISD so that the same can be forfeited, if required.

1.2 On receipt of the CPG/ISD from the Contractor, the same will be verified for general conformity to the specified format by the C&P Wing. If the same is found to be in order, the Bank Guarantee will be forwarded, within 2(Two) days from receipt, to the Finance Wing for scrutiny. Finance Wing shall scrutinize the BG to ascertain if the same is in order and whether it is issued by a bank specified in the bid documents within 2(Two) days. The Ordering Authority will write to the issuing bank for confirmation and subsequently accept the BG. If the BG is found to have deviations from the format and/or is issued by a bank other than the banks specified in the bid documents, the Ordering Authority will ask the Contractor to submit the amendment/fresh BG immediately. This whole activity will be completed within a maximum period of 30(thirty) days from the date of receipt of the BG.

Procedure for obtaining Bank confirmation regarding verification of genuineness of Bank Guarantee prior to acceptance:

In terms of CVC OM No. 02-07-1CTE-30/309204 Dated 04.03.2016, in addition to paper based confirmation system, any one or more of the following methods of verification may be considered for ensuring genuineness of Bank Guarantee.

- a) Getting confirmation through digitally signed secured e-mails from issuing Banks;
- b) Online verification of Company portal with user ID and password followed by 2<sup>nd</sup> stage authentication system generated One Time Password (OTP) on portal for reconfirmation;
- c) E-mail confirmation followed by 2<sup>nd</sup> stage authentication by system generated SMS through registered mobile and reconfirmation through SMS to the verifying officer.
- d) The Bank Guarantee be routed through SFMS (Structured Financial Messaging System) platform. The details of the NEEPCO's advising Bank for SFMS platform is given below:
  - i) Name of the Bank: .....

- ii) Name as per bank record: North Eastern Electric Power Corporation Ltd.
- iii) Bank A/c No: .....
- iv) Type of A/c: .....
- v) IFS Code: .....

**The Advising Bank of the concerned Project/Plant/Office shall be decided by the respective Head of Finance.**

- 1.3 Normally the CPG/ISD submitted by the Contractor will be strictly as per the format incorporated in the bid documents. However, minor changes/amendments may be agreed to, if the same do not change the intent and spirit of the CPG/ISD or may have been necessary for the particular contract. The changes/amendments proposed will be vetted by Finance Department and approved by the Ordering Authority.
- 1.4 The CPG/ISD shall be submitted by the Contractor within the time period stipulated in the LOI. Failure to do so will attract penalty @ 1% of the EMD amount per week of delay or part thereof, or, cancellation of the LOI as may be deemed fit by the Ordering Authority and approved by the competent authority as per provisions of DOP.
- 1.5 The Ordering Authority will be the appropriate authority for acceptance of CPG/ISD.
- 1.6 For contracts awarded from Corporate Office related to either works of Corporate Office itself or to Sites, the accepted BG in lieu of the CPG/ISD will be immediately forwarded to Corporate Finance/Site Finance respectively from the office of the ED(C&P). For contracts awarded from Sites, the accepted CPG/ISD will be forwarded by the Ordering Authority to Site Finance. Safe custody of the CPG/ISD and validity extension of the same, whenever required, will be the responsibility of respective Finance.
- 1.7 The Ordering Authority, immediately after acceptance of the CPG/ISD of the successful bidder, will intimate Corporate Finance or Site Finance, whichever is applicable, for return of the EMD/Bid Security of the unsuccessful bidders. The Finance Wing will then return the same to the Ordering Authority for release. This activity will be completed within 7(seven) days from the date of acceptance of the CPG/ISD.
- 1.8 The Finance Wing will keep proper record of the BGs. The detailed procedure for the same and the related issues are incorporated at Section 3 of this Manual.

## **2.0 FINALIZATION OF DELIVERY/CONSTRUCTION SCHEDULE:**

- 2.1 Within 15(fifteen) days from the issue of letter of acceptance of the LOI by the Contractor, the delivery/construction schedule will be finalized by Indenting Authority and ED(D&E) (ED (CPM) shall be co-ordinating agency) for Corporate contracts and by the HOP/HOD for contracts awarded from Site/other stations. For this purpose, the contractor along with officials from

C&P Wing, D&E Wing and Projects Wing (wherever applicable) will be called for discussions to be convened by the C&P Wing. During this discussion, the list of plant & machinery to be deployed for execution of the work and schedule of deployment of the same will be finalized and approved by NEEPCO. The schedule so finalized will be in line with completion schedule incorporated in the bid documents and indicate schedules for all major and critical activities covered under the contract, taking into account different inter-linkages and interfacing between different packages of the project. The schedule will take into account the time periods taken for activities like approval of sub-vendor, quality plan, design activities, inspection, manufacturing, supply & delivery of materials, civil and erection activities, testing and commissioning, different obligations of NEEPCO etc.

- 2.2 The delivery/construction schedule, so finalized, will be incorporated in the Contract Agreement to be signed with the Contractor.
- 2.3 During the discussions held with the contractor for finalization of the delivery/construction schedule/ L2 schedule, formats of monthly progress reports to be submitted by the contractor will also be devised. The progress report will cover all the broad activities like i) Design & Engineering, ii) Sub-vendor approval, iii) Inspection, iv) NEEPCO's obligations like Project Authority Certificate, Import Licence and other formalities for import, Statutory Approvals, Opening of LC etc., v) Supplies, vi) Site activities, vii) Financial targets, viii) Payment status, ix) Status of BGs, x) Plant & Machinery, xii) Man power deployment.
- 2.4 For contracts awarded from Corporate Office, the information pertaining to signing of Contracts will be furnished by ED(C&P) to CPM department. CPM department will in turn provide the format of the progress reports to the respective HOP for submission of the same. The formats so devised will be approved by ED(CPM). Copies of the progress reports prepared from the sites will be forwarded to O/O ED (Projects), O/O ED(C&P) and ED(CPM).
- 2.5 For contracts awarded from Sites/other stations, formats of progress reports will be devised from O/O HOP/HOD and will be provided to the executing Departments for submission of the reports. The formats of these reports will be approved by the concerned HOP/HOD.
- 2.6 The formats of progress reports will be circulated by an Officer not below the rank of Dy Manager.
- 2.7 In case the basic scope of the work undergoes changes during execution of the work and the Contractor requests for extension of the supply/construction schedule, the same will be examined by the EIC/ HOP and approval, if justified, will be obtained from the Competent Authority as per DOP by the EIC/ HOP. Similarly, if circumstance necessitates shortening of completion time, the proposal shall be initiated by the EIC/ HOP.
- 2.8 In case the approved completion schedule requires extension not due to change in scope, but because of delayed commencement of work due to nonfulfilment of obligations by NEEPCO or due to any other reason not attributable to the Contractor, the delivery/construction schedule will be

suitably revised and approval obtained from the Competent Authority as per DOP.

2.9 In case of time extension necessitated by reasons attributable to the Contractor, the same will be regulated as per the Contract provisions and approved in accordance with DOP.

2.10 The revised delivery/construction schedule/ L2 schedule will be circulated to all concerned departments.

2.11 The executing Department will ensure that during the time taken for obtaining approval of the revised schedule, works will not be stopped by the Contractor.

### **3.0 SIGNING OF CONTRACT:**

3.1 The Contract Agreement will be signed after issuance of the DWO/DPO and acceptance of CPG/ISD.

3.2 On issuance of the DWO/DPO and acceptance of the CPG/ISD by the Department awarding the contract, the Contract Agreement will be signed, within the time period mentioned in the DWO/DPO, appending therewith all the Documents forming part of the contract. The Contract Agreement will be signed in three original copies, sealed and bound. (1<sup>st</sup> original for department awarding the contract, 2<sup>nd</sup> original for contractor and 3<sup>rd</sup> original for the executing authority). For cases, where contract agreement is not signed, the DWO/DPO along with the letter of acknowledgement of the Contractor, will be sealed and bound and kept in safe custody.

3.3 For contracts awarded from Corporate Office, the original copy of the Contract Agreement will be kept in the O/O ED(C&P) for ready use and certified (by an officer not below Sr. Manager) copies will be circulated to the following Departments:

ED(D&E)	-	1(one) copy
ED(Projects)	-	1(one) copy
HOP/HOD	-	3(three) copies
Corporate Finance	-	1(one) copy
ED(CPM)	-	1(one) copy

However, nos. of copies and concerned Authorities may be adjusted as per requirement.

3.4 For contracts awarded from Sites/other stations, the original copy of the Contract Agreement will be kept in the office awarding the contract for ready use and certified (by an officer not below Manager) copies will be circulated to the following Departments:

Executing department	-	2(two) copies
Finance wing	-	1(one) copy
HOP/HOD	-	1(one) copy

3.5 Circulation of copies of Contract Agreements will be done within 30(thirty) days from the date of signing of the Contract Agreement.

- 3.6 Signing of Contract Agreements will not be mandatory for supply packages under domestic funding or supply packages under revenue budget with values less than Rs. 25(twenty five) lakhs. In such cases, the DPO and its unconditional acceptance by the Contractor along with the bid documents and the amendments thereto, will be construed as the Contract Document.

**4.0 RELEASE OF MOBILIZATION ADVANCE/ADVANCE AGAINST PLANT & MACHINERIES/ SECURED ADVANCE/ NON-RECOVERABLE DOWN PAYMENT:**

- 4.1 Provision of mobilization advance should essentially be need-based. Decision to provide such advance shall rest at the level of Board (with concurrence of Finance).

Mobilization Advance shall be limited to 5% (five percent) of Contract value, to be released in two equal installments of 2.5% (two point five percent) each. Utilization certificate from the contractor for the mobilization advance shall be obtained. The 2<sup>nd</sup> installment shall be released after getting satisfactory utilization certificate from the contractor for the 1<sup>st</sup> installment.

1st instalment of Mobilization Advance shall be released, subject to fulfilment of the following:

- (i) Signing of Contract Agreement
- (ii) Submission and acceptance of BG

The amount of mobilization advance; interest to be charged, if any; its recovery schedule and any other relevant detail should be explicitly stipulated in the tendered document upfront.

Relevant format for BG shall be provided in the tender document, which shall be enforced strictly and authenticity of such BGs shall also be verified from the issuing bank, confidentially and independently by the organization.

The recovery of mobilisation advance shall be made from all interim bills such as Running Account Bills, Escalation Bills and any other interim bill related to works. At any point of time, even if the Contractor's money on account of work done is not available with the Corporation or if the Contractor is not executing the work or executing it at a slow pace, recovery of Mobilisation Advance shall be made by encashing BG of required value submitted against Mobilisation Advance.

If the Contractor fails to mobilise machinery and labour or execute works within the stipulated mobilisation period, as per the approved Construction Programme, the Corporation reserves the right to encash the Bank Guarantees furnished against Mobilisation Advance.

Besides the reason giving rise to the encashment of BG, as stated above, if there is a delay in submission of bills by the contractor or any other reasons attributable to contractor, leading to delayed recoveries of advance, interest shall be charged on such delayed recoveries @ SBI MCLR 1 YR plus at least 5% prevailing on the schedule date of recovery.

**4.1.1 Interest bearing Mobilization advance:**

Mobilization advance shall generally be interest bearing at the rate of SBI MCLR 1 YR plus at least 5% and recovery shall be linked with progress of work.

Mobilization advance shall be released to contractor against submission of BG of equivalent amount along with interest @ SBI MCLR 1 YR plus at least 5% or 110% of Mobilization Advance amount, whichever is higher. For the purpose of BG, interest @ SBI MCLR 1 YR plus at least 5% prevailing as on the date of LOI shall be adopted and interest will be calculated upto the period that the advance is fully adjusted.

Mobilization advance shall be recovered on pro-rata basis from the work bills of the Contractors along with interest @ SBI MCLR 1 YR plus at least 5% , duly starting the recovery when 10% of the work is executed and completing the recovery by the time 80% of the original Contract price is executed. The interest shall be calculated on balance of principal outstanding on the date of recovery.

#### 4.1.2 **Interest free Mobilization advance:**

If interest free mobilization advance is felt necessary in specific cases, it shall be placed before the BOD for approval. If interest free mobilization advance is decided, it shall be clearly stipulated in the tender document and its recovery should be time-based and not linked with progress of work. This would ensure that even if the contractor is not executing the work or executing it at a slow pace, the recovery of advance could commence and scope for misuse of such advance could be reduced.

Part 'Bank Guarantee' (BGs) against the mobilization advance should be taken in as many numbers as the proposed recovery installments and should be equivalent to the amount of each installment. This would ensure that at any point of time even if the contractor's money on account of work done is not available with the organization, recovery of such advance could be ensured by encashing the BG for the work supposed to be completed within a particular period of time.

The Mobilisation Advance shall be recovered monthly/quarterly instalments (as decided by tendering Authority) from the contractor as per the following stipulations.

- (i) Commencement of recovery: Recovery shall commence from the last day of the 2nd month subsequent to the month in which the Mobilisation advance is released.
- (ii) Completion of recovery: The advance along with accrued interest shall stand fully recovered on the last day of last but 2(two) month of schedule completion month.
- (iii) Amount of monthly/quarterly recovery: The Principal shall be recovered in equal monthly/quarterly instalments (As decided by tendering Authority).

- 4.2 Plant & Equipment Advance, up-to a maximum of 10% (ten percent) of the Contract Sum shall be payable to the Contractor. Such Advance shall be interest bearing @ SBI MCLR 1 YR plus at least 5% from the date of release of advance against submission of BG of equivalent amount along with interest @ SBI MCLR 1 YR plus at least 5% (Marginal Cost of Funds based Lending Rate), till such time the advance is recovered fully from the Contractor, duly starting the recovery when 10% (ten percent) of the Original Contract Price is executed and completing the recovery by the time 80% (eighty percent) of the Original Contract Price is executed. Upon submission

by the Contractor of hypothecation deed of Plant and Machinery procured upto the value of advance granted by the Corporation, duly insured, the BG shall be released.

For the purpose of working out interest, SBI MCLR 1 YR plus at least 5% prevailing as on the date of LOI shall be adopted.

Advance against Plant & Equipment will be released, subject to fulfilment of the following:

- (i) Signing of Contract Agreement
- (ii) Finalization of the list of new machinery to be procured/ mobilized by the Contractor and approval of the schedule of deployment of the same by the Corporation
- (iii) Submission of Invoice/Proforma Invoice for the new Construction Equipment
- (iv) Submission and acceptance of BG

Insurance and hypothecation to the employer should be ensured.

- 4.3 Secured Advance of 75% of cost of cement and steel shall be granted after the materials are received at site, duly certified by the Engineer in Charge. The amounts of Secured Advance in any case, shall not exceed 50% of the total cost of items where cement and steel are required to be used. The Secured Advance shall be granted for only those Contracts where supply of cement and steel is within the scope of the Contractor. No escalation on such component of cost will accrue from the date of release of advance till it is fully recovered. This shall be recovered on monthly basis from the work bill to the extent of utilisation of material. However, such advance will be recovered fully within a period of 6(six) months from the date of grant of advance or on utilization of the material whichever is earlier.

Secured Advance will be released, generally, subject to fulfilment of the following:

- (i) Submission of Invoice;
- (ii) On production of documentary evidence by the Contractor to the Engineer-In-charge about receipt of the materials at the site and cost thereof.

- 4.4 For Supply/Consultancy packages, Non-Recoverable Down Payment may be allowed to facilitate the Contractor/Consultant towards starting the manufacturing/ procurement of equipment. This payment is not an advance payment and is also not adjustable as in the case of the advances described at Cl. Nos. 4.1, 4.2 and 4.3 above.

Non-Recoverable Down Payment against supply/Consultancy will be released, generally, subject to fulfillment of the following:

Unconditional acceptance of the DPO/DWO

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Acceptance of CPG by NEEPCO

Signing of Contract Agreement

Submission of Invoice

Submission of BG of equivalent amount along with interest @ SBI MCLR 1 YR plus at least 5% (Marginal Cost of Funds based Lending Rate),

Finalization of delivery/Consultancy schedule

However, if Contractor/Consultant fails to execute the contract, the Down Payment shall be recovered with interest @ SBI MCLR 1 YR plus at least 5% (Marginal Cost of Funds based Lending Rate). The interest shall be calculated from the date of release of the Down Payment.

- 4.5 For Erection/Supply-Cum-Erection Contracts, Advance payment against Erection/Erection part will be in line with Clause No. 4.1 above.
- 4.6 In addition to the above conditions laid down at Clause Nos. 4.1, 4.2, 4.3 and 4.4, any other conditions pertaining to the release of advances as contained in specific Contract Agreements will need to be fulfilled.
- 4.7 For Corporate Contracts, the Contractor will be required to submit the Invoice for Mobilization Advance as well as other advances and Down Payments along with the documents required, to the concerned HOP/HOD. For Contracts awarded from Sites/other stations, the Invoice along with the documents will be submitted to the Ordering Authority.
- 4.8 The BG submitted by the Contractor against all advances/down payments will be scrutinized by the HOP/Corporate Contracts and Ordering Authority for sites with the same procedure as followed for CPG (detailed in Clause No. 1.0). Within 3(three) days from the date of acceptance of the BG, the Invoice will be forwarded to Finance Wing for release of the advance. Within 15(fifteen) days from submission of the Invoice to Finance Wing, the advance payment will be released. It will be ensured by both the Ordering Authority and the Finance Wing that the advance payment will be released within the period stipulated in the Contract Agreement.
- 4.9 For Contracts awarded from Corporate Office, the intimation regarding release of advance payment/down payment will be given by Site Finance to the ED(C&P) and to the executing Department. For Contracts awarded from Sites/other stations, such intimation will be given by Site Finance to the executing Department.
- 4.10 Issues relating to release of advance payment are mentioned at Clause No. 12.0 of Section 3.

## **5.0 APPROVAL OF SUB – VENDOR/SUB – CONTRACTOR:**

- 5.1 All efforts will be made to finalize the Sub-Vendor/Sub-Contractor before award of contract. Finalization of Sub-Vendor/Sub-Contractor, if not decided during the pre-award stage or additionally proposed after award of Contract,



shall be taken up during the post award stage within the time limit framed during the post bid discussions, or as indicated in the approved construction schedule.

- 5.2 The proposal of the Contractor for approval of Sub – Vendor/Sub – Contractor for supply items against Contract awarded from Corporate Office, will be submitted to O/O ED(C&P), which will be scrutinized and approved by the ED(D&E). The communication to this effect will be made by the ED(C&P) with the Contractor. For approval of Sub – Contractor for works, the proposal of the Contractor will be scrutinized in O/O ED(C&P) and approved. Monthly Progress Report, on the status of the approval of Sub – Vendor/Sub – Contractor, will be submitted from O/O ED(D&E) to O/O ED(C&P) until completion of this activity.

- 5.3 The Sub – Contractor proposed by the main contractor for erection/civil packages in respect of works awarded from Corporate Office, except where awarded during pre award stage, shall be recommended from site to O/O ED(C&P) for approval. The Contractor shall be required to furnish details/documents in support of qualification/experience of the sub- contractor along with a report on assessment of the Sub – Contractor by the main Contractor, for NEEPCO's review. The details/Documents submitted in support of the sub contractor's qualification/experience will be examined at site as well as in the O/O ED(C&P) before approval.

In case, the Sub-Contractor has previous working experience in the same area with NEEPCO or other organizations of repute, and is generally considered to be capable of executing the works proposed to be subcontracted, assessment of sub-contractor would not be required and the request of the contractor shall be accepted. In case of the proposed sub-contractor having no prior experience with NEEPCO or other organizations of repute, the assessment of the capability of the sub-vendor/sub-contractor may be carried out depending on the criticality and the volume of work involved. In such a case, the proposal initiated by the concerned site shall also bring out the terms of reference for assessment and the time period for submission of Assessment Report, which in the normal course shall not exceed two weeks.

The recommendation from site on approval or otherwise of the Sub – Contractor will be prepared from the executing department at site and forwarded through HOP to O/O ED(C&P) for approval. The process of recommendation on the above will not take more than 1(one) week at site. Further, the same will approved at O/O ED(C&P) within 1(one) week.

- 5.4 For approval of Sub-Vendor/Sub-Contractor in respect of works awarded from site/other stations, the recommendation of the executing department will be put up to HOD/HOP. The respective HOD/HOP, after scrutiny, will approve the same. The procedure of approving the Sub – Vendor will be the same as at Sl. No. 5.3 above.

- 5.5 While overall monitoring of execution of the works awarded from Corporate Office will be done by ED(CPM), the progress towards approval of Sub– Vendor/Sub–Contractor will be regularly monitored by ED(C&P), so that the

time period kept for this activity in the approved construction schedule can be achieved.

- 5.6 For works awarded from Sites/other stations, the progress towards approval of Sub-Vendor/Sub-Contractor will be regularly monitored by HOD/HOP, so that the time period kept for this activity in the approved construction schedule can be achieved.
- 5.7 It may so happen that the Contractor, at the time of actual execution, requests for change of Sub-Vendor/Sub-Contractor approved for a particular supply item or civil/erection work, during pre-award or post-award stage, or for appointment of new Sub-Contractor/ Sub-Vendor after the time limit specified in the Contract. The Contractor, while making such requests, shall give valid reasons for the same. The Contractor's request in this regard shall be examined and dealt with as detailed in 5.3 and 5.4 above. However, any consequential impact on the time schedule and extra financial involvement thereof on account of the change in Sub-Vendor/Sub-Contractor will be to the account of the Contractor.
- 5.8 It may also sometimes happen that the main Contractor may envisage supplying a particular item himself as per the Contract, but during actual execution he proposes to supply that item through a Sub-Vendor/Sub-Contractor. There may be a vice-versa situation also. While such a change shall normally be discouraged, the request of the contractor shall be considered in case of compelling circumstances and will be examined in the way detailed in 5.3 and 5.4 above.
- 5.9 In case of change from main Contractor to Sub-Vendor/Sub-Contractor or vice versa, the issue of commercial implications, which are linked with (a) freight & insurance (b) taxes & duties, shall be dealt with as described hereunder:

(a) Freight & Insurance

It has generally been observed that for most of the bought out items and sometimes for items manufactured by him, the Contractor proposes more than one Sub-Vendor at the bidding stage. However, the quoted inland freight and insurance charges for each item, irrespective of the number of Sub-Vendors proposed and the geographical location of their works, remains the same. As such, irrespective of the geographical location of the source of supply, the Contractor is entitled for fixed freight & insurance charges. Considering the above and the fact that a Bidder/Contractor is entitled to propose any number of Sub-Vendors in his bid or new Sub-Vendors during post award stage, the question of any price implication on account of inland freight & insurance in case of change of Sub-Vendor/source shall not arise.

(b) Taxes & Duties

For understanding the implications on account of the change under reference, it is pertinent to appreciate the treatment of taxes and duties during the evaluation of bids. This is discussed below.

In case of all packages, the taxes and duties on the items to be supplied by the main Contractor are reimbursed as per actual, unless otherwise mentioned in the Contract. In case of items supplied through Sub-Vendor, the taxes and duties are already included in the quoted price. Accordingly, in case of change of a source of supply from main Contractor to a Sub-Vendor during post award stage, the taxes and duties shall also be reimbursed as per actual restricted to the amount of taxes and duties as originally payable to the main Contractor in terms of the Contract. However, in case of change of source of supply of an item from Sub-Vendor to main Contractor, no additional payment/reimbursement shall be made by NEEPCO towards taxes and duties, as the same are deemed to be included in the Contract Price. This procedure will be applicable even in the case of packages funded by multilateral financial institutions, where the taxes and duties were not originally considered for the purpose of evaluation, as per the evaluation criteria stipulated by these agencies.

- 5.10 There may be a case when the main Contractor proposes change of works of himself or a Sub-Vendor, who owns more than one works at different locations for supply of an item. In such a case, the request of the Contractor shall be considered on the following lines.

For such a change, the commercial implication which are linked with (a) freight & Insurance and (b) taxes & duties, shall be dealt with as described below.

- (a) Freight & Insurance:

There shall not be any price implication on this account.

- (b) Taxes & Duties:

Normally, as per contracts awarded by NEEPCO, the contract price for items to be supplied through Sub-Vendor is inclusive of taxes and duties. The Contractor proposes a number of Sub-Vendors for each item and quotes only one price for the item in the bid. Therefore, irrespective of the Sub-Vendor, the price (inclusive of taxes and duties) for any item is fixed. Hence, the price, that is applicable to any Sub-Vendor out of those appearing in the bid/DWO/DPO, shall also be applicable to any other Sub-Vendor proposed during post award stage but meeting specification requirement.

In case of change of works of the bidder from tax payable zone to tax free zone, the consequential benefit of taxes shall get passed on to NEEPCO wherever the taxes for direct transactions between the bidder and NEEPCO are reimbursable as per the terms and conditions of the bid documents. In the reverse case i.e., change of works of the bidder from tax free zone to tax payable zone, no additional payment towards reimbursement of taxes, over and above the taxes reimbursable for original works (as per the bid and considered in evaluation), shall be made.

- 5.11 This policy and procedure described in above paras for dealing commercial implications on account of change of Sub-Vendor, change of main Contractor to Sub-Vendor or vice versa and change of works of main Contractor/Sub-Vendor shall not be applicable for change of source from offshore to onshore and vice-versa. . Such a change shall normally not be allowed. However, under compelling circumstances the request of the Contractor, if any, shall be dealt with on merits of individual case.

**6.0 DETAILED ENGINEERING, APPROVAL OF DRAWINGS AND TYPE TEST:**

- 6.1 The schedule for all engineering activities viz, drawing approval, witness and approval of type tests including witness/review of routine tests prior to type test etc., as tied up in the post bid discussions (under pre-award stage) and reflected suitably in the over-all contractual work schedule, shall be the reference to monitor progress of Engineering activities. Based on the above work schedule, detailed network shall be finalized and approved by ED (D&E) (for contracts awarded from Corporate Office) and by HOD/HOP (for contracts awarded by Sites/other stations) incorporating detailed breakup of all the drawings to be approved, schedule of submission by the Contractor, approval by NEEPCO including sequential release in the order it is required for construction/ manufacturing. The detailed network so finalized shall become the basis for all further monitoring of this aspect. Copies of detailed network so finalized will be forwarded to ED(Projects), ED(C&P) and ED(CPM), for contracts awarded from Corporate Office. For contracts awarded from Sites/other stations, copies will be circulated to HOD/HOP and executing departments.
- 6.2 The progress of engineering activities of a Contract shall be reviewed on fortnightly basis by ED (D&E) for Corporate Contracts and HOD/HOP, for packages of Sites/other stations. Monthly review of engineering activities will be taken by ED (D&E) for Corporate Contracts and concerned HOD/HOP for packages of Sites/other stations. On the basis of this review meeting, monthly package-wise status report of Engineering activities for Corporate Contracts, bringing out the exceptions and critical issues, shall be submitted by the ED(D&E) to ED(Projects) and ED(C&P).
- 6.3 The concerned Engineering Coordinator (handling the package), not below the level of Sr. Manager, shall ensure that Detailed Engineering Records including dates of receipt of drawings/ design calculations/ other technical details from Contractor and its approval by NEEPCO and the intermediate activities i.e., dates of various activities pertaining to type tests, pertaining to approval of Sub-Vendor items involving QR, etc are properly maintained. A status in regard to all the aforesaid details indicating actual dates vis-à-vis scheduled along with the quantum of delay and responsibility center (whether NEEPCO or the Contractor) shall be furnished by the Engineering Coordinator to the ED(D&E) or HOP/HOD, wherever applicable and execution Site. The proforma of such status report shall be standardized by O/O ED (D&E), or HOP/HOD, keeping in view that all relevant data, those are necessary for the executing site to analyze and decide Time Extension/L.D cases, are contained therein.

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- 6.4 For contracts awarded from Corporate Office, in respect of design carried out by the Contractor, drawings/ other technical documents, that are conforming to contract specification, shall be approved by ED(D&E), ensuring at least one level of review prior to approval.
- For contracts awarded from Sites/other stations, in respect of design carried out by the Contractor, drawings/ other technical documents, that are conforming to contract specification, HOP shall submit such design, drawing, technical documents etc with comments to concerned ED for obtaining approval of ED(D&E). ED(D&E) shall ensure at least one level of review prior to approval.
- 6.5 Variation in quantity of item(s) specified in the Contract or requirement of substituted/new items and changes/deviation in make/model/specification of an item, necessitated during detailed engg. stage on account of engg. requirement, shall require Technical Approval of competent authority as per DOP from Corporate Office for Corporate Contracts and from HOP/HOD for Site Contracts. If DOP is not clear in this regard, it would require approval of ED (D&E) in case of Corporate Contracts and concerned HOP/HOD for Site Contracts. For seeking such approval, the concerned Engg. Coordinator shall put up a detailed proposal, bringing out reasons for change/ deviation including estimated cost implication of the same. The Technical Approval for quantity variations as above and the variation in quantity of items specified in the Contract or requirement of substituted/new items necessitated at Project site arising out of site condition has been deliberated further in subsequent paras of this section.
- 6.6 For type tests to be witnessed within India, official will be nominated by ED concerning the project in consultation with ED (D&E). For type tests to be witnessed abroad, the executive shall be nominated by ED concerning the project in consultation with ED (D&E) and the nomination shall be approved by D(T)/CMD. NEEPCO's acceptance of type test reports and clearance for commercial production shall be conveyed to the Contractor by an official not below the level of Sr. Manager, with the approval of the ED(D&E).
- 6.7 For contracts awarded from Corporate Office, as & when engineering activities are in progress, the concerned Engg. Coordinator shall ensure that proposals for Technical Approval pertaining to change of item and/of quantity/specification/makes/model of item(s) are expeditiously processed and the approval of the Competent Authority is obtained. Further, it shall also be ensured that such Technical Approvals are forwarded in original by the concerned engg coordinator not below Sr. Manager in O/O ED (D&E) to the Competent Authority for further processing towards Administrative Approval for issue of change order, as per DOP.
- For contracts awarded from Sites/other stations, as & when engineering activities are in progress, the concerned engg. coordinator shall ensure that proposals for Technical Approval pertaining to change of item and/of quantity/specification/makes/model of item(s) are expeditiously processed and the approval of the Competent Authority is obtained.
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6.8 The availability of construction drawings being the basic input for proceeding ahead with site activities, all care shall be taken to ensure that different activities under this head are completed within the time frame specified in the approved schedule for the same in a sequential manner. Since timely completion of engg activities to a large extent shall depend upon the promptness in submission of necessary data/drawings by the contractor as and when required, the engg. coordinator shall be constantly following up with the contractor for early submission of details and shall maintain dates pertaining to communication to the contractor and receipt of details from him. All such details shall be included in the status report to be furnished by the engg. coordinator.

6.9 In order to ensure that single point coordination is carried out with outside agencies or the Region, an executive from O/O ED(D&E) not below the rank of Sr. Manager, to be referred to as Coordinator, shall be identified by ED(D&E) in respect of each corporate package.

#### **7.0 APPROVAL OF QUALITY PLAN:**

7.1 Since Manufacturing Quality Plan (MQP) may not be required for all equipments/materials, detailed guidelines in this regard interalia identifying the items, for which MQP will be applicable, will be finalized from O/O ED(D&E) with the approval of ED(D&E).

7.2 Once Sub-Vendor/Sub-Contractor has been finalized, the Manufacturing Quality Plan, wherever applicable, shall be finalized expeditiously with concerned manufacturers for different equipments/materials to be supplied. All actions in this regard will be taken from O/O ED (D&E) for contracts awarded from Corporate Office. The order placing authority will be responsible for this for contracts awarded from Sites/other stations.

7.3 The Manufacturing Quality Plan for a particular equipment/material, wherever finalized with the manufacturer, which may be either main Contractor or Sub-Vendor, shall be valid for the particular contract.

7.4 Keeping in view the fact that the extent of involvement of NEEPCO in Inspection should depend upon the importance/criticality of equipment/material as well as vendors' own commitment to quality, a system of vendor rating needs to be developed to ensure optimum utilization of resources. Requisite guidelines in this regard will therefore be finalized by ED(D&E).

#### **8.0 INSPECTION AND DESPATCH CLEARANCE:**

8.1 For Contracts awarded from Corporate Office, immediately after the award of a Contract, a detailed schedule for various QA&I activities, based on the approved quality plan and delivery/construction schedule, will be prepared by the D&E wing in consultation with EIC/HOP and the Contractor and approved by the ED(D&E). For Contracts awarded from Sites/other stations, the above actions will be taken by the Ordering Authority.

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- 8.2 For contracts awarded from Corporate Office, the inspection call will be submitted by the Contractor to EIC/HOP with a copy to ED concerning the project. For contracts awarded from Sites/other stations, the same will also be submitted to the HOP/HOD.
- 8.3 The inspection team will comprise of representatives from the O/O ED(D&E) and the concerned project authority.
- 8.4 The inspection activities shall be monitored against the aforesaid approved detailed schedule. Inspection calls given by the Contractor shall be responded to promptly. It will be ensured by the Ordering Authority that the inspection is carried out within the period stipulated in the approved schedule.
- 8.5 The inspection/test report, immediately after completion of the inspection/testing, will be examined by O/O ED(D&E)/HOD/HOP, as the case may be, and approval of the same will be intimated to the HOP. The references/standards required for examination of the reports will be detailed in the bid documents. Immediately on receipt of intimation towards approval of test report, dispatch clearance will be issued by the HOP. It will be ensured that the time taken for approval of test report and issue of despatch clearance will be as per the time period stipulated in the approved delivery/construction schedule.
- 8.6 Deficiency, if any, in the material/equipment with reference to the datum provided in the specification but acceptable as per contract with a financial compensation (such as Iron /Copper loss in case of Transformer) will also be reflected in despatch clearance so as enable applicable recovery.
- 8.7 The concerned official in project, not below the level of Assistant Manager, shall maintain QA&I records, which shall include scheduled and actual dates of various QA&I activities, viz, Sub-Vendor and quality plan approval, inspection call by the Contractor and actual inspection by NEEPCO including issuance of test report approval, despatch clearance etc., indicating the quantum and responsibility(whether NEEPCO or Contractor) of delay in each activity. A quarterly status in regard to all the aforesaid details shall be furnished by this official to ED(D&E), ED(Projects) and ED(C&P) and HOP of the concerned project. For Contracts awarded from Sites/other stations, such records will be kept by the Ordering Authority and status will be furnished to the executing department and the HOP/HOD.
- 8.8 During implementation of a Contract, the following situations may be encountered:
- (a) Material offered for inspection at manufacturer's works is not conforming to specification.
  - (b) Document furnished in support of quality requirement is found to be forged one, or the contractor is found to have indulged in any other corrupt and/or fraudulent practice.

In case the quality of the material offered for inspection is not observed to satisfy specification requirements/quality standards, the offered material shall be rejected as per norms/standards by the inspector. An opportunity may also

be given to the vendor/sub vendor for re-work/re-engineering and offering the material again for inspection after approval of ED(D&E)(for Corporate contracts) and HOD/HOP(for Contracts awarded from other stations/project sites) regarding rework/re-engineering procedure. If the above situation is repeated, NEEPCO's representative carrying out the Inspection shall refer the same ED(D&E)/HOD/HOP depending upon the place from where the Contract is awarded and the Vendor/Sub-Vendor shall be advised to investigate the cause of failure, submit the report and take appropriate measures to improve the quality upto required level. The measures may include change in source of raw material, modification in manufacturing process etc. Apart from above, quality audit/ quality surveillance may be carried out by O/O ED(D&E) and additional tests may be prescribed to be carried out during inspection.

- 8.9
- a. In case the various measures described in para above fail to yield desired results, the approval of Quality Plan accorded to the Vendor/Sub-Vendor by NEEPCO for the product and the manufacturing unit in question may be kept in abeyance or withdrawn depending on the magnitude of the problem. In case the Quality Plan is kept in abeyance, the manufacturer would be required to submit corrective action plan within a maximum of 3 months, failing which approval shall be withdrawn. However, if the corrective action plan is to the satisfaction of NEEPCO, the abeyance would be revoked. The proposal for keeping the approval in abeyance or for withdrawal of approval or reinstatement shall be initiated by the concerned official in O/O ED(D&E) (not below the rank of Assistant Manager) for the approval of ED (D&E). In case the approval of Quality Plan is withdrawn, the name of the product from the concerned manufacturing unit of Vendor/Sub-Vendor shall be deleted from the list of approved vendors maintained by NEEPCO for the particular Contract.
  - b. If the Vendor in question is a Sub-Vendor of the main Contractor, the latter shall be asked to propose alternative Sub-Vendor forthwith preferably from approved list of NEEPCO so as to avoid delay in various formalities towards approval of new Sub-Vendor and Quality Plan. However, in extreme cases where change in Sub-Vendor leads to delay in execution of the project, the Sub-Vendor, on approval of ED(D&E), may be allowed to complete the supplies of the ongoing project but with stringent inspection checks.
  - c. In case the Vendor in question happens to be the main Contractor, he too shall be asked to make immediate arrangement to supply the material through alternative sources acceptable to NEEPCO. In case of lack of prompt response, cancellation of the contract can be resorted to in terms of provisions of the Contract, for which the proposal initiated by the EIC/HOP shall be sent through ED (D&E) to ED(C&P) for further proceeding ahead in the matter. For contracts awarded from Sites/other stations, this action will be initiated by the Order Placing Authority and approval will be accorded by the respective HOD/HOP.



- d. In case the Vendor/Sub-Vendor, whose name has been deleted from the approved list as described in para above, carries out modification in the manufacturing process, by virtue of which he intends to manufacture goods of required quality, he shall, in that case, make a written request along with related documents including third party test report to ED(D&E) for review of the decision. On examination of the request and documents, if considered appropriate, decision towards approval of the same will be taken by the ED(D&E).
- e. On being approved after review as at d) above, such Vendor/Sub-Vendor shall be allowed to participate in the bidding of future packages.
- f. In case it is detected during the process of inspection of material that the documents furnished by the Vendor/Sub-Vendor in support of quality requirement are/is forged or any other corrupt and fraudulent practice is detected, the same shall be viewed very seriously. Under such a situation, extreme steps such as blacklisting of the Vendor and termination of the contract can be resorted to.
- g. For withdrawal of Quality Plan approval, the proposal shall be initiated by the concerned official of O/O ED(D&E) and the approval of ED(D&E) shall be obtained. In case of the Quality Plan being withdrawn for corrupt/fraudulent practices of the Contractor, proposal shall be moved by the same official for blacklisting/suspending of business as per the methodology prescribed. While moving the proposal for Quality Plan withdrawal and suspending/blacklisting, period of proposed suspension/blacklisting shall also be interalia, indicated depending upon facts of the case.
- h. Once Quality Plan approval has been withdrawn on account of fraud/corrupt practices by the concerned bidder and blacklisting is in progress, bid documents shall not be issued to the erring Contractor for future packages. In case bid documents have been issued but Quality Plan approval is withdrawn before the award of the Contract on this ground and/or suspending/blacklisting proceedings is to commence, the concerned bidder shall not be considered for award.

8.10 Any delay in the approved schedule of the QA&I activities due to the above, will be to the account of the Contractor.

## **9.0 EXECUTION OF WORKS AT SITE:**

9.1 The focal point for successful and smooth execution of the Contract shall be the concerned site office. It shall be the responsibility of the concerned site office to ensure implementation of the contract in line with the related provisions of the Contract, within the specified schedule. However, necessary assistance shall be extended to the site office by all concerned depts./offices in Corporate office, O/O ED(Projects) and O/O ED(D&E), in the areas under their responsibility, towards proper & timely execution of the contract.

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- 9.2 Under each Contract, the progress of supply of material/ equipment and other site activities shall be closely monitored by the concerned execution site. In order to effectively review the progress of the project, HOP of the concerned project and O/O ED(Projects) will finalize a schedule, in consultation with the Contractor, of further break up of activities based on the approved schedule for all Corporate Contracts. For Site Contracts or packages from other stations, the execution site of the concerned department shall finalize the same with contractor. This detailed schedule will be the basis for day-to-day review and monitoring of the progress.
- 9.3 The progress of various activities related to a Contract will be reviewed with the Contractor by the concerned site in charge on weekly basis. The critical areas shall be promptly communicated to the concerned HOD/HOP and the Contractor on weekly basis.
- 9.4 The concerned HOD/HOP shall review with different Contractors the progress of activities under respective Contracts, based on the detailed schedule, on fortnightly basis. On the basis of the review, the slippages in all areas of supply/ erection/ testing/commissioning shall be identified. In case the review with the Contractor brings out deficiency/ inadequacy in mobilization of manpower/equipment by the Contractor at the site, to be the primary reason for shortfall in progress, a detailed program for augmenting resources and improving progress shall be finalized with the Contractor. Communication to different Contractors including OEMs, and advice on remedial measures for arresting/ making up the delays shall be regularly sent after each review. In case deficiency /inadequacy in supply by OEMs or other suppliers is likely to become critical for progress of work at site, the matter shall be taken up with the concerned OEMs/suppliers and closely followed up. Depending upon the criticality of supplies in question, a representative office of the HOP may also be sent to supplier's works to physically ascertain the status and to expedite the supplies. A meeting with the Suppliers' representative may also be called at project Site in consultation with ED(Projects), if the situation so warrants. In case of delay in activities, for which the Depts/Offices, other than the concerned site are responsible, ED(C&P), ED(Projects) and ED(D&E), as applicable, shall be promptly apprised of by the concerned HOD/HOP so that necessary corrective action could be taken at the earliest.
- 9.5 For Corporate Contracts, monthly package-wise progress report of activities, bringing out exceptions and critical issues, shall be submitted by the concerned HOP to ED(Projects) and ED(C&P). ED(Projects) shall follow up with concerned project for expediting inputs required by execution site, pertaining to their respective areas of responsibility, and will also follow-up with concerned Contractors including OEMs/suppliers for arresting/ making up delays in works/ supplies. Apart from the routine checks prescribed in the Contract/Field Quality Plan, the execution site, in order to assure the implementation of quality control systems and procedures, shall also carry out random checks as per accepted standards. All tests/ checks witnessed/carried out shall be properly recorded. Execution site shall also ensure that different site activities of a project are carried out by the Contractor sequentially as per the specifications/ requirement of the works. The contractor shall be required to take express clearance of NEEPCO before carrying out any important activity. The Ordering Authority is to ensure
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that these points are incorporated in the Contract Agreement. Such details shall be chronologically recorded in a prescribed format.

- 9.6 The item/equipment, inspected & cleared for despatch but received at site in defective condition, shall be reported promptly to ED(Projects), with copies to ED(C&P) and ED(D&E) (for Corporate Contracts) by the execution site. In case, the material received in good condition shows defects during erection, the same shall also be referred to ED(Projects), with copies to ED(C&P) and ED(D&E) for investigation, while concurrently, action for replacement/rectification will be taken up by the HOP with the Contractor. For contracts awarded from Sites, the above actions will be taken up and decided at the project level by the HOP.
- 9.7 Apart from the surveillance checks carried out by executing department, Corporate QC&A may also carry out surveillance checks during execution of works. Execution site shall ensure that Hindrance Register is maintained and entries are made therein on daily basis. The Hindrance Register should record all the hindrances in scheduled progress of work, such as delay in release in fronts due to non-completion of work by another agency doing associated work, delay in supply of infrastructure, facilities by 'Owner' as per Contract, delay in receipt of material, delay in deployment of trained/adequate manpower, non availability of site engineer/project in-charge of contractor etc, apart from the day-to-day hindrance such as rain, power cut, local problem etc. These records also shall be reviewed during the fortnightly review of the progress of work by the concerned HOD/HOP, as mentioned above, and corrective measures shall be taken. Moreover, the entries/records in the register will be used/ referred while analyzing LD cases/arbitration cases/other claims of the contractor. Hindrance Register shall be signed by both the parties.
- 9.8 Execution site shall extend necessary assistance to the Contractor on matters requiring cooperation from local authorities, district administration, and other Government officials.
- 9.9 There may be instances when, despite repeated reminders/follow up from various levels, desired improvement in progress of works/ supplies is not observed and it is apprehended that the overall project schedule is going to be adversely affected because of the same. In such a situation, option of issuing a Notice Of Default to the contractor, in line with the provisions of the contract, can be exercised and subsequent actions can be initiated. Such a Notice shall be issued by an executive of the concerned execution Site, authorized and designated as per contract. If nothing is specified in the contract, it shall be issued by an executive of the execution Site at a level not below Sr. Manager. While 'Cancellation/ Termination' of any Contract shall be resorted to as the last recourse only, all concerned of NEEPCO handling the contract will be alert and vigilant and will act promptly and carefully from beginning of execution of the contract so as to avoid, to the extent possible, any last minute crisis.
- 9.10 'Cancellation/ Termination' of a Contract has been dealt with separately in this Volume.

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## **10.0            MONITORING OF PROGRESS:**

10.1            The Monthly Progress Reports to be furnished by different Contractors, in the prescribed format, as discussed above, shall be examined by ED(Projects) taking into account the progress reports received from the concerned execution Site(s). Based on the above, a Monthly Progress Report and an exception report, identifying critical areas for action from Corporate Office and the executing Site, shall be finalized by ED(Projects) and submitted to Director(Technical). A copy of the compiled Progress Report together with exception report shall be sent to ED(CPM) in Corporate office.

10.2            The progress and the exception reports as above shall be reviewed by ED(Projects) on monthly basis. The issues for review shall generally include status in regard to the following:

- (i)            Engineering activities including preparation and approval of drawings
- (ii)           Sub-vendor's approval
- (iii)           Inspection/testing
- (iv)           NEEPCO's obligations viz Project Authority Certificate, Import License and other formalities for import, opening of LC, statutory approvals, etc
- (v)            Supplies
- (vi)            Site activities
- (vii)           Financial and Budgetary targets
- (viii)           Payment status
- (ix)            Status of BGs
- (x)            Contract closing.

Based on the said review, the action plan on different thrust areas shall be finalized by ED(Projects) in consultation with the concerned Wings and submitted to Director(Technical), and also sent to all concerned in the executing Site and ED(CPM) in Corporate Office. The successive review by ED (Projects) shall also include the action taken report in respect of the action plan decided in the previous review meeting.

10.3            The Monthly Progress Report, Exception Report and the action plan for different thrust areas, as received from different execution Sites, shall be analyzed by ED(CPM) who shall put up a summarized MIS (Management Information System) report (indicating only milestones and critical areas), to CMD and all Directors. ED(CPM) shall also arrange a Progress Review Meeting to be chaired by Director (Technical), at least once in two months. However, the frequency of the meeting may be increased to monthly if so decided by Director(Technical) keeping in view the criticality of various projects Action plans decided in such review meetings shall be circulated by

ED(CPM) to all concerned and the actions taken by them shall be monitored by ED(CPM) for apprising the Management.

10.4 Contract Monitoring Committee (CMC) - for Consultancy services:

For Consultancy services the concerned executing authority shall constitute a committee i.e. Contract Monitoring Committee (CMC) comprising at least three members at the appropriate level, including the user's representative, after the selection procedure is over for monitoring the progress of the assignment. The executing authority may also include individual experts from the government/private sector/ educational/research institute or individual consultant/ service providers in the CMC. The cost of such members, if any, shall be borne by NEEPCO. The CMC shall be responsible for monitoring the progress of the assignment, to oversee that the assignment is carried out as per the contract, to assess the quality of the deliverables, to accept/reject any part of assignment, to levy appropriate liquidated damages or penalty if the assignment is not carried out as per the contract and if the quality of services is found inferior and for any such deficiency related to the completion of the assignment.

For the assignments which are very complex and/or are of highly technical nature, the executing authority may decide to appoint another qualified consultant/ service provider to assist the CMC in carrying out its functions and monitoring the following activities \*\*:

- i) Issuing the notice to proceed;
- ii) Review of the inception phase;
- iii) Deciding on possible modifications to scope of work and issuing contract variations;
- iv) Monitoring progress of assignment, Monitoring that key experts are actually employed; reports and their review including review of draft final report and the final report to ensure that assignment (whether time-based or lump-sum) is completed in accordance with the contract;
- v) Billing, payment and monitoring the expenditure vis-à-vis progress;
- vi) Resolving problems faced by consultants/ service providers and dealing with disputes and arbitration;
- vii) Terminating services prior to the end of the contract; and
- viii) Release of final payment and guarantees (if any) and closing the contract;
- ix) Post contract evaluation.

**\*\* Note :**

Ref: Chapter 8, Preparation of Consultancy Services, of Manual for Procurement of Consultancy & Other Services issued by Govt. of India, Ministry of Finance, Department of Expenditure (Updated June, 2022).

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**11.0      RECORDS OF MEASUREMENT BOOK (MB), PROCESSING OF BILLS  
AND RELEASE OF PAYMENT:**

- 11.1      Entries in Measurement Book shall be made by JE Grade II and above. Check measurement will be for 100%, 50% 10% and 5% respectively for Engineer/ Assistant Manager, Deputy Manager/Manager, Sr. Manager and Dy. General Manager respectively. For contracts awarded from Corporate Office, there will a check level of 5% each for General Manager and HOP.
- 11.2      Timely release of payment is the basic prerequisite for successful completion of any contract. The timely release of payment shall not only facilitate expeditious implementation of the contract in question but will also convey the right message to the entire bidding community resulting in enhanced competitiveness of prices in future bidding. Therefore, it is the policy of NEEPCO to ensure timely release of payment due to the contractor.
- 11.3      All payments under the contract shall be released within the time schedule specified in the contract.
- 11.4      The responsibility for timely release of all payments under the contract, including the Initial Advance for a supply contract, supply portion of a supply cum erection contract or civil works contracts awarded by Corporate Contracts, shall be that of the executing Site/Station.
- 11.5      All payments to the Contractors in foreign currency shall be released by Corporate Finance on receipt of verified bills and Pay Advice from the execution Sites/O&M Projects/D&E Wing/Planning Wing, after taking care of the formalities, if any, on account of statutory requirement. This procedure will be applicable to Contracts awarded from Corporate Office as well as Sites.
- 11.6      The bill for the Initial Advance along with the original Bank Guarantee for Initial/ Mobilization advance for erection contract, erection portion of supply cum erection contract or civil works contract shall be required to be submitted by the Contractor to the EIC for execution.
- 11.7      The BG shall be checked in the executing Department for its general conformity to the specified format. If the BG is generally found to be in order, the same will be forwarded to Site Finance for scrutiny. Verification towards issue of the BG will be obtained from the bank by site C&P Wing for contracts awarded from site and by the executing Department for contracts awarded from Corporate Office.
- 11.8      After it is ensured by Site Finance that the BG is from a Bank as specified in the Contract and is as per prescribed format, concurrence will be given by Site Finance to the executing Department for their acceptance of the BG. For contracts awarded from Sites, the BG will be accepted at the C&P Wing by an officer not below the rank of Sr. Manager. In the case of contracts awarded from Corporate Office, the BG is to be accepted by the concerned HOP.
- 11.9      Normally the BG submitted by the Contractor will be strictly as per the format incorporated in the bid documents. However, minor changes/amendments may be agreed to, if the same do not change the intent and spirit of the BG or may have been necessary for the particular contract. The

changes/amendments proposed will be recommended with justification by the Ordering Authority for vetting by the Finance Wing. The same will then be approved by the Ordering Authority.

- 11.10 Wherever Letter Of Credit (LC) is required to be opened as per Contract, for release of progressive payment/ despatch payment, action shall be taken immediately on receipt of request of the Contractor to that effect, along with programme of dispatch as per approved delivery/construction schedule. The request of the Contractor, containing Banker's details and programme of dispatch, shall be addressed to HOP. HOP will approve the opening the LC in terms of the Contract Agreement and after obtaining concurrence of Site Finance. HOP will then forward the proposal to Corporate Finance for opening the LC.
- 11.11 If an LC is required to be extended due to non-utilization of the same by the Contractor, the charges shall be to Contractor's account, if not otherwise provided in the Contract.
- 11.12 It shall be ensured by NEEPCO that LCs are opened and kept valid as per contractual schedule for which necessary follow up action and monitoring shall be done by Corporate Finance and HOP. Further, HOP shall also take up with the Contractor the cases of non-utilisation of LC and other matters related to LC.
- 11.13 All bills pertaining to payment through LC will be submitted by the Contractor directly to the bank enclosing relevant documents under intimation to HOP along with 1(one) set of the same documents. The Executing Department will verify the documents in terms of the conditions of LC and issue confirmation to Corporate Finance for release of the payment, through Site Finance. On receipt of this confirmation, Corporate Finance will advise the concerned banker accordingly. This whole activity will be completed within a maximum of 7(seven) days.
- 11.14 All requests for opening of LC will be forwarded by the Contractor in the format prescribed by the Bank for the purpose.
- 11.15 a. All bills pertaining to despatch payments, to be released directly by NEEPCO, against RR/LR for all types of contracts shall be required to be submitted by the Contractor directly to the Execution Department (in triplicate). If the bill is in order, the same shall be processed by the Execution Department and payment shall be released by concerned Finance Wing within 7(seven) days of receipt of verified bill in Finance Wing. The deductions effected in the bill, indicating the break-up under different heads, should be informed by the concerned Site Finance to the Contractor in the letter forwarding the payment, under intimation to the execution Department. Along with the copy of communication to the Contractor, the execution Department shall also be provided with one copy of invoice duly corrected by Finance Wing based on which the execution Department will accordingly record payment details in their register so that bills for subsequent stage, to be processed by execution Department after receipt from the Contractor, could be properly correlated.

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- b. For payments to be made through bank against dispatch documents, the Contractor will have to forward the original invoice along with the despatch documents to the bank with copies to Executing Department. On receipt of intimation from the bank the Executing Department will verify the same and process for payment. Payment shall be released by concerned Finance Wing within 7(seven) days of receipt of the processed bill.
- 11.16 In case deficiencies or discrepancies are observed by Finance in the bills as mentioned above, the same, along with required corrective action, shall be brought either directly to the notice of the Execution Department, depending upon the nature of deficiency/ discrepancy, through a written communication by the concerned Site Finance within 5(five) days of receipt of bill.
- 11.17 All RA bills/Final bill, except those pertaining to dispatch payments against RR/LR for all types of contracts, shall be required to be submitted by the Contractor to the concerned execution Department. If the bill is in order, the same shall be processed by the execution site and after necessary scrutiny/rectification forwarded to concerned Site Finance, with authorization for payment, within 15(fifteen) days of receipt of bill in triplicate along with measurement book (MB). The concerned finance shall process the bill, as authorized for payment by the execution site, and ensure release of payment to the Contractor within 7(seven) days of receipt from the Execution Department.
- 11.18 On release of payment, the MB along with a copy of the bill shall be sent back by concerned Finance to the execution Department. The deductions effected in the bill, indicating break-up under the different heads, should be informed by the concerned Site Finance to the Contractor in the letter forwarding the payment, under intimation to the Execution Department.
- 11.19 While forwarding the bill, the execution Department shall ensure that all necessary statements/documents viz., Material Issue Statement, Recovery Statement and all other relevant documents are furnished along with every R.A. bill.
- 11.20 Wherever payment is to be released in foreign currency or is to be released to a foreign party, site Finance, after verification, shall forward the verified bills and Pay Advice in foreign currency to Corporate Finance, which will ensure release of payment within 4(four) days of receipt.
- 11.21 Execution Department and the Site Finance shall maintain a Bill Register (preferably computerized) wherein date of receipt of bill, date of return of bill/intimation of discrepancies or deficiencies to the Contractor/Execution Department (if applicable) with reasons thereof in brief, date of forwarding of verified bill (for execution Department only) and date of release of payment (for Finance only) shall, inter alia, be recorded. The Head of the execution Department and Head of Finance shall furnish the status as above, in regard to bills being paid by Site Finance on monthly basis to concerned HOD/HOP. All cases involving release of payment after period mentioned above shall be reviewed on monthly basis by the concerned HOD/HOP once in 02(two) months.
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- 11.22 The payment released under a contract shall be periodically reconciled with the contractor by the concerned finance, from where the payment is being released. As a matter of procedure, such reconciliation, apart from on completion of works, shall be carried out progressively on completion of approximately 25%, 50% and 75% of the Contract Price.

**12.0 TECHNICAL APPROVAL FOR QUANTITY VARIATION/NEW ITEMS:**

- 12.1 Variations/deviations in the Contract may be encountered during its implementation stage, necessitating revision in Contract Price, as the items and quantities thereof in the BOQ/Price Schedule attached with the LOA/Contract Agreement are based on estimate made while finalizing NIT BOQ. Therefore, the actual requirement in many cases may be different than that provided in the contract. In some cases change in scope of work, vis-à-vis that originally envisaged in the contract, does take place causing variations/deviations in the contract. Such variations/deviations in the contract may be in form of (a) either variation in quantities of different items available in the BOQ/Price Schedule attached with the LOA/Contract Agreement (such items to be termed as contract items hereinafter);(b) or requirement of some items, which are not available in the BOQ/Price Schedule attached with the LOA/Contract Agreement or there is a change in specification/make/model of existing/available items. All such items, generated in the manner described in (b) above, will be termed as extra items. An extra item may be required either for substituting, fully or partly, a contract item (generally referred to as substituted items) or for supplementing contract items to successfully complete the scope under the Contract (referred to as supplementary or additional items)
- 12.2 It shall, however, be the endeavor of NEEPCO to minimize post award variations / deviations to the Contract and necessary controls in respect of it shall be exercised by concerned departments.
- 12.3 In order to exercise proper control in this regard, all such variations encountered in a contract will be processed in two stages: Technical Approval and Administrative Approval. While the processing of Technical Approval has been dealt with in subsequent paras hereunder, the processing of Administrative Approval has been dealt with under 13.0.
- 12.4 In respect of contracts awarded from Corporate Office, variations in respect of quantities provided in the contract and/or requirement of any new items or change in specification / make of any item / equipment because of design requirements shall be examined by the O/O ED(D&E), and technical approval will be accorded by the competent authority as per DOP. Whenever required, such proposals shall be initiated by the executing sites and forwarded to ED(D&E) through ED(Project) for similar action. The cost implications resulting from such changes will be worked out by the concerned execution site in accordance with the contract provisions.
- 12.5 Further action for Administrative Approval will be taken by HOP (as discussed in para 13.0 of this Section) for issuance of amendment, as per the DOP. In all cases, the estimated cost of variation covering both BOQ item as well as

extra items, shall be brought out, clearly indicating the analyzed rate of extra items.

- 12.6 In respect of contracts awarded from the Corporate Office, as and when variations are anticipated / encountered against the BOQ items on account of site conditions or extra/new/substituted items are found necessary during the course of execution of the work, the execution site will obtain technical approval for such variations as per provisions of the DOP. Thereafter, the execution site shall process for obtaining approval for issue of change order in accordance with the DOP. Upon approval by the Competent Authority, the change order shall be issued by the HOP. However, if any design or drawing is required to be developed to execute such variation of work, the same shall be finalized and approved by ED (D&E), and then issued to Site.
- 12.7 If the basic scope of the work, vis-à-vis that specified in the contract changes, either due to site conditions or due to design requirements, Technical Approval, including development and approval of design/revision of drawing, shall be processed by ED(D&E) and approval of the same will be accorded by competent authority as per DOP.
- 12.8 For Site Contracts, the proposal for Technical Approval in respect of all types of variation shall be initiated by the executing Department and forwarded to HOP for approval. If the variation is beyond the powers of HOP, the proposal will be recommended to ED for according approval as per DOP. After Technical Approval, the execution site shall process the proposal for Administrative approval by the competent authority as per the provisions of DOP.
- 12.9 All proposals for Technical Approval shall, inter-alia, contain estimated financial implication of the variation proposed for approval, along with the cumulative estimated financial implication, taking into account the variation so far processed for Technical Approval/ approved already. The estimated price for new items, if any, shall invariably be indicated. The level of the Competent Authority shall be governed as per DOP.
- 12.10 The estimated financial implications, in all cases, shall be worked out on the basis of unit rates available in the contract for contract items and analyzed rates for new/substituted items. The rate of new item shall be decided as per methodology described under para 13.0 of this volume.
- 12.11 Since processing the proposal of Technical Approval indicating financial implications may be time-taking in some of the cases, clearance to proceed ahead with the work, on case to case basis, can be accorded by the HOP, pending formal Technical Approval by Competent Authority to avoid delay in the progress of work.
- 12.12 Technical Approval to be obtained/ accorded by ED (D&E)/ED (Projects) should normally be within 30 (thirty) days of receipt of the proposal. Such Technical Approvals from HOP will normally be accorded within 15 (fifteen) days. Technical Approval for modifications/alterations at the Design & Engineering stage in the office of ED(D&E) shall also be completed under normal circumstances within a period of 30(thirty) days.

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- 12.13 Once construction drawings are released to the execution site for execution of extra/substituted items, Technical Approval will be deemed to have been accorded.
- 12.14 It shall be ensured by all concerned departments that the proposals for Technical Approval are processed and Technical Approval is accorded expeditiously, wherever variation is anticipated. To ensure that the payments to Contractors for the variations are not unduly held up, proposals should be initiated by the concerned department well in time keeping in view the quantum of variation involved and the anticipated time for processing of the case till issuance of Change Order.
- 12.15 Technical Approval in respect of all types of variations in a Contract should be normally processed within one month of completion of 'Works'.
- 12.16 The proposal for Technical Approval having financial implication shall be routed through Finance Department.
- 13.0 ADMINISTRATIVE APPROVAL FOR QUANTITY VARIATION/NEW ITEMS AND ISSUE OF CHANGE ORDER/SUPPLEMENTARY ORDER:**
- 13.1 On receipt of Technical Approval, further action shall be taken by the executing Department for obtaining Administrative Approval for issue of Change Order/Supplementary Order.
- 13.2 Efforts shall be made to expeditiously process the proposal for Administrative Approval for issue of change order/supplementary order to the Contract on account of variation. In case the Technical Approval covers variation in contract items including requirement of new items, efforts shall be made to process the proposal for Administrative Approval in two parts, if practicable. The first part shall cover variation in quantity of contract items where finalization of new rate is not required. The same shall be processed for approval of competent authority by the executing Department through site finance. The second part shall cover new items as well as BOQ items requiring finalization of new rate as per provisions of the Contract
- 13.3 Analysis of rate for new items:**
- The rate of new item(s) shall be analyzed in the manner as provided in the contract. In case the contract does not stipulate any specific methodology, the rate shall be analyzed in the following manner.
- 13.3.1 For analogous items, the rate shall be arrived at on the basis of similar item available in the Contract.
- 13.3.2 In case similar item is not available in the Contract, rates of such items shall be derived considering the analyzed rates /market rates & budgetary prices for civil/electrical works respectively, as per provisions of the Contract.
- 13.3.3 In case of analogous items, such rate shall be subject to further adjustment as per the Price Variation Formula, if any, applicable to the contract item based on which the new rate has been arrived at.
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However, the rates finalized on the basis of market rate/analyzed rate shall not be subject to any further adjustment as per the Price Variation Formula upto a period of 12(twelve) months from the date of commencement of such work. If such items of work continues beyond this period of 12(twelve) months, such rates shall be eligible for Price Adjustment as per Price variation clause with Base date corresponding to the date of commencement of work for the part of the extra work that continued beyond 12(twelve) months.

- 13.4 All proposals for issuance of change order, on the basis of Technical Approval, to be processed as explained above, shall interalia contain the cost implications of the proposal in question and the cumulative cost implications taking into account all previous change orders, processed/ issued. Further, the total cumulative cost implications will be broken up under the head of Contract items and new items separately so as to provide clarity in regard to nature of variations. The total variations in Contract items will be further broken up indicating variation within contract limit and variation beyond contract limit. All such proposals shall be routed through the concerned finance departments before obtaining approval of the Competent Authority as per DOP.
- 13.5 During processing of administrative approval for issue of change order/supplementary order/amendment, the revised ranking of bidders in the tender in view of variations will not be ascertained.
- 13.6 There may be a situation during execution of a particular Contract that approval of CMD has been obtained as per requirement of DOP for an interim amendment proposal and the cumulative variation as per final amendment proposal is found to be on lower side vis-à-vis that already approved earlier. In such a situation there will not be a requirement of again seeking approval of CMD and the final amendment will be issued with the approval of Competent Authority.
- 13.7 Processing and obtaining approval of the proposal for administrative approval for change order/supplementary order to the contract should be completed within a maximum of 2(two) month, 3(three) months and 5(five) months from processing of the same for cases within powers of HOP, ED and beyond ED respectively.
- 13.8 All changes to the original DWO/DPO/ Contract will be notified by HOP for Corporate Contracts. For Site Contracts, the same will be issued by the head of Site C&P Wing.
- 13.9 It shall be ensured in all cases that the final amendment to the contract, if required, is issued within a maximum of 6(six) months after physical completion of supplies/works by HOP for Corporate and Site Contracts.
- 13.10 In case of exigencies, HOP will take decision towards execution of works under quantity variation/new items, under intimation to ED (Projects), pending technical/administrative approval. The justification for executing such items under exigencies should be recorded in writing by the HOP. The payments in such circumstances will be regulated as per Clause No. 4, Section 3, Volume II of this Manual.

- 13.11 Proper identification of interim as well as final amendment proposals should be ensured by the concerned executing site and the Ordering Authority.

**14.0 TIME EXTENSION AND LIQUIDATED DAMAGES:**

- 14.1 Time is the essence of all major contracts awarded by NEEPCO and all works / supply under a contract need to be completed within the stipulated time schedule. Therefore, a provision will be kept in the contract that, in case of delay in completion for reasons attributable to the Contractor, he is required to pay to the Owner a sum, as LD, which shall be calculated per week or part thereof at rates specified in the Contract Agreement subject to the following ceilings:
- a. 10(ten) percent of contract price, for contracts valued upto Rs. 1000 crores.
  - b. 5(five) percent of contract price, for contracts valued above Rs. 1000 crores.
- 14.2 Notwithstanding the fact that time is the essence of the Contract, a number of cases of delay in completion of projects are encountered. Though the reasons for delay are diverse, the Contracts finally get completed beyond the stipulated completion period. In order to keep the Contract alive, it is necessary that provisional extension of time is granted to the Contractor for the extended period of completion, with or without LD and without prejudice to the rights of the Corporation to impose LD while granting final time extension. The provisional time extension will be granted by the HOP with intimation to ED(Projects) and ED(C&P).
- 14.3 In normal course, the proposal for provisional time extension or final extension of time along with settlement of LD shall be initiated upon receipt of request from the Contractor to that effect.
- 14.4 In case of provisional time extension, the recommendation shall be put up by the concerned execution Department to the HOP at least 1(one) month before the expiry of scheduled completion period so that provisional extension letter is issued before expiry of the contract period.
- 14.5 While finalizing final time extension, the cases for imposition of LD will be dealt with logically and rationally, maintaining consistency in approach in order to safeguard the long term and larger interest of NEEPCO. While communicating the approval of final extension of time, a decision on imposition/waiver of LD, fully or partly, on account of delay in completion of work is also required to be indicated. Since the reasons for delay are generally mixed up i.e., attributable to both NEEPCO & Contractor, the issue of time extension with imposition / waiver of LD needs to be dealt with meticulously taking into account all the relevant aspects. The relevant aspects to be considered include the reasons for delay, the period of delay attributable to either parties and the loss or damages, if any, suffered by NEEPCO. In the normal course, the cases of time extension/LD will be dealt with as per guidelines given hereunder.

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- 14.5.1 The loss/ damages suffered by NEEPCO due to delays by the contractor is the basic criteria for deciding a case for imposition of LD. Damages, with reference to a contract, in the context of LD, can be defined as the amount adjudged to be paid by Contractor to the Owner as compensation for the loss sustained by the latter in consequence of the breach of contractual obligations pertaining to time schedule. The fundamental principle underlying the theory of damages is not punishment but compensation.
- 14.5.2 Contracts have a provision for recovering compensation as LD from the Contractor for delays attributable to him in performance of the Contract, in form of a predetermined sum for each unit of time delay subject to an overall limit. In fact, the spirit of LD clause is that recovery towards loss, if any, suffered by NEEPCO, on account of reasons attributable to the contractor, can be affected from the contractor upto the extent of actual loss or upto the limit of the predetermined sum as mentioned in the contract, whichever is lower. However, recovery towards compensation under the clause should take place when loss/ damage has actually taken place on account of delay caused by the Contractor. Even if there is a delay in execution of the contract and reasons for delay are attributable to the contractor but NEEPCO has not suffered any loss specifically due to delay in performance of the contract, no sum as LD is recoverable from the contractor.
- 14.5.3 Delay in performance of the Contract may be on account of one or more of the following:
- (i) Reasons attributable to the owner viz., delay in providing the work front, approval of drawings/ Sub-Vendors, issue of owner supplied material and/or fulfillment of NEEPCO's other obligations as provided in the Contract, etc.
  - (ii) Reasons attributable to "Force Majeure" conditions as defined in the Contract.
  - (iii) Reasons attributable to the Contractor viz, delay in mobilization, insufficient mobilization of man and machinery, submission of drawings, finalization of sub-vendors, supply of material/ equipment, fulfillment of the Contractor's other obligations under the Contract, etc.
- 14.5.4 The proposal for time extension and decision on LD shall, accordingly, contain a detailed analysis indicating reasons and period of delay on each account, along with documentary evidence thereof to the extent feasible and relevant, such as relevant extracts of the Hindrance Register duly certified by the HOP. Based on the analysis, the period of delay due to 'Force Majeure' and for reasons attributable to NEEPCO shall be identified. The idea of the exercise is to find out the net delay, which is attributable to the Contractor. As all the above three types of delay may be mixed up and happening concurrently, at intermittent stages, the net delay attributable to the contractor, shall be adopted as described below,:
- (i) Total delay in a Contract = A
  - (ii) Cumulative period of delay on account of "Force Majeure" = B
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- (iii) Cumulative period of delay on account of NEEPCO = C
- (iv) Overlapping cumulative period in( ii) &( iii) = D
- (v) Cumulative period of delay on account of “Force Majeure” and NEEPCO = (B+C)-D
- (vi) Net period of delay attributable to the Contractor,  $X = A - ((B+C) - D)$

- 14.5.5 While calculating the period of delay, to be considered for extending the contract completion period, for the reasons attributable to NEEPCO or due to Force Majeure, all efforts will be made to objectively work out/analyse whether a delay in a particular activity has really contributed in extending the completion period of the contract. This is important in view of the fact that a number of activities of a contract undergoing delay may not have impact on overall delay as subsequent site activities are not entirely dependent upon them. All such delays, which are not found to be directly contributing in extension of completion period, will therefore be ignored.
- 14.5.6 In case the period X, arrived at as per para 14.5.4 above, is not positive, the time extension, till the actual completion of the works/ supplies, shall be allowed without any LD.
- 14.5.7 In case the period X, arrived at as per para 14.5.4 above, is positive, action will be taken as described hereunder.
- 14.5.7.1 It will, thereafter, be examined whether NEEPCO, on account of the delay X, has suffered loss i.e., extra payment to other contractors/agencies on account of delay; cost of transportation for diversion of material required in order to continue progress in the event of delay in supply; payment of additional insurance premium on account of the delay; loss on account of delay in return on investment, net extra financial burden to NEEPCO because of fluctuation of exchange rate in a foreign currency contract, loss of generation etc.
- 14.5.7.2 In case, NEEPCO has suffered loss, the time extension, till the actual completion of the works/ supplies shall be allowed with imposition of LD, for which formulae will be elaborated in the bid documents.
- 14.6 In the normal course, the settlement of LD along with final time extension shall be done after physical completion of supplies / works as per the Contract, and entire processing including approval and issuance of letter to the contractor will be completed within 6(six) months of physical completion.
- 14.7 However, in cases where the works/ supplies extend beyond the contractual completion, amount towards LD from the RA bills shall not be withheld/ retained if adequate retention payment (over and above security deposit) remains to be released as per Contract. In case, it is not so, it shall be examined whether BGs/other securities (excluding CPG/Security Deposit) furnished by the Contractor are available with NEEPCO, which have partly or fully served their purpose, and can therefore be utilized to recover LD, if finally levied. If available, it will be further checked whether the Contractor is willing to furnish a suitable undertaking authorizing NEEPCO to retain those BGs/security (for such value which along with retention payments remaining

with NEEPCO is considered to be sufficient to take care of maximum leviable LD) to be kept valid till 9 months beyond the anticipated completion of the works/ supplies under the Contract. If the Contractor gives the undertaking as above and validity of BG is suitably extended wherever required, amount towards LD from RA bills shall not be withheld/ retained. The above aspects shall be deliberated in the proposal for interim/ provisional time extension by the execution site.

- 14.8 The proposal for final time extension including decision on LD shall be initiated by concerned execution site after obtaining comments of the concerned departments on whose account delays have been identified / pointed out by the Contractor in his request for time extension. Concerned execution Department, after preliminary examination of the Contractor's request, shall seek comments from the concerned Departments, if details have not already been provided, within 7(seven) days of receipt of the Contractor's request. The concerned Departments shall forward their comments to the execution site, as aforesaid, through the concerned HODs within a period of 15(fifteen) days from the receipt of communication from site. Concurrently, the execution site shall ask the Contractor to furnish additional details/ documents, if any, within a specified time limit.
- 14.9 The case containing recommendation for settlement of LD along with final time extension, taking into account the comments of concerned Departments, shall then be processed for approval of Competent Authority as per DOP. The case shall include the analysis of delays and other relevant details as already discussed above and shall be routed through the concerned ED for cases to be approved by the Competent Authority as per DOP after obtaining vetting of Corporate Finance. For proposals to be approved at site level it shall be routed through Ordering Authority, Site Finance and HOP.
- 14.10 Upon approval of the Competent Authority, the original approved note in respect of provisional as well as final time extension/LD, in case of Corporate Contracts, shall be forwarded to HOP who shall issue necessary communication to the Contractor with a copy to execution Site, Site Finance and ED(C&P). In case of Site Contracts, the communication shall be issued by the Engineer-in-Charge, with copy marked to ED (Projects) and the authority issuing the approval for final time extension. Such communication shall be issued by an officer not below the level of DGM for Corporate Contracts and Manager for Site Contracts.
- 14.11 Once a time extension (final or provisional) is granted, the completion period for purposes of extension of validity of BGs, securities shall be determined by the extended period of completion, except if otherwise provided in the Contract.
- 14.12 In order to properly carry out analysis of delays in execution of a Contract/Project, it is imperative that date-wise record of the following activities right from award of contract to completion of works/ supplies is meticulously and systematically maintained by the concerned Departments in respect of areas under their responsibility. The records should be maintained in properly numbered and indexed formats. The head of the concerned



Department will have his countersignature on the above records on a monthly basis.

- (i) Detailed Engineering Records: These shall include receipt of drawings/ design calculations/ other technical details from the Contractor and its approval by NEEPCO, type tests, approval of sub-vendor items involving QR; etc. Accordingly, actual and scheduled dates in respect of various activities related to above shall be maintained, clearly indicating quantum of delay and to whom it is attributable (NEEPCO or Contractor). (*Responsibility: ED(D&E) for Corporate Contracts and Ordering Authority for Site Contracts*).
- (ii) QC&A Records: These shall include approval of Sub-Vendor of non-QR items, approval of quality plan of different manufacturer, inspection of material including issuance of despatch clearance; etc. Accordingly, actual and scheduled dates in respect of various activities related to above shall be maintained, clearly indicating quantum of delay and to whom the delay is attributable (NEEPCO or Contractor). (*Responsibility: ED (D&E)/Head of (QC&A) for Corporate Contracts and Ordering Authority/ Head of (QC&A) for Site Contracts*).
- (iii) Site Execution Records: These shall include details of site activities to be recorded in Hindrance Register. The Hindrance Register shall be jointly signed by the representative of Executing Department not below the level of Assistant Manager and authorized representative of Contractor. (*Responsibility: Execution Department*).
- (iv) Payment Details Records: These shall include, apart from details as per Bill Registers to be maintained by concerned Finance and the Execution Department, the various dates pertaining to opening of LC including its utilization right from request by the Contractor. (*Responsibility: Concerned Finance*)

14.13 The status containing records mentioned at (i) and (ii) above shall be regularly forwarded to O/O ED (Projects) on quarterly basis.

14.14 In case the OEM or his authorized representative does not agree to LD against supply of spares, NEEPCO shall not insist on the same.

## **15.0 COMPLETION AND TAKING OVER:**

15.1 Immediately upon receipt of a written communication from the Contractor intimating that the works have been physically completed as per technical specifications or are nearing completion (within a period not exceeding 15 days), the execution site shall take further necessary action, depending upon the nature of 'works' under a particular Contract, towards taking over. The actions, required to be taken by execution Site, have been broadly described in subsequent paras. For this purpose, the 'Works' have been categorized as follows:

- (a) 'Works' not involving Commissioning
- (b) 'Works' involving Commissioning

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15.2 For 'Works' not involving Commissioning

- 15.2.1 Within 7(seven) days of intimation from the Contractor regarding completion of 'Works', the execution Site shall inspect the 'Works' to verify the completion status, in presence of the Contractor's representative. The inspection team will comprise of the following:

I/C of Execution Department

I/C of Hydro-Mechanical works, wherever applicable

I/C of Electro-Mechanical works, wherever applicable

Representative of ED(D&E)

In order to ensure timely constitution of the Team, the execution site shall request HOP who shall get the Team constituted with the approval of ED(Projects) at least one month before it is tentatively required and intimate all concerned. The inspection team will be assisted by skilled workmen of the concerned site or drawn from other sites. This procedure shall be followed only in the case of major works.

If the 'works' are found to be completed and acceptable in all respects (except for minor defects and deficiencies, if any), Completion Certificate/Taking Over Certificate (TOC) shall be issued by the execution site, at a level not below Sr. Manager, within 30 (days) of Contractor's intimation. The completion certificate shall generally contain the following details: (a) Date of completion; (b) Defects to be rectified; (c) Items/works not conforming to specification but can be accepted at a reduced rate.

TOC may also be issued for completed portion of a work, if the same is taken over and put to use. Decision in this regard will be taken by the HOP in accordance with the Contract provisions.

- 15.2.2 If, on inspection, 'works' are not found to be completed or rectification of major nature is required, the execution site (not below the level of Manager) shall, within 15(fifteen) days of Contractor's intimation, inform the incomplete works/ defects and deficiencies to the Contractor in writing advising him to take necessary action and to inform NEEPCO after completion/ rectification. However, if the contract specifies separate completion period for different parts of works for the purpose of taking over also, completion certificate/TOC shall be issued in respect of portion of works that are completed and are acceptable.

- 15.2.3 The completion certificate shall be issued in accordance with the provisions of the contract agreement.

15.3 For 'Works' involving Commissioning

- 15.3.1 Commissioning is the last phase of physical activity in execution of 'works' under a Contract. It involves checking of equipment, systems and sub-systems provided under the Contract for proper erection/ installation, quality and standards to ensure their suitability for the intended purpose (e.g.

energization at rated voltage and loading without any risk of failure or without any safety hazards, in case of TG units and switchyard). For the TG units, switchyard packages, radial gates, intake gates etc., the major steps involved in commissioning and taking over are described in subsequent paras herein.

15.3.2 During execution of 'works', the concerned executives, looking after respective works, shall ensure that Location-wise/ Equipment-wise details of various activities are maintained meticulously. The records containing such details shall be reviewed by the concerned Sr. Manager/ Manager on monthly basis and by the concerned DGM on quarterly basis.

15.3.3 In order to avoid delays in ascertaining the readiness of 'works' for commissioning, the practice of carrying out pre-commissioning checks/ tests on individual equipment/ stretches of TG units, switchyards, radial gates, intake gates etc. (hereinafter referred to as part of 'works'), as and when the same are ready, shall be followed. On receipt of communication from the Contractor informing that the 'works' / part of 'works' are physically complete/ nearing completion and installation is ready for carrying out pre-commissioning checks/ tests, the execution site shall take further actions, as described below, towards declaring the 'works' ready for commissioning.

15.3.4 The 'works'/part of 'works', as above, shall be thoroughly inspected/checked by the execution site at different levels within 7(seven) days of Contractor's intimation. Wherever pre-commissioning checks /tests are involved, the same shall be witnessed jointly with the Contractor's representative. On such verification, once the entire 'works' under a particular Contract are found to be complete and acceptable (except for minor defects and deficiencies, if any), the execution site shall request the 'Commissioning Team' (as defined in para 15.3.6 below), to commence further verification as subsequently described.

If, on inspection/checking, the 'works'/part of 'works' are not found to be complete or rectification of major nature is required, the execution site (not below the level of Manager) shall, within 15(fifteen) days of Contractor's intimation, inform the incomplete works/ defects and deficiencies to the Contractor in writing advising him to take necessary action and to inform NEEPCO after completion/ rectification. However, if the contract specifies separate completion period for different parts of works for the purpose of taking over also, further action as described above shall be taken in respect of portion of works that are complete and are acceptable.

15.3.5 In order to ensure reliable operation of the system after Taking Over, a 'Commissioning Team' shall be constituted for discharging responsibilities generally identified in para 15.3.6 below during pre-commissioning and commissioning stage. It shall consist of the following:

***For TG units & Auxiliaries:***

I/C of Power House Construction

I/C of Switchyard Construction

O&M official not below Manager from the O/O ED(O&M)

Executive of power house construction

Representative of ED(D&E)

***For Switchyard***

I/C of Switchyard Construction

I/C of Power House Construction

Executive of switchyard construction

Representative of ED(D&E)

***For Hydro Mechanical works***

I/C of Hydro – Mechanical Works

Executive of Gates construction

I/C of respective civil works

Representative of ED(D&E)

In order to ensure timely constitution of the Team, the execution site shall request HOP who shall get the Team constituted with the approval of ED(Projects) at least one month before it is tentatively required and intimate all concerned. The commissioning team will be assisted by skilled workmen of the concerned site or drawn from other sites. This procedure shall be followed only in the case of major works of construction projects.

15.3.6 The responsibilities of the Commissioning Team shall be as under:

- (i) Inspection of finished works under a particular Contract (be it a TG unit, a gate or a bay of switchyard), bring out deficiencies and suggest corrective measures well ahead of initial charging.
- (ii) Go through the storage history of each and every equipment and major materials, list out repair/renovation work, if any, carried out on them and document the observations for development of data base for future reference.
- (iii) Go through pre-commissioning test results on equipments and system in the project and clear the equipment for charging.
- (iv) Go through statutory clearances and standing instructions before putting the new equipment to initial charging.
- (v) Witness final commissioning tests and test charging.
- (vi) Investigate failure of equipment during test charging and document the observation.

- (vii) Declare commencement of trial operation and evaluate guarantees test results and recommend acceptance as may be provided in the contract.
- (viii) List out deviations/exception/incomplete work, for acceptance/rejection.

15.3.7 For discharging above responsibilities, actions shall be taken as described below:

- a. As and when the 'Works' (which shall also mean such parts of works under a particular contract for which separate completion period has been specified for the purpose of taking over) is considered to be complete and acceptable by Execution Site, the member in the Commissioning Team from execution site shall plan and inform the date(s) of inspection of the 'Works' to other members of the Team. The inspection by the Commissioning Team shall be planned at least 1(one) month before the expected date of test charging.

The Commissioning Team shall examine all the statutory clearances obtained by Execution Site prior to clearance for test charging of the TG units and switchyards at rated voltage:

- b. The Team shall also examine observations of concerned authorities while issuing such certificates and review the compliance of the observations.
- c. The Team shall also go through the factory test reports. If such tests have been repeated during pre-commissioning, the Team shall list out deviations, if any, in the results of pre-commissioning tests with respect to the factory tests.
- d. After all pre-commissioning checks and tests are found to be acceptable taking into account permissible deviation limits, the commissioning team, in consultation with HOP, ED(Projects), ED(D&E) and ED(O&M) shall give clearance for commissioning test (in case of a TG unit or a switchyard)) and test charging (in case of transformers) and witness the same. In case of a switchyard, test charging shall commence after successful commissioning test. All tests on totally connected & integrated system shall be considered as commissioning test. These tests shall be conducted only after completion of all primary connections and secondary connections of all the equipment for its protection, communication and control and taking into account provisions of the contract/manufacturer's instruction. The commissioning tests shall ensure correctness of wiring of individual equipment and its control, protection communication and monitoring panels. The tests shall also ensure stability & sensitivity of protection, control, and communication equipment. It shall also include calibration of measuring & recording instruments. If any incomplete works is put to rated operating conditions during commissioning, the same shall be done, with the consent of the HOP and ED(O&M)/ED(Projects) after taking into account all the relevant aspects, ensuring that it does not

involve any safety and operational risk. In this regard the proposal shall be initiated by the execution site based on the report from commissioning team which shall be put up to the competent authority through HOP.

- e. In case of deviation in commissioning test results beyond permissible limit as per guidelines/standards in vogue, the commissioning team shall submit its report along with recommendations to the concerned HOP. In such an event, the test charging will be carried out only after obtaining approval of ED(D&E).

15.3.8 On successful completion of commissioning test/test charging and upon request of the Contractor for taking over the 'Works' and issuance of TOC, the Execution Site, not below the level of Sr. Manager, shall issue TOC ascertaining the following:

The TOC shall be issued in accordance with the provisions of the contract agreement. A copy of the TOC shall be forwarded by the Executing Department to Site Finance.

15.3.9 Notwithstanding what has been stated above, issuance of TOC shall not be held up for delay in completion/rectification of works of minor nature that do not affect the performance/use of the building/installation/ equipment/sub-system/system at rated parameters. In such a case the Contractor shall, however, be required to give an undertaking, that in case he fails to complete/rectify within a mutually agreed period, the Owner shall be at liberty to carry out the work at his risk and cost.

15.3.10 If 'Commissioning' of the system at specified parameters cannot be done immediately after physical completion/readiness for commissioning, for reasons not attributable to the Contractor, but it is possible within four months thereafter, the final payment shall be released after commissioning of the system at specified parameters. The Contractor shall be required to extend the validity of the Contract Performance Guarantee accordingly.

15.3.11 If 'Commissioning' of the system is not possible within four months of the date of physical completion/readiness of the system for commissioning, the balance payment, that would have become due to the contractor as per contract, in the normal course after commissioning of the system, shall be released to him against BG of equivalent amount initially valid for a period of 12 months or until three months after expected date of commissioning (if the same can be anticipated), whichever is earlier. In this regard, based on request to be submitted by the Contractor, approval of concerned ED shall be obtained by the execution site for which the note, bringing out the relevant details, shall be put up by site Authority of the concerned execution site through site Finance.

If the commissioning does not take place within the validity period of the BG, the validity shall be extended from time to time upto a period not exceeding three years from the date of readiness of the system for commissioning. The Contractor shall be also required to extend the validity of the Contract performance Guarantee so that it remains valid up to a period of one year

beyond the validity period of the BG against which last payment has been released to the Contractor.

- 15.3.12 Taking Over Certificate shall be issued by NEEPCO, as explained above, only after the system is commissioned at specified parameters. The TOC shall be issued within a period not exceeding 15 days from the date of commissioning. The defect liability period/warranty period shall be reckoned from the date of taking over/from the date as specified in the contract.
- 15.3.13 The defect liability period/warranty period shall be reckoned from the date of taking over/from the date as specified in the contract and the Contractor shall be required to extend the Contract Performance Guarantee accordingly.
- 15.3.14 The BG against which last payment is released to the Contractor shall be returned to the Contractor by execution site on commissioning at rated parameters/taking over of the system.
- 15.3.15 Till such time the system is not commissioned at specified parameters or taken over by NEEPCO, its custody and watch and ward shall remain with contractor who shall accordingly be required to maintain a skeleton establishment at site in consultation with site, which shall be reinforced at the time of commissioning. In the normal course, NEEPCO shall take over the system only after 'Commissioning' takes place in line with the provisions of the contract.
- 15.3.16 In the above situation, the following charges shall, however, be reimbursed to the Contractor, based on his request, against documentary evidence except where otherwise provided in the Contract:-
- a) Bank charges towards furnishing of BG by the contractor for release of final payment pending commissioning/taking over against documentary evidence.
  - b) Bank charges towards extending the validity of CPG for additional period on account of delay in commissioning/taking over, as explained above, against documentary evidence.
  - c) Charges towards insurance cover for both Contractor/Supplier as well as Owner supplied material/equipment for the period that would lapse between 04 months after the readiness for Commissioning and the actual date of Commissioning/taking over against documentary evidence.
  - d) Actual expenditure, if any, incurred by the contractor towards maintaining office, manpower, vehicles for the period that would lapse between 04 months after the readiness for Commissioning and the actual date of Commissioning/taking over against documentary evidence to the satisfaction of NEEPCO.

For reimbursement of above charges, based on the request of contractor alongwith all the relevant documents those may be necessary to establish

incurrence of expenditure, the proposal shall be initiated by the Execution Site with finance concurrence before obtaining approval of concerned ED.

#### **16.0 REPORTING OF PACKAGE-WISE ACTUAL EXPENDITURE:**

- 16.1 Once the package list of a construction project is finalized by ED (D&E), the Cost Engineering Group (CEG) under ED (D&E) shall initiate action for preparation of Cost Estimate for different Packages, as per the BOQ received by them from the D&E Wing. The said Cost Estimates shall be concurred by the Associated Finance and approved by the ED(D&E). The approved Cost Estimates shall be forwarded to the ED(C&P).
- 16.2 Once main packages of a project are awarded by ED(C&P), package-wise finalized costs will be intimated by the ED(C&P) to ED (CPM).
- 16.3 During the course of execution of the packages at site, the executing Site will forward, on a quarterly basis, the actual package-wise expenditures incurred to ED (CPM) through ED(Projects).

#### **17.0 DISPUTE RESOLUTION AND ARBITRATION:**

- 17.1 All efforts shall be made by NEEPCO for amicable settlement of disputes, if any, which may arise in the course of execution of a Contract. In this regard, it is necessary that any issue that a particular Contractor raises be dealt with promptly. The concerned execution Site shall bring such disputes/ issues promptly to the notice of the concerned authority. The concerned Authority for the purpose of dealing with and settlement of disputes prior to arbitration (including any alternate dispute resolution mechanism identified in the Contract) shall be ED (Projects) under whose jurisdiction the execution of the Contract in question falls, for all Corporate Contracts. For Site Contracts, these responsibilities shall be discharged by HOP. The aforesaid Authority, once shall try to settle the claims/disputes at his end, whether of Contractor or of NEEPCO, as referred to him. For cases, where he feels necessary to have comments of ED(C&P), will seek the same from ED(C&P). Based on views of concerned authority, the "Engineer"/ NEEPCO's Authorised Representative will inform the decision to the Contractor. Such decision should be informed within a reasonable time of about 1 month from the date the issue/ dispute is raised in writing by the Contractor.
- 17.2 Normally, the "Engineer"/ NEEPCO's Authorised Representative shall be identified in the Contract/DWO/DPO itself. However, in case the same is not identified or in case of change in the identified "Engineer"/ NEEPCO's Authorised Representative, the ED (Projects) shall nominate the "Engineer"/ NEEPCO's Authorised Representative and the same will be communicated to the Contractor by HOP.
- 17.3 In normal course, only after the decision as per 17.1 above is conveyed to the Contractor and the Contractor does not find the same acceptable, it is likely that the arbitration or alternate dispute resolution process (if identified in the Contract) would start.
- 17.4 In all cases of Corporate Contracts, prior to Arbitration or during its pendency, as a matter of policy, at least one attempt for amicable settlement of disputes



with the Contractor shall be made by a standing Committee comprising ED(Projects),ED(F),ED(C&P), ED(D&E), HOP and head of Law Wing, with HOP being the convenor. The recommendations of the Committee shall be put up to CMD/ D(T) for approval.

- 17.5 For Contracts awarded from Site, a Standing Committee to be chaired by HOP and comprising heads of the concerned execution Department (convenor) and Site Finance shall be constituted by ED(Projects) for the above purpose, and the recommendations shall be put up to ED(Projects) for approval for all cases where the Competent Authority to award the Contracts was ED or below.
- 17.6 Wherever alternate dispute review mechanism (e.g. DPR/DRB/Adjudicator etc.) exists in the contract, the representative of NEEPCO on the same shall be nominated with the approval of CMD. However, if as per Contract NEEPCO is also required to convey its acceptance of Contractor's representative; the same may be done with the approval of concerned Executive Director. The coordination in such cases shall be done by execution site (not below the level of Senior Manager) that will be assisted by nodal officers from concerned departments, to be nominated as explained subsequently for arbitration cases. The decisions arrived at in the alternate dispute review forum shall be implanted after approval of CMD for Corporate packages and concerned Executive Director for site Packages. The proposal in this regard shall be initiated by execution site and shall be routed through concerned dept. to whom the issue pertains (e.g. Engg/Contracts, etc.) and Finance at appropriate level before obtaining the approval of the competent authority.
- 17.7 In case NEEPCO, on its own, wants to invoke arbitration provisions, prior Administrative Approval of the competent authority shall be obtained. For Corporate as well as Site Contracts, the proposal in regard to the same shall be initiated by the concerned Manager/ Sr. Manager of the execution Department and put up for the approval to the Competent Authority through Law Wing. In this respect, CMD shall be the Competent Authority. For Site Contracts, ED (Projects) shall be the Competent Authority. However, the proposal shall be routed through Law Wing. Upon receipt of the Administrative Approval, the notice invoking Arbitration shall be issued to the Contractor by the HOP, with a copy to Law Wing and ED(Projects).
- 17.8 Upon receipt of arbitration notice from the Contractor, the concerned HOP shall immediately send an advance copy of the said notice along with the arbitration clause applicable to the parties to the Law Wing for examination with the remarks that the comments of the site along with relevant documents and facts would follow within 7(seven) days.
- 17.9 The Law Wing will legally examine the disputes and accordingly, if necessary, recommend the case for invocation of arbitration and appointment of Arbitrator within 7(seven) days from the date of receipt of the note from the concerned HOP for approval of the appointment of Arbitrator, to the Competent Authority mentioned under the contract. In case the appointing authority is CMD and in case of Corporate Contracts where the authority is not mentioned, the advance copy of the arbitration notice (immediately upon

its receipt) shall be sent to Law Wing for its recommendation for going into arbitration and appointment of Arbitrator.

- 17.10 The approval for the appointment of the Arbitrator under a contract shall be obtained within 21(twenty one) days of the receipt of the arbitration notice and the appointment of the Arbitrator shall be communicated to the Arbitrator (with a copy to the Contractor) for his acceptance within 3(three) days by the Law Wing. In order to maintain consistency, the draft of the letter to be issued in this regard will be standardized by Law Wing, and circulated to all sites along with checklist.
- 17.11 Upon receipt of the intimation from the Arbitrator for starting of arbitration proceedings by way of entering upon the reference, Law Wing shall notify the site about the date of entering upon the reference by the Arbitrator.
- 17.12 Nomination of the Representing Officer and the Nodal Officers, who shall assist the Law Wing by furnishing facts of the case/documents etc, shall be made by ED(Projects). HOP or his authorized representatives for Corporate Contracts and Officer not below Manager for Site Contracts shall be nominated as the Representing Officer and executives (not below the level of Manager for Corporate Contracts and Dy Manager for Site Contracts) from the Departments to whom the issues pertain, viz. D&E, C&P, Finance, Site etc., shall be nominated as Nodal Officers to assist the Representing Officer.
- 17.13 The proposal for nomination of the Representing Officer shall be processed by the concerned execution site. Normally an executive who is conversant with the issues referred for arbitration shall be nominated as Representing Officer i.e, if issues mainly pertain to execution of works, an executive from the execution site shall be nominated; if issues mainly pertain to pre-award, an executive from the C&P department from where award has been placed, shall be nominated; if issues mainly pertain to design/ engineering stage, an executive from the D&E department shall be nominated; if issues mainly pertain to taxes and duties, an executive from Finance department shall be nominated. The nomination of Representing Officer (RO) shall be approved by ED (Projects), if RO is from site itself and the proposal for nomination shall be routed through concerned HOP before obtaining approval of ED (Projects). In case the issues referred for arbitration necessitates a Representing Officer from Corporate Office, the proposal containing the recommendation of ED(Projects) to that effect, indicating reasons thereof, shall be approved by ED(C&P).
- 17.14 The Nodal Officers from Corporate Office/sites shall be nominated by the ED(C&P)/HOP, promptly within a week of request to that effect from HOP and shall intimate the name of the Representing Officer and the Nodal Officers to the head of Law Wing and Arbitration Cell, who shall then be responsible for further coordination of the Arbitration case.
- 17.15 The Law Wing shall initiate the note for appointment of the counsel, if required, depending upon the nature of the case and approval will be obtained as per the DOP on the subject.

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- 17.16 After the Terms of Reference of the Arbitrator are finalized and the proceedings start, and a statement of claim(s) is filed by the Contractor, the detailed factual para-wise comments on the statement of claim(s), specifically admitting/denying or clarifying the para under reply, duly supported with documents, shall be prepared by the RO in consultation with Nodal Officers. The said para-wise comments shall be sent to the concerned site/department for finalization of the reply to the statement of claim(s) in consultation with the legal counsel, if appointed. Concurrently, the RO in consultation with Nodal Officers shall also prepare the statement of counter claim(s), if any, along with supporting documents to be filed, and forward them to Law Wing for filing the same.
- 17.17 Approval of the terms of payment of the Arbitrator, as decided by the Arbitrators in the arbitration meetings, shall be obtained by the Law Wing from Competent Authority. All payments to the Arbitrator shall be processed and authorized by the Law Wing.
- 17.18 All the arbitration meetings and conferences with the advocate/ legal counsel shall be attended by the concerned executive of Law Wing and the RO, jointly. RO shall be assisted in the meetings and conferences by the Law Wing and Nodal Officers of the concerned departments involved in the disputes raised. All payments to the legal counsel/ advocate shall be processed and authorized by the Law Wing
- 17.19 The coordination between the Arbitrators, advocates and RO shall be maintained by the Law Wing.
- 17.20 In case the Representing Officer is from Corporate Office, all written statement, replies, claims, counterclaims, issues, rejoinders and other pleading or proceeding etc. to be filed by NEEPCO shall be finalized, by Law Wing, in consultation with Legal counsel and/or Law Wing based on the para-wise facts and comments and supporting documents furnished by the Representing officer. In case the representing officer is from site, the finalization of above documents shall be done with the approval of ED (Projects). For expediting the aforesaid process and for ensuring factual correctness of documents/replies, the head of Law Wing and RO shall adopt a practice of continuous consultation with each other. Further the document/reply finalized by Law Wing as above, shall be vetted by the RO and concerned Nodal Officers in regard to facts for their respective portions, before it is put up for approval of Competent Authority as above.
- 17.21 After the documents are finalized as above, the Law Wing shall, after getting the same signed by the RO, file the documents with Arbitrator and distribute the copies to all concerned. The complete set of pleadings and the parallel records of the case shall be maintained both by Law Wing and RO.
- 17.22 All correspondence between the Legal Counsel/ Arbitrator and NEEPCO shall be through Law Wing on behalf of NEEPCO. The Law Wing shall intimate the Legal Counsel/ Arbitrator accordingly.
- 17.23 Once the award is given by the Arbitrator(s), the same shall be forwarded by Law Wing along with their advice/opinion to the concerned RO within 7(seven)
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days for Arbitration cases, under relevant Arbitration acts. The recommendations for its review/acceptance and further course of action in the matter shall be processed by HOP for approval of Competent Authority expeditiously so that the approval is obtained within 15(fifteen) days of receipt of award and filing the award in the court, if required, is done within stipulated period. However, awards in respect of Arbitration cases under relevant Arbitration acts, shall be examined for further course of action in the matter and a proposal for the same shall be put up to Competent Authority for approval by the Law Wing.

## **18.0 CONTRACT CLOSING:**

18.1 Contract closing is a milestone, which symbolizes that liabilities of either parties stand settled i.e. works/supplies have been completed in terms of the provisions of the Contract and all the due payments have been released. No guarantee/claim is outstanding with/against either party.

A Contract shall be considered to be closed only after CPG/SD of the contractor is returned/ discharged, final payments are made and all disputes are resolved.

18.2 The contract closing is a very important milestone, since it is after the closing of various contracts under a project that the total financial outlay against a project is known with certainty. The total financial outlay against a project is a vital input not only for annual financial accounting but also for finalization of the tariff. Hence, it is necessary that closing of contracts under a project is expeditiously completed.

18.3 As a matter of policy, while all the Contracts under a project shall be closed immediately after the expiry of Defect Liability Period/Warranty Period of respective contracts, various activities pertaining to contract closing, except release of Contract Performance Guarantee/Security Deposit, shall generally be completed within 06(Six) months from the expiry of Defect Liability Period/Warranty Period.

18.4 The activities associated with closing of a Contract will include the following:

- (i) Receipt of drawings, QA documents and O&M manuals
- (ii) Physical completion of scope of work
- (iii) Completion of on site training of Owner's personnel by the Contractor
- (iv) Commissioning and Taking Over Certificate/Completion Certificate
- (v) Material Reconciliation
- (vi) Performance Guarantee Test
- (vii) Processing of scope variation covering quantity variation, extra items/claims and issuance of final amendment
- (viii) Time extension and settlement of LD

- (ix) Settlement of claims and disputes
- (x) Processing and release of final bill
- (xi) Successful completion of Warranty/Defect Liability Period
- (xii) Release of CPG/SD.

18.5 To achieve the above objective, as soon as the Contractor's scope of work under a Contract approaches completion (i.e., when about 80-90% of the scope is complete), the said Contract shall be included in the list of Contracts for closing, which shall be intimated by the executing Department to concerned ED through HOP. The list shall contain salient particulars of the Contract including the expected date of physical completion/ taking over and the Warranty/Defect Liability Period. In respect of all such contracts, the progress of various activities mentioned above shall be reviewed on monthly basis by the concerned ED/HOP.

18.6 The various activities, to be monitored for contract closing, are briefly described hereinafter.

18.7.1 Submission of all manuals/documents/drawings

Once the 'Works' are completed, it is absolutely necessary that proper documentation of all manuals, drawings, test certificates, various approvals, amendment and other relevant papers is made so that difficulty in carrying out maintenance is not encountered. For equipment, the Contractor is supposed to submit a prescribed no. of sets of instruction manuals (for installation and O&M), approved erection drawing, other technical literatures and test certificates to ED(Projects), ED(D&E) and HOP.

Therefore, after the works are completed and TOC is issued, the concerned departments will check regarding availability of such documents and in case any relevant document is found missing/not available, the same shall be collected from the Contractor and all the records/documentation should be completed. These documents/drawings etc. should be kept in hard binding/files in a systematic manner for their handling during the O&M period. At least, 2(two) copies of each should be kept with the concerned Site and ED(D&E) and ED(Projects) separately.

18.7.2 Physical completion of scope

Once the 'Works' are notified to be completed by a contractor, execution site shall take immediate action towards thorough checking of the same.

18.7.3 Completion of on site training of Owner's personnel by the Contractor

Onsite training of the Owner's personnel shall be completed by the Contractor in terms of the Contract provisions.

18.7.4 Commissioning/Taking over/Completion

After works are completed/test charged at rated parameters, Taking Over Certificate (TOC)/Completion Certificate shall be issued. The issuance of TOC is an important milestone in Contract closing as it signifies completion of works and commencement of Defects Liability/Warranty Period.

#### 18.7.5 Material Reconciliation (Owner supplied materials)

- a. The execution site shall periodically carry out material reconciliation with Contractor. The statement shall accordingly be prepared and a watch on the consumption of Owner-Supplied Material shall be kept by enclosing a material issue/utilization/recovery statement (provisional) with every R. A. bill to avert situation of encountering abnormal recovery at the end resulting into a serious crisis.
- b. On completion of works, the material reconciliation shall be given the final shape jointly by the execution Site and the Contractor. The Contractor shall be required to return the balance Owner-Supplied Materials in terms of provision of the Contract.
- c. Site stores shall accept the material after verifying its quantity, make, and physical appearance. While accepting material, it will be ensured that quantities of various materials are in the units acceptable as per Contract. Anything different shall be taken over/ retained by the Contractor.
- d. In order to ensure that only materials in good condition and acceptable units, keeping the provisions of the Contract in view, are taken over from the contractor, one representative of execution Site will check & verify the materials suitable for use in works. Further, a copy of Bill Of Materials(BOM), should be provided to the stores Department. On the basis of actual receipt of materials from the Contractor and verification from the site representative, store will issue the Goods Received Note (GRN). One copy of the GRN for the returned materials shall be provided to the head of execution Department for finalizing reconciliation and effecting necessary recoveries, if any. In the GRN, Make, Quantity, Condition of packing, Overall appearance and Condition of health of equipment after site test etc. to be mentioned.
- e. While making final reconciliation statement, the total allowable consumption of Owner-Supplied Material shall be worked out taking into account the quantities actually erected/required as per specifications including allowable working wastage. Based on the material issued to the Contractor and consumption as worked out above, balance materials to be returned will be arrived at. If the material returned by Contractor is less than that arrived at as above, necessary recovery will be effected from the contractor's final bill or other bills /payment etc, as provided in the Contract. However, if the Contractor wishes to replenish the excess consumed materials, the same shall be allowed from sources approved by NEEPCO. The materials in all such cases shall be as per the approved Quality Plan of NEEPCO and shall be despatched only after Inspection and Clearance by NEEPCO.

Joint reconciliation of material shall be completed within 3(three) months of completion of 'Works'.

- f) The rate, at which recovery for shortage of Owners Supplied Material (OSM) has to be affected, shall be arrived at in the manner provided in the contract. In case the contract does not stipulate clear-cut guidelines or it is simply mentioned that recoveries are to be effected at procurement price, the following course of action shall be taken.
- i) The recovery rate shall be finalized as on the date of Taking Over or 'Works' i.e. the date of issuance of TOC for the 'Works/Contract' to which OSM was issued.
  - ii) The rate of such items (excepting cement and steel), whose recovery rates are to be finalized, shall be based on the LOA under which the procurement of the same was made. If procurement of such items has been made under more than one LOA, highest of all rates will be considered for this purpose. Further adjustment to the LOA rate shall be made for price variation (if positive) applicable as on date of Taking Over of 'Works' (to which OSM issued). There shall not be a limit to PV amount for this purpose even if provided in the original contract. The rate so obtained shall be the procurement price to which 15% to take care of NEEPCO's overhead expenditure, shall be added to arrive at recovery rate.
  - iii) In case such items (excepting cement and steel) have not been procured for that project but have been used from buffer stock available or diversion from other project, rates of the same shall be taken from LOA placed for the same project preferably under domestic funding around the date of Taking Over, within last 02 years. In case such rates are not available, the same available for other projects may also be used. The LOA rate, so obtained, shall be subject to further adjustment on account of price variation applicable for the time elapsed between the LOA date and the date of TOC. If the LOA, from where the rate is taken is based on bids opened within two months before or after the date of TOC, THE LOA RATE SHALL, IN THAT CASE, BE TAKEN AS IT IS. The rate so obtained with or without effecting price adjustment, as the case may be, shall be raised by 15% to take care of NEEPCO's overhead expenditure as aforesaid. The rate thus obtained shall be the recovery rate.
  - iv) For cement, steel, (where supplied as OSM) procurement price, as on date of the TOC, shall be based on the latest LOA against which cement and steel were supplied to the 'Works', by escalating the LOA rate @10% per annum for the lapse of time. The rate, so arrived at, shall be enhanced by 15% to take care of NEEPCO's overhead expenditure.

- v) The rate in all cases shall be all-inclusive i.e. including basic rate, duties, taxes, freight etc. Irrespective of the type of funding, duties and taxes that applicable for packages under domestic funding shall be taken. Moreover, wherever rates have been taken from contracts under multilateral funding, where deemed export benefits are applicable, recovery rate arrived at as above shall be further enhanced by 10% to notionally take care of the possible impact of such benefits on rates obtained.
- vi) No penal recovery shall be made unless otherwise provided in the contract.
- g) It may also sometimes happen during execution of works that the contractor demands material much more than that is required for actual erection including allowable wastage, probably because of negligence on his part. In such a situation, if NEEPCO has to issue material through additional procurement, replenishment of such additional quantity will not be allowed. For such additional quantities recovery will be made as per procedure described above.

#### 18.7.6 PG (Performance Guarantee) Test

The Contractor in line with the provisions of the Contract will carry out this in presence of the representative of execution Site, ED(Projects), ED(O&M) and ED(D&E). The procedure to be followed shall be as prescribed by the provisions of the Contract.

#### 18.7.7 Proposal of Quantity Variation, extra items and Issuance of Final Amendment

- a. The processing of quantity variations will be carried out and finalized as per Clauses 12.0 and 13.0 of Section 2, Volume II of this Manual.
- b. The processing of final amendment to the Contract shall not be withheld for non-completion of minor works, which do not affect issuance of TOC\Completion Certificate or performance of the system. However, the express understanding shall always be that all such works, howsoever minor those may be, shall be completed by the contractor within a time schedule mutually agreed at the time of issuing TOC/Completion Certificate. If such works are not finally completed/carried out by the contractor, NEEPCO may consider closing of the contract, if it is feasible/workable to complete the balance works through other sources, by effecting appropriate recovery towards carrying out such works in the final bill, SD or any amount payable to the Contractor. In order to finalize recoverable amount, a cost estimate of balance works at prevailing market rate will be prepared which will also include NEEPCO's overhead charges of 15%. The amount payable to the Contractor as per contract if he would have completed the balance works will also be worked out. The recovery amount shall be as per the estimate prepared at market rate or 2 times the amount payable to the contractor for balance works as per rates under the Contract, whichever is higher. For this, the proposal shall be moved by execution site and approval of ED (C&P) shall be taken through



site finance, HOP and ED(Projects) in case of a Corporate Package. For Site Contracts, the proposal shall be moved by execution site and approval of ED(Projects) shall be taken through site finance and HOP.

- c. There may be a situation that there is considerable delay in commencement/ completion of PG tests. Irrespective of the reason for which it is delayed/held up, the processing of final amendment proposal shall not be kept under hold.

#### 18.7.8 Time Extension & Settlement of LD

This will be guided by Clause 14.0 of Section 2, Volume II of this Manual

#### 18.7.9 Settlement of claims and disputes

This will be guided by Clause 17.0 of Section 2, Volume II of this Manual.

#### 18.7.10 Processing & Release of Final Bill

- a. After final amendment to the Contract is issued, the Contractor shall be required to submit its final bill, along with all the relevant details such as summary of all the previously paid bills including Price Variations bills, quantities executed/recorded, total value of the RA Bills, retention money, adjustment of mobilization advance, materials and other advances, statement of recoveries made and due etc. The final bill shall be properly checked as per the checklist given at Annexure-I (SECTION-4) and necessary action shall be taken to ensure that all the relevant details are taken care of before payment is recommended for release. Along with final bill, the execution Site shall enclose the necessary certificates.
- b. The final bill shall be prepared and forwarded to Site Finance so as to facilitate release of payment within a period as provided in the Contract. After the final bill is forwarded to Site Finance, the same shall be thoroughly checked there and thereafter the payment shall be released.
- c. There may be situation, when all other formalities required for release of final bill are complete but DRP (Dispute Review Panel)/Arbitration proceedings are going on. In such a situation final bill and CGP cannot be released to the contractor till settlement of disputes. However, if final bill amount is sufficient to take care of the amount expected to be settled out of claims & counterclaims, CGP will be released. In case the contractor still insists for release of payment otherwise due to him, without taking into account claims and counterclaims, the same can be released against BG of equivalent amount with the undertaking that BG will be encashed whenever required by NEEPCO. Proposal in regard to release of CPG and release of balance payment against BG will be initiated by execution site and same will require approval of concerned Executive Director after Site Finance concurrence.

- d. Existence of Dispute Resolution Board (DRB) Arbitration proceedings shall not be a ground for non- processing of proposals pertaining to final amendment, LD settlement, finalization of recovery rates etc.

#### 18.7.11 Warranty/Defect Liability Period completion

- a. With satisfactory completion of Warranty Period/Defects Liability Period, which is linked with the date of Taking Over, the liability of the Contractor under a contract comes to an end as all other activities are supposed to be completed much before it. In case any defect is observed during this period, the same is required to be rectified/ replaced by the contractor free of cost and the Warranty Period/ Defect Liability Period for that portion stands extended as may be specified in the Contract. If different Defect Liability Period shall become applicable to different sections or parts of the work in terms of relevant clause of Conditions of Contract, the expiry of the latest such period shall be considered for the purpose of refund of Performance Security/ Security Deposit.

#### 18.7.12 Release of CPG/SD:

- a. The release of CPG (Contract Performance Guarantee)/SD (Security Deposit) is the last activity in the Contract closing.

In the case of Supply Contracts, CPG will be released within 90(ninety) days from successful completion of the Warranty Period.

In case of Works/Services and Erection/Erection portion of Supply-cum- Erection Contract, the SD will be released after Defect Liability Period as below.

- i) If the Final Bill is paid before the expiry of Defects Liability period, entire amount of Security Deposit shall be released within 14(fourteen) days of the issue of the Defects Liability Certificate only, provided that the Engineer-in-Charge is satisfied that there is no demand outstanding against the Contractor.
- ii) If the Final Bill is paid after the expiry of Defects Liability period, 50% (fifty percent) of the Security Deposit less any amount due to the Corporation shall, on demand, be returned to the Contractor within 14(fourteen) days of the issue of the Defects Liability Certificate, provided time extension, if any, for the work is granted. Balance payment of the Security Deposit shall be released to the Contractor only after the payment of Final Bill, provided that the Engineer-in-Charge is satisfied that there is no demand outstanding against the Contractor.
- iii) No interest shall be payable to the Contractor by NEEPCO against the Security Deposit furnished/ recovered from the Contractor.

Since the release of CPG/SD is the last activity before the contract is declared as closed, compliance in regard to completion of the required

formalities is ascertained in form of issuance of various certificates called Contract Closing Proformas (CCP), which are discussed in Para 18.8 below.

- b. If the Contractor expressly requests in writing, he will be permitted to convert the amount of SD deducted from his running account bills into BG of any nationalized/scheduled bank in the country of the corporation or a foreign bank confirmed by any of the nationalized banks in India as per NEEPCO's prescribed format. The amount of SD to be converted shall not be less than 1% of the total contract sum at a time. The validity period of such BG shall initially be 30(thirty) days beyond the scheduled/revised schedule date of completion of Defect Liability Period.

## 18.8 Contract Closing Proformas (CCPs)

18.8.1 In order to ensure that entire scope under the Contract is completed and obligations/liabilities of either parties are properly settled before a particular Contract is declared as closed, confirmation from concerned authorities in respect of satisfactory completion of respective activities shall be taken in form of issuance of Contract Closing Proformas (CCPs). The Contract Closing Proformas (CCPs) are devised in a manner so as to cover all aspects of a Contract. These CCPs, which are enclosed as Annexure II (SECTION-4), are outlined below, indicating the responsibility center for the respective proforma:

Sl. No.	Description	Responsibility
CCP01	Final Amendment to Contract	HOP
CCP02	Receipt of Documents/As built Drawings from Contractor	ED(Projects), HOP, ED(D&E)
CCP03	Receipt of QA Documents	ED(D&E), Head of QC&A
CCP04	Receipt of O&M manuals	ED(Projects), ED(D&E), HOP
CCP05	Confirmation of Scope completion	Execution site
CCP06	Settlement of LD and final time extension	ED(C&P), HOP
CCP07	PG test	Execution site
CCP08	Material Reconciliation	Execution site

CCP09	Payment Reconciliation	Finance
CCP10	Fulfillment of statutory requirements	Contractor
CCP11	No Demand Certificate	Contractor
CCP12	Warranty/ Defect Liability Period completion	Execution site
CCP13	Release of CPG/SD	Finance, HOP

- 18.8.2 It is possible that some of the above mentioned CCPs are not relevant to a particular contract and the same therefore will not be applicable in such Contracts. Therefore, once a particular Contract comes under the zone of consideration for monitoring of Contract Closing, the executing Department shall propose and obtain approval of the Competent Authority (ED(Projects) for Corporate Contracts and concerned HOP for Site Contracts), as to which are the CCPs those will be applicable to that Contract. On approval, the same shall be informed to execution Site and Finance, preferably in a consolidated tabular form covering all the Contracts being monitored for Contract closing at a time.
- 18.8.3 CCPs 1-10, to the extent applicable as discussed above, shall be obtained before release of final payment by Finance Wing. The concerned responsibility center as mentioned in Para 18.8.1 shall ensure that they issue these certificates in time. The issuance of CCP10 and CCP11, both to be given by Contractor, shall be coordinated by execution Site and Finance respectively. As a matter of procedure, the concerned responsibility center shall issue respective certificates within 10 days of completion of a particular activity. Except CCP-10 and 11, all other certificates shall be issued at least in two copies, with original being sent to/retained by the HOP, and copy to be given to execution Department.
- 18.8.4 From Contractor's side, a representative, duly authorized by the company to sign such documents, shall sign CCPs. From NEEPCO's side, it shall be signed by the head of the concerned Department.
- 18.9 Once all the Contract closing activities are completed and the required certificates are obtained, the executing Department shall put up a note confirming the same and declare closing of a particular Contract for information of ED (Projects) and ED(C&P) for Corporate Contracts and concerned HOP for Site Contracts. The declaration towards closing of the Contract will be signed by HOP for Corporate Contracts and head of Site C&P Wing for Site Contracts.
- 18.10 During execution of contracts, the Engineer-In-Charge / HOP shall keep records of all critical issues, such as technical, contractual, geological issues, geological surprises, remedial measures, construction issues, disputes/

arbitration cases etc, if any arising during execution of the contract, in chronological order. After completion of work, EIC shall submit a detailed report incorporating all such issues to Director (Tech), ED of the concerned project, ED(D&E) and ED(C&P). Such reports shall be a valuable asset of the corporation for utilizing those experiences in encountering similar issues that may arise in future projects.

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