

## SPECIFIC TERMS AND CONDITIONS

### *Contractual Provisions*

**ATTENTION TO DETAILS:** Bidders are instructed to carefully read this Bid in its entirety and observe/ examine all information, specifications, maps, drawings, circulars, schedules, terms and conditions, and all other instructions pertaining to the product, work or bid. Failure to do so will be at the Bidder's own risk and he cannot secure relief on the plea of error in the Bid. Bids should not be submitted in the form of letters. Any difference or deviations from the requested description or specifications must be stated on a separate attachment/ sheet, but the quotation itself **MUST** be made on the attached Form(s)/ Schedule(s). The cooperation of the Bidders to this effect is requested to facilitate the adjudication of the bids received.

### **1. LONG TERM ARRANGEMENT**

1.1 UNICEF wishes to enter into (a) non-exclusive Long Term Arrangement(s) (“LTA”) for the procurement of the items listed in the attached Schedule(s), as required from time to time during the term of the LTA. It will be a provision of such Arrangement(s), that UNICEF will not be committed to purchase any minimum quantity of these items, and that purchases will be made only if and when there is an actual requirement. UNICEF shall not be liable for any cost in the event that no purchases are made under any resulting LTA(s).

1.2 The quantities outlined in this bid, are an estimated forecast of the total requirement for the proposed duration of the LTA. The estimates are provided in good faith and shall not in any way be deemed to be a commitment on the part of UNICEF regarding any quantity for future purchases.

1.3 Purchases will be made against Purchase Orders (PO) to be issued by UNICEF in accordance with the terms and conditions of any resulting LTA(s). Actual quantities to be purchased will vary from PO to PO.

### **2. TERM**

2.1 The proposed LTA shall be valid for a period of **36** month(s). Prices offered by bidders, shall remain fixed for 12 month periods from the commencement of the LTA. For subsequent years the quoted percentage increase, if any, will be applied.

2.2 In the event that the successful bidder is able to offer UNICEF a discounted price on placement of bulk orders, the unit prices shall be reduced for specific POs.

### **3. PRICES AND DISCOUNTS**

3.1 Bidders are requested to:

- (a) Provide unit prices in – **Taka**, which will remain firm, subject to the right to review as outlined in clause 2.
- (b) Advise as to staircase pricing (i. e. varying prices according to quantities procured) discounts applicable for bulk purchases, or payment within a specified period of time. Any other discount must be clearly stated in the bid.

3.2 UNICEF standard payment terms are net 30 days after receipt of COMPLETE PAYMENT DOCUMENTATION as specified in the Purchase Order. Time will be computed from the date of receipt at UNICEF office of complete payment documentation.

### **4. DELIVERY**

4.1 Deliveries shall be made as per instructions in UNICEF’s Purchase Orders, as issued in accordance with the provisions of the LTA. Bidders shall indicate the guaranteed minimum lead time for delivery for each item offered (subject to quantities), defined as time from receipt of order and including the manufacturing period and the projected period for shipment up to the designated consignee anywhere in Bangladesh. Time required for pre-

shipment inspection and issue of Delivery Order by UNICEF will be additional to lead time quoted by the Vendor.

4.2 To cover the time required for Pre-shipment inspection and process to issue Delivery Order, 2 weeks grace period will be allowed by UNICEF.

4.3 Bidders are requested to note that UNICEF will monitor and measure the performance of the successful bidder, in comparison with guaranteed minimum lead time indicated in this bid. Accordingly, it is imperative that bidders' state realistic guaranteed minimum lead times.

4.4 The Vendor will be responsible for arranging delivery on to the UNICEF designated Consignees in the designated sites as mentioned in the schedules. The delivery time must include time for production/ manufacturing/ import/ packaging/ transportation, and delivery up to the consignee(s)'s premises.

4.5 The delivery time stated must be realistic and reliable. **Delays that have not been approved by UNICEF via an Amendment of the Purchase Order or through e-mail/ fax will result in the implementation of the LIQUIDATED DAMAGES - see Clause 13.**

4.6 Once the Goods have been inspected and the pre-shipment inspection agency has submitted the report, UNICEF will issue the Delivery Order (DO) to the Vendor for making delivery to the designated Consignee subject to acceptance of the Goods during pre-shipment inspection. To cover up the time required for inspection and issuance of DO, UNICEF will provide 2 weeks grace period beyond the delivery date mentioned in the PO. Thus **Allowable Delivery Period (ADP)** will be counted as delivery period mentioned in the PO in accordance with what was quoted in the bid **plus** 2 weeks – grace period.

4.7 The **Delivery Lead Time (DLT)** is defined as the time taken by the Vendor from date of receipt of the PO to the date of actual delivery made to the Consignee.

4.8 On receipt of PO, Vendor must ensure that **Delivery Lead Time (DLT)** is less than ADP. In case DLT is found more than ADP, it would be considered delayed delivery except that delay was occurred due to the reasons beyond the control of the Vendor. In case Vendor has failed to make the delivery on time, No. of days by which delay occurred will be as below:

No. of days delay occurred (NDDO) = DLT – ADP

(Note: in case DLT is before ADP, it would mean that no delay has occurred and as such confirms that the delivery has been completed on time)

4.9 Liquidated Damages Amount (LDA):

- (a) LDA = 0.50% of PO Value x NDDO
- (b) Maximum LDA = 10% of PO value

If applicable, Liquidated Damages Amount (LDA) to be deducted from the Vendor's Invoice will be the lowest out of (a) and (b) mentioned above.

## 5. DESTINATIONS

5.1 For direct distribution to UNICEF projects throughout Bangladesh as may be required from time to time. Consignee details will be provided at the time of Purchase Order issuance.

## 6. DELIVERY TERMS (INCOTERMS)

6.1 Bidders/ Vendors are requested to quote the unit price, which should include the cost of product, transportation, risk involved during the transit, unloading and stacking in the designated store of the consignee, and installation anywhere in Bangladesh unless otherwise mentioned in this bid.

6.2 Failure to quote in accordance with the requested DELIVERY TERMS/ INCOTERMS will invalidate the bid.

## **7. SAMPLES**

7.1 UNICEF reserves the right to request free, non-returnable samples for evaluation and testing by UNICEF, or its representative, of the item and/ or of the packing and packaging, prior to any award. Samples will be subject to technical review and laboratory analysis where appropriate.

7.2 Failure to provide, in a timely manner, samples or documentation requested by UNICEF shall be sufficient ground to declare the bid invalid or to terminate for default, at no cost to UNICEF, any resulting LTA.

## **8. SUBCONTRACTING**

8.1 Bidders MUST identify on their bid any products which may be offered by themselves, but originate from another Vendor and/or country. All subcontracting must be reviewed by UNICEF prior to award.

## **9. PACKING**

9.1 The bidder warrants that the cost of packing is included in the cost offered for the items.

9.2 The successful bidder shall ensure that:

- (a) The packing shall be of a sturdy export quality, of virgin base materials and of a commercial standard that will provide adequate protection of the goods for carriage by air, sea and/or road to final destinations worldwide, including remote locations under adverse climatic and storage conditions, and high humidity – i.e. not less than 17kN edge crush resistance with minimum 60% remaining with 90% humidity at a temperature of 40C (tropical conditions);
- (b) The packaging unit is strong, able to be stacked to a height of 4 pallets as static storage and 2 pallets during transport, and resistant to puncturing;

9.3 Deliveries shall be packed/ palletised in the most cost-effective way to minimise freight costs. Successful bidders who do not comply with UNICEF's particular packing requirements as outlined above shall be invoiced the extra cost of repacking goods on arrival at UNICEF.

## **10. IDENTIFICATION MARKINGS**

10.1 All cases, cartons, inner boxes etc. must be clearly marked as follows:

- (a) Purchase Order Number;
- (b) "UNICEF SUPPLIES - NOT FOR SALE";
- (c) Description of contents;
- (d) Quantity per carton;
- (e) Gross Weight;
- (f) Cubic Measurement;
- (g) Batch Number Reference (if applicable);
- (h) IMCO classification (if applicable);
- (i) Manufacturing Date (if applicable);
- (j) Expiry Date (if applicable).

10.2 The markings for all outer cartons shall be in text format.

10.3 Case identification as requested on the Purchase Order must be mentioned on all packing lists and invoices.

## **11. PACKING LIST**

11.1 All markings must be reflected in the packing list to be completed at time of shipment. The packing list shall indicate the manufacturing batch number (where applicable) and cross-reference to the carton numbers. One copy of the packing list must be included with the shipment and another copy shall accompany the shipping/ despatch documents.

## 12. BIDDER REPRESENTATIONS

12.1 The bidder represents and warrants that:

- (a) It has the personnel, experience, qualifications, facilities, financial resources and all other skills and resources to perform its obligations under any resulting LTA or Purchase Order;
- (b) The items offered shall be new and factory packed, and free from defects in workmanship and materials;
- (c) The items offered shall be contained or packaged in a manner adequate to protect them;
- (d) It has not and shall not enter into any agreement or arrangement that restrains or restricts UNICEF's or the ultimate recipient's rights to use, sell, dispose of or otherwise deal with any item that may be acquired under any resulting LTA or Purchase Order.

12.2 The successful bidder will be required to acknowledge that:

- (a) UNICEF may further distribute the goods supplied to its Programme partners, including procurement services customers;
- (b) The benefit of any warranties provided and liabilities entered into with UNICEF, shall be passed on by UNICEF to its Programme partners, including Procurement Services customers.

## 13. LIQUIDATED DAMAGES FOR LATE DELIVERY AND POOR QUALITY

13.1 UNICEF shall be entitled to liquidated damages from the Vendor for failure in performance (delivery and quality), under the conditions and in the amounts specified under clause -4 and below.

13.2 Such damages shall be payable by the sole fact of such failure in performance without the need for any previous notice, except as otherwise provided in the Purchase Order, or any legal proceedings, or proof of damage, which shall in all cases be considered as ascertained. UNICEF may, without prejudice to any other method of recovery, deduct any amount of liquidated damages from the Vendor's invoices or from any sums due or which may become due to the Vendor. The payment or deduction of such damages shall not relieve the Vendor of any of its other obligations or liabilities under the contract.

13.3 Listed below are the "Liquidated Damages Clauses" which will be included in the Purchase Order Terms and Conditions:

(a) **LIQUIDATED DAMAGES FOR LATE DELIVERY**

If the Vendor fails to make delivery(s) of goods qualified in pre shipment inspection and accepted by UNICEF within 2 weeks (grace period), **after** the delivery date(s) mentioned in the UNICEF Purchase Order, UNICEF shall be entitled to liquidate damages in the amount of five-tenths percent (0.5%) of the value of such deliveries per additional day of delay, up to a maximum of ten percent (10%) of the value thereof.

(b) **LIQUIDATED DAMAGES FOR QUALITY CONTROL FAILURE**

If the Vendor/Vendor fail to meet quality control requirements or if the Vendor/Vendor fails to cure deficiencies in a delivery which has not met quality control requirements within two (2) weeks of having received notice from UNICEF (return receipt requested), UNICEF shall be entitled to liquidated damages in the amount of one tenth percent (0.1%) of the value of such delivery or deliveries per day from the date of such failure until it is cured, up to a maximum of twenty-five percent (25%) of the value thereof. Vendor should note that Liquidated Damages mentioned above are for supplying bad quality of Goods. This penalty will not account for the deficiency in the quantity or quality of the Goods supplied. Appropriate amount for the deficiency in the quantity and quality will be deducted from the PO value as found prudent.

## 14. GENERAL TERMS AND CONDITIONS

14.1 The UNICEF General Terms and Conditions attached to this bid shall apply to any resulting LTA and/ or related Purchase Orders. In the case of any inconsistencies, the following order of precedence shall prevail:

- (a) The UNICEF General Terms and Conditions;
- (b) The Special Terms and Conditions;

- (c) The LTA;
- (d) The Purchase Order.

## **15. DANGEROUS GOODS**

15.1 The handling and transport of dangerous goods is subject to rules and regulations based on international transport agreements (ADR, RID, IMDG Code, IATA DGR, ICAO) in order to prevent injury to persons, damage to cargoes and living resources. Hence, should any products in this bid be classified as dangerous goods, it will be the successful bidder's responsibility to ensure that the goods are packed and labeled correctly, transported safely and accompanied by the necessary transport certificates during shipment.

**16. PRICE AND VALIDITY:** Vendors are requested to quote unit (VAT amount per unit separately) and total price (total VAT amount separately) for supply of the items as per specifications mentioned in the Schedule(s) given in Bid Response Form of this ITB. The Vendor must offer latest model of the items available/ in production in the industry for that model. Price quoted must include manufacturing/ carpentry/ production costs etc. The Vendor may offer longest validity period for the bid as much possible.

**17. QUALITY:** All items offered must be new, unused, and free from defects, top quality meeting the standard specifications of the items they have quoted for.

**18. BROCHURES/ BOOKLET/ LEAFLET:** The Vendors must submit two (2) sets of Brochures/ Booklet/ Leaflet in English language for each of the item(s) along with the Bid for technical review.

## **19. ADJUDICATION/ AWARD:**

Adjudication will be based on quoted price, sample, and conformance to specifications, delivery time and other relevant factors.

## **20. AWARD/ SPLITTING OF ORDERS**

UNICEF reserves the right to split the award if beneficial in the interest of the Project or of the Organization.

## **21. QUALITY ASSURANCE INSPECTION (QAI)**

(In addition to Clause 14 of Instruction to Bidders in page 3)

- (a) QAI is the responsibility of the manufacturer/Vendor based on the specifications provided by UNICEF.
- (b) All orders are subject to production monitoring and/or pre-delivery inspection. UNICEF reserves the right to contract an agency to conduct production monitoring/pre-delivery inspection at the manufacturer's premises prior to dispatch. The Vendor shall permit UNICEF or its authorized representative to have full access to the manufacturing facilities at all reasonable times to inspect the production, testing and packaging of the material and shall provide assistance to the representative for such inspection, including copies of any test results or quality control reports as may be necessary.
- (c) The Vendor/ manufacturer will be required to notify UNICEF or its authorized/appointed inspection agency in writing at least 14 (fourteen) days in advance of the proposed date for pre-delivery inspection.
- (d) Such inspection(s), if conducted, do not relieve the Vendor from his contractual obligations or guarantee acceptance of the goods.
- (e) Vendor must ensure that the product delivered complies with specifications contained in the UNICEF purchase order. If the goods are rejected by UNICEF, or by its appointed inspection agency, for unsatisfactory design, failure to comply/meet the required specifications, manufacturing defects, inadequate packing, inadequate markings, non-standard specifications/production or other related quality problem, or if the goods/shipment are not available or completely ready for inspection, then the Vendor/Vendor will be financially liable to pay/reimburse UNICEF the costs of such aborted visit(s)/inspection(s) and for transportation and all related charges of the re-inspection. The current cost for such aborted inspection(s) is BDT 5,081.25 for half-day inspections and BDT 10,162.50 for full day inspections. These charges will be deducted from Vendor's invoices at the time of payment for all abortive visits. Further, delay in delivering occurred due to rejection of Goods in first pre shipment inspection followed by abortive visits will attract Liquidated Damages (LD). Appropriate LD amount as mentioned in this Bid will be deducted from the

Vendor's final payment. The official UN Exchange Rate in force at the time of payment of the invoice will be used for the conversion of such deductions.

- (f) Payment for rejected shipments may be withheld by UNICEF until the replacement shipment of acceptable quality is received.
- (g) The Vendor may be requested to issue a Certificate of Guarantee of quality, certifying that all items supplied meet the specifications/ quality specified.
- (h) We reiterate that the Vendor alone is responsible for the quality of the products they supply irrespective of whether they have been inspected and tested by UNICEF or its appointed inspection agency.

## 22. PAYMENT TERMS

- (a) Kindly note Clause 12 and 13 in page 3 of the Instruction to Bidders and other Clauses of Specific Terms and Conditions.
- (b) Payment will be made/ released within 30 days from the date of receipt of the Vendor's Itemized works Invoice (Original and 1 Copy), and Original copy of the Installation, Warranty Certificate of the Photocopier and any other documentation as specified in the purchase order along with the proof of delivery
- (c) UNICEF assumes no responsibility for the late delivery of payment/ delivery documents submitted/ forwarded through special delivery services or Bankers channels. Original payment documents should be sent directly to the UNICEF Office.
- (d) PAYMENT TERMS/ CONDITIONS OF PAYMENT THROUGH "LETTERS OF CREDIT" ARE NOT ACCEPTABLE TO UNICEF.
- (e) Please indicate, if UNICEF pays within a given number of days (correspondingly shown below), which of the following terms/ standard discount rates are offered by you:
  - 3.0% for payment within 10 days
  - 2.5% for payment within 15 days
  - 2.0% for payment within 20 days
- (f) Alternative discount proposals may be acceptable.

Vendor is to clarify specific acceptable discount terms as above in the bid offer, if interested.

## 23. VAT PAYMENT

(In addition to Clause 5 in page 4 of the UNICEF's General Terms and Conditions)

VAT Payment (if any) will be reimbursed against actual expenses upon receipt of the following documents:

- (a) Original VAT Chalan(s) issued in favor of UNICEF-Dhaka mentioning relevant Purchase Order Number(s) duly countersigned and sealed by the respective Customs, Excise and VAT Authority of the Government of Bangladesh.
- (b) VAT amount, if earmarked in the Purchase Order, must be mentioned in the original VAT Chalan(s) and the same amount should be deposited to the Government account by Treasury Chalan(s) mentioning UNICEF Purchase Order Number(s). Copy(s) of the Treasury Chalan(s) duly countersigned and sealed by the respective VAT Authority in support and proof of VAT payment must be submitted with the Invoice. VAT charged to UNICEF must not be mixed with Vendor's other business transactions so that UNICEF may duly receive the reimbursement from Government according to set procedures.
- (c) If VAT charges are applicable, these costs must be mentioned as a separate item in the attached schedules, clearly indicating the amount and corresponding percentage to be paid.

## 24. VENDOR'S REPRESENTATION

The Bidder/ Vendor represents and warrants that it has the personnel, experience, qualifications, facilities and all other skill and resources to perform its obligations under the Offer submitted in this Invitation to Bid.

## **25. HARTALS**

Should a hartal(s) be declared on the closing day and the day of public bid opening of this Invitation-to-Bid, the closing and public opening will automatically be deferred to the first working day after the hartal(s). The time of day for closing and opening the Bid will remain unchanged. Hartals will not be accepted as a reason for delayed delivery of goods.

## **26. CHILD RIGHTS**

(In addition to clause 24 of UNICEF's General terms and Condition)

26.1 UNICEF does not and will not accept any form of CHILD LABOR or EXPLOITATION OF CHILDREN in any part of the manufacturing/production process of goods to be supplied to UNICEF. This means the ENTIRE production process, including the manufacturing premises/factories as well as any sub-contracted processes/functions.

26.2 UNICEF reserves the right to conduct surprise visits to the manufacturing premises and implement investigations of sub-contractors premises in this regard.

26.3 UNICEF also reserves the right to terminate any contract unconditionally and without liability in the event that any Vendor/ Vendor is discovered to be in non-compliance with their national labor laws and regulations, including any violations in relation to Child Employment/ Labor.