

**LIMITED TENDER ENQUIRY**

**FOR**

**SECURITY AUDIT**

**OF**

**BIRAC WEBSITE**



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## Biotechnology Industry Research Assistance Council

(A Government of India Enterprise)

### 1.0 Letter of Invitation

#### Limited Tender Enquiry

Biotechnology Industry Research Assistant Council (BIRAC), New Delhi intends to engage an Agency for Security Audit of BIRAC website. BIRAC website consists of static as well as dynamic web pages developed in PHP language with Mysql as database.

The salient features of the tender are:

<b>Tender No:</b>	BIRAC/HR&A/007/2019/ENQ- 25
<b>Brief Description:</b>	Security Audit of BIRAC website
<b>Category:</b>	Services
<b>Approximate Quantity:</b>	Need Based
<b>Contract Period in case of Services:</b>	4 Months from date of Signing of Agreement
<b>Tender Originating Location :</b>	BIRAC Office, New Delhi
<b>Type of tender:</b>	Limited Tender Enquiry
<b>Cost of tender document(IN INR):</b>	NA
<b>Earnest money Deposit :</b>	NA
<b>Performance Bank Guarantee (IN INR):</b>	NA
<b>Issue / Sale of Tender document:</b>	Downloadable from BIRAC Website & Central Public Procurement Portal
<b>Tender Document selling offices: - Other:</b>	NA
<b>Last date of receipt of queries for Pre-bid Conference:</b>	04 <sup>th</sup> February 2019
<b>Pre-bid Conference Date, Time &amp; Venue:</b>	<b>Date:</b> 05 <sup>th</sup> February 2019 <b>Time:</b> 11:30 AM <b>Venue:</b> BIRAC, 1st floor, MTNL building, 9, CGO Complex, Lodhi Road, New Delhi – 110003
<b>Date of Publication of Tender</b>	30 <sup>th</sup> January 2019

<b>Last Date &amp; Time for Submission of BID/ Closing of Tender</b>	13 <sup>th</sup> February 2019 by 02:00 PM
<b>Opening of tender:</b>	13 <sup>th</sup> February 2019 at 03:00 PM
<b>Place of submission of tender:</b>	BIRAC Office, New Delhi
<b>Place of Opening of tender:</b>	BIRAC Office, New Delhi
<b>Estimated Annual Cost of Contract:</b>	NA
<b>Job completion time:</b>	4 Months from date of Signing of Agreement
<b>Site Location:</b>	BIRAC Office, New Delhi
<b>Pre-Qualification criteria:</b>	As per Clause – 8.0
<b>Bid Validity</b>	60 days from the Bid Closing Date

Prospective bidders should download the Complete Tender Documents from BIRAC's web site [www.birac.nic.in](http://www.birac.nic.in) and CPPP. Addendum/ Corrigendum, if any, to the tender documents shall be uploaded on website only. Hence, bidders may visit the same regularly till the bid submission date.

Thanking you,

Yours faithfully,

Head – HR & Admin  
For BIRAC

**Disclaimer:** This BID is not an agreement and is neither an offer nor invitation by the Authority to the prospective Applicants or any other person. The purpose of this BID is to provide interested parties with information that may be useful to them in the formulation of their Applications pursuant to this BID. This BID includes statements, which reflect various assumptions and assessments arrived at in relation to the Bid that may not be accurate. The Authority may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this BID. BIRAC reserves the right to cancel this LTE and/ or invite afresh with or without amendments, without liability or any obligation for such LTE and without assigning any reason

## 2.0 Background

Biotechnology Industry Research Assistance Council (BIRAC), is a Public sector undertaking registered under the Indian Companies Act 2013 as a Section 8 'Not for profit company', as an interface agency of DBT, Ministry of Science & Technology, BIRAC was set up with a vision to stimulate, foster and enhance the strategic research and innovation capabilities of the Indian biotech industry particularly SME's, to make India globally competitive in biotech innovation and entrepreneurship and to create affordable products and services.

## 3.0 Objective

Biotechnology Industry Research Assistance Council (BIRAC), 1st Floor, MTNL Building, 9 CGO Complex intends to engage an Agency for Security Audit of BIRAC website. BIRAC website consists of static as well as dynamic web pages developed in PHP language with Mysql as database.

## 4.0 Terms and Conditions

Terms and conditions of this contract shall be governed by Service and Confidentiality Agreement as per Annexure – VI.

## 5.0 Broad Scope of Work

Primary objective of the security audit exercise is to identify major vulnerabilities of the BIRAC website from internal and external threats. Once the threats are identified and reported, the auditors should also suggest acceptable and possible remedies. The BIRAC website consists of static as well as dynamic web pages developed in PHP language with Mysql as database and hosted at National Informatics Centre (NIC) Linux Server.

The Auditor is expected to carry out an assessment of the vulnerabilities, threats and risks that exist in the above website through Internet Vulnerability Assessment and Penetration Testing. This will include identifying remedial solutions and recommendations for implementation of the same to mitigate all identified risks, with the objective of enhancing the security of the BIRAC website. The audit of the BIRAC website should be conducted in conformity with NIC audit guidelines.

BIRAC further intends to fine-tune Scope of work, technical specifications, warranty and maintenance requirements, terms and conditions etc. , if found necessary as a result of discussion with the shortlisted agencies for adopting in ensuing tendering process.

a. **Audit Environment:-** Audit can be done on-site only. The BIRAC website has presently been uploaded on BIRAC internal server.

- b. To ensure that the BIRAC website is free from the vulnerabilities, the audit exercise will need to undertake the following activities:
  - i) Identify the security vulnerabilities, which may be discovered during the security audit including Cross-site Scripting, Broken Links/ Weak Session Management, Buffer Overflows, Forceful browsing, Form/hidden field manipulation, Command Injection, Insecure use of cryptography, Cookie posting, SQL injection, Server mis-configuration, well known platform vulnerabilities, errors triggering sensitive information, leak etc.
  - ii) The website audit should be done by using Industry Standards and as per the Open Web Application Security Project (OWASP) methodology.
  - iii) Password Policy
  - iv) Log Review, incident response and forensic auditing
  - v) Integrity Checks
  - vi) Virus Detection
  - vii) Identification and prioritization of various risks to the BIRAC website
  - viii) Identify remedial solutions and recommendations for making the BIRAC website secure & safe.
  - ix) Any other issues.
- c. During Security Audit, if any lapse is found, the same shall be reported by the auditor to BIRAC to make the website fully secured for hosting on NIC server.
- d. **Roles and Responsibilities:** - The auditor responsibilities need to articulate not just the audit tasks, but also the documentation of their activities, reporting their actions etc. and providing necessary guidance to the developer as and when requested during the audit phase.
- e. **Audit Report:-** Security Audit Report should clearly state that all the web-page(s), including the backend database and scripts, if any, are free from any vulnerability and malicious code, which could be exploited to compromise and gain.

## 6.0 Deliverable & Audit Report

The selected auditor will be required to submit the following documents in printed format (2 copies each) after the security audit:

- i) At Level-1, a detailed report with security status and discovered vulnerabilities weakness and mis-configurations with associated risk levels and recommended actions for risk mitigations.
- ii) The auditor will submit the final audit report after the remedies/recommendations are implemented and confirmed with retest.
- iii) The final security audit certificate for the BIRAC website (<http://birac.nic.in/>) should be in compliance with the NIC standards.
- iv) All deliverables shall be in English language and in A4 size format.
- v) The bidder will be required to submit the deliverables as per terms and conditions of this document.

## 7.0 Timelines

The completion of the work shall be within four months from the date of Signing of Agreement.

## 8.0 Pre-Qualification Criteria (PQC)

Sl. No.	Pre-Qualification Criteria	Supporting Documents Required
1.	The agency must have an established office in Delhi/NCR.	Electricity/Telephone Bill or any other supporting document stating the address duly certified by the Owner/Authorized Representative of the Company
2.	The agency must have <b>atleast 10 years</b> of experience in the field of Security Audit in the Government/Semi Govt. / Autonomous Bodies/PSUs/Reputed organization etc	Self-attested Copy of the work orders and letter of successful completion from the client
3.	The agency should have completed similar kind of work in atleast two Central Govt./State Govt./PSUs/Govt. bodies in India.	Self-attested Copy of the work order and letter of successful completion from the client
4.	The bidder should be empanelled Information Security Auditors on Indian Computer Emergency Response Team (CERT-In), Department of Electronics and Information Technology Ministry of Communications and Information Technology, Government of India	Self Attested Copy of the CERT-IN empanelled certificate.

**Documentary evidences duly signed and stamped to be submitted against each Pre-Qualifying criteria mentioned above.**

## 9.0 Instruction to Bidders

- a. The bidders are expected to examine all the instructions in the Bid Document. Failure to furnish all information required by the Bid Document or submission of a Bid not substantially responsive to the Bid Document to the satisfaction of the BIRAC in every respect will be at Bidder's risk and responsibility and may result in the rejection of its Bids.

**b. Language of Bid**

The bid prepared by the bidder and all correspondence and documents exchanged between the bidder and BIRAC relating to the Bid submitted shall be in English language. However, printed literature furnished by the bidder may be in any other language so long as it is accompanied by an English translation of all its contents. In such a case for the purposes of the interpretation of bid, English translation shall prevail.

**c. Signing the Bid**

The bid shall be signed by the bidder or a person duly authorized to bind the bidder to the contract. The authorization shall be indicated by written letter of authorization/ board resolution / agency agreement etc. accompanying the bid. The person or persons signing the bid documents shall initial all pages of the bid, except for un- amended printed literature.

**d. Cost of Bidding**

The bidder shall be solely liable to bear all costs and expenses associated with the preparation and submission of its bid, and BIRAC will in no case be held responsible or liable for payment of any costs associated with the preparation or submission of the said bids irrespective of the outcome of the bidding process as also in case the entire bidding process or part thereof is nullified/ cancelled due to any reason whatsoever.

**e. Validity of Bids**

- i) Bids shall remain valid for 60 days after the bid closing date. A bid valid for a shorter period will be considered as non-responsive and be liable to be rejected by the BIRAC.
- ii) In exceptional circumstances, BIRAC may solicit the bidder's consent to an extension of the period of validity.

**f. Submission details**

Bids are to be submitted in sealed covers.

- i. The first inner sealed cover should contain all the documents pertaining to **Pre-Qualification Criteria (PQC)** as prescribed and will clearly be super scribed with "PQC" along with enquiry number. This cover should include **Covering letter and PQC (format enclosed as Annexure-I)** with all stamped and signed supporting documents.
- ii) The second sealed inner cover will contain only the price bid duly filled in, stamped and signed and will be clearly super scribed with "Price Bid" along with enquiry number. **The format for Price Bid is enclosed as Annexure-II.**



- iii) These two covers shall be put into outer cover and sealed. The outer cover should super scribed with **Enquiry number, Subject and Date of closing** prominently underlined, along with the address of this office.
- iv) Only one bid should be included in one cover.
- v) The right to ignore any offer which fails to comply with the above instructions is reserved with BIRAC.
- vi) Transfer of Bid Document – Non Transferable
- vii) Price bids, which remain unopened with BIRAC, will not be returned to the concerned bidders.
- viii) Any change in the price after opening of the bids will not be considered.
- ix) Late bids – Bidders are advised in their own interest to ensure that bid reaches the specified office well before the closing date and time of the bid. BIRAC will not be responsible for the loss of the bid or delay in postal transit. Any bid received after dead line for submission of bid, will be rejected and returned unopened.
- x) The cost for preparing the BID including visits by the bidder to BIRAC Office is not reimbursable.

#### **g. Documents to furnish**

Agencies are requested to go through all pre-qualification requirements, scope of work for execution & requirements w.r.t technical / financial capabilities for acceptance and submission of documents for verification by BIRAC. Documents to be furnished are:

- i. PQC Covering Letter along with supporting documents as per **Annexure – I**.
- ii. Price bid as per **Annexure – II**.
- iii. Letter of Authorization as per **Annexure – III**.
- iv. Undertaking with regard to Blacklisting as per **Annexure – IV**.
- v. Undertaking with regard to Non-Litigation as per **Annexure – V**.
- vi. Bid document with each page duly stamped and signed by the Authorized signatory.
- vii. MSME Certificate (if applicable)
- viii. Any other information which agency may like to provide.
- ix. BIRAC reserves the right to call for any clarifications confined in the broad scope, wherever such a clarification become necessary for proper judgment in evaluation.

#### **h. Address of Submission/communication**

**The sealed envelope should be addressed to :**

Head- HR & Administration

Biotechnology Industry Research Assistance Council (BIRAC)

1<sup>st</sup> Floor, MTNL Building, 9 CGO Complex,

Lodhi Road

New Delhi – 110003 (INDIA)

**i. Amendment to the Bid Document**

At any time prior to the last date for receipt of proposals, BIRAC, may for any reason, whether at its own initiative or in response to a clarification requested by a prospective agency, modify the Bid document by an amendment. In order to provide prospective agencies reasonable time in which to take the amendment into account in preparing their proposals, BIRAC may, at its discretion, extend the last date for the receipt of proposals and/or make other changes in the requirements set out in the Bid document. The agency is required to visit the BIRAC website for any changes or amendments in the Bid document before submitting their bid.

**j. Special consideration for MSME & Start Ups**

If the bidding entity is registered under (i) Micro & Small Enterprises at District Industry center or Khadi and Village Industry Board or Coir Board or National Small Industry Corporation or Directorate of Handicrafts and Handlooms or any other body specified under “Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012” & (ii) Start-Ups registered under DIPP (as per G.S.R. 501(E)) it will be exempted from the prior experience & financial criteria.

The participating agencies who qualifies any of the above aspect shall be allowed L1+15% margin of purchase preference in the Price Bid for the purpose of evaluation. After giving such margin, if more than one Agency stand on equal Price Quote, then the agency having more relevant experience can be considered for award of contract.

**k. Conflict of Interest**

The Agencies shall not receive any remuneration in connection with the assignment except as provided in the “Service and Confidentiality Agreement”.

**l. Warranty of the agency**

The agency shall warrant that it is under no contractual restrictions of legal disqualification or other obligations which will prohibit from entering into agreement and that the statement and particulars herein contained in this document and in the relevant and supporting documents to this Bid are correct.

**m. Rejection Criteria**

The application is liable to be rejected if:

- i. The proposal is not submitted as per the requirements indicated in Clause 8.6 above.
- ii. Not in prescribed format.
- iii. Not properly stamped and signed as per requirements.
- iv. Received after the expiry of due date and time.
- v. Offer is received by any other means apart from hardcopy.
- vi. All relevant supporting documents are not furnished with the PQC.
- vii. The proposal shall be substantially responsive without any material deviation, failing which the proposal shall be summarily rejected.

**n. Disclaimer**

- i) BIRAC shall not be responsible for any late receipt of applications for any reasons whatsoever.
- ii) BIRAC reserves the right to reject all applications without assigning any reasons thereof.
- iii) To relax or waive any of the conditions stipulated in this document as deemed necessary in the best interest of the BIRAC without assigning any reasons thereof.
- iv) To include any other item in the Scope of work at any time after consultation with agencies or otherwise.
- v) BIRAC reserves the right to reject all the bids without assigning any reasons.

**10.0 Evaluation Methodology**

- i) Screening of bids shall be carried out as per Pre-Qualification criteria mentioned in the bid document and based on verification of documents submitted.
- ii) All eligible bidders who fulfil the PQC shall be considered for opening of Price Bid.
- iii) The bidder whose evaluated price is found to be lowest (L-1), shall be considered for placement of Work Order for Conducting Security Audit of BIRAC website.
- iv) If more than one Bidder stands on equal Price Quote, then the Bidder having more relevant experience shall be considered for award of contract.
- v) BIRAC reserves the right to reject all bids without assigning any reasons thereof.
- vi) Special consideration will be given to MSMEs and Startups as per clause 9 (j) indicated above.

## 11.0 Formats

### **Annexure-I**

#### **PQC Covering Letter**

**(To be submitted on Agency's Letter Head)**

**Reference Number:** BIRAC/HR&A/007/2019/ENQ- 25

To,

The Head-HR & Administration,  
Biotechnology Industry Research Assistance Council (BIRAC)  
1<sup>st</sup> Floor, MTNL Building,  
9 CGO Complex,  
Lodhi Road, New Delhi.

**Sub:**

Dear Sir/Madam,

Having reviewed and fully understood all of the requirements of the Bid Document and information provided, the undersigned hereby tenders for the assignment referred above. The validity of this bid is confirmed for 60 days after the bid closing date and all the documentary evidences as per the requirement are submitted.

Sl.No.	Description	Response
1	Name of the Bidder	
2	Address	
3	Name, designation & address of the person to whom all references shall be made	
4	Telephone No. (with STD code)	
5	Mobile No. Of the contact person	
6	Email ID of the contact person	

Sl.No.	Supporting Documents Required	Type of Document	Page number of the supporting document
1.	Electricity/Telephone Bill or any other supporting document stating the address duly certified by the Owner/Authorized Representative of the Company		
2.	Self-attested Copy of the work orders and letter of successful completion from the client		
3.	Self-attested Copy of the work order and letter of successful completion from the client		
4.	The bidder should be empanelled Information Security Auditors on Indian Computer Emergency Response Team (CERT-In), Department of Electronics and Information Technology Ministry of Communications and Information Technology, Government of India		

I/we hereby declare that my/our Bid is made in good faith and the information contained is true and correct to the best of my/our knowledge and belief.

Thanking you,

Yours faithfully,

(Signature of the Authorised signatory)

Name: \_\_\_\_\_

Designation : \_\_\_\_\_

Seal : \_\_\_\_\_

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

Place : \_\_\_\_\_

**Annexure - II****Format for Price Bid****(To be submitted on Agency's Letter Head)****Reference Number:** BIRAC/HR&A/007/2019/ENQ- 25

To,

The Head-HR & Administration,  
 Biotechnology Industry Research Assistance Council (BIRAC)  
 1<sup>st</sup> Floor, MTNL Building,  
 9 CGO Complex,  
 Lodhi Road, New Delhi.

**PRICE BID**

S.No.	Description	Price (Rs.)
1.	<b>Security Audit of BIRAC website</b>	<b>(In figures)</b>
		<b>(In words)</b>

**Note:**

- The Agencies will not indicate separate discount, discount if any should be merged in the quoted rates.
- If there is any discrepancy between words and figure, the amounts in words shall prevail and will be adopted for evaluation.
- Duties, taxes and other levies payable as per the statute should not be included in the bid. The price bid shall be quoted exclusive of the applicable taxes.

(Signature of the Authorised signatory)

Name: \_\_\_\_\_

Designation : \_\_\_\_\_

Seal : \_\_\_\_\_

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

Place : \_\_\_\_\_

**Annexure -III**

**Authorization Letter**  
(To be submitted on Agency's Letter Head)

To,  
The Head-HR & Administration,  
Biotechnology Industry Research Assistance Council (BIRAC)  
1<sup>st</sup> Floor, MTNL Building,  
9 CGO Complex,  
Lodhi Road, New Delhi.

**Subject : Letter for Authorized Signatory**

Ref. No. BIRAC/HR&A/007/2019/ENQ- 25

Dear Sir / Madam,

This has reference to your above mentioned Limited Tender Enquiry for Security Audit of BIRAC Website.

Mr./Miss/Mrs. \_\_\_\_\_ is hereby authorized to submit the Bid & attend opening of the above Bid No. \_\_\_\_\_ on behalf of M/s \_\_\_\_\_ (Agency Name).

**The specimen signature is attested below:**

Name: \_\_\_\_\_

(Specimen Signature of Representative) \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorizing Authority

Name of Authorizing Authority & Designation:

Company Seal:

**Annexure - IV**

**UNDERTAKING WITH REGARD TO BLACKLISTING**

(To be submitted on Agency's Letter Head)

To,  
The Head-HR & Administration,  
Biotechnology Industry Research Assistance Council (BIRAC)  
1<sup>st</sup> Floor, MTNL Building,  
9 CGO Complex,  
Lodhi Road, New Delhi.

Subject : Undertaking regarding Blacklisting / Non-Debarment

It is hereby confirmed and declared that M/s \_\_\_\_\_ is not blacklisted/debarred by any Government Department/Public Sector Undertaking/Private Sector/or any other agency for which works/assignments/services have been executed / undertaken.

(Signature of the Authorised signatory)

Name: \_\_\_\_\_

Designation : \_\_\_\_\_

Seal : \_\_\_\_\_

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

Place : \_\_\_\_\_



**Annexure - V**

**UNDERTAKING WITH REGARD to NON-LITIGATION**

(To be submitted on Agency's Letter Head)

To,

The Head-HR & Administration,  
Biotechnology Industry Research Assistance Council (BIRAC)  
1<sup>st</sup> Floor, MTNL Building,  
9 CGO Complex,  
Lodhi Road, New Delhi.

Subject : Undertaking regarding Litigation

It is hereby confirmed and declared that M/s -----,  
does not have any litigation / arbitration history with any Government department/  
Public Sector Undertaking/ Private Sector/ or any other agency for which  
works/assignments/services have been executed / undertaken.

(Signature of the Authorised signatory)

Name: \_\_\_\_\_

Designation : \_\_\_\_\_

Seal : \_\_\_\_\_

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

Place : \_\_\_\_\_

**Annexure -VI****SERVICE AND CONFIDENTIALITY AGREEMENT**

This Agreement is made on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at New Delhi BY and BETWEEN the **Biotechnology Industry Research Assistance Council**, a Government of India Enterprise having its office at **1st Floor, MTNL Building, 9, CGO Complex, Lodhi Road, New Delhi-110003** hereinafter referred to as “BIRAC” (which expression shall wherever the context so admits include its successors and assignees) of the **First Part**

AND

\_\_\_\_\_ having its registered office at \_\_\_\_\_, hereinafter referred to as the “Agency” (which expression shall wherever the context so admits include its employees, administrators and permitted assignees) of the **Second Part**

WHEREAS all the parts are hereinafter referred to as “Parties”;  
All Annexure to this Agreement shall be integral part of this Agreement.

NOW THEREFORE, the parties hereby agree to be bound by the provisions set out in this agreement.

**1. INTERPRETATION**

- i. Confidential Information: “Confidential Information” means all information (whether in oral, written or electronic form) relating to BIRAC , matters related to BIRAC’s corporate affairs, minutes of the meeting(s) or other agnate materials including any notes or summaries derived from those materials of the Disclosing Party and confidential information received by the Disclosing Party from third parties, but excludes any information that: (1) was lawfully in the possession of the Recipient before receiving it from the Disclosing Party; (2) is provided in good faith to the Recipient by a third party without breaching any rights of the Disclosing Party or any other party; (3) is or becomes generally available to, or accessible by, the public through no fault of the Recipient; (4) is independently developed by the Recipient without use of the disclosed Confidential Information or (5) is required by public authority, by law or decree.
- ii. Words importing the singular numbers shall include the plural number and vice versa.
- iii. Headings and subheadings are for convenience only and shall not be deemed to be a part of this Agreement.

## 2. EFFECT OF CONTRACT

- i. The Contract shall be effective from the date of signing of agreement.
- ii. This Contract does not constitute and will not be deemed to constitute and exclusive commitment/ arrangement between BIRAC and the Agency.
- iii. BIRAC will not retain any control for direct supervision of the contracted services and execution of this Contract does not create any liability, explicit or implicit, on BIRAC in respect of the manpower engaged.
- iv. This Contract may be executed in two or more counterparts, each of which shall constitute an original and all of which shall be deemed a single Contract.
- v. The rights and remedies herein provided are cumulative with, and not exclusive of, any rights or remedies provided by law.

## 3. RESPONSIBILITIES OF THE AGENCY

- i. Discharge the duties, responsibilities and execute activities in furtherance of the Scope of Work as given in the Scope of work.
- ii. Ensure compliance with legal provisions related to this Contract. The Contractor shall obtain all requisite license and approval at his cost from the appropriate authority for executing this contract work and submit copy of such license and approval to BIRAC.
- iii. Deploy any workforce which will exclusively be on contractor's pay roll.
- iv. Ensure proper behaviour of the work force provided for BIRAC. The contractor will prevent the work force from taking part in any direct or indirect association with a person or persons engaged in any antisocial activities, demonstrations, riots of agitation, which may in any way be detrimental or prejudicial to the occupants of land / properties in the neighbourhood.
- v. Keep the BIRAC and its employees etc., harmless and indemnified from any consequential claims, actions, suits, proceedings, losses or damages on any ground whatsoever.
- vi. Take disciplinary action against any worker/staff engaged by him.
- vii. Undertake to indemnify the BIRAC against all claims which may arise under the noted acts:
  - a The Shops and Establishment Act.
  - b The Workman's compensation Act.
  - c The payment of Wages Act.
  - d The Contract labour (Regulation and Abolition) Act. 1970 and the rules framed thereunder.
  - e Family Pension Scheme.
  - f Inter-state Migrant Workmen (Regulation of employment and condition of Service) Act, 1979.
  - g Any other Statutory Act/Law/Regulation made applicable during the

pendency of the contract.

- viii. Be solely responsible for determining all matters of detail as to the manner in which a specific assignment is done with an objectively acceptable quality.
- ix. Undertake necessary liaison work as may be required from time to time with the officials of the concerned departments.
- x. Comply to the best of the technical /scientific knowledge, statutory, regulatory and safety guidelines established by the Government of India and BIRAC while performing the services.
- xi. Take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the disclosing party including discussion of the Confidential Information in any public forum which includes formal and informal discussions.
- xii. Comply with all applicable laws, rules and regulations and shall not indulge in any act, which constitutes an offence or a corrupt practice under the Indian laws.
- xiii. Practice Chinese wall or Firewall policy within to deal with contrary interests or with confidential information.
- xiv. Submit any other documentary evidence as & when called by the BIRAC in connection with this Contract.

#### **4. PAYMENT AND BILLING**

- i. The payment will be made only after submitting the Security Audit Certificate and Security Assessment Report on completion of Security Audit of BIRAC website.
- ii. The payment for undisputed bill shall be made by BIRAC within 15 working days from the date of submission of original bill and related supporting documents.
- iii. Income Tax as per statutory provision shall be deducted from the bill and remitted to Income Tax authorities by Accounts Department of BIRAC. A TDS certificate shall be issued by BIRAC to the Contractor for such deductions.
- iv. BIRAC shall make payment through Electronic Payment Mechanism (viz NEFT/ RTGS /ECS). Bank details have to be provided by the Agency.
- v. BIRAC shall not be liable for any consequences, whatsoever, in case there is a delay in making payments for any reasons resting with contractor. Further, no interest shall be paid on such delayed payments.

## 5. WITHHOLDING OF PAYMENT

BIRAC reserves the right to recover from the bills of the Contractor the amount due to BIRAC against any losses and damages including Liquidated Damages or as a result of any claims / compensation or due to any statutory imposition etc. without any notice. BIRAC also reserves the right to withhold any payment to safeguard the interest of BIRAC against any dues for which the decision of the company shall be final. In case of any legal disputes, withheld payments shall not be released till the dispute is settled. No interest shall be payable in case of such withheld amounts.

In order to protect BIRAC, it may withhold the whole or any part of the amount due to agency on account of evidence subsequently discovered in respect of following:

- i. For non-completion of contracted work to BIRAC's satisfaction.
- ii. Contractor's indebtedness arising out of execution of contract
- iii. All claims against Agency for Liquidated damages.
- iv. Any failure by the Agency to fully reimburse BIRAC under of indemnification provisions of this Contract. If, during the process of the Agency shall allow any indebtedness to accrue of which BIRAC may be primarily or contingently liable or ultimately responsible and agency shall, within five days after demand is made by the BIRAC, fail to pay and discharge such indebtedness, then BIRAC may during the period for which indebtedness shall remain unpaid, withhold from the amounts due to Agency's a sum equal to the amount such unpaid indebtedness. When all the above grounds for withholding payments shall be removed, payment shall thereafter be made for amounts so withheld.
- v. Garnishee order issued by a Court of Law in India.
- vi. Income-tax deductible at source according to law prevalent from time to time in the country.
- vii. Any obligation of contractor which by any law prevalent from time to time to be discharged by the BIRAC in the event of contractor's failure to adhere to such laws.

## 6. CONFIDENTIALITY

The Parties, undertake to maintain strict confidentiality and refrain from disclosure thereof, of all or any part of the Confidential Information and data exchanged/generated from the Process under this Contract for any purpose other than in accordance with this Contract. It shall be the responsibility of both the Parties to ensure maintenance of such confidentiality in respect of their behalf and on behalf of their employees, representatives and associates involved in related activities. Thus obligation under this Contract will commence on the Effective Date

and will subsist till three years after completion/termination or till such time the confidential information falls into the public domain whichever is earlier.

## **7. RETURN OF MATERIALS**

Upon the conclusion of the task the Empanelled Firm undertakes to return or destroy materials containing Confidential Information in physical form handed over by the BIRAC in relation to the services or which was generated by the Empanelled Firm in the course of providing the services.

## **8. EARLY TERMINATION OF THE TERM**

This Agreement may be terminated without cause by either party upon not less than thirty (30) days prior written notice by either party to the other. BIRAC can terminate the agreement if the Empanelled Firm voluntarily ceases performing the Duties or “for cause”, in case of any material breach of the terms agreed to. Any termination “For Cause” shall be made in good faith by the BIRAC. Upon termination, neither party shall have any further obligations under this Agreement, except for the obligations to maintain confidentiality. The financial liability shall cease as of such termination date. Upon termination the Empanelled Firm shall return all Confidential Information, as hereinafter defined, and copies thereof.

## **9. WAIVER AND ASSIGNMENT**

Any waiver by the BIRAC of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision hereof. The Empanelled Firm shall not have the right to assign the rights or obligations under this Agreement without the prior written consent of BIRAC.

## **10. EFFECT OF THIS AGREEMENT**

- i. The duty of secrecy under this agreement will commence on the Effective Date and will subsist till three years after completion of the task or till such time the confidential information falls into the public domain whichever is earlier.
- ii. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall be deemed a single agreement.
- iii. The rights and remedies herein provided are cumulative with, and not exclusive of, any rights or remedies provided by law.

## **11. DISPUTE RESOLUTION**

In the event of any dispute or difference between the Parties hereto upon or in relation to or in connection with this Contract, such dispute or difference, shall be resolved amicably and in good faith by mutual consultation.

If such resolution is not possible, then the unresolved dispute or difference whatsoever arising between the Parties out of or relation to the construction, meaning, scope, operation or effect of this Contract or the validity the breach thereof or in respect of any defined legal relationship associated therewith or derived therefrom dispute shall be submitted for arbitration to International Centre for Alternate Dispute Resolution (ICADR), an autonomous organization working under the aegis of the Ministry of Law & Justice, Department of Legal Affairs, Government of India. The Authority to appoint the sole arbitrator shall be the ICADR. The Arbitration under this Clause and provision of administrative services by ICADR shall be in accordance with the ICADR Arbitration Rules, 1996. The award made in pursuance thereof shall be binding on the Parties. The venue of arbitration shall be New Delhi and the arbitration proceedings shall be conducted in English Language. The provision of this Clause shall not become inoperative notwithstanding the Contract expiring or ceasing to exist or being terminated.

## **12. NOTICE**

Any notices, consents, objections, demands, requests or other communications required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent by registered post, return receipt requested, to the addresses of the parties set forth in the heading to this Agreement. Either party may designate, by notice, a change of address hereunder.

## **13. SEVERABILITY**

If any of the provisions of this Agreement are found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision(s) shall be deemed modified to the limited extent required to permit enforcement of the Agreement as a whole.

## **14. GOVERNING LAW**

This Agreement shall be construed in accordance with and governed for all purposes by the laws of India applicable to contracts executed and wholly performed within such jurisdiction.

**15. AMENDMENTS OR WAIVER**

No amendment or waiver of this Agreement is binding unless agreed to in writing by the parties.

**16. NO OTHER RELATIONSHIP**

The Empanelled Firm agrees that all Services will be rendered as an independent contractor and that this Agreement does not create an employer-employee relationship or business partnership between the parties.

WHEREFORE, the Parties hereto through its duly authorized representatives have signed this Agreement on the day, month and year mentioned hereinbefore.

Signed

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On behalf of the Agency

Date.....

Signed

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On behalf of the BIRAC

Date.....

**WITNESS**

Signed

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On behalf of the Agency

Date.....

**WITNESS**

Signed

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On behalf of the BIRAC

Date.....