

**TENDER No. NMPT/ME/PORT CRAFTS/2020/209 dated 21-11-2022; e-tender No. 2022\_NMPT\_724613\_1  
TENDER FOR “HIRING OF 1 NO. 50T BP TUG FOR A PERIOD OF 7 YEARS”**

**PRE –BID CLARIFICATIONS**

Sl. No	Chapter Name & Clause No. / Actual Clause	Clarification Sought / Change Suggested	Clarification by NMPA
1	<p>Clause NIT; 1.1, Page No. 8 <b>Estimated cost:</b> Rs. 49,60,58,000/- Excluding GST</p>	<p>We draw your attention that the estimated daily hire rate does not reflect the current market scenario and is inadequate for following reasons:</p> <ol style="list-style-type: none"> <li>1) The SOP by Ministry restricts participation of tugs only to Indian Flag (on / before 15th Jan'22) and there is hardly any Indian flag tugboat available in the specified age profile. It leaves no choice for the Bidders but to offer <b>New Built Indian tugs</b> under 'Make in India policy'. As your good self is aware the lower tender estimate would not allow any bidder to offer new built tug boats due involving higher capex.</li> <li>2) We also believe that even for existing Indian flag vessels, the estimated daily hire rate is grossly inadequate. This tender estimate is even lower than <b>NMPA awarded rates of tug tender in 2019</b>.</li> </ol> <p>Please appreciate that since 2019, the cost of operations has increased many folds with huge escalations in the cost of Manpower, logistics, insurance premium, provisions, workshop charges etc. Fuel rates have skyrocketed during this time and thereby the cost of mobilization has become expensive.</p> <p>Indian Rupee depreciation against other Major currencies specifically against USD has substantially increased the cost of spares which are mostly imported from Overseas for these sophisticated Tug boats which has resulted in increase in repair and maintenance costs. This has increased the daily hire rate even higher</p> <p>The trend of daily hire rate irrespective of category of Tugs can be noticed in recent tenders in Major Ports such as Vizag, JNPT and budgetary estimates of Deendayal Port etc.</p> <p><b>We request that Budget estimate to be increased to reflect current market rate.</b></p>	<p align="center"><b>Tender condition prevails.</b></p>

<p>2</p>	<p>Clause No. 32.17 of GCC, Page No. 31  <b>Manning</b>  Tug must be manned as per <b>Statutory Requirements</b>.  The Tug with manning to be used for all lawful maritime activities as directed by Deputy Conservator including <b>berthing / unberthing, firefighting, SPM operations (about 10 nautical miles from shore), towing buoys and saving life &amp; property etc.</b> round the clock (24 hours a day) and throughout the contract period of <b>seven years</b>.</p> <p>Clause No. 33 of GCC Service Requirement, Page No. 33  The vessel to be used for all lawful maritime activities as directed by Deputy Conservator including <b>berthing / unberthing, firefighting, SPM operations (about 10 nautical miles from shore), towing buoys and saving life &amp; property etc.</b> round the clock (24hours a day) and throughout the contract period of <b>seven years</b>.</p> <p><b>General Conditions of contract: 1(g)</b>  The "Site" shall mean the area of operation of the tug being the Port limits of New Mangalore Port Authority.</p>	<p>(i)As your good self is aware that currently we are facing the issue of changing the harbour manning to coastal manning whilst Tugs are engaged in SBM operation. The local MMD has been insisting on this requirement. If the Contractor has to employ coastal manning for SPM operations, we draw your <b>attention that the estimates to the Tender will be grossly inadequate</b>. The Coastal manning will require higher category of crew and also more no. of crew as compared to safe manning for harbor operations. Further, many of these harbor tugs will not meet the accommodation compliance requirement under coastal manning due to increased no. of crew under coastal manning. The certification, insurance and other costs will also significantly increase for coastal operations. Request you to kindly clarify the manning requirement under this tender and also, if necessary, revise the estimates accordingly.  <b>2) Further, kindly add “within Port limits” in the clauses for Manning and Service requirement as Tug is required to operate within Port limits of NMPT.</b></p>	<p><b>Tender condition prevails.</b></p> <p>Clause No. 32.17 of GCC – <b>Manning</b> and Clause No. 33 of GCC- <b>Service Requirement</b> are self explanatory.</p>
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3	<p><b>Clause No. 32.8 of GCC, Page No. 29</b>  <b>Bollard Pull</b>  Bollard Pull test shall be carried out <b>every two years</b> with a window period of + 3 months from the date of last issued certificate.  Also, if desired by Dy. Conservator, NMPA, a fresh Bollard Pull test should be conducted. Bollard Pull test shall be at the cost of the operator in the presence of the IACS Classification Society Surveyor and Port Representative within the Port premises. Bollard and Berth will be given free of cost, however the expenses towards arrangement of Surveyor and the gadgets required or any other costs involved for the test would be on operator's account.</p>	<p>(i) While we agree that the Port could ask for a BP test at its discretion, kindly confirm that in case tug is able to deliver required Bollard Pull meeting tender condition, the cost of such tests shall be reimbursed by the Port.</p> <p>(ii) <b>As per previous Tug tenders including recent discharged Tender, please change the Bollard Pull test requirement to every five years.</b></p> <p>Please note that Port already has the right to call for BP test as per its discretion if the Port feels Tug is not performing to tender requirement.</p>	<p><b>Tender condition prevails.</b></p>
4	<p><b>PRE CONTRACT INTEGRITY PACT,</b>  Page No. 70  <b>7.0 Fall Clause</b>  7.1 The BIDDER undertakes that it has not performed/is not performing similar project at a price lower than that offered in the present bid in respect of any other</p>	<p>We are of the opinion that the stated clause is not applicable to tenders for hiring of Vessels and should be entirely removed for the following reasons:</p> <p><b>A. No two Tug boats are similar – Technical Specification:</b>  Since the cost of acquisition of Tug boats is primarily dependent on the specification of Tug boat, the cost of acquisition differs and thus, daily charter hire for Tug boats will not be same for all tug boats.</p>	<p><b>Tender condition prevails.</b></p>

Ministry/Department of the Government of India or PSU and if it is found at any stage that similar project was performed by the BIDDER in any other Ministry/Department of the Government of India or a PSU at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the BIDDER to the 'BUYER/EMPLOYER', if the contract has already been concluded.

**B. Time of acquisition of Tug boats – Demand & Supply:**

Unpredictable demand & supply situation in the International Market drives the cost of acquisition of Tug boats and thereby, the price quoted by the bidder reflects the prevailing market scenario at the time of that particular tender floated by a Major Port. Therefore, comparing charter rate offered by a service provider at one Port to another Port is misleading and unjustified.

**C. Forex Fluctuations:**

Since most of the spare parts of these high capacity Tug boats are imported from OEM located Overseas, the fluctuation of Indian Rupee against Major currencies plays an important role in the cost of Repair & maintenance of Tug boats. In recent times, the Rupee depreciation against US Dollar has significantly increased the R&M cost of these Tug boats.

**D. Mobilization cost**

Mobilization cost of the Tug boats from domestic or overseas location is greatly impacted by the fuel rate prevailing at the time of tug mobilization for a particular tender. As you are aware, the fuel rate has witnessed a huge escalation and hence, the cost of mobilization has gone up significantly.

**Most recently Jawaharlal Nehru Port Authority amended the Integrity Pact in their Tender (Ref. No. JNP/DC/60T BP TUG /2022) with deletion of the Fall Clause Section.**

<p>5</p>	<p>Clause No. 32.29 of GCC, Page No. 33  <b>MOU / Agreement in case of New Built Tug</b>  In the case of new built tug (as per Clause No. 32.27 of GCC) bidder shall submit MOU / Agreement for New Built Tug in a non judicial stamp paper (Rs.100) between the bidder and the shipyard confirming arrangement for construction of tug meeting the specification of ASTDS within Ten (10) days from the date of issue of work order. However, bidder should submit the following along with Technical bid:</p> <ul style="list-style-type: none"> <li>a) An UNDERTAKING stating that substitute tug and new built tug will be deployed for operation within the specified mobilization period.</li> <li>b) Technical details of new tug in Annexure -7.</li> <li>c) Technical details of substitute tug in Annexure -7.</li> <li>d) Fuel Consumption of the new tug in Annexure -8.</li> </ul> <p><b>32.30 TUG UNDER CONSTRUCTION</b></p> <p>Clause No. 2.16 of Technical Bid, Page No. 15  <b>25. UNDERTAKING IN CASE OF NEW BUILT TUG:</b>  Bidder should submit the following along with Technical bid:</p> <ul style="list-style-type: none"> <li>a) An undertaking stating that substitute tug and new built tug will be deployed for operation within the specified mobilization period.</li> <li>b) Technical details of new tug in Annexure - 7</li> <li>c) Technical details of substitute tug in Annexure – 7</li> <li>d) Fuel Consumption of new tug in Annexure – 8</li> </ul> <p><b>26. MOU / Agreement in case of tug under construction</b></p>	<p>We request that following requirements are to be <b>additionally</b> called for <b>New built/ to be built/ under construction tugs to be offered by the Bidder:</b></p> <ul style="list-style-type: none"> <li>(i) MOU / Agreement from the builder/shipyard</li> <li>(ii) GA Plan of the new built tug</li> </ul> <p>Kindly note that different tender clauses have separate provisions towards this requirement and hence, request for clarification.</p>	<p>Tender condition prevails for Clause No. 32(32.29) of GCC - New Built Tug.</p> <p>For Clause No. 32(32.30) of GCC &amp; 2.16(26) of ITB - Tug under construction, please refer <b>Corrigendum SI.No. 1</b></p>
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6	<p>Clause No. 10 of GCC, Page No. 24 <b>ARBITRATION</b></p> <p>In case of any dispute arises out of this agreement, the contractor may refer the dispute for settlement through ‘conciliation and settlement guidelines’ issued by IPA time to time. In case contractor fails to arrive any settlement as mentioned above, the contractor may refer the following arbitration clause.</p>	<p>Please appreciate that the process set out herein is long drawn process and time consuming. In the first instance reasonable efforts shall be made for an amicable settlement though mutual discussion. Upon our failure to do so, we refer to the 2nd paragraph of Clause 10 which elaborates the process of appointment of arbitrator and this is in line with last tug tender. <b>We request that Clause 10 is to be modified suitably.</b></p>	<p><b>Tender condition prevails.</b></p>
7	<p>Clause No. 23 of GCC, Page No. 27 <b>PAYMENTS</b></p> <p>a) The monthly bill in complete shape i.e. Applicable SPF, crew list, monthly reports and <b><u>salary details paid to the staff</u></b> etc. is to be submitted to the office of the Deputy Conservator and payment will be made within 15 days from the date of submission of bill.</p>	<p>We request deletion of the highlighted portion of the Clause as the salary details paid to the staff is confidential information concerning our business which cannot be shared.</p>	<p><b>Tender condition prevails.</b></p>
8	<p><b>Additional Query</b></p>	<p>We request that Contractor be allowed to utilize down time during dry-docking of tugs.</p> <p><b>Kindly add the following clause which is in line with the previous tender:</b> “For the purpose of Drydocking of Tug, the operator may avail 6 days of downtime. The drydocking expenses to be borne by the contractor including all spares and consumables.”</p>	<p>Please refer <b>Corrigendum Sl.No. 2</b> for <b>Downtime Clause.</b></p>

9	<p>Clause No. 2.16 (21) of ITB, Page No. 15</p> <p>Valid class certificate (IACS)</p>	<p>We request you to kindly consider inclusion of the following to avoid participation of laid up and non-functional vessels which if allowed could risk the safety of port operations:</p> <ol style="list-style-type: none"> <li>1) At the time of Bid submission, Tug should have valid certificate of class with annual survey endorsements</li> <li>2) Tug should have all valid statutory certificates from IRS/ MMD/DGS and the same shall be submitted along with the bid</li> <li>3) A BP test certificate from IACS not older than 3years from the last date of bid submission is to be submitted along with the bid.</li> </ol>	<p><b>Tender condition prevails.</b></p>
10	<p>Clause No. 62 of GCC, Page No. 43</p> <p>The Contractor should take Workmen's Compensation Policy for his workers, who are not covered under ESI and submit the same to the EIC immediately after commencement of the work.</p>	<p>As your good self is aware, the Workmen's compensation and ESI both are not applicable to Tug crew. Hence, kindly confirm that this clause is subject to applicability. Please note that the same was confirmed as per corrigendum issued to the discharged tug tender.</p>	<p>Yes. This clause is subject to applicability.</p>

11	<p>Clause No. 44(A) of GCC, Page No. 37  <b>SUPPLY OF FUEL (LSHFHSD), FRESH WATER:</b>  Fuel (LSHFHSD) and fresh water for running of the Tug will be supplied by the Port Authority on Port's account. Fuel &amp; freshwater supply will be made periodically as per the requisition of the contractor sufficiently in advance. In the event of any difficulty faced by NMPA for supply of fuel &amp; fresh water, the contractor will be requested to supply the same to the Tug and the cost will be reimbursed at actuals including transportation cost on production of supporting documents.</p>	<p>The terms of this clause is a new inclusion and was not part of earlier Tenders of NMPA.</p> <p>(i) Please note in case of fuel supply by Operator/ Contractor, GST will be applicable on fuel billed to NMPA. Therefore, Port is required to pay total cost plus GST at applicable rate.</p> <p>(ii) Further, the Contractor shall not be held responsible for non-availability of fuel which is beyond Contractor's control. Please confirm</p>	<p><b>Clause No. 44 of GCC Prevails.</b></p> <p>(i) In case Port ask the contractor to supply fuel, then Port will reimburse the total cost of fuel inclusive of Taxes at actual subject to submission of documentary evidence.</p> <p>(ii) Contractor will not be made responsible in case of non-availability of fuel.</p>
12	<p>Clause No. 2.2 of ITB, Page No. 10  <b>TENDER SUBMISSION:</b>  c) The following Original document (hard copy) has to be submitted prior to cut off date and time of technical bid opening.  i. EMD (Bank Guarantee/ Insurance Surety Bonds/ Account Payee Demand Draft / Banker's Cheque)</p>	<p>We understand that (i) Original Bank Guarantee in case of EMD, (ii) Original Power of Attorney and (iii) original integrity have to be submitted prior to cut off date and time of bid submission. Please confirm.</p>	<p><b>Tender condition prevails.</b></p>



13	<p><b>Additional Query</b> Whenever the Tug is engaged for Port Operations, the <b>Tug will be treated as Port Tug.</b></p>	<p>In line with tug tenders of other Major Port trusts such as Mormugao Port, Paradip Port, Vizag Port, Kolkata Port etc., we request that throughout the contract period, the tug shall enjoy the Protection and Indemnities available to the vessels owned by the NMPA provided under bye-laws of the New Mangalore Port Trust/ Authority Act or otherwise.</p> <p>Our request to include “Whenever the Tug is engaged for Port Operations, the <b>Tug will be treated as Port Tug</b>” was part of Port’s previous tug tenders.</p> <p>Kindly Consider.</p>	<p><b>Not applicable.</b></p>
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14	<p><b>Clause No. 6 of GCC, Page No. 23</b> <b>FORCE MAJEURE:</b> In this clause “Force Majeure” means and exceptional event or circumstances, a. which is beyond party's (Employer or Contractor) control b. which such party could not reasonably have provided against before entering into the contract c. which, having arisen, such party could not reasonably have avoided or overcome d. which is not substantially attributable to the other party.</p>	<p>We request the following modifications in this clause: Clause No. 6 FORCE MAJEURE: (A) In this clause “Force Majeure” means and exceptional event or circumstances, a. which is beyond party's (Employer or Contractor) control b. which such party could not reasonably have provided against before entering into the contract c. which, having arisen, such party could not reasonably have avoided or overcome d. which is not <u>substantially</u> attributable to the <del>other party</del> <u>invoking force majeure</u></p>	<p><b>Tender condition prevails</b></p>
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Force Majeure may include, but it is not limited to, exceptional events or circumstances of the kind listed below, so long as condition (a) to (d) above are satisfied.

- Natural catastrophic such as Earthquake, Tsunamis, hurricane, Typhoon, tempest etc.
- War hostilities (whether war to be declared or not), invasion, act of foreign enemies.
- Rebellion, Terrorism, Revolution, insurrection, military or usurped power or civil war.
- Riot, commotion, disorder, strike or Lockout by persons other than contractor's personnel and other employees are the contractor or sub-contractor
- Munitions of War, explosive materials, ionizing radiations or contaminations by radioactivity, except as maybe attributable to the contractor's use of such munitions, explosive, radiation or radioactivity.

The failure of the party to fulfill any of its obligations hereunder shall not be considered to be a breach of, default under the contract in so far as such inability arises from any event of Force Majeure, provided that the party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out terms and conditions of the contract.

Force Majeure may include, but it is not limited to, exceptional events or circumstances of the kind listed below, so long as condition (a) to (d) above are satisfied.

- ACT OF GOD including but not limited to Natural catastrophic such as Earthquake, Tsunamis, hurricane, Typhoon, tempest etc.
- War hostilities (whether war to be declared or not), invasion, act of foreign enemies.
- Rebellion, Terrorism, Revolution, insurrection, military or usurped power or civil war.
- Riot, commotion, disorder, strike or Lockout by persons, employees, contractors, subcontractors of any party other than the party invoking force majeure ~~contractor's personnel and other employees are the contractor or sub-contractor.~~
- Munitions of War, explosive materials, ionizing radiations or contaminations by radioactivity howsoever caused, except as maybe attributable to the contractor's use of such munitions, explosive, radiation or radioactivity.

The failure of the party to fulfill any of its obligations hereunder under this contract shall not be considered to be a breach of, default under the contract in so far as such inability arises from any event of Force Majeure or a consequence thereof, provided that the party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures to avoid, minimize or prevent such events and/or conditions, all with the objective of carrying out terms and conditions of the contract.

15	<b>DG SHIPPING GUIDELINES</b>	<p>Since all the Major Port Tenders are governed by DG Circular, we request you to please incorporate the following in the tender “This tender will be governed by the guidelines issued by DG Shipping for hire of vessels vide S.D. Circular – 2/2002 dt.8-11-2002” and amendments thereto.</p> <p>Please note that this was confirmed as per clarification to the discharged tug tender.</p>	<p>The latest guidelines, Amendments and SOP from DG Shipping &amp; Ministry of Ports, Shipping &amp; Waterways shall be applicable for this Tender.</p>
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## CORRIGENDUM

1	<p><b>Clause No. 32(32.30) of GCC &amp; 2.16(26) of ITB to read as:</b></p> <p><b>TUG UNDER CONSTRUCTION</b></p> <p>In case the Tug is under construction at the time of submission of bid, bidder should submit the following along with <b>Technical bid:</b></p> <ol style="list-style-type: none"> <li>a) The <b>MOU /Agreement</b> from the builder from whom he intends to buy a Tug under construction in a non judicial stamp paper (<b>Rs.100</b>) duly signed by both the bidder and the concern party and an undertaking mentioning that the <b>Tug</b> is built exclusively for NMPA.</li> <li>b) An <b>UNDERTAKING</b> stating that <b>substitute tug</b> and <b>Tug under construction</b> will be deployed for operation within the specified mobilization period.</li> <li>c) <b>Technical details of Tug under construction in Annexure -7.</b></li> <li>d) <b>Technical details of substitute tug in Annexure -7.</b></li> <li>e) <b>Fuel Consumption of the Tug under construction in Annexure -8.</b></li> <li>f) <b>GA Plan of the Tug under construction.</b></li> </ol>
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2 **Clause No. 47 of GCC to read as:**

**DOWN TIME:** The Operator shall be allowed a down time of one day for each month of service during the currency of the contract for the upkeep of the tug. The downtime of **12 days** will be credited in the beginning of each **contractual year**. The Operator can avail a maximum accumulated down time up to **6 days** at any point of time during the currency of the contract to carry out any work/repair. If the downtime exceeds **6 days**, the Operator shall provide alternate tug of **same capacity or higher** for operation from the **7th day** on his own account. Daily hire charges for down time period shall be paid and at any time, if the contract is terminated / closed downtime shall be computed on pro-rata basis. If excess is given shall be recovered.

However, the Operator must take prior permission of the Deputy Conservator, New Mangalore Port Authority before laying up the tug to carry out any maintenance work.

During the permissible downtime, charter rate will be paid. Accumulated downtime at the end of each contractual year will lapse and no payment will be made.

**For the purpose of Drydocking of Tug, the operator may avail 6 days of downtime. The Drydocking expenses to be borne by the contractor including all spares and consumables.**

The Tender Committee recommends uploading the Pre-bid clarifications and Corrigendum in NMPA and CPP websites, subject to approval of the Competent Authority.