



**KERALA STATE ELECTRICITY BOARD Ltd**

(Incorporated under the Companies Act, 1956)

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**ABSTRACT**

Outstanding issues in Projects-Thottiyar 40 (1x10+1x30) MW HEP - (Item 1) - Price variation request from the Supplier - M/s. TELK and (Item-2) - Erection, testing and commissioning of supplied Electro Hydro Mechanical Equipment - Price escalation of M/s. Fitwell Constructions - Orders issued.

**Corporate Office (SBU-GE)**

B.O. (DB) No. 174/2024 (DGE/G2/AEE3/THEP/2023-Part (1)  
Thiruvananthapuram.

Dated:22-04-2024

Read :

- A1. B.O.(DB) No.681/2019 (D(GE)/G2/ Thottiyar/2019-20) dated 05.09.2019.
- A2. Purchase Order No.02/2020-2021 dated 16.07.2020 of Chief Engineer (Generation & PED).
- A3. Letter No. MK/T-3127/109 dated 16.06.2021 of M/s. TELK.
- A4. B.O (FTD) No.670/2021 (12/AE3/2012/CE(PED)) dated 17.09.2021.
- A5. Proceedings No.12/AE3/2012/CE (PED)/118 dated 13.06.2022 of Dy. CE (PED) with FPO of Chief Engineer.
- A6. Letter No.12/AE3/2012/CE (PED)/36.67MVA dated 29.08.2022 of Dy. CE (PED) with FPO of Chief Engineer.
- A7. Letter No. MK/T-3127/1067 dated 14.02.2023 of M/s TELK.
- A8. Letter No. MK/T-3127/1341 dated 27.10.2023 of M/s TELK.
- A9. Note No.FA-AT-ST1/2023/102 dated 01.01.2024, remarks of the Financial Advisor.
- B1. Work Order No.01/2020-2021 dated 03.07.2020.
- B2. B.O (FTD) No. 416/2021 (12/AE3/2012/CE (PED) dated 03.06.2021.
- B3. B.O (FTD) No.962/2021 (12/AE3/ 2012/CE (PED) dated 30.12.2021.
- B4. B.O (FTD) No.767/2022(DIRGE-AEE4/2022/705) dated 15.09.2022.
- B5. B.O. (FTD) No.278/2023 (DIRGE- AEE4/2022/705) dated 26.05.2023.
- B6. B.O. (FTD) No.486/2023 (DIRGE-AEE4/2022/705) dated 15.11.2023.
- B7. Note No. FA-AT-ST1/2023/103 dated 01.01.2024 remarks of the Financial Advisor.
- B8. Note No. PED/AEE1/THEP/M/s. Fitwell constructions & TELK/Price variation dated

11.03.2024 of Chairman and Managing Director to Board of Directors.

B9. Proceedings of the Adjourned 76<sup>th</sup> meeting of Board of Directors held on 20.03.2024 vide Agenda 20-03/2024.

### ORDER

The two pending issues in respect of Thottiyar HEP'(40MW) were placed before the adjourned 76<sup>th</sup> meeting of the Director Board held on 20.03.2024 as per note read B8 above. One is the request for price variation from M/s TELK who is the supplier of generator transformer and the second is the request for price escalation by erection contractor M/s Fitwell Constructions.

KSEBL as per the B.O read A1 above had decided to carry out the erection of E&M equipment of Thottiyar Hydro Electric Project in a piecemeal manner departmentally through experienced E&M erection contractors and purchasing required equipment departmentally by inviting separate tenders. Accordingly, e-Tender for the Supply of 1 No 36.67 MVA and 1 No. 12.5MVA 11kV/220kV 3 phase Generator transformer for Thottiyar Hydro Electric Project was published on 09.12.2019 and Purchase Order read A2 above was issued, to the lone bidder M/s. TELK Limited; Angamally South P.O, Ernakulam, Kerala for the contract amount of Rs.4,66,33,600/- including taxes and the agreement was executed. As per Purchase Order, the basic price of 36.67MVA Transformer is Rs.2,10,00,000/- (Rupees Two Crore and Ten Lakhs only).

The scope of above order covers design, manufacture, inspection, testing at supplier's works and delivery at destination station of 1 No 36.67 MVA and 1 No. 12.5MVA 11kV/220kV 3 phase Generator transformer for Thottiyar Hydro Electric Project and their guarantee for satisfactory performance for a period of 60 months from the date of supply or 54 months from the date of commissioning, whichever is earlier. As per the purchase order, supply should have been completed on or before 15.01.2021. But both 12.5 MVA and 36.67 MVA transformers were not supplied within that period. M/s. TELK, as per the Letter read A3 above, has requested time extension of delivery period for 12.5 MVA Transformer till August 2021 and that for 36.67 MVA Transformer till March 2022 without LD/ penalty and allow  $\pm$  price variation against the supplies on various reasons. KSEBL as per the B.O read A4 above has accord sanction to grant time extension for the delivery of the 12.5 MVA Transformer till September 2021 and that of the 36.67 MVA transformer till March 2022 without LD/ Penalty and allowing  $\pm$  price variation against the supplies under force majeure condition if supply is made within this extended delivery period. Accordingly purchase order Amendment No.1 was issued from the office of CE (PED) on 28.09.2021. The 12.5 MVA Transformer was delivered to site on 20.09.2021 within the extended period.

M/s. TELK, as per the letter dated 28.03.2022 has requested further time extension for the delivery of 36.67 MVA transformer till August 2022 without LD/penalty and allow  $\pm$  price variation against the supplies on various reasons. Sanction was accorded for time extension for the delivery of 36.67 MVA Transformer up to August 2022 without LD/penalty to the contractor as per the office proceedings read A5 above. The final inspection call for 36.67 MVA Transformer was made by the contractor, as per the letter dated 28.07.2022 between 22.08.2022 to 25.08.2022. Pursuant to the

inspection done, MDCC was issued for the delivery of 36.67 MVA Transformer, as per the letter read A6 above and Transformer was delivered to site on 13.09.2022.

The contractor, as per the letter read A7 above, has submitted price variation calculation statement for 36.67 MVA transformer as per IEEMA formula considering actual date of supply of transformer during August 2022 (month of offer) and requested for approval of basic price of the transformer as Rs.3,48,20,847/-. But considering all the conditions in purchase order, which regulates the fixation of price variation, including time extensions granted for the delivery of the transformer, price variation order for 36.67 MVA was issued from the office of CE (PED), as per the Proceedings dated 12.05.2023 and as per the order, the basic price of 36.67 MVA transformer applicable to the contractor is only Rs.2,10,00,000/-, ie, the basic price as per purchase order. Subsequently, the contractor has again submitted a request on 05.06.2023 for re-allowing price variation approval as per the price variation calculation furnished as per the letter dated 14.02.2023. As per the purchase order, the basic price of the transformer is variable without ceiling limit as per IEEMA formula attached with the purchase order and base date for price variation calculation is 01.11.2019 (Date of bid opening ie 30.12.2019). As per Clause (4) of special instructions of purchase order (price details)

- a. If the supply is made within the scheduled delivery period, the updated price as per IEEMA formula (attached with purchase order) based on the actual delivery date (same as offer date) or scheduled delivery date whichever is lower will alone be paid.
- b. If supply is made after the scheduled delivery period, the price applicable will be the lowest of the following three prices. (i) Basic price as per purchase order (ii) Updated price as per IEEMA price variation as on the scheduled date of delivery and (iii) Updated price as per IEEMA price variation as on the actual date (same as offer date) of delivery.

As per purchase order, the scheduled delivery date for 36.67 MVA Transformers was on or before 15.01.2021. The contractor has been granted time extension, first time, for the delivery of 36.67 MVA Transformer up to 31.03.2022 (extended delivery period). In both the above period the contractor is eligible for price variation, and it can be fixed as per clause (4) (a) of purchase order if the transformer could have been delivered/ offered within that period. Again, the final extension for delivery of Transformer granted up to 31.08.2022 (final extended delivery period) was only a permission to deliver the Transformer without imposing LD/penalty to the contractor if it is delivered/ offered within that period and no claim for price variation is allowed to the contractor during this period (from 01.04.2022 to 31.08.2022 both date inclusive). Also, as per clause (4) of special instruction to purchase order (price details), the actual date of delivery of transformer is same as offer date (i.e 22.08.2022)

Since the contractor failed to supply the transformer either within the scheduled delivery period (15.01.2021) or within the extended delivery period during which price variation is applicable to the contractor (31.03.2022) the fixation of price variation is to be arrived as per clause (4) (b) of special instructions to purchase order taking in to account (i) scheduled delivery date as per the purchase order (ii) date up to which time extensions granted with  $\pm$  price variation applicable to the contractor (extended delivery period) and (iii) date of actual delivery (same as offer date). Accordingly, the basic price of 36.67MVA, 11KV/220KV, 3 Phase Generator Transformer is fixed as the lowest of the following four prices. (a) The Basic price as per purchase order (b) Updated price as per IEEMA price variation as on the scheduled date of delivery (on or before 15.01.2021), (c) Updated price as per IEEMA price variation as on the extended date of delivery (on or before 31.03.2022) and (d) Updated price as per IEEMA price variation as on the actual date (same as offer date) of delivery (22.08.2022).

As per above, the basic price applicable to 36.67 MVA Transformer is the basic price as per purchase order (Rs.2,10,00,000/-). But the contractor has submitted that the delay in supply of the transformer is attributed by the force majeure reason of Covid-19, substantial loss of man day, scarcity as well as steep hike in raw material prices and hence requested for revision of order of price variation

as on date of actual delivery (offer date) of Transformer (22.08.2022) in order to compensate with the extra cost expended for the manufacture of the 36.67 MVA Transformer. The order of price variation is issued as per the conditions in clause (4) (b) of the purchase order which regulates the fixation of the same considering the provisions mentioned in time extensions granted for delivery and also the date of actual delivery (same as offer date) of the Transformer.

As per the letter read A8 above, the contractor represented before the Director (Gen-Electrical) for approving the Price Variation based on the actual delivery date. The remark of the Financial Advisor has been received as per the letter read as A9 above. The price variation is issued as per the calculation in the clause 4(b) of the purchase order and as per this, only the basic price is applicable to 36.67MVA Transformer. However, the contractor submitted that the delay in supply of the transformer is attributed by the force majeure reasons of Covid 19 and the company has suffered substantial loss of man days, scarcity as well as steep hike in raw material prices and hence requested for revision of order of price variation as on date of actual delivery of transformer (22.08.2022) even though the time extension proceedings dated 13.06.2022 does not have the price variation clause.

The decision was sought on whether the request of the contractor M/s. TELK on the price variation as on date of actual delivery (offer date-22.08.2022, with revised price of Rs.3,48,20,847/- instead of Rs.2,10,00,000/- as demanded by TELK) even though the time extension proceedings dated 13.06.2022 does not have the price variation clause for the 36.67MVA Transformer be accepted or not.

KSEBL has accorded revised administrative sanction on 05.06.2008 for an amount of Rs.136.79 crores and the work of execution of Civil, Hydro Mechanical and Electromechanical were tendered. Subsequently on 22.12.2008, agreement was executed for the first stage of the project (Civil, Hydro Mechanical and Electromechanical) with M/s CPPL-Chongqing Joint Venture. Due to various reasons the work was foreclosed on 04.03.2016. As per the B.O. (DB) No.681/2019 (D(GE)/G2/Thottiyar/ 2019-20) dated 05.09.2019 it was decided to carry out the erection of E&M equipment in a piecemeal manner departmentally through experienced E&M erection contractors and purchasing required equipment departmentally by inviting separate tenders. Accordingly, Erection of supplied Electro Hydro Mechanical Equipment of the Powerhouse was tendered on 07.09.2019 with PAC Rs.4.28 Crore. This tender was cancelled on 18.10.2019 since no valid bids were received. Re-tender was floated on 18.10.2019 and the same was cancelled on 28.01.2020 since the L1 bidder, M/s. KSK Fabricators and Erectors Pvt. Ltd. quoted exorbitantly high rate. Subsequently a committee was formed for revision of the estimate. Based on the estimate submitted by the committee, revised Technical Sanction for an amount of Rs.7.6 Crore. was issued and tender was invited on 14.02.2020 with PAC of Rs.7.6 Crore. The work was awarded to the L1 bidder M/s. Fitwell Constructions as per the Work Order read as B1 above and the agreement executed on 29.03.2021. As per clause (8) of the Work Order (Period of Contract), the work should have been completed in all respect, tested, commissioned and handed over to KSEBL within 09 months from the date of issue of work order. (i.e on or before 02.04.2021).

Meanwhile the contractor pointed out vide letter dated 04.08.2020 that they were facing problems while working in Powerhouse as side wall covering of powerhouse was not provided till that date and water was entering the work area and was not in a situation to work further. They also requested to cover the side walls in order to proceed further. The technical committee of KSEB Ltd had instructed that the generator alignment work would be done only after fully covering of side walls of Powerhouse to avoid entering of water into the stator winding and rotor poles. But the side wall covering was completed only on 03.03.2023. Side walls plastering work was completed during July 2023. The contractor had requested for time extension for the work up to 31.10.2021 due to the delay in execution of civil works and also due to issues of Covid Pandemic. Subsequently, as per the B.O. read B2 above, time extension was granted up to 31.10.2021 without LD to the contractor and without any additional financial commitment to KSEB Ltd. The second time extension of the above-mentioned work was granted, as per the Board Order read as B3 above, up to 31.07.2022 considering the delay in

execution of civil works of generator barrel, side walls of powerhouse, weir and penstock erection. Further, due to the delay in execution of civil work of generator barrel and side walls of Powerhouse and non-availability of water due to incompleteness of Penstock and weir, time extension was granted up to 31.03.2023, as per the B.O. read B4 above and time extension was granted up to 31.07.2023, as per the B.O. read B5 above. The Contractor again requested for time extension up to 31.03.2024 citing reasons which are not attributed to the E&M contractor. It is highlighted that the delay in execution of civil works, supply of some of the electrical equipment in powerhouse caused delay in erection and commissioning of E&M equipment. Subsequently, as per the B.O. read B6 above, time extension was granted up to 31.01.2024 without LD and without additional financial commitment to KSEBL.

During 10<sup>th</sup> Project Monitoring Committee Meeting of Thottiyar HEP held on 24.01.2023, E&M contractor pointed out that E&M erection work is getting extended due to the delays in the civil works and opined that they are eligible for price escalation. The Director (Gen-Electrical) commented in the meeting that the agreement does not have escalation clauses but agreed to try for a favorable decision from the Board. The matter was again requested in the site review meeting during August 2023. Meanwhile the Contractor has requested for granting price escalation of minimum 20% of the contract price vide the Letter dated 25.03.2023 as the price of consumables, tools, fuel charge and labour charge are increased about 30 to 50% during the last three years. The remark of the Financial Advisor has been obtained as per the note read B7 above.

The subject work is Erection, testing and commissioning of supplied Electro Hydro Mechanical equipment inside Thottiyar HEP and it is not covering any supply part. As per Clause (2) of the Work Order (Accepted Price Schedule), the rate mentioned in the Schedule of Prices is firm and no price escalation shall be allowed. However, since the work is extended due to delay in civil works and other dependent works, considering the request of the contractor and remarks of FA, the possibility of price escalation may be examined. Since the delay of E&M erection work is not attributed to the E&M contractor the price escalation may be considered favorably. If agreed, the calculation of price variation can be done once the project is completed.

The decision was sought on whether the request of the contractor, M/s. Fitwell Constructions for granting price escalation of the contract price for the subject work be accepted or not.

After detailed discussion, the Board of Directors

**RESOLVED NOT TO** allow the request of the contractor M/s. TELK for the price variation as on date of actual delivery (offer date - 22.08.2022, with revised price of Rs. 3,48,20,847/- instead of Rs. 2,10,00,000/-) as the time extension proceedings dated 13.06.2022 does not have the price variation clause for the 36.67 MVA GT.

**RESOLVED TO** authorize the Director in charge of Generation (Electrical) to identify the cost components in the contract with M/s. Fitwell and to work out the price escalation based on the decided principle following the indices rate in the year from which the work site was handed over to the contractor.

**RESOLVED FURTHER THAT** the recalculated price escalation can be placed for consideration of Board.

Orders are issued accordingly.

By Order of the Director Board

*Sd/-*

LEKHA G  
COMPANY SECRETARY

I/36331/2024

To: The Deputy Chief Engineer (PED) with full powers of Chief Engineer

Copy to:

The Chief Engineer (IT, CR&CAPS)/ Financial Advisor/ LA&DEO/ Chief Internal Auditor/  
Company Secretary

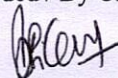
The TA to the Chairman & Managing Director / Director (Generation-Civil) / Director  
(Distribution, Safety, SCM & IT) / Director (Transmission, SO & Planning)/ Director (Generation -  
Electrical, REES, SOURA, Sports & Welfare)

The PA to the Director (Finance & HRM)

The Sr.CA to the Secretary (Administration)

The RCAO/ RAO Stock File.

Forwarded / By Order



Assistant Executive Engineer

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