

List of Queries & Responses (Pre-Application Conference held on 30.05.2009)

Sl.No.	Clause	Queries	Response
1	1.1.3 & 1.2.8	Please clarify the concession period. We suggest that the Concession period shall be minimum 40 yrs exclusive of construction period.	Modifications, if any, will be indicated in RFP.
2	1.2.1 & 3.5.2	<p>- This may please be reviewed. For instance, Mumbai MRTS Line II has 7 short-listed bidders as all the 7 consortia are strong.</p> <p>- There shall be no cap on the number of qualified consortiums. This shall be in the benefit of KSIIDC and project itself inviting more competition. Even in Mumbai Line 2, the client invited all 7 qualified consortiums to bid.</p> <p>The clause limits the competition. We request that all bidders which cross the minimum threshold criteria be allowed to bid subject to a maximum of 10 bidders. (Few companies may opt out during the second stage of the bid i.e. RFP stage as evident in the bidding of Airport Metro Express line and Hyderabad Metro Projects). This has been adopted by NHA for several of its recent projects.</p>	The number of applicants to be shortlisted has been increased to 7.

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3	1.2.9	Who determines the charges? Is it the concessionaire alone or is concessionaire required to follow any prescribed guidelines for arriving at the user fee?	Details will be provided at RFP Stage.
4	1.3	Request for extension of time / postponement / additional period for submission of RFQ application.	Schedule is revised.
5	2.2.1	Consider the requirement of Communication System supplier being part of the consortium. Most of the signaling supplier are mainly focused on signaling equipment and very few are the combined supplier of communication system, as well. In fact Delhi Airport Express Link did not have the requirement of communication system provider as a consortium partner Request to reconsider the requirement of communication system as an eligibility criteria	Clause revised in amended RFQ.
6	2.2.1 (i)	For the listed companies the shares can be purchased in the open market and the company will not have control on such acquisitions and as such, the limit of 1% may be increased to 5% as was done in the RFQ for 'Re-development of New Delhi Railway Station' project.	The limit has been increased to 5 %

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7	2.2.1 (c) (i)	<p>i) PE funds / Mutual Funds / any other Funds / Financial Institutions / FII Investments do not interfere in the operations / strategies of the company and are mostly parking the money in the company in the form of equity for financial gains. They may therefore be excluded from scope of conflict of Interest clause on the same lines as “Banks, Insurance Companies, Pension Funds, or Public Financial Institutions” that have already been excluded in the existing guidelines.</p> <p>ii) One per cent condition mentioned in the clause shall be changed to five percent as we feel that the percentage is too small to exert any influence that can lead to Conflict of Interest situation.</p> <p>The above provisions have already been incorporated in recent RFQ documents issued for other infrastructure projects such as New Delhi Station redevelopment project where there was a recall of the RFQ due to existing stringent condition of the conflict of interest.</p>	Please refer the Clause.
8	2.2.1 (e)	Since the experience asked for eligibility of the Applicant is very limited across the world, in order to encourage competition; SPV can procure this expertise in the market. Suggested for modifications / deletion of the clause	Clause deleted.

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9	2.2.2 / B	This should be modified as average turnover in last 3 financial years and number should be Rs.1,000 Cr. considering size of the Project. (e.g. Hyderabad MRTS has sought for Rs. 2000 Cr. avg turnover for last 3 years for Rs. 12,000 Cr project size)	Please refer the Clause.
10	2.2.4 (i) & Appendix I, Annex IV, 14	Getting individual certificates from each client and or statutory auditors is a tedious, costly and lengthy process. Suggest replacing the same with Authorized Signatory and or C.F.O of the company to sign the individual certificates. We would propose to issue payments/receipt certificates (refer Appendix I Annex IV, 14) as a total amount per financial year, independently of each individual contract or client. Otherwise hundreds of certificates had to be issued.	No modifications are proposed.
11	2.2.4 (ii)	The term "accrued liabilities" could be interpreted differently. To avoid this few examples of accrued liabilities for better understanding may be given.	No modifications are proposed.
12	2.2.6 (g) (iv)	We suggest that the Joint and Severally liability be made applicable upto the signing of the concession agreement by the SPV and not upto the occurrence of the appointed date / Financial Close. Otherwise the purpose of incorporation of an SPV, which is a limited liability company, for signing of concession agreement and developing the project will be lost.	No modifications are proposed.

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		In case of Mumbai Metro Line 2, joint and severally liability of consortium members will continue up to the time the SPV signs the concession agreement and performance security is submitted to the authority.	
13	2.2.6 (g) (iv)	The Consortium members shall be jointly and severally liable until the SPV incorporation and signing of Concession Agreement. After that it's the SPV which has the liability to undertake and execute the project. The shareholders of the SPV shall be made free from this obligations and for the consortium member who is a listed company may never take this liability for a particular project.	No modifications are proposed.
14	2.2.9	In the recent scenario of global capital flows and risk diversification by companies, funds etc, cross holding between the applicants or their associate is not very uncommon. In order to avoid a situation where the bidders are getting disqualified in spite of not having any sort of real relationship with each other, it is requested that the Associate definition should be limited to only to the first level with respect of the bidder / member of the Consortium.	No modifications are proposed.
15	3.2.1 (ii)	We would request you to consider minerals and metals, cement, bulk material handling, fertilizers and chemical sectors also under Core Sectors.	No modifications are proposed.

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16	Appendix I, Annexure IV, Page 50 & Clause 3.2.3 (b)	As is the case in the Projects in Category 1 and 2 (Clause 3.2.3(b)), we suggest that in case of projects (in category 3 and 4) undertaken as a joint venture, a member having not less than 26% share in the JV be allowed to take the full experience from the project rather than only its portion of work.	a) It is in proportion to equity share in such JV. If the equity share proportions and work share proportions are different, then the lower of the two amounts to be taken b) 26% equity holding in the company undertaking construction is not necessary for category 3 & 4 projects. 26% is necessary if the Applicant owned the eligible project and engaged a contractor for undertaking the construction works
17	3.2.3 (d)	We understand that passenger revenue from eligible railway projects will be considered for technical capability evaluation.	Yes
18	3.2.4	i) While considering the experience in construction (category 3 and 4), any payments made / received from the project of size more than the threshold capital cost of the project (like in the case of Category 1 and 2 projects) shall be included. ii) Also in a single identifiable Project (for example Delhi Metro Project) which has capital cost more than the threshold value, all individual packages irrespective of their value shall be considered. The same logic was followed in the RFQ's for the other recent metro / Rail projects.	No modifications are proposed. No modifications are proposed.

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19	3.2.4	The prescribed limit should be linked to the value of the contract but not to payments /receipts. Hence, we suggest that this clause to be modified as `payments/receipts against contracts of less than Rs. 150 Cr. shall not be reckoned as payments/receipts for Eligible projects.	No modifications are proposed.	
20	3.2.5	In case the applicant company and or their associates has both developmental & construction experience, the applicant may be allowed to take both the experience as the skill sets required for the two activities are distinct and different. Also assuming that if there are two different applicants, one who has developed the project and another one who has constructed the same project this experience gets counted for each of them.	No modifications are proposed.	
21	3.2.6	We suggest that the following experience factors be considered.	No modifications are proposed.	
		Factor		
		Category 1		1.5
		Category 2		1.25
		Category 3		1.25
		Category 4		1

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		The main risk in any project development is at the construction stage. Therefore, we request that the ratio of Category 1 to Category 4 which is at present five and is heavily tilted towards development experience be modified to a more reasonable one and a half times.	
22	3.2.7	<p>In the scoring system, the projects developed / constructed in India should be given an additional weightage of at least 33% in view of the fact that:</p> <ul style="list-style-type: none"> - Projects constructed / developed in India are more relevant than Projects constructed outside India as they are more closer to ground realities. - To bring PPP (Purchase Price Parity) of Indian Currency with respect to other major currencies. 	Please see the addendum.
23	3.5.1	All the members of the consortium, with regard to the minimum technical and financial threshold capacity, shall bring minimum threshold experience on pro-rata basis of their equity contribution in the consortium.	No modifications are proposed

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		For eg. If the minimum threshold technical capacity is 3000 and the Financial Capacity in terms of net worth is 1200 crs, then any member having X% equity shareholding in the consortium shall on its own possess Technical score of X % of the Threshold Technical & Financial experience. For example, if one member is holding 50%, they have to have technical score of 1500 and have a Net worth of Rs.600 Cr.	
24	General	A site visit of proposed alignment may be arranged to interested bidders attending the 'Pre-Application Conference on 25 th March, 2009'	The bidders may make the site visit at their own cost. BARL will co-ordinate and provide guidance.
25	3.2.1	"Category 3"calls for Experience in construction in Railway Sector mainly in Rolling Stock. Requested to add the: " Construction of Viaducts, tunnels, stations for Railways sector including MRT and High Speed Rail " shall qualify under Category 3.	Please refer the Clause in the document.

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26	2.29	<p>Instruction to Applicants defines an associate and his experience shall be accounted in qualification of the same. Please clarify, whether a wholly owned subsidiary of a Foreign Company, which is duly registered under Indian Companies Act 1956, (i.e., an Indian Company which is 100% owned by a Foreign Company) apply as a bidder in Consortium with other members for the above cited works with using credential (both technical & financial) of its parent company which hold 100% of the Indian Company and where in the Indian Company hold the appropriate equity as per the RFQ in the proposed SPV.</p>	Please refer the Clause in the document.
27	Appendix-1, Annexure – II, Page 41 & 3.2.1	<p>Appendix-I, Annexure-II, age no.41 under Column (5) calls for payments made / received for category 3 & 4 contracts respectively. However Clause 3.2.1 page no.25 clearly states the construction experience in category 3 & 4 respectively. Request to clarify how in a construction contract, payments can be made? It is only receipt of payments as per schedule in a construction contract.</p> <p>Request to remodel the clause 3.2.1 for eligible projects as Development/ Construction Experience in the said categories.</p>	Please refer the Clause in the document.

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28	2.2.3	Clause 2.2.3 under O & M experience, it is stated that if the applicant is a Single Entity, it can enter into an O & M agreement with an Operator for 5 years from COD of the Project. Please clarify, whether the same is also applicable for JV / Consortium and it is not mandatory to have a JV partner with O&M experience in the proposed JV.	Please refer the Clause in the amended document.
29	1.1.1	Clause 1.1.1 page no.1 states the alignment of line shall be underground within BIA, however on Page no.82 under clause 14.1, there is an option for elevated alignment also mentioned. Please clarify, whether is it confirmed that the alignment within BIA shall be underground.	Yes.It is in underground.
30	1.1.2	Clause 1.1.1 page no.1 states the alignment of line shall be underground within BIA, however on Page no.82 under clause 14.1, there is an option for elevated alignment also mentioned. Please clarify, whether is it confirmed that the alignment within BIA shall be underground.	Yes.It is in underground.
31	3.2.3 & 3.2.4	In 3.2.3(c), Rs 150 crs is linked to project cost whereas in 3.2.4, it is linked to payments.	a) There is a distinction made in these clauses. b) In 3.2.3, on-going projects are also eligible c) In 3.2.4, while Rs 150 crs should relate to one project, it may have been received in installments

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32	2.2.3	Is it compulsory for a consortium to have O&M member in the beginning as opposed to option for entering into an agreement given for an individual applicant?	<p>a) The option of providing agreement is available to both individual /single and consortium applicants as per the now amended RFQ document</p> <p>b) The requirement of O&M member holding 26% equity in the consortium has been changed to 10%</p>
33	1.2.4	Bid Security	Bid security has been limited to 0.5 % of the estimated project cost which is rounded to Rs.30 Crores.
34		<p>Would it be possible for the KSIIDC / GoK to consider a higher speed link (>500 kms. per hour) to & fro Airport comprising more than 100 stations spread crisscrossing the entire city & route length of 150 kms. but based on a different technology within two years / and or a speed of 200 kms. based on existing technology under Arslan protocols within 3 to 6 months? Both are different from what is proposed under the Tender.</p> <p>Please consider the above query and inform us to participate in the tender.</p>	Beyond Scope