

## **Appointment of Consultant for Techno Economic Feasibility for International and Domestic Cruise Terminals, Ro-Pax, Ferry and other allied activities**

### **Replies to pre bid queries during the meeting held on 09/04/2019 at 15.00 hrs**

In response to the pre bid queries received for the subject work, both written and during the meeting, the following amendments to the bid document has been agreed to which shall be considered wherever it is necessary in the bid document. There will be no change in any other conditions and those conditions in the bid document will prevail.

1. Guidance Note on Conflict of Interest is enclosed at **Annexure I**. Bidders shall comply accordingly.

2. The criteria for evaluation Project Manager under specific expertise has been amended as follows;

‘Should have to at least 12 years of professional experience with at least 5 years of experience of working on consultancy assignments’

3. Only the key personnel who are permanent employees and have been under employment of the firm for a period of at least **3 years** will be evaluated. Proof towards this shall be submitted.

4. Clause 7.3, assignments completed by individual experts – Instead of providing employers certificate for individual projects, employment certificate of the key personnel with past organisations can be provided with a self certified undertaking from the key personnel that he/she has been working in the project.

5. Clause 12.10, Arbitration has been modified as follows;

‘In the event of any difference or dispute arising between the Department and the firm in the performance of duties under the Agreement, the same shall be referred to Chairman, MPT for resolution. In case the matter is not resolved than the matter will be referred for Arbitration in accordance with the Arbitration and Conciliation Act., 1996, and the Rules thereto and any statutory modifications thereof. The arbitration proceedings would be held in Goa only and the Court of Goa will have the jurisdiction for filing the Award. The clause will apply only if the work is awarded to a private firm.

In case the firm is PSU or a Govt. organization than the matter will be referred to the Dispute Resolution Mechanism set up by the Ministry of Shipping, Govt. of India.

6. Bidders will submit the pre bid integrity pact which is enclosed as **Annexure II**.

7. The project envisages construction of an International cruise terminal, domestic cruise terminal, ROPAX, ferry services and all other allied activities within the port area. Further details will be made available to the selected bidder.

8. MPT will provide the capital expenditure and phasing of expenditure for the project. Operating expenditure will have to be computed by the consultant.

9. The scope of work includes transaction advisory services for selection of BOT operator and the assignment will be treated as complete after the Financial closure. Latest Model Document of the Ministry, Govt.of India shall be adopted.
10. Duration of assignment and payment structure has modified as per **Annexure III** enclosed.
11. Criteria for evaluation of key personnel has been revised and enclosed as **Annexure IV**
12. Last date for submission of e-tenders will be on 23-05-19 by 3.00 pm.Last date for submission of hard copies with EMD and tender cost will be on 24-05-19 by 3.00 pm.Opening of 1st cover (Technical bid) will be on 24-05-19 by 3.30 pm.
13. It is clarified that the consultant is not expected to carry out oceanographic investigations and geographical surveys.
14. The tentative number of presentations to be made to Ministry of Shipping/Tourism by the consultant will be 5 nos. No additional payments will be made in case this number increases. The Consultant shall be entitled to economy class air travel for two personnel for each occasion from their home office. No DA is payable.
15. The total land side area available is 57300 m<sup>2</sup>. 17500 m<sup>2</sup> area is covered with constructed sheds which are to be modified. Further details will be provided to the selected bidder.
16. Tender fee of Rs.5000 is to be paid. There will be no exemption for this. However, Exemption will be granted for payment of Bid Security only to Small Scale Industries (SSI)/ Micro, Small & Medium Enterprises (MSME) provided proper proof is furnished. The declaration of the UAM number by the bidders is mandatory.

### Guidance Note on Conflict of Interest

1. This Note explains and illustrates the conflict of interest that may arise while submission of bids.

2. Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.

3. Conflict of interest may arise between the Authority and a consultant or between consultants and present or future concessionaires/ contractors. Some of the situations that would involve conflict of interest are identified below:

(a) Authority and consultants:

(i) Potential consultants should not be privy to information from the Authority which is not available to others;

(ii) Potential consultant should not have defined the project when earlier working for the Authority;

(iii) Potential consultants should not have recently worked for the Authority overseeing the project.

(a) Consultants and concessionaires/contractors:

(i) No consultant should have an ownership interest or a continuing business interest or a non-going relationship with a potential concessionaire/ contractor save and except relationships restricted to project-specific and short-term assignments; or

(ii) no consultant should be involved in owning or operating entities resulting from the project; or

(iii) no consultants should bid for works arising from the project.

The participation of companies that may be involved as investors or consumers and officials of the Authority who have current or recent connections to the companies involved, therefore, needs to be avoided.

1. The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Authority.

All conflicts must be declared as and when the consultants become aware of them.

2. Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Authority.

3. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.

4. Another form of conflict of interest called “scope-creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built-in incentives for consultants to extend the length of their assignment.

5. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

**INTEGRITY PACT**

Between

Mormugao Port Trust (MPT) hereinafter referred to as "The Principal",

and

..... hereinafter referred to as "**The Bidder/Contractor**"

**Preamble**

The Principal intends to award, under laid down organizational procedures, contract/s for ..... The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness / transparency in its relations with its Bidder(s) and / or Contractor(s).

In order to achieve these goals, the Principal will appoint Independent External Monitors (IEMs) who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

**Section – 1 Commitments of the Principal**

(1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

a. No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

b. The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

c. The Principal will exclude from the process all known prejudiced persons.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

## **Section 2 – Commitments of the Bidder(s) / Contractor(s)**

- (1) The Bidder(s)/Contractor(s) commit themselves to take all measures necessary to prevent corruption. The Bidder(s) / Contractor(s) commit themselves to observe the following principles during participation in the tender process and during the contract execution.
- a. The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
  - b. The Bidder(s)/ Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
  - c. The Bidder(s)/Contractor(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s)/Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - d. The Bidder(s)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Bidder(s)/Contractors(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only.
  - e. The Bidder(s)/Contractor(s) will, when presenting their bid, disclose any and all payments made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
  - f. Bidder(s) / Contractor(s) who have signed the Integrity Pact shall not approach the Courts while representing the matter to IEMs and shall wait for their decision in the matter.
- (2) The Bidder(s) / Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3 - Disqualification from tender process and exclusion from future contracts**

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put their reliability or credibility in question, the principal is entitled to disqualify the Bidder(s)/Contractor(s) from the tender process or take action as per the procedure mentioned in the "Guidelines on Banning of business dealings".

### **Section 4 – Compensation for Damages**

- (1) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
- (2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

### **Section 5 – Previous transgression**

- (1) The Bidder declares that no previous transgressions occurred in the last three years with any other Company in any country conforming to the anti-corruption approach or with any Public Sector Enterprise in India that could justify his exclusion from the tender process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of business dealings."

### **Section 6 - Equal treatment of all Bidders /Contractors / Subcontractors**

- (1) In case of Sub-contracting, the Principal Contractor shall take the responsibility of the adoption of Integrity Pact by the Sub-contractor.
- (2) The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.
- (3) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

### **Section 7 - Criminal charges against violating Bidder(s) / Contractor(s) /Subcontractor(s)**

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

## **Section 8 - Independent External Monitor**

- (1) The Principal appoints competent and credible Independent External Monitor for this Pact after approval by Central Vigilance commission. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his/her functions neutrally and independently. The Monitor would have access to all Contract documents, whenever required. It will be obligatory for him / her to treat the information and documents of the Bidders/Contractors as confidential. He /She reports to the Chairman, Mormugao Port Trust.
- (3) The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his/her request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to Sub-contractors.
- (4) The Monitor is under contractual obligation to treat the information and documents of the Bidder(s) / Contractor(s) / Sub-contractor(s) with confidentiality. The Monitor has also signed declarations on 'Non-Disclosure of Confidential Information' and of 'Absence of Conflict of Interest'. In case of any conflict of interest arising at a later date, the IEM shall inform Chairman, MoPT and recuse himself/herself from that case.
- (5) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- (6) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he/she will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- (7) The Monitor will submit a written report to the Chairman, MoPT within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (8) If the Monitor has reported to the Chairman MoPT, a substantiated suspicion of an offence under relevant IPC/PC Act, and the Chairman MoPT has not, within the reasonable time taken visible action to proceed against such offence or reported it to the



Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.

(9) The word '**Monitor**' would include both singular and plural.

### **Section 9 - Pact Duration**

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by Chairman of MoPT.

### **Section 10 - Other provisions**

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- (5) Issues like Warranty / Guarantee etc. shall be outside the purview of IEMs.
- (6) In the event of any contradiction between the Integrity Pact and its Annexures (A & B), the Clause in the Integrity Pact will prevail.

---

(For & On behalf of the Principal)

---

(For & On behalf of  
Bidder/Contractor)

(Office Seal)

(Office Seal)

Place -----

Date -----

Witness 1 :

(Name & Address)

---

---

---

---

Witness 2:

(Name & Address)

---

---

---

---

**Duration of engagement:** 4 months

**Payment structure:**

	<b>Deliverables</b>	<b>Duration- months (T= Day 0*)</b>	<b>% of Professional fee quoted for the SOW</b>
1	Mobilization advance	T	10% (With BG)
2	Draft Techno-Economic Feasibility Reports	T + 1.5	40%
3	Final Report	T + 2	30%
4	RFP, DCA documents, SFC and Selection of BOT Operator	T + 3	10%
5	Signing of Concessional Agreement and Financial Closure	-	10%

**\*Day 0 – Letter of award for acceptance of work**

**Note:**

- 1. After deliverable No.3 (Final Report), the Port may at its discretion decide not to proceed with the consultancy. In such case, further payments after deliverable No.3 will not be made and the consultancy will be foreclosed.**
- 2. If the Consultant chooses not to avail the Mobilisation advance, the 10% amount will be paid equally on deliverable No.2 & 3.**
- 3. In case no BOT operator is selected than the payment at Sr. No. 5 (Signing of Concessional Agreement and Financial Closure) will not be paid.**

**ANNEXURE IV**

<b><u>Sr. No</u></b>	<b>Position</b>	<b>Qualification</b>	<b>Specific expertise</b>	<b>Marks and scoring criteria (Total marks 100)</b>
<b>1</b>	Team Leader	Post graduate in Business Administration with specialization in Finance/ Construction Management/CA/ ICWA	Should have at least 15 years' experience of working on consultancy assignments in infrastructure sector	<p><b>Total Marks : 40 marks</b></p> <p><b>1. Experience : 10 marks</b></p> <p>1.1 Experience 15 -20 years -5 marks</p> <p>1.2 Experience more than 20 years - 10 marks</p> <p><b>2.Number/Quality/Relevanceof assignments : 30 marks</b></p> <p><b>2.1 Number of assignments: 10 marks</b></p> <p>a. Minimum 6 relevant assignments with traffic / feasibility studies in ports/terminals and maritime sector in last 10 years – 6 marks.</p> <p>b. Each additional assignment – 2 mark each for every additional assignment; to maximum of 4 marks</p> <p>2.2 Have worked on successful award of at least one PPP project at Govt. of India/State Govt. port in last 10 years – <b>5 marks for each project to maximum of 10 marks</b></p> <p>2.3 Undertaken study on <b>at least one Cruise related project in India – 10 marks</b></p>
	Project Manager	Post graduate in Technology/Planning/equivalent	Should have at least 12 years' experience of working on consultancy assignments in infrastructure sector	<p><b>Total Marks : 30 marks</b></p> <p><b>1. Experience : 10 marks</b></p> <p>1.1 Experience 12 – 17 years – 5 marks</p> <p>1.2 Experience more than 17 years - 10 marks</p> <p><b>2. Number/ Quality/ Relevance of Projects : 20 marks</b></p> <p><b>2.1 Number of assignments: 10 marks</b></p> <p>a. Minimum 2 relevant assignments with traffic / feasibility studies in ports/terminals and maritime sector in last 10 years – 2 marks</p> <p>b. Each additional assignment – 1 mark each for every additional assignment; to maximum of 3 marks</p> <p>c. Have worked on successful award of at least one PPP project at Govt. of India/State Govt. port in last 10 years – 5 marks</p> <p>2.2 Undertaken study on <b>at least one Cruise related project in India – 10 marks</b></p>

Traffic expert	Post graduate in Business Administration/equivalent degree in port related studies	Should have at least 5 years of working experience in the area of preparation of TEFR/FR/Due diligence studies with traffic assessment for ports/terminals and Maritime sector.	<p><b>Total Marks : 15 marks</b></p> <p><b>1. Experience : maximum 5 marks</b></p> <p>1.1 Experience of 5 years - 3 marks</p> <p>1.2 Experience above 5 years – 1 mark for each additional year</p> <p><b>2.Number/Quality/Relevance of Projects : 10 marks</b></p> <p>2.1 Minimum 5 relevant assignments with traffic studies in port/terminal and maritime sector in last 10 years – 5</p> <p>2.2 Each additional assignment in last 10 years – 1 marks for each additional relevant assignment; maximum of 5 marks.</p>
Finance Expert	Post graduate in Business Administration with specialization in Finance/CA/ICWA	Should have at least 5 years experience of working on consultancy assignments in port and maritime sector	<p><b>Total Marks : 15 marks</b></p> <p><b>1. Experience : 5 marks</b></p> <p>1.1 Experience 5 -10years - 2 marks</p> <p>1.2 Experience more than 10 years – 5 marks</p> <p><b>2.Number/Quality/Relevance of Projects : maximum 10 marks</b></p> <p>2.1 Minimum 4 relevant assignments with Feasibility studies in port/terminal and maritime sector in last 10 years – 4 marks</p> <p>2.2 Additional assignments - 2 marks each for additional relevant assignments in last 10 years; maximum of 6 marks.</p>