

Pre-Bid Clarifications

For Request for Empanelment as Legal Advisor for Sagarmala Development Company Limited

A. <u>Firm Name: - M/s Legacy Law Offices</u>			
	<u>Reference in Tender Document</u>	<u>Query</u>	<u>Clarifications</u>
1.	Page no. 17, clause 3.8 Financial Capacity Average annual turnover during the last 3 financial years ending with 31st March (2014-15, 2015-16 and 2016-17) should be not less than INR 5 Crore from consultancy services undertaken by the applicant in the past 3 years.	We request that this clause be amended to Average annual turnover during the last 3 financial years be reduced to INR 2 crore instead of 5 crore from consultancy services undertaken by the applicant in the past 3 years.	Original clause as per RFE shall prevail
B. <u>Firm Name: - M/s Tri Legal</u>			
	<u>Reference in Tender Document</u>	<u>Query</u>	<u>Clarifications</u>
1.	General Query <u>Legal Advisors and Legal Firms:</u>	The RFE interchangeably uses the terms “Legal Advisors” and “Legal Firms”. In this context, please clarify whether the selection process is also open to individual legal practitioners or is limited to selection of law firms.	Selection Process is to empanel Legal Firms only not Individuals.
2.	General Query <u>Technical qualification criteria:</u>	From the qualification criteria set out at page no. 17 of the RFE (under the heading Stage-II), we understand that a bidder needs to demonstrate the experience of having undertaken at least 10 assignments in the past 10 years in the eligible sectors. In this context, please clarify whether the selection of a bidder is based on a pass/fail test. In other words, whether all the bidders who have undertaken	Original clause as per RFE shall prevail

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		<p>at least 10 assignments in the eligible sectors will be eligible to be empanelled?</p> <p>If the above mentioned understanding is correct, then this would lead to all selected law firms, being put in the same category, irrespective of their experience and capacity.</p> <p>In this regard, we suggest SDCL to consider imposing additional qualification criteria in terms of:</p> <p>(a) the number of assignments undertaken by the firm, which should be significantly more than 10; and</p> <p>(b) number of lawyers engaged by the law firm.</p>	
3.	<u>Categorization of law firms:</u>	Please also consider creating different categories of empanelled law firms based on law firms' experience and strength of number of lawyers. We have seen in the past that various government departments have adopted this model of empanelment for law firms.	Original clause as per RFE shall prevail.
4.	Page no. 20 <u>Completion Certificate</u>	<p>The RFE requires bidders to submit a completion certificate issued by clients for each eligible assignment. As SDCL might be aware of from its own experience that clients typically do not issue a completion certificate upon completion of legal services. Given the short timeline for submission of the proposal, it will practically be impossible to obtain completion certificate from the clients.</p> <p>We request SDCL to remove this requirement of submitting completion certificates. Instead, in order</p>	As a documentary proof an applicant can provide Work Order or Contract Agreement along with payment receipts verified by the Applicant's Statutory Auditor specifying that more than 80% of the total professional fees has been received by the bidder for the project.

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		to verify the firms' experience, SDCL could consider requiring the bidders to submit other documents such as engagement letters and/or redacted invoices raised by the law firm to the client.	Else bidder can provide Completion Certificate along with work order/ Agreement detailing scope of work.
5.	<u>Joint bid with an international law firm:</u>	<p>Please clarify whether an Indian law firm is permitted to partner with an International law firm to submit the bid. We have asked this question specifically in the context of the requirement set out in section 3.1 of the RFE which states that: “<i>For Legal Firms <u>knowledge and practice of International laws and arbitration would be useful for legal due diligence of Feasibility Reports / Detailed Project Reports, review prepared for infrastructure projects identified by SDCL.</u></i>”</p> <p>Please note that while Indian law firms and lawyers are aware of and can practice public and private international law, they are not qualified to advise on laws of any other foreign jurisdiction. To the extent, SDCL anticipates assistance in relation to any foreign law (such as English Law or American Law), a foreign law firm which is qualified to advise on those laws will have to be engaged.</p>	<p>Clause is modified and shall be read as follows:-</p> <p><i>“For Legal Firms <u>knowledge and practice of Indian laws and arbitration would be useful for legal due diligence of Feasibility Reports / Detailed Project Reports, review prepared for infrastructure projects identified by SDCL.</u>”</i></p>
6.	<u>Section -2.2.2 Earnest Money Deposit (EMD):</u>	According to section 2.2.2, the EMD for the successful bidders will be retained for the term of the empanelment. We request SDCL to consider returning the EMD of the successful bidder as well upon their selection and not retain it for the term of the empanelment.	Original clause as per RFE shall prevail.
C.	<u>Firm Name: - M/s Cyril Amarchand Mangaldas</u>		

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1.	3.3. (Terms of Reference)	Whether the scope of work includes advising SDCL in relation to structuring of the Proposed Transactions or any stand-alone advisory that SDCL may seek from us, from time to time?	Please refer to Clause No. 3.1 & 3.3. of the RFE.
2.	3.8 (Stage-I: Minimum Eligibility Criteria) – (b)	Whether a self-declaration by the applicant that the applicant has not been barred by any Government or statutory authorities in India, from participating in any project would suffice for fulfilling this requirement?	Yes.
3.	Form TP-2: Applicant's Organization and Experience – B(1)	Furnishing of completion certificate may not be feasible as the terms of our engagement by our client are governed by the engagement letter (which among others, contains terms relating to completion, confidentiality, etc.). Therefore, we may not be able to furnish such completion certification. Although we will share a self certification that we have non-disclosure agreement with our clients, request if you could clarify if public news relating to completion of such assignments may be taken as a proof of completion?	As a documentary proof an applicant can provide Work Order or Contract Agreement along with payment receipts verified by the Applicant's Statutory Auditor specifying that more than 80% of the total professional fees has been received by the bidder for the project. Else bidder can provide Completion Certificate along with work order/ Agreement detailing scope of work
4.	Form TP-2: Applicant's Organization and Experience – B(2)	Given the nature of constitution of our Firm (i.e. partnership), the size of our Firm (more than 100 partners) and confidentiality of gross revenues generated by the Firm as a whole, we are constrained to share the gross annual revenue/turnover of our firm for each of the previous three years. Could you please clarify if a certificate from our auditors stating that our Firm has more than certain threshold of revenue	Yes.

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		in every preceding year (i.e. over and above minimum thresholds as prescribed under the RFE) will suffice for the purpose of satisfying this condition of the RFE?	
5.	Form TP-7: Format for Responsiveness of Proposal – Project Specific Experience	It is prescribed that ' <i>projects without the proof of experience from respective client will not be considered</i> '. Could you please clarify what are the different documents that may be submitted in this regard by the applicant? In addition, given the confidential nature of the engagement letter we execute with clients, we will be constraint to provide any project-specific documents. Could you also clarify if a self-certification from our Firm, that all the information provided by us under this Form, in relation to our project specific experience, is true and correct will suffice?	As a documentary proof a applicant can provide Work Order or Contract Agreement along with payment receipts verified by the Applicant's Statutory Auditor specifying that more than 80% of the total professional fees has been received by the bidder for the project. Else bidder can provide Completion Certificate along with work order/ Agreement detailing scope of work
6.	General Query	In the past, we have experienced a few issues in relation to uploading of tender response on the online portal, could you please clarify if hard copy submission of the bid documents is also permissible?	Please refer to S.No.1 of the Corrigendum-I of the RFE.
C.	<u>Name of Firm :- M/s Suri & Co.</u>		
1.	Clause No.3.7.1	The RFE stipulates that the Proposal should be submitted / uploaded online on the central Public Procurement Portal (https://eprocure.gov.in /cppp/) on or before the proposal Due Date & time mentioned in the RFE. Please confirm whether the hard copy of the proposal also needs to be submitted in the	Please refer to S.No.1 of the Corrigendum-I of the RFE.

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		office of Sagarmala Development Company Ltd. (SDCL)?	
2.	Form TP-2	<p>It stipulates that the applicant is required to submit the completion certificate to demonstrate the experience In a particular project/ assignment This condition may not be fulfilled in case of all eligible projects under the RFE since advocates / Law firms do not obtain completion certificates from the clients in respect -of small projects / advisory based services. It is suggested that the applicants should be allowed to submit a chartered Accountant certificate in support of the projects / assignments undertaken in a specific category and the professional fee received in respect of such projects / assignments.</p>	<p>As a documentary proof a applicant can provide Work Order or Contract Agreement along with payment receipts verified by the Applicant's Statutory Auditor specifying that more than 80% of the total professional fees has been received by the bidder for the project. Else bidder can provide Completion Certificate along with work order/ Agreement detailing scope of work</p>
3.	Clause No. 3.2	<p>The RFE stipulates that the applicants have to submit the cost of RFE document i.e. Rs. 10,000/- and EMD of Rs. 1 Lakh along with the application. It is pertinent to mention that the present RFE is only for the empanelment of advocates /law firms and no work allocation would be done to any advocate / law firm selected pursuant to this RFE. The allocation of work would be done by SDCL only at a later stage based on the lowest financial quote invited from the empanelled advocates / law firms Accordingly, the requirement for submitting the EMD of Rs. 1 Lakh appears unnecessary at this stage. It is suggested that the requirement for submission of EMD of Rs. 1 Lakh should be</p>	<p>Original clause as per RFE shall prevails.</p>

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		removed / dispensed with under the present RFE. In case it is not possible to remove the EMD of Rs 1 Lakh, the same may be reduced to Rs. 50,000/- since the amount of Rs. 1 Lakh is to be on higher side. Similarly, the cost of RFE document should also be reduced from Rs. 10,000/- to Rs. 1,000/-.	
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