राष्ट्रीय राजमार्ग एवं अवसंरचना विकास निगम लिमिटेड
सड़क परिवहन और राजमार्ग मंत्रालय, भारत सरकार
तीसरी मंजिल, पीटीआई बिल्डिंग, 4-संसद मार्ग, नई दिल्ली-110001
National Highways & Infrastructure Development Corporation Limited
Ministry of Road Transport & Highways, Govt. of India
3rd Floor, PTI Building, 4-Parliament Street, New Delhi-110001, +91 11 2346 1600, www.nhidcl.com
BHARATMALA ROAD TO PROSPERITY
BUILDING INFRASTRUCTURE - BUILDING THE NATION
CIN: U45400DL2014GOI269062
सार्वजनिक क्षेत्र का उपक्रम
A PUBLIC SECTOR UNDERTAKING

No. NHIDCL/Silkayara Tunnel/AE/2018 **Date: 18/12/2018**

To,

1. ***M/s TPF Getinsa Euroestudios S.L. in association With M/s Rodic Consultants Pvt. Ltd.***
2. ***M/s Meinhardt Singapore Pte. Ltd. joint venture with M/s Amberg Engineering Ag.***
3. ***M/s Systra S.A. in joint venture with M/s PEMS Engineering Consultants Pvt. Ltd.***

Subject: Consultancy Services for Authority's Engineer for Supervision of Construction, Operation and Maintenance of 2-lane Bi-Directional Silkyara Bend -Barkot Tunnel with escape passage including approaches on Dharasu-Yamunotri section between Ch. 25.400 and Ch. 51.000 falling along NH-134 (old NH-94) in the State of Uttarakhand" on Engineering, Procurement and Construction - **Opening of Financial Bid** - regarding.

Sir,

Please refer to your bid dated 25.10.2018 submitted on the subject cited project. The following is the final list of technically responsive Bidder. The financial bids of technically responsive bidders shall be opened on **20.12.2018 (1100 hrs)** in NHIDCL HQ, 3rd Floor PTI Building, 4-Parliament Street, New Delhi-110001.

Sr. No	Name of bidder	Technical score	Status
1.	M/s TPF Getinsa Euroestudios S.L. in association With M/s Rodic Consultants Pvt. Ltd.	92.33	**Technically Responsive for the next stage of Bidding. (i.e. opening of financial bid.)**
2.	M/s Meinhardt Singapore Pte. Ltd. joint venture with M/s Amberg Engineering Ag	-	The Lead partner has not qualified the minimum experience in DPR/FS of 50% of 2 times of length (i.e. 4.859 km). Therefore **Non -responsive.**
3.	M/s Systra S.A. in joint venture with M/s PEMS Engineering Consultants Pvt. Ltd.	-	The bidder has not submitted Memorandum of Undertaking between JV partners as per Clause No. 4.1 (ii) of Section -2, Letter of Invitation, Copy of Memorandum of Understanding between JV partners shall be submitted in Technical Proposal. Hence, the bidder is **Non-Responsive.**

2. The copy of minutes of meeting of Empowered Technical Evaluation Committee (ETEC) dated 14.12.2018 is also enclosed.

3. All the Authorized Representatives are requested to attend the opening of Financial Bids at the Scheduled date 20.12.2018 at (1100 hrs).

Yours Faithfully,

Y.C Srivastava
General Manager (T)

National Highways & Infrastructure Development Corporation Ltd

Minutes of Meeting of Empowered Technical Evaluation Committee (ETEC) for evaluating Technical Bids for "Consultancy Services for Authority's Engineer for supervision of Construction, Operation and Maintenance of 2-lane Bi-Directional Silkyara Bend -Barkot Tunnel with escape passage including approaches on Dharasu-Yamunotri section between Ch. 25.400 and Ch. 51.000 falling along NH-134 (old NH-94) in the State of Uttarakhand" on Engineering, Procurement and Construction (EPC) Mode held at NHIDCL on 14.12.2018, New Delhi (**3rd meeting**).

ETEC Committee in its meeting dated 03.12.2018 has recommended, **M/s TPF Getinsa Euroestudios S.L. in association With M/s Rodic Consultants Pvt. Ltd. and M/s Systra S.A. in association with M/s PEMS Engineering Consultants Pvt. Ltd.** may be considered as **Responsive** and **M/s Meinhardt Singapore Pte. Ltd. Joint Venture with M/s Amberg Engineering Ag as Technically Non Responsive.**

2. Committee was also of the opinion that its findings may only be approved by Competent Authority after obtaining the comments of INDEPENDENT EXTERNAL MONITOR (IEM), who in present case is Dr. Satyanarayana Dash, IAS (Retd.). Consequent upon Approval of Competent Authority the case was referred to IEM for his comments.

3. Now, Dr. Satyanarayana Dash (IEM), vide their email dated 13.12.2018 **(F/X)** has submitted his comments on Minutes of ETEC as follows:

(i) As per clause 7.1 of Invitation to Consultants (ITC), Section 1 of RFP, NHIDCL invites proposals through E tender online bid submission on CPP Portal after creating Team ID on INFRACON Portal. While Technical Proposal is submitted in online as well as Hardbound form, Financial Proposal is submitted in online form only.

(ii) Clause 15 of ITC Section 1 of RFP states that Technical Proposal is to be submitted online on both CPP and on INFRACON Portal with all papers numbered serially along with index of Submission. Technical Proposal submitted in hardbound form should be exactly as per its submission online with pages numbered serially along with the index of submission. However in this case in their online submission of Technical Proposal Dated 22.10.2018, SYSTRA S A (SYSTRA) have indicated that their association with M/s PEMS Engineering Consultants Private Limited (PEMS) is as JV Partner and such Partnership has been confirmed by PEMS as per their letter dated 18.10.2018.Accordingly after

their evaluation, NHIDCL has asked SYSTRA to furnish their MOU with JV Partner. SYSTRA replies that they had submitted MOU with PEMS as Associate in their hardbound copy of Technical Proposal. This clearly differs from their Technical Proposal submitted online. The legal structure of the JV Partnership is clearly defined in terms of the shareholding of the Partners and they have to pass the eligibility requirements as per RFP. However, legal structure is different in case of Associate Partnership, where the nature of the Association has to be clarified through the MOU between the Partners. The responsibilities cast on the JV Partners are entirely different from Associate Partnership. A letter of undertaking submitted by PEMS shows them to be sub contractors of SYSTRA. Since the legal structure indicated in their online submission differs from their submission now as per hard bound copy, it clearly violated Clause 15 of ITC, Section 1 of RFP. Since Legal structure of a bidder in a bid is a fundamental attribute to be evaluated by NHIDCL, any discrepancy in this structure vitiates the bid and makes the same non responsive. It appears that SYSTRA was not clear about their association with PEMS in this Project right from the beginning. They have not also furnished the credentials of PEMS for information of NHIDCL.

(iii) SYSTRA has also never admitted that their online submission regarding JV Partnership with PEMS was a mistake.

(iv) Any relaxation of Clauses of RFP is bound to lead to similar requests for relaxation from other bidders and will open up a Pandora's Box. We cannot consider any relaxation in the fundamental legal structure of the bidder.

(v) In view of the above I am not able to agree to the recommendations made in the ETEC meeting. I fully agree with the recommendations of the Financial Consultant. In that case, since only a single responsive bid remains, rebidding may be considered.

4. Competent Authority has desired to reconvene the Empowered Technical Evaluation Committee (ETEC) in light of opinion of Independent External Monitor (IEM), exigency of work and Government of India orders to deal such situation.

5. Committee noted following points:

(i) Only one bidder i.e. **M/s TPF Getinsa Euroestudios S.L. in association With M/s Rodic Consultants Pvt. Ltd** is considered as Technically Responsive. Two bidders **M/s Systra S.A. in joint venture with M/s PEMS Engineering Consultants Pvt. Ltd, M/s Meinhardt Singapore Pte. Ltd. in Joint Venture with M/s Amberg Engineering Ag** have been

considered as Technically Non Responsive by the Financial consultant as well as by Independent External Monitor (IEM).

(ii) Further, Empowered Technical Evaluation Committee (ETEC) taken note of the status of civil work as appointed date has been declared as 09.07.2018. As per new model document the Authority Engineer is to be appointed before appointed date. Therefore appointment of Authority Engineer has already been delayed by 5 months which will affect the contractual obligations being specialized work.

(iii) If bids to be re invited it may take another 6 to 7 months time to appoint Authority Engineer at loss of the available limited working window upto April 2019 only and thereafter the appointment could get delayed on account of declaration of forthcoming 2019 general election and enforcement of Code of Conduct thus delaying this important project further.

(iv) Committee also considered the fact that if the consultant awarded the work the placement of the team will take one month time.

(v) The bid was invited in 08.06.2018 and despite of participation of four firms remained single technically responsive bidder resulted into 2nd call. In 2nd call also after technical evaluation two bidders found non-responsive resulted into single technically responsive bid despite of committee's view to consider **M/s Systra S.A. in association with M/s PEMS Engineering Consultants Pvt. Ltd. as Technically Responsive bidder based on the submitted undertaking.**

(vi) As per the office memorandum dated 24.07.2015 of MoRTH, Government of India at para no. 2 (ix) (ii) ***"single bid received during 2nd call or more bids received during the 2nd call but Technically Responsive remaining only one. Technically Responsive bid to be approved by MD, NHIDCL on the recommendation of EFEC through Finance Division".***

(vii) Considering exigency due to 5 months delay in appoint of Authority Engineer and initial phase of contractual requirement for approval of design, drawing etc. to commence the work, committee recommends to open the financial bid of only Technically Responsive bidder i.e. **M/s TPF Getinsa Euroestudios S.L. in association With M/s Rodic Consultants Pvt. Ltd.** The recommendation of EFEC to be put to MD, NHIDCL, for decision on Award of work.

6. In view of the above, the committee recommended for opening of financial bid of technically responsive bidder and uploading of Status/Technical score on eprocure.gov.in and nhidcl.com. The status/technical score is tabulated below before

Sr. No	Name of bidder	Technical score	Status
1.	M/s TPF Getinsa Euroestudios S.L. in association With M/s Rodic Consultants Pvt. Ltd.	**92.33**	**Technically Responsive for the next stage of Bidding. (i.e. opening of financial bid.)**
2.	M/s Meinhardt Singapore Pte. Ltd. joint venture with M/s Amberg Engineering Ag	-	The Lead partner has not qualified the minimum experience in DPR/FS of 50% of 2 times of length (i.e. 4.859 km). Therefore Non - responsive.
3.	M/s Systra S.A. in joint venture with M/s PEMS Engineering Consultants Pvt. Ltd.	-	The bidder has not submitted Memorandum of Undertaking between JV partners as per Clause No. 4.1 (ii) of Section -2, Letter of Invitation, Copy of Memorandum of Understanding between JV partners shall be submitted in Technical Proposal. Hence, the bidder is Non-Responsive.

The Meeting ended with Vote of Thanks to the Chair.

V.K.Singh
ED-IV,
Chairman

Y.C.Srivastava , GM (T),
Member Secretary

Adil Singh
GM (T),
Member

Kavita Vivek
Manager(Tech),

Uttam Chatterjee
(DGM-Fin.), Member

Gmail

Yogesh Srivastava <gmuttrakhand003@gmail.com>

Independent opinion on the recommendation of Empowered Technical Evaluation Committee (ETEC) of the received bids for the appointment of Authority Engineer for the project "Construction, Operation and Maintenance of 2-lane Bi-Directional Silkyara Bend –Barkot Tunnel with escape passage including approaches on Dharasu-Yamunotri section between Ch. 25.400 and Ch. 51.000 falling along NH-134 (old NH-94) in the State of Uttarakhand" on Engineering, Procurement and Construction (EPC) Mode

Satyanarayana Dash <satya8may@yahoo.co.in> Thu, Dec 13, 2018 at 6:24 AM
To: Yogesh Srivastava <gmuttrakhand003@gmail.com>

Yogesh Srivastava
GM, NHIDCL
Dear Yogesh,
I have gone through the records sent by you earlier and the papers sent by you on WhatsApp.My opinion on the matter are as follows:-
(1) As per clause 7.1 of Invitation to Consultants (ITC), Section 1 of RFP, NHIDCL invites proposals through E tender online bid submission on CPP Portal after creating Team ID on INFRACON Portal. While Technical Proposal is submitted in online as well as Hardbound form, Financial Proposal is submitted in online form only.
(2) Clause 15 of ITC Section 1 of RFP states that Technical Proposal is to be submitted online on both CPP and on INFRACON Portal with all papers numbered serially along with index of Submission.Technical Proposal submitted in hardbound form should be exactly as per its submission online with pages numbered serially along with the index of submission. However in this case in their online submission of Of Technical Proposal Dated 22.10.2018, SYSTRA S A (SYSTRA) have indicated that their association with M/s PEMS Engineering Consultants Private Limited (PEMS) is as JV Partner and such Partnership has been confirmed by PEMS as per their letter dated 18.10.2018.Accordingly after their evaluation, NHIDCL has asked SYSTRA to furnish their MOU with JV Partner. SYSTRA replies that they had submitted MOU with PEMS as Associate in their hardbound copy of Technical Proposal. This clearly differs from their Technical Proposal submitted online. The legal structure of the JV Partnership is clearly defined in terms of the shareholding of the Partners and they have to pass the eligibility requirements as per RFP. However, legal structure is different in case of Associate Partnership, where the nature of the Association has to be clarified through the MOU between the Partners.The responsibilities cast on the JV Partners are entirely different from Associate Partnership. A letter of undertaking submitted by PEMS shows them to be sub contractors of SYSTRA. Since the legal structure indicated in their online submission differs from their submission now as per hard bound copy, it clearly violated Clause 15 of ITC, Section 1 of RFP. Since Legal structure of a bidder in a bid is a fundamental attribute to be evaluated by NHIDCL, any discrepancy in this structure vitiates the bid and makes the same non responsive. It appears that SYSTRA was not clear about their association with PEMS in this Project right from the beginning. They have not also furnished the credentials of PEMS for information of NHIDCL.
(3) SYSTRA has also never admitted that their online submission regarding JV Partnership with PEMS was a mistake.
(4) Any relaxation of Clauses of RFP is bound to lead to similar requests for relaxation from other bidders and will open up a Pandora's Box. We cannot consider any relaxation in the fundamental legal structure of the bidder.
In view of the above I am not able to agree to the recommendations made in the ETEC meeting. I fully agree with the recommendations of the Financial Consultant. In that case, since only a single responsive bid remains, rebidding may be considered.

Regards,
Dr Satyanarayana Dash, IEM, NHIDCL

Sent from my iPad
[Quoted text hidden]