

**Sub: Minutes of pre-bid meeting for engagement of consultant for preparation of Detail Project Report (DPR) for construction of IWT terminal at Sahibganj in Jharkhand (India) on river Ganga (NW-1) – reg.**

1. List of participant present in the meeting is annexed at Appendix 'A'.
2. The pre-bid meeting between Tender Evaluation Committee (TEC) Members and the interested participants was held on 15.01.2015 at Head Office, Noida.
3. During the meeting, queries/ clarifications were raised by the participants and it was clarified in the pre-bid meeting that replies to all the queries raised by the bidders will be uploaded in the website of IWAI ([www.iwai.nic.in](http://www.iwai.nic.in)) and e-procurement Portal (<http://eprocure.gov.in/eprocure/app>).
4. The detail of queries and their replies / clarifications are as follows:

Sl. No.	Queries	Replies / clarifications
1.	<p><u>Clause 19</u> <u>Force Majeure</u>: If the work.....consultant.</p> <p>Please replace the given clause with the following:</p> <p>“Both parties shall keep a record of circumstances referred to above which are responsible for causing delays in the execution of the services and shall give notice to the other party of any such cause as soon as it occurs. An event of Force Majeure where so ever it occurs, provided it affects either party in fulfilling its obligations under his contract, will justify the affected party’s claim of Force Majeure. Should one or both the parties be prevented from fulfilling their contractual obligations by a State of Force Majeure lasting continuously for one month, the parties shall consul with each other regarding the future execution of the contract and if no satisfactory solution is arrived at between the parties within a period of two months, either party shall have the right to terminate this contract.”</p> <p>Further in case of such a termination, the consultant shall be paid for the amount of work done till the time of such termination.</p>	<p>This is the standard General condition of contract. The change proposed by the prospective bidder is not agreed to.</p>
2.	<p><u>Clause 21</u> <u>Arbitration</u></p> <p>Inland Water Authority of India (IWAI) and EIL being CPSE's the relevant clause for arbitration will be Permanent Machinery of Arbitration. Therefore kindly replace the Arbitration clause with following:</p> <p>“In cases of any differences, the same shall be resolved by mutual discussions and agreement, within a time period of 30 days. However, if the dispute is not resolved mutually between the parties, the following shall apply for</p>	<p>This is the standard General condition of contract. The change proposed by the prospective bidder is not agreed to.</p>

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	<p>resolution of disputes:</p> <p>“In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law &amp; Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusively? The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator. The place of arbitration shall be New Delhi. The arbitrator shall give reasons for the award.”</p> <p>The services under this contract shall be continued during the arbitration proceedings, unless otherwise agreed in writing by parties or unless it is proved that the services cannot possibly be continued during the arbitration proceedings.</p>	
<p>3.</p>	<p><u>Clause 22</u>  <u>Termination:</u> If the contract ..... agency.</p> <p>Bidder requests IWAI to add the following with the existing clause:</p> <p>“In case of termination of contract due to any reasons, the Consultant shall be compensated for the amount of work done till the time of such termination.”</p> <p>“Consultant shall also be vested with the right to terminate in case of non-payment of dues within 30 days of raising the invoice.”</p>	<p>This is the standard General condition of contract. The change proposed by the prospective bidder is not agreed to.</p>
<p>4.</p>	<p><u>New Clause</u></p> <p>Please add following as a New clause:</p> <p>“Consultant’s overall liability under this Contract for all guarantees or warranties of whatsoever nature, whether expressed or implied, and for all causes whatsoever, shall be limited to providing corrective assessment reports without any additional cost to Company, for reasons solely attributable to Consultant, provided that no such liability shall lie two months after the date of completion of Consultant’s services as defined under this Contract.”</p>	<p>No change is considered in the existing clause.</p>



5.	<p><u>New Clause</u></p> <p>Please add following as a New clause:          "Nothing in this Contract shall be construed to have imposed any liability on Consultant, for defects or otherwise, if Consultant has to depend on data, process, technical information provided by Company and/or by others on behalf of Company and if any part or parts thereof are found to be misleading, inaccurate, incomplete, unsatisfactory or deficient for any reason or circumstances beyond Consultant's control."</p>	<p>No change is considered in the existing clause.</p> <p>Please refer Clause 5 (Terms of reference of the assignment) of the Tender.</p> <p><i>"Available data / information to be provided by IWAI (on request of consultant) are of indicative nature. The correctness / accuracy are to be ascertained by the consultant before considering in the report. The consultant is responsible for any data reflected in DPR."</i></p>
6.	<p><u>New Clause</u></p> <p>Please add following as a New clause:          "Consequential Damages: In no case the Consultant shall be responsible for any penalty or consequential, indirect losses and damages such as loss of use or revenue, products or profits."</p>	<p>No change is considered in the existing clause.</p>
7.	<p><u>General:</u></p> <p>Kindly specify the project design period for which the facilities need to be designed.</p>	<p>As per standard practice / relevant code.</p>
8.	<p><u>Section-5, 1st Paragraph &amp; Point (xvi)</u></p> <p><u>Terms of Reference (ToR) of Assignment:</u>          First paragraph under section 5 is contradicting with the point (xvi) under same head. Kindly clarify whether the tender is to be prepared only for EPC module.</p>	<p>The first para of section 5 and sub-para 5(xvi) are not contradictory. In sub-para 5 (xvi), Consultant is requested to suggest institutional mechanism etc.</p>
9.	<p><u>Section-5 point (iii)</u></p> <p><u>Terms of Reference (ToR) of Assignment:</u>          Kindly, clearly specify the list of the data which can be made available to the consultants. Since it is required to establish the consultant's efforts to complete the project. It will also have the time impact in collection or conducting studies for such data.</p>	<p>Please refer clause no. 5 and 8 of tender document.</p>
10.	<p><u>Section-5 Point (v)</u></p> <p><u>Terms of Reference (ToR) of Assignment:</u>          Collection of land details from revenue department. It is suggested that once the land is identified by the consultant, IWAI should collect the owner details or relevant information from state revenue department. The other option would be creating an interface amongst Consultant, IWAI and the concerned department.</p>	<p>No change is considered in the existing clause 5(v). IWAI will only issue necessary letter to the District Administration for authorizing the consultant to collect the information/ record.</p>

