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## GOVERNMENT OF THE PUNJAB LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT

### NOTIFICATION (153 of 2020)

**18 November 2020**

Notification No. SO(H-II)3-6/2020, dated 21.10.2020, issued by Government of the Punjab, Housing, Urban Development and Public Health Engineering Department, is hereby published in Punjab Gazette for general information:



GOVERNMENT OF THE PUNJAB  
HOUSING, URBAN DEVELOPMENT &  
PUBLIC HEALTH ENGINEERING DEPARTMENT

21<sup>st</sup> October, 2020

**NOTIFICATION**

**No. SO(H-II)3-6/2020** In exercise of the powers conferred under section 20 of the Management and Transfer of Properties by Development Authorities Act 2014 (Act XIX of 2014), Governor of the Punjab is pleased to make the following rules with immediate effect:

**1. Short title.-** (1) These rules may be cited as the Management and Transfer of Properties by Development Authorities (Joint Venture) Rules 2020

**2. Definitions.-** (1) In these rules:

- (a) "Act" means the Management and Transfer of Properties by Development Authorities Act 2014 (Act XIX of 2014);
- (b) "best Commercial offer" means:
  - i. a proposal found substantially responsive to the terms and conditions as set out in the bidding documents; and
  - ii. a highest ranked proposal, as evaluated, on the basis of cost or quality or any combination thereof, as specified in the bidding documents;
- (c) "bidder" means a person, who has submitted an expression of interest, is prequalified and offers services for completion of a joint venture project;
- (d) "Bidding Documents" means a document or a set of documents mentioned in rule 10 of the rules;
- (e) "Bidding Process" means a process, for selection of a partner for joint venture, commencing from publication of expression of interest and culminating at award of contract;
- (f) "Company" means a company incorporated in terms of subsection (7) of section 5 of the Act;
- (g) "fraudulent practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official, bidder or partner in the bidding process or in execution of a joint venture agreement to the detriment of the Authority; or misrepresentation of facts in order to influence a bidding process or the execution of joint

venture agreement, collusive practices among bidders (prior to or after bid submission) designed to establish bid at artificial, non-competitive levels and to deprive the Authority of the benefits of free and open competition and any request for, or solicitation of anything of value by any public official in the course of the exercise of his duty; it may include any of the following:

- (i) coercive practice by impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence the actions of a party to achieve a wrongful gain or to cause a wrongful loss to another party; or
  - (ii) collusive practice by arrangement between two or more parties to the bidding process or execution of joint venture agreement, designed to achieve with or without the knowledge of the Authority to establish prices at artificial, noncompetitive levels for any wrongful gain; or
  - (iii) offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the acts of another party for wrongful gain; or
  - (iv) any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; or
  - (v) obstructive practice by harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a bidding process, or affect the execution of a contract or deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements before investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of inspection and audit process;
- (h) "joint venture agreement" means an agreement, for performance of primary functions and obligations in

respect of the joint venture project, between the Authority and partner;

- (i) "joint venture project" means a project for transfer or management of property through joint venture;
- (j) "rules" means the Management and Transfer of Properties by Development Authorities (Joint Venture) Rules 2020; and
- (k) "Schedule" means the Schedule appended to the rules.

(2) A word used but not defined in the rules shall have the meanings as assigned to it in the Act.

**3. Selection of partner.**— The Authority shall select the partner for joint venture project after prequalification and open competitive process by a single stage or two stage bidding.

**4. Special purpose vehicle.**— (1) The Authority may, for joint venture project, transfer its property to the company or special purpose vehicle, incorporated under subsection (7) of section 5 of the Act.

(2) The partner shall, after its selection by the Authority, inject equity or property in the company pursuant to the joint venture agreement.

(3) The Authority shall, if company or special purpose vehicle is not incorporated for a joint venture project, carry out joint venture project through a joint venture agreement and the parties shall not share ownership of a business entity but each of the party shall exercise some elements of control over the joint venture project.

**5. Language.**— (1) Subject to sub-rule (2), the Authority shall conduct communication and documentation including joint venture agreement relating to selection of a partner or with a partner in Urdu or English or both.

(2) When the joint venture agreement is required to be executed with a foreign partner, the Authority may use the national language of the partner in addition to Urdu or English but the original documentation for purposes of record shall be in Urdu or English and the translation in such other language may be used for any other purpose.

(3) In case of conflict between original language of the document and its translation in a foreign language, the language of the original document shall prevail.

**6. Advertisement for expression of interest.**— (1) The Authority shall advertise the request for expression of interest for joint venture projects in at least two national daily newspapers of wide circulation, one in English and one in Urdu, and on the website of the Authority.

(2) The expression of interest shall contain a brief introduction of the joint venture project, scope of the joint venture project,

prequalification criteria, method of single stage or two stage bidding to be followed after prequalification, last date for receipt of expression of interest and name with particulars of the office responsible to receive expression of interest.

(3) The advertisement, published under sub-rule (1), shall also contain the method of proof of qualifications of the bidder including documentary evidence.

**7. Response time.-** (1) The Authority shall decide the response time for receipt of expression of interest from the date of publication of the advertisement keeping in view the complexity of the joint venture project, availability and urgency but, in no circumstances, the response time shall be less than fifteen days from the date of publication of advertisement or notice.

(2) The Authority shall calculate response time for receipt of expression of interest from the date of publication of the advertisement in a newspaper or on the website, whichever is later.

(3) A bidder may, within the permissible response time, electronically submit expression of interest on the address mentioned in the advertisement.

**8. Pre-qualification.-** (1) The Authority shall prequalify a bidder for the joint venture project based on the basis of pre-qualification criteria published in the expression of interest.

(2) The Authority may, in process of prequalification, seek clarification or provision of document from any bidder who has submitted the expression of interest.

(3) After prequalification, the Authority shall immediately inform the bidders result of prequalification, publish the result on its website and invite the prequalified bidders to obtain bidding documents or send bidding documents to the prequalified bidders subject to payment of fee, if any, determined by the Authority.

**9. Disqualification.-** (1) The Authority may, at any stage after providing an opportunity of hearing, disqualify a bidder on the ground that the bidder has provided false, fabricated or incorrect information.

(2) The Authority may, after providing an opportunity of hearing, declare a bidder disqualified for participating in any process for selection of a partner on account of engaging, directly or through an agent, in any fraudulent practice.

(3) The Authority shall reject the bid of a bidder who is disqualified under sub-rule (1) or (2).

**10. Bidding documents.-** (1) The Authority may adopt single stage two envelop or two stage two envelop bidding process for selection of the top ranked bidder.

(2) The bidding documents may include:

- (a) full description of the joint venture project;
- (b) feasibility study of the joint venture project;

- (c) Instructions to bidders and forms of bids;
- (d) the manner, last date and time for submission of bids;
- (e) pre-bid conference or clarifications in relation to bidding documents;
- (f) the criteria for evaluation of bids; and
- (g) the draft joint venture agreement.

(3) The Authority shall simultaneously send any clarification or amendment in the bidding documents to the prequalified bidders before the date fixed for commencement of receipt of the bids.

**11. Bid security and bid validity.**— (1) The Authority may, considering the nature of the joint venture project, require the prequalified bidders to furnish a bid security which may not exceed five per cent of the estimated equity of the partner.

(2) The bids shall be valid for the period of time specified in the bidding documents. However, the Authority may, keeping in view the nature of the joint venture project, enhance the bid validity period, from the last date of submission of bids till formal announcement of the top ranked bidder.

(3) The Authority may, under exceptional circumstances and for reasons to be recorded in writing, with the concurrence of prequalified bidders, extend the bid validity period which shall not be more than the original period of bid validity.

(4) A prequalified bidder who:

- (a) agrees to the extension of the bid validity period; shall also extend the validity of the bid security for the extended period of the bid validity;
- (b) agrees to the extension of the bid validity period shall not be permitted to propose any change in an already submitted bid; and
- (c) does not agree to an extension of the bid validity period shall be allowed to withdraw the bid without forfeiture of the bid security.

**12. Extension of time for submission of bids.**— The Authority may extend the last date for the submission of the bids and in case of extension, it shall inform the prequalified bidders.

**13. Consortium.**— (1) The consortium shall, if formed under subsection (3) of section 10 of the Act, submit the expression of interest including information about the arrangement of the consortium, details of its members and their roles and proposed shareholding and provide a written undertaking of its members to be jointly and severally liable to the Authority within the time specified by it.

(2) A consortium, if awarded a joint venture agreement:

- (a) the lead consortium member shall not be replaced without the approval of the Authority and no such approval shall be given unless the consortium finds a suitable replacement with equal or better qualifications for replacing the withdrawing member;
- (b) any other member of the consortium may withdraw from the consortium with the approval of the Authority; and
- (c) any change in the shareholding of the consortium shall also be subject to approval of the Authority.

**14. Single bid.**— If only one bid is received or it remains after evaluation, the Authority may, after recording reasons:

- (a) negotiate or enter into the joint venture agreement with such single bidder; or
- (b) ascertain the reasons, after a market research, for the poor response, restructure the joint venture project and re-start the selection process under the rules.

**15. Method for selection of partner.**— (1) The Authority may ordinarily use single stage two envelope bidding procedure for selection of the partner for a joint venture project.

(2) The Authority may use two stage bidding procedure for selection of a partner for a complex joint venture project where technically unequal proposals are likely to be encountered in the technical proposals.

(3) The Authority may, considering the nature of the joint venture project, develop the criteria for selection of the top ranked bidder by clearly specifying the following criteria in the instruction to bidders:

- (a) subject to successful score in technical proposal, financial proposal shall be sole determining factor for the best commercial offer; or
- (b) score in technical proposal shall be carried forward and a combination of scores of technical and financial proposals shall be the determining factor for the best commercial offer.

(4) If appropriate arrangements are made, the Authority may require that bids and other documents relating to proposals of the bidders are submitted electronically.

(5) The Authority shall ensure that entire process of selection of a partner is fair and transparent.

**16. Single stage two envelopes bidding.**— The procedure for a single stage two envelopes bidding shall be as follows:

- (a) the bid shall comprise of a single package consisting of two separate envelopes, containing separately the technical and financial proposal;

- (b) the envelopes shall be marked as "Technical Proposal" and "Financial Proposal";
- (c) initially, the envelope marked as "Technical Proposal" shall be opened;
- (d) the envelope marked as "Financial Proposal" shall be retained in the custody of the Authority without being opened;
- (e) the Authority shall evaluate the technical proposal on the basis of technical evaluation criteria mentioned in instructions to bidders and shall reject any technical proposal which does not conform to the specified requirements;
- (f) during the technical evaluation, the Authority shall not permit any amendment in the technical proposal;
- (g) after the evaluation and approval of the technical proposal, the Authority shall publicly open the financial bids received from the bidders and shall return un-opened all the financial bids received from the bidders who are not technically qualified;
- (h) the Authority shall in advance communicate the time, date and venue to the bidders for opening of financial proposals which shall not be beyond the bid validity period; and
- (i) the Authority shall declare the bidder with the best commercial offer as the top ranked bidder.

**17. Two stage two envelopes bidding.**— In case of a two stage two envelopes bidding, the Authority shall adopt the following procedure:

- (a) First stage:
  - (i) the Authority shall conduct the first stage of bidding by receiving sealed proposals containing a development option along with a business plan of the proposed development on the basis of prior publication of basic information necessary to create a proposal; and
  - (ii) the Authority shall select the best development proposal from the multiple options proposed by different bidders and adopt it as the criteria, after necessary modifications, for the second stage of the bidding;
- (b) Second stage:
  - (i) the Authority shall conduct the second stage of bidding in the manner provided for single

stage two envelop method contained in rule 17;

- (ii) the Authority shall allow the bidder whose proposal was selected at the first stage the first right to match or improve the best commercial offer and if such bidder accepts the bid, the Authority shall declare such bidder as the top ranked bidder; and
- (iii) If the bidder, whose proposal was selected, refuses the offer under clause (ii), the Authority shall declare the bidder with the best commercial offer as top ranked bidder.

**18. Evaluation of proposals.-** (1) The Authority shall constitute an evaluation committee to evaluate the proposals submitted by the bidders.

(2) After opening of the technical proposals, the Authority shall circulate the technical proposals to the evaluation committee, while the sealed financial proposals shall remain in custody of the Authority.

(3) Each member of the evaluation committee shall assign preliminary scores to a technical proposal using the evaluation sheet prepared by the Authority and shall sign or electronically transmit the evaluation sheet from his email address.

(4) The Authority shall tabulate on a top sheet final individual technical scores of the members of evaluation committee which shall be shared with the members of the evaluation committee.

(5) The Authority may accept the score assigned by the evaluation committee or, for reasons to be recorded in writing, constitute a new evaluation committee for evaluation of the proposals.

(6) After finalization of the technical scores of the bidders, the Authority shall invite the bidder, who has been successful in technical evaluation, to attend the opening of the sealed financial proposals and it shall open the financial proposals in presence of such bidders or their agents who opt to be present.

(7) Subject to petition filed before the grievance redressal committee, if any, the Authority shall return the sealed financial proposals unopened to a bidder who is not successful in technical evaluation.

(8) After evaluation of the proposals, the Authority shall declare the bidder with the best commercial offer as the top ranked bidder while assign ranking to the other bidders whose financial proposals are evaluated, communicate it to the bidders and publish it on its website.

**19. Contract negotiations.-** (1) The committee, if constituted under the Act, shall negotiate with the top ranked bidder to finalize the joint venture agreement.

(2) The negotiations shall be limited to issues like milestones, phases and time limits of deliverables but no material change in the draft joint venture agreement on which the bidder submitted the proposal shall be accepted.

(3) In case the negotiations are unsuccessful with the top ranked bidder, the Authority may enter into negotiations with the second highest ranked bidder and if these also prove unsuccessful, it may enter into negotiations with the third highest ranked bidder.

**20. Rejection of proposals.**— (1) The Authority may, under intimation to the bidders and publication on its website, reject all proposals at any stage prior to the execution of the joint venture agreement.

(2) The Authority shall, upon request, communicate to any bidder the grounds for rejection of all proposals.

(3) The Authority shall not incur any liability to any bidder solely by virtue of rejection of all the proposals under sub-rule (1).

**21. Unsolicited proposal.**— (1) The Authority may review the unsolicited proposal to determine that:

- (a) the conditions contained in the Act for an unsolicited proposal are fulfilled;
- (b) the initiator of the proposal is willing and ready to invest on the proposed joint venture project; and
- (c) the project for which the proposal has been submitted is an appropriate project for implementation through joint venture on the basis of an unsolicited proposal.

(2) If Authority requires any additional information from the initiator of the unsolicited proposal, it may consider the proposal after receipt of the additional information.

(3) If the unsolicited proposal is found viable or unviable, the Authority shall inform the person who made the proposal.

(4) If the unsolicited proposal is found viable by the Authority, it shall:

- (a) advertise the proposal for open competition without disclosing the name of the Initiator of un-solicited proposal;
- (b) conduct pre-qualification process;
- (c) exempt the initiator of the un-solicited proposal from the pre-qualification; and
- (d) award five percent additional weightage to the initiator of the unsolicited proposal and right to match or improve the best commercial offer.

(5) If no other bidder, in response to the advertisement, submits expression of interest or bid, the Authority may, after

negotiations, award the joint venture agreement to the initiator of the unsolicited proposal.

(6) Unless otherwise expressly stated in writing by the initiator of unsolicited proposal, the Authority may, if it considers necessary, disclose any information of the unsolicited proposal to the bidders as part of the process for selection of a partner.

**22. Direct contracting with government agency.**— (1) A government agency may submit a joint venture proposal to the Authority for a joint venture project.

(2) The proposal of the government agency shall contain feasibility study and draft joint venture agreement.

(3) The Authority shall review the proposal of the government agency to determine:

- (a) the conditions contained in the Act and the rules are fulfilled;
- (b) the proposal offers value for money and the best return to the Authority; and
- (c) the project for which the proposal has been submitted is an appropriate project for implementation through joint venture with the government agency.

(4) If the proposal of the government agency is found viable by the Authority, it shall negotiate the terms and conditions of the joint venture agreement to achieve its objectives.

**23. Joint venture agreement.**— The Authority shall ensure that the joint venture agreement clearly defines the basic and legal relationship between the parties and their rights and responsibilities.

**24. Integrity pact.**— (1) The Authority shall, for every joint venture project, enter into an integrity pact with the partner along with the joint venture agreement.

(2) The integrity pact shall substantially conform to the model integrity pact contained in the Schedule.

**25. Conflict of interest.**— (1) A person in the conflict of interest position with the Authority shall not take part in any bidding process as a bidder under the rules.

(2) A person shall be in a position of conflict of interest with the Authority if he:

- (a) as a contractor, supplier or consultant provides, or could provide, or could be perceived as providing biased professional advice to the Authority to obtain an undue benefit for himself or those affiliated with him;
- (b) receives or gives any remuneration directly or indirectly in connection with the assignment except

as provided in the joint venture agreement or instructions to bidders;

(c) enters upon any engagement in consulting or other activities of a contractor, consultant or service provider that conflicts with his role or relationship with the Authority under the joint venture agreement; and

(d) a member or an employee of the Authority.

(3) If the person in the position of conflict of interest, a body corporate in which such person is director or manager or hold major stakes shall also be considered being in conflict of interest.

(4) A bidder shall, before submission of proposals, submit an undertaking to the Authority that he does not has any conflict of interest.

**26. Redressal of grievances of bidders.** (1) The Authority shall constitute a grievance redressal committee, comprising of odd number of persons, with powers to address the petitions filed by the bidders during the bidding process prior to the execution of the joint venture agreement.

(2) A bidder feeling aggrieved by an act of the Authority in the bidding process may file a written petition not later than fifteen days after the publication or communication of the act, whichever is earlier.

(3) The grievance redressal committee shall hold summary enquiry and decide the petition within fifteen days of the receipt of the petition.

(4) The grievance redressal committee may suspend any further bidding process but mere pendency of a petition shall not amount to suspension of the bidding process.

**SECRETARY**  
GOVERNMENT OF THE PUNJAB  
HOUSING, URBAN DEVELOPMENT AND  
PUBLIC HEALTH ENGINEERING  
DEPARTMENT

(12)

**SCHEDULE**

[see rule 24(2)]

**MODEL INTEGRITY PACT**

Joint Venture Agreement Number: \_\_\_\_\_ Dated: \_\_\_\_\_

Joint Venture Agreement Title: \_\_\_\_\_

Name of the Authority \_\_\_\_\_

(Name of the Partner) (hereinafter referred to as the 'Partner') declares that the procurement of any contract or right or interest or privilege or other obligation or benefit is not obtained or induced, through any corrupt or fraudulent practice, from the Authority or its employee or consultant or any other entity owned or controlled by the Authority.

2. Without limiting the generality of the foregoing, the Partner represents and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, shareholder, sponsor or subsidiary, any commission, gratification, bribe, finder's fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or inducing the procurement of a contract, right, interest, privilege or other obligation or benefit in whatsoever form from the Authority, except that which has been expressly declared pursuant to the joint venture agreement.

3. The Partner certifies that it has made and shall make full disclosure of all agreements and arrangements with all persons in respect of or related to the transaction with the Authority and has not taken any action or shall not take any action to circumvent the above declaration, representation or warranty.

4. The Partner accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any contract or right or interest or privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other right and remedies available to the Authority under any law, contract or other instrument, be voidable at the option of the Authority.

5. Notwithstanding any rights and remedies exercised by the Authority in this regard, the Partner agrees to indemnify the Authority for any loss or damage incurred by the Authority on account of corrupt or fraudulent practice of the Partner and further pay compensation to the Authority in an amount equivalent to ten times the sum of any

commission, gratification, bribe, finder's fee or kickback given by the Partner as aforesaid for the purpose of obtaining or inducing the procurement of any contract or right or interest or privilege or other obligation or benefit in whatsoever form from the Authority.

**AUTHORITY**

**PARTNER**

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**(BAHADAR ALI KHAN)**

**Secretary**

**Government of the Punjab  
Law and Parliamentary Affairs Department**