

INDIAN PORTS ASSOCIATION
Clarification of Pre-Bid Queries

E-request for Proposal (eRFP) for selection of Indian Law Firms for Legislative Drafting for the proposed revamping of the Existing Merchant Shipping Act, 1958 and Rules/ Regulations there under

IPA/GAD/SHIPPING ACT/2018

Dt. 16.10.2018

S.No	Clause Description	Details of Item per Tender Requirement	Query/ Suggestion	Clarifications
M/s THE LAW POINT:				
1.	Section 1, Paragraph 3.2 at Pg. 6	<p>“A firm may associate with other firms and/or individual expert at the time of submission of proposal. Under such circumstances each member of the association of firm shall be evaluated as per the qualification/ eligibility criteria set forth in Part II of Section 2. The combined score of the each member of the consortium/ association of firm shall be taken into account for evaluation purpose.</p> <p>However, the lead member of the consortium /association of the firm shall be the firm who has submitted the proposal and employer shall deal with only the lead member for the purpose of this assignment. Although, the contract shall be signed by all the members of the consortium/ association of the firms, the lead member of the association of the firms shall be responsible and liable to the Employer for every aspect of their proposal, contract, etc.”</p>	<p>If a Law firm intends to have an individual expert or the Firm as its consortium partner, would the consortium partner have to be a Legal entity/ lawyer?</p>	<p>The provision is clear when read with the Objective of the eRFP.</p>

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2.	Section 1, Paragraph 12.3 at Pg. 9	“Performance Guarantee EMD of the successful bidder will be retained by the employer towards Performance Guarantee for entire validity period of empanelment. No interest will be paid on performance guarantee.”	Does the Interested Law Firm also have to submit an additional Performance Guarantee along with the EMD?	The requirement of clause is very clear. The query is ambiguous and irrelevant.
3.	Section 2, Part II, Para 6, Column 2, Row 3, Pg. 16	CRITERION “Should work out from National Capital Region – Delhi /have substantial presence in National Capital Region – Delhi”	Please clarify what is meant by “substantial presence in National Capital Region-Delhi”. Are the Details/ Explanatory Notes provided in the corresponding Column, the only manner of demonstrating the Firm’s substantial presence in NCR-Delhi? Please provide us with additional factors that will be taken into account while accessing the firm’s substantial presence in NCR-Delhi and the manner in which the firm is required to indicate the same.	Explanation is already given in Pg. 16.
4.	Section 2, Part II, Para 6, Column 2 and 3, Row 5, Pg. 16	CRITERION “Should have existing empanelment for legal advisory/representation with atleast two (2) Ministry/Department under the Government of India” DETAILS /EXPLANATORY NOTES, IF ANY “The empanelment Should be valid and subsisting”	Is empanelment with statutory agencies / bodies/corporations, or PSUs, or other Government corporations/agencies/ bodies, which may carry out the business allocated to a particular Ministry/ Department, included in the scope of this criterion? Will the past experience of the individual team members be considered in this respect?	No Not applicable

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5.	Section 2, Part II, Para 6, Column 2 and 3, Row6, Pg. 16	<p>CRITERION “Should have existing empanelment for legislative drafting with atleast one (1) Ministry/Department under the Government of India”</p> <p>DETAILS/EXPLANATORY NOTES, IF ANY “The empanelment should be valid and subsisting. Distinct from No. 5 herein.”</p>	<p>Is empanelment with statutory agencies/bodies/corporations, or PSUs, or other Government corporations/agencies/bodies, which may carry out the business allocated to a particular Ministry/ Department, included in the scope of this criterion?</p> <p>Will the past experience of the individual team members be considered in this respect?</p> <p>Will legislative drafting include policy drafting/advisory, opinions with respect to pending bills/legislations/policies, or any such related assignment?</p> <p>Does the assignment have to be subsisting or will a valid or subsisting empanelment for this criterion?</p>	<p>NO</p> <p>Not Applicable</p> <p>NO</p> <p>The provision is clear.</p>
6.	Section 2, Part II, Para 6, Column 2 and 3, Row 6, Pg. 16	<p>CRITERION “Should have executed atleast one (1) legislative drafting and / or policy formulation advisory assignment relating to transportation and trade with (1) Ministry / Department under the Government of India / state Government”</p>	<p>Will subsisting assignments (where work is in progress) be considered for the scope of this criterion?</p>	<p>NO</p>

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7.	Section 2, Part II, Para 9A, Column 3 “Guidance for marking”, Pg. 19		Where 2 or more types of assignments are specified in this column, please clarify whether the interested firm must have performed both types of assignments or will the marking be done exclusively with respect to each types of assignment multiplied with the number of assignments done under this type?	Bidder can submit the assignment in any combination however total marks will be allotted as per max marks mentioned in the eRFP.
8.	Section 2, Part II, Para 9A, Column 2 and 3 , S.No. 1d, Pg. 19	<p>CRITERION “Experience in undertaking legislative and/or policy drafting work related to Inland Waterways, Merchant Shipping and Maritime Laws in India”</p> <p>GUIDANCE FOR MARKING “1.Assignment with Ministry / Department under the Government of India / State Government / Multilateral Agency – 7.5 Marks each 2. Assignment with private party (not being individuals) - 2.5 Marks each”</p>	<p>In the Guidance for marking column, Please clarify as to which entities may fall within the scope of private party?</p> <p>In the Guidance of Marking column, please clarify the category under which an Assignment carried out with a Major Ports Authority for instance JNPT will fall?</p>	<p>a. Private party refers to any assignment undertaken by the bidder other than the assignments of Government of India/State Government/PSU.</p> <p>b. All other organisations which does not fall under ‘a’ above are considered to be as Private party.</p>
9.	Section 2, Part II, Para 9A, Column 3 , S.No. 1e, Pg. 19	<p>Guidance for marking “Assist in preparation of Cabinet Note and taking draft Act in parliament for approval for the work related to Inland Waterways, Merchant Shipping and Maritime Laws in India”</p>	Will subsisting assignments (where work is in progress and the ToR includes/contemplates assistance in preparation of Cabinet Note) be considered for the purpose of this Criterion?	Yes, it shall be considered

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10.	Section 2, Part II, Para 9A, S.No. 2, Pg. 19	Qualification, Experience and Expertise of the Team	Are the experience criterion in Column 2 mandatory for the Team Lead, the Counsel and the Senior Associate?	Yes, Qualification, Experience and Expertise as stipulated in RFQ is mandatory for participation in the bid.
M/s LEGACY LAW OFFICES :				
1..	Section 2, Part II, Clause 6 , Table Point 4	Should have average annual turnover of at least Rs. 5 crores in the last three (3) preceding financial years.	<p>Proposed Amendment: Should have average annual turnover of at least Rs. 3 Crores in the last three preceding financial years and annual turnover of at least Rs. 5 Crores in any one year in the last three preceding financial years.</p> <p>Justification for seeking Amendment: Higher turnover is not an indicator of the competency level of the law firm since drafting of legislations/regulatory provisions is a specialized work which only such law firms whose lawyers have extensive past experience in executing similar work, can handle in an effective and efficient manner. The turnover criteria presently contained in the eRFP document is restrictive and hence should be relaxed for wider participation particularly boutique law firms</p>	The provision is clear. Clause remains unchanged.

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			specializing in legislative/regulatory provisions drafting work.	
2.	Section 2, Part II, Clause 6 , Table Point 5	Should have existing empanelment for legal advisory/ representation with atleast Two (2) Ministry/Department under the Govt of India.	<p>Proposed Amendment: Should have existing empanelment for legal advisory/ representation with atleast Two (2) Ministry/Department under the Govt of India/State Government/PSU's</p> <p>Justification for seeking Amendment: Inclusion of provision for considering existing empanelment with PSU's/State Government Departments, is being proposed since these are also part of State/Executive setup under the Constitution of India and any legal advisory/representation services rendered to such entities are in no ways less meaningful or significant than those rendered to Ministry/Department under the Government of India.</p>	The provision is clear. Clause remains unchanged.
3.	Section 2, Part II, Clause 6 , Table Point 6	Should have existing empanelment for legislative drafting with at least one (1) Ministry/Department under the Govt. Of India	Proposed Amendment: Should have existing empanelment for legislative drafting with at least one (1) Ministry/Department under the Govt. Of India/State Government.	The provision is clear. Clause remains unchanged.

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			<p>Justification for seeking Amendment: Inclusion of provision for considering existing empanelment with State Government Departments, is being proposed since the same also part of Executive setup under the Constitution of India and any legal advisory/representation services rendered to such entities are in no ways less meaningful or significant than those rendered to Ministry/ Department under the Government of India.</p>	
4.	Section 2, Part II, Clause 6 , Table Point 7	Should have executed at least one (1) legislative drafting and/or policy formulation advisory assignment relating to the transportation and trade with Ministry/Department under the Government of India/State Government.	<p>Proposed Amendment: Should have executed at least one (1) legislative drafting and/or policy formulation advisory assignment relating to the transportation, trade, public procurement and public finances with Ministry/Department under the Government of India/State Government/Foreign Government.</p> <p>Justification for seeking Amendment: Inclusion of provision for considering legislative drafting and/or policy formulation advisory assignment relating to transportation,</p>	The provision is clear. Clause remains unchanged.

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			<p>trade, public finances rendered to any Ministry/Department of the Foreign Government is being proposed since the learning from such experience abroad, can help in having a comparative analysis of best practices across the globe in the field of maritime trade and merchant shipping and accordingly., incorporating the best provisions so as to enable Indian incorporate and adopt the best practices for meeting its agenda of enhanced maritime trade and investor competitiveness and be generally in sync with the international practices in the said industry.</p>	