

National Highways & Infrastructure Development Corporation Ltd.

Minutes of Meeting of Empowered Technical Bid Evaluation Committee (ETEC) held on 22.08.2017 at NHIDCL, New Delhi for evaluation of technical bid of "Rehabilitation of existing Churachandpur-Singhat- Tuvai road on NH-102 B between km. 103.10 to Km. 161.48 (length 58.38 km.) in the state of Manipur on EPC basis (2nd call)"

1. The bids for subject work were invited on 23.03.2017 with bid submission date on 01.05.2017 till 1700 hrs.
2. Vide Minutes of Meeting dated 02.05.2017 the Empowered Technical Bid Opening Committee (ETBC) opened the Technical proposals of the Four (4) no. of firms namely **M/s Bhartia Infra Projects Ltd, M/s Garg Sons Estate Promoter Pvt. Ltd., M/s P. K. Saxena Contractor** and **M/s S. S. Builders** in the presence of the authorized representatives of the bidders who chose to attend.
3. Consequent to the opening of Technical bid by the ETBC, hard copy along with soft copy submitted online on portal was handed over to financial consultant M/s JPS Associate (P) Ltd for further evaluation. The Financial Consultant M/s JPS Associate (P) Ltd submitted the preliminary technical evaluation report on 25.05.2017, seeking clarifications from bidders **namely M/s Garg Sons Estate Promoter Pvt. Ltd., M/s P. K. Saxena Contractor and M/s S. S. Builders**. The empowered technical evaluation committee (ETEC) in its meeting dated 26.05.2017 decided to seek clarification from three (3) bidders **namely M/s Garg Sons Estate Promoter Pvt. Ltd., M/s P. K. Saxena Contractor and M/s S. S. Builders** as recommended by financial consultant. Accordingly bidders were asked to furnish clarifications as suggested by the Financial Consultant.
4. Based on the replies to the queries submitted by the bidder, the Financial Consultant submitted its report on 02.06.2017 & 08.06.2017. The committee deliberated the report of financial consultant in detail and decided vide minutes of meeting dated 09.06.2017 to re-invite the bid with the approval of Competent Authority since only one bidder was technically qualified as per provisions of RFP. The committee considered the submission of financial consultant that the certificate for takeover submitted by M/s Garg Sons Estate Promoter Pvt. Ltd. was after Bid due date and considering that the certificate for takeover submitted subsequent to bid due date tantamount to acceptance of additional document, declared M/s Garg Sons Estate Promoter Pvt. Ltd. as technically non-responsive. The Competent Authority decided to take view of in house legal consultant.
5. The legal Consultant submitted his opinion on the matter that *"New issue has been raised by the financial consultant which has not been raised till date. We may write to ROC to obtain their views and thereafter take a decision."* The opinion of legal consultant was forwarded to the financial consultant along with the reply submitted by M/s P. K. Saxena Contractor as the bidder M/s P. K. Saxena Contractor had not replied to the clarification sought earlier and was therefore declared non responsive by ETEC vide meeting dated 09.06.2017.
6. Further during meeting dated 20.07.2017 ETEC decided to declare M/s P. K. Saxena Contractor technically non-responsive as per recommendation of the financial consultant. However as regards to M/s Garg Sons Estate Promoter Pvt. Ltd., decided to take the view of ROC as per recommendation of legal consultant to clarify the query regarding the takeover status by M/s Garg Sons Estate Promoter Pvt. Ltd.



7. Accordingly ROC was asked vide letter dated 20.07.2017 to clarify the query regarding the takeover by M/s Garg Sons Estate Promoter Pvt. Ltd. ROC Chandigarh vide letter dated 08.08.2017 and stated following:

“Please refer to your letter dated 20.07.2017 addressed to ROC, Delhi. In this connection, it is stated that the company M/s Garg Sons Estate Promoter Private Limited is registered with this office and the document filed by the company and available at Ministry’s website www.mca.gov.in online for inspection. Moreover, it is mentioned in your letter that the said documents have been enclosed with the bid submitted by the company.

The Registrar of Companies can provide you the copy of documents submitted by the company but it is not for the Register of Companies to make interpretation of the information contain in the documents on your behalf. To make interpretation of the information in the documents submitted by the company with the bid may be examined as per the relevant provision of the law. However, it appears that some of the documents mentioned in your letter have been filed with this office after submitting the bid with your office. We are not making any comment on the veracity of the events on which the forms have been filed with this office.”

8. Once again the opinion of in house legal consultant was sought regarding what should be the date from which the change in memorandum article is effective considering section 13(9), 13(10) of the companies act 2013 as the document for change in memorandum was filed with ROCS on 12.05.2017 as per section 13 of the companies act and registration on 12.05.2017 as per the certificate of registration of the special resolution confirming alteration of the object clause of its MOA.
9. The legal consultant in his opinion (**Annex- A**) stated that “There is definitely an area of greyness between section 13 (9) and 13 (10). However, practically the situation may be different as described hereinabove. Therefore, in my considered opinion, in the interest of competition, fairness and to prevent further delay to the project the bid cannot be rejected and the company is therefore eligible” and recommended to publish the result on the website for 7 days before opening the financial bid and the same has been approved by Competent Authority.
10. Accordingly the financial consultant was asked to submit its technical evaluation report in view of legal opinion. Financial consultant submitted it report vide letter dated 22.08.2017 (**Annex- B**) and recommended *M/s Garg Sons Estate Promoter Private Limited* as technically responsive.
11. The committee perused the reports of financial consultant, legal opinion and previous meetings and recommended for opening the financial bid of M/s Garg Sons Estate Promoter Pvt. Ltd. and M/s Bhartia Infra Projects Ltd. with the approval of Competent Authority.

The Meeting ended with vote of thanks to chair.


Sanjeev Malik
(ED-III)
Chairman


Col Rajeev Sood (Retd)
(GM-Tech)
Member Secretary


Adil Singh
(GM-Tech)
Member


A.K. JHA
DGM (Tech)
Member


U Chatterjee
DGM (Finance):
Member