

PROVISIONS OF JOINT VENTURE

1. Two firms are permitted to bid for the tender based on Joint Venture agreement between them. Joint Venture (JV) shall not comprise more than two firms (called parties of JV). The format of agreement is at Annexure 'III'. The JV shall be considered as un-enlisted contractor. The JV shall submit Earnest Money Deposit for all tenders and Performance Security as per instructions, if contract is awarded.
2. Foreign Companies shall not be permitted to participate in JV.
3. Indian Companies having Director(s) of foreign origin and Indian Companies having Director(s) of Indian origin but residing abroad / having foreign citizenship shall be permitted to participate in JV. However, security clearance in such cases shall be obtained by following procedure laid down by Ministry of Home Affairs. However, if the JV requiring security clearance of Director (s) becomes L1, the tender shall be accepted only on receipt of security clearance.
4. A valid agreement shall exist between the parties of JV defining clearly the role, responsibility and scope of work of each party, percentage share of each party alongwith nomination of leader (Lead Party) for the purpose of this work and a confirmation that the parties of the JV are jointly and severally responsible.
5. JV as a single unit or each party of the JV shall have Permanent Account Number (PAN) and GSTIN. However, if the contract is awarded to the JV, then PAN & GSTIN shall be obtained by the JV as a single unit.
6. The lead party of the JV shall meet minimum 60% or the percentage of share in the JV (whichever is higher) of the qualifying criteria pertaining to (a) past experience of completed works, (b) Average Annual Turnover, (c) Bank Solvency/ Financially Sound for engagement and (d) Working Capital. Both the parties combined shall meet minimum 120% of the above qualifying criteria. The party other than the lead party shall meet minimum 30% of the above qualifying criteria.
7. Both the Parties of JV shall jointly possess the required T&P, machinery and engineering/supervisory staff. T&P can be either on ownership basis or leasehold as stipulated in NIT/tender documents and documentary proof of the same shall be submitted. Other qualification criteria shall be met fully/jointly by both the parties of JV or as a single unit of JV.
8. JV concluded up to the date of bid submission are permitted to apply. Copy of JV should be uploaded. The Department reserves the right to verify the particulars furnished by the applicant independently. If any information furnished by the applicant JV is found incorrect and/or misleading and / or false representation and/or deliberately suppressed information, at a later stage, the JV and both the parties shall be liable to be debarred from tendering/taking up of any work in MES.
9. Party/ parties will not be allowed to bid for the same tender in their independent capacity as well as under JV. Also no party will be allowed to bid for the same tender under multiple JVs. In case of violation (party/parties bidding independently as well as under JV for the same tender, party/parties bidding for the same tender under multiple JVs), the bid of the party/parties concerned as well as the bid(s) of the related JV(s) shall not be opened (i.e. shall not be qualified in 'T' bid Cover '1').
10. The lead party shall attend all progress review meetings and shall be answerable to all issues relating to the project.

PROVISIONS OF JOINT VENTURE (CONTD...)

11. For any of the defaults as under of the JV, administrative action shall be taken against both the parties of JV :-
- a) In case of non-submission of physical original documents of cost of tender, EMD - Barring from bidding for six months.
 - b) Due to default in performance of contract etc - Administrative actions as per existing instructions.
12. Any unrealised recovery from JV shall be recovered proportionately from the parties in proportion to their percentage share in the JV. If it is not possible to recover proportionate share (partly/ fully) from one party, it shall be recovered from other party.
13. No JV shall be allowed to participate if either or both the parties are found banned / adversely remarked in WLR of MES or debarred from tendering by any authority.

SIGNATURE OF CONTRACTOR

DATED : _____

JT DIR (CONTRACTS)

FOR ACCEPTING OFFICER

FORMAT FOR JOINT BIDDING AGREEMENT FOR JOINT VENTURE

(to be executed on stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this theday of

AMONGST

1.having its registered office at (here-in-after referred to as the 'First Part' which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2.having its registered office at (here-in-after referred to as the 'Second Part' which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST and SECOND PART are collectively referred to as the "**Parties**" and each is individually referred to as a "**Party**"

WHEREAS,

A. The Military Engineer Services, represented by HQ CHIEF ENGINEER SHILLONG ZONE and having its office at SPREAD EAGLE FALLS, SHILLONG – 793 011 (here-in-after referred to as the "**Authority**") which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited bid by its Tender ID No. 2020_MES_ _1 for "PROVN OF 1 MW SOLAR POWER PLANT ALONGWITH ALLIED INFRA AT JORHAT UNDER GE JORHAT".

B. The Parties are interested in jointly bidding for the tender as member of a Joint Venture and in accordance with the terms and conditions of the tender document in respect of the work, and

C. It is necessary condition under the Pre-qualification Criteria (PQC) that the parties of the Joint Venture shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows :-

1. Definitions and Interpretations

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the PQC in the Notice Inviting Tender.

2. Joint Venture

a) The parties do hereby irrevocably constitute a Joint Venture for the purposes of jointly participating in the Bidding Process for the project.

b) The Parties hereby undertake to participate in the Bidding Process only through this Joint Venture and not individually and/or through any other Joint Venture constituted for this Project, either directly or indirectly.

3. Covenants

The parties hereby undertake that in the event the Joint Venture is declared the selected Bidder and awarded the contract, it shall perform all its obligations as the Contractor in terms of the Contract.

4. Role of the Parties

The parties hereby undertake to perform the roles and responsibilities as described below :-

a) Party of the First Part shall be the Lead member of the Joint Venture and shall have the power of attorney from the other Party for conducting all business for and on behalf of the Joint Venture during the Bidding Process and execution process as well as post execution process.

b) Party of the Second Part shall be the Member of the Joint Venture.

5. Joint and Several Liability

The parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms and conditions given in the NIT and Tender Documents.

6. Field of Expertise

The parties do hereby declare that the field of expertise of the parties are as under:-

First Party :

Second Party :

7. Share of Work in the Project

The parties agree that the proportion of the Contract to be allocated among the parties shall be as follows :-

First Party :

Second Party :

8. Representation of the Parties

Each Party represents to the other Party as of the date of this Agreement that :-

a) Such Party is duly organised, validly existing all in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution /power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Joint Venture party is annexed to this Agreement, and will not, to the best of its knowledge :-

(i) Require any consent or approval not already obtained;

(ii) Violate any applicable law presently in effect and having applicability to it;

(iii) Violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;

(iv) Violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party

is a Party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or

(v) Create or impose any liens, mortgages, pledges, claims, security interest, charges or encumbrances or obligations to create a lien, charge, pledge, security, interest, encumbrances or, mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement.

c) This Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

d) There is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a Party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

9. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until completion of Defect Liability Period under and in accordance with the Contract, in case the Project is awarded to the Joint Venture. However, in case the Joint Venture does not pre-qualify for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Applicant does not pre-qualify or upon return of the Bid Security/Earnest Money Deposit by the Authority to the Bidder, as the case, may be.

10. Miscellaneous

- a) This Joint Bidding Agreement shall be governed by Laws of India.
- b) The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN

SINGED, SEALED AND DELIVERED

SINGED, SEALED AND DELIVERED

For and on behalf of

LEAD member by :

SECOND PART

(Signature)
(Name)
(Designation)
(Address)

(Signature)
(Name)
(Designation)
(Address)

WITNESS

In the presence of :

1.

2.