



No. NH-35014/25/2017-H(Pt.2)  
Government of India  
Ministry of Road Transport & Highways  
(Highways Division)  
Transport Bhawan, 1, Parliament Street, New Delhi-110 001

Dated: 13<sup>th</sup> July, 2018

**Circular**

**Subject: Amendments to Model RFQ/RFP for BOT/DBFOT projects.**

With reference to the Request for Proposal (RFP) documents issued for works to be implemented under Build Operate Transfer (BOT) mode, following is further amendment:

Clause 2.1.19 may be read as follows:

"2.1.19 While qualification is open to persons from any country, the following provisions shall apply:

- (a) Where, on the date of bid, not less than 50 % of the aggregate issued, subscribed and paid up equity share capital in the L-1 Bidder or its member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India, then the eligibility and award of the project to such L-1 Bidder shall be subject to approval of the Competent Authority from national security and public interest perspective as per the instructions of the Government of India applicable at such time. The decision of the authority in this behalf shall be final and conclusive and binding on the Bidder.
- (b) Further, where the LoA of a project has been issued to an agency, not covered under the category mentioned above, and it subsequently wishes to transfer its share capital in favour of another entity who is a resident outside India or where a Bidder or its Member is controlled by persons resident outside India and thereby the equity capital of the transferee entity exceeds 50 % or above, any such transfer of equity capital shall be with the prior approval of the Project Executing Agency, who may obtain the approval of the competent authority from national security and public interest perspective as per the instructions of the Government of India applicable at such point in time.
- (2) The holding or acquisition of equity control, as above shall include direct or indirect holding, acquisition, including by transfer of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principle, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.
- (3) The Bidder shall promptly inform the authority of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding process.
- (4) In case the L-1 Applicant under (a) above is denied the security clearance, for whatsoever reasons, then the applicants emerging as L-2, L-3 eligible bidders (in that order) may be given a counter-offer (one by one sequentially) to match the bid of L-1 applicant / preferred bidder. In the event of acceptance of the counter-offer by another eligible bidder, the project may be awarded to

such bidder. In case no applicant matches the bid of the L-1 applicant, the bid process shall be annulled and fresh bids invited”.

2. This issues with the approval of Competent Authority.



**(Uttam Prakash)**

Under Secretary (Highways)

To

- i. Secretary, Department of Economic Affairs, North Block, New Delhi.
- ii. Secretary, Department of Expenditure, North Block, New Delhi
- iii. Secretary, NITI Aayog, Yojana Bhawan, New Delhi
- iv. Secretary, Ministry of Law & Justice, Shastri Bhawan, New Delhi
- v. DG(RD)&SS, MoRTH
- vi. Chairman, NHIDCL
- vii. MD, NHIDCL,
- viii. AS&FA
- ix. All Members, NHAI
- x. NIC Cell for uploading the circular on Ministry's website.

Copy for information to: PS to Hon'ble Minister (RT&H) / PS to Hon'ble MoS (RT&H) / PPS to Secretary (RT&H) / PPS to AS(RT&H) / PPS to JS(H).