

Request For Proposal
(Global Competitive Bidding under Swiss Challenge
Method)

FOR

**Development of Integrated Solid Waste Management Project with
a Waste to Energy plant of minimum 300 TPD Processing
capacity on Design, Build, Finance, Operate and Transfer
(DBFOT) basis at Vizhinjam for Thiruvananthapuram Cluster
under Public Private Partnership**

Tender No: KSIDC/PMU/W2E/14/2020

24th March 2020

RFP for Development of Integrated Solid Waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership

DISCLAIMER

The information contained in this Request for Proposal document (the “RFP”) or subsequently provided to Bidder(s), in the documentary form by or on behalf of the Authority or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their financial offers pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially in RFP, Draft Concession Agreement (DCA) and Schedules, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Process. The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

The Authority may, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP. The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

REQUEST FOR PROPOSAL DOCUMENT

Contents of the Document

- Volume I : Detailed RFP
- Volume II : Draft Concession Agreement
- Volume III : Schedules to the Draft Concession Agreement

RFP for Development of Integrated Solid Waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership

VOLUME I

DETAILED RFP

CONTENT

| | |
|---|----|
| DEFINITIONS | 7 |
| SECTION A : NOTICE INVITING TENDER(NIT) | |
| 1. INTRODUCTION | 10 |
| 2. INVITATION FOR BID..... | 10 |
| 3. MINIMUM ELIGIBILITY CRITERIA..... | 11 |
| 4. CONDITIONS FOR FORMATION OF CONSORTIUM..... | 12 |
| 5. KEY DETAILS..... | 14 |
| 6. INSTRUCTIONS ON E-TENDER..... | 15 |
| SECTION B : PROJECT DETAILS AND SCOPE OF THE PROJECT (PDS) | |
| 7. PROJECT BACKGROUND..... | 18 |
| 8. CONCESSION PERIOD | 19 |
| 10. SCOPE OF WORK FOR PRIVATE PARTNER..... | 20 |
| 11. ROLE OF THE AUTHORITY | 22 |
| SECTION C :INSTRUCTIONS TO BIDDERS (ITB) | |
| 12. INTRODUCTION..... | 23 |
| 13. BRIEF DESCRIPTION OF BIDDING PROCESS..... | 23 |
| 14. CONDITIONS FOR BIDDING | 23 |
| 15. ACKNOWLEDGEMENT BY BIDDER: | 25 |
| 16. CONFLICT OF INTEREST | 25 |
| 17. FRAUD AND CORRUPT PRACTICES | 27 |
| 18. RIGHT TO ACCEPT OR REJECT ANY OR ALL BIDS..... | 27 |
| 19. DISQUALIFICATIONS | 27 |
| 20. CONFIDENTIALITY | 28 |
| 21. CONTENTS OF THE RFP | 28 |
| 22. SITE VISIT AND VERIFICATION OF INFORMATION | 28 |
| 23. AMENDMENT OF RFP..... | 29 |
| 24. CLARIFICATIONS | 29 |

RFP for Development of Integrated Solid Waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership

| | | |
|-----|---|----|
| 25. | PRE-BID CONFERENCE | 29 |
| 26. | VALIDITY OF BIDS..... | 29 |
| 27. | BID SECURITY | 29 |
| 28. | PREPARATION AND SUBMISSION OF BID | 30 |
| 29. | MODIFICATIONS/ SUBSTITUTION/ WITHDRAWAL OF BIDS | 33 |
| 30. | BID OPENING | 33 |
| 31. | BID EVALUATION | 34 |
| 32. | FINANCIAL OPENING AND EVALUATION | 35 |
| 33. | SELECTION OF BIDDER | 35 |
| 34. | AWARD OF THE PROJECT | 36 |
| 35. | CONTACTS DURING BID EVALUATION..... | 36 |
| 36. | DOCUMENT CHECK LIST FOR BID SUBMISSION | 37 |
| 37. | MISCELLANEOUS..... | 38 |

DEFINITIONS

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| Affiliate | means a person who, directly or indirectly, controls, or is controlled by, or is under common control with, a Bidder (in case of a single bidder) or a Member in a Bidding Consortium (in the case of a Consortium) and control means ownership by one person of at least 26% (twenty six percent) of the voting rights of the other entity. |
| Authority | means the Government of Kerala or Local Self Government Department of Government of Kerala represented by Kerala State Industrial Development Corporation |
| Bid Due Date | means the due date specified for the submission of bid under this RFP |
| Bid Security | means the unconditional, unequivocal and irrevocable security required to be deposited along with the bid under this RFP |
| Bid Validity Date | means a person who submits bid under this RFP in accordance with the terms set forth in this RFP |
| Bid(s) | means the bid received in pursuant to this RFP in accordance with the terms set forth in this RFP |
| Bidder(s) | means the person participating in the Bid in accordance with the terms of this RFP |
| Bidding Documents | means all the documents specified to be submitted for participating in the bid under this RFP |
| Bidding Process | means the process for submission of Bid specified in this RFP |
| BOQ | means the file for submission of Price Bid in the e-tender portal |
| Charter Document | means the document evidencing the incorporation or registration of the entity under relevant law along with the documents governing the objects and rules and regulations of governance |
| Cluster | means the Local Self Governments Institutions operating in Thiruvananthapuram district in the State of Kerala, identified as the project area under this RFP |
| COD | means the Date of commencement of Commercial Operation of the plant set up under the Project as specified in article 1.1.24 of Concession Agreement. |
| Coercive practice | means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process |
| Concession Agreement or Draft Concession Agreement | means the draft concession agreement given in Volume II of this RFP along with all the Schedules give in Volume III |
| Concession Period | means the term of project specified in clause 8 |
| Concessionaire | means the person entering into Concession Agreement |
| Conflict of Interest | means conflict of interest as defined in clause 16 |
| Consortium | means the consortium formed for the purpose of bidding under this RFP in compliance with the terms and conditions specified herein |
| Corrupt practice | means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for example, offering of employment to, or employing, or engaging in any |

manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOI or has dealt with matters concerning the Concession Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of three years from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under Clause 16 of ITB, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the Letter of Intent (LOI) or after the execution of the Concession Agreement and till the period of 1 (one) year from the date of signing of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the Letter of Intent (LOI) or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project

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|---------------------------------------|--|
| DBFOT | means Design, Build, Finance, Operate and Transfer |
| E- tender Portal | means the official e-tender portal of Government of Kerala |
| Eligibility Criteria | means the minimum eligibility criteria specified in clause 3 |
| Estimated Project Cost | means the estimated/ indicative cost of the project specified in this RFP |
| Financial Offer or Price Bid | means the financial quote offered by the Bidder under this RFP |
| Fraudulent practice | means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process |
| GoK | means Government of Kerala |
| JBA or Joint Bidding Agreement | means the binding agreement entered between the members of the Consortium as per the format provided in Appendix – V |
| Key Details | means the Key Details of RFP given in clause 5 |
| KSERC | means the Kerala State Electricity Regulatory Commission |
| Lead Member | Means the member of the Consortium, who is designated as Lead Member in the Joint Bidding Agreement in compliance with the RFP conditions governing consortium |
| LSGI | means a Local self-government institutions established by Kerala Municipality Act,1994 or Kerala Panchayath Raj Act , 1994 |
| Net Worth | means the net worth calculated from the audited financial statement as per the following formula; $\text{Net Worth} = \text{Owners Equity/Partner's Capital /Corpus Fund} + \text{Free reserves available for distribution to owners/partners} - [\text{Revaluation Reserves} + \text{Intangible assets} + \text{deferred revenue expenditure} + \text{accumulated losses/deficit}].$ |
| Parent or Subsidiary Company | means, in relation to the Bidder / Consortium Member (the “Parent or Subsidiary Company”), a person who directly or indirectly, controls, is controlled by, or is under the common control with such Bidder/ Consortium Member (the “Parent or Subsidiary Company”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a |

RFP for Development of Integrated Solid Waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership

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| | person which is not a company or corporation, the power to direct the management and policies of such person by operation of law. |
| Performance Security | means the Performance Security to be submitted by the Selected Bidder as specified in the Draft Concession Agreement |
| Person | means the Person as defined in Income Tax Act, 1961. |
| Private Partner | means the Bidder selected under this RFP process under Public Private Partnership |
| Project | means the project as specified in this RFP in accordance with the terms and conditions contained in the Concession Agreement |
| Project Area | means the area identified for the project implementation as specified in this RFP |
| Restrictive practice | means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process |
| RFP or Request For Proposal | The request for proposal issued through this document |
| Selected Bidder Specified Entity | The successful bidder under this RFP declared as Selected Bidder under clause 33 means a (i) Company incorporated under Indian Companies Act 1956/2013 as amended / modified / replaced from time to time or equivalent foreign laws as applicable in the home country; or (ii) a Limited Liability Partnership (LLP), registered under Limited Liability Partnership Act, 2012 or equivalent foreign laws as applicable in the home country; (iii) a partnership firm registered under Indian Partnership Act, 1932; or (iv) a Trust registered under the Indian Trust Act, 1882. (In case of foreign entities, the registration in home country shall be supported by a certificate of incorporation/ registration - issued by competent government authority of that country.) |
| SPV | means the company specifically incorporated by the successful bidder for entering into concession agreement with the Authority and to implement the project, as per the terms of this RFP means the method of tendering based on an un solicited receipt of a proposal for the project to invite third parties to match or better it. |
| Swiss Challenge Method | |
| Undesirable practice | means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest |
| Work | means all the piece and parcel of the services to be performed by the Concessionaire pursuant to the Concession Agreement |

SECTION A NOTICE INVITING TENDER (NIT) FOR GLOBAL COMPETITIVE BIDDING

1. INTRODUCTION

Solid Waste Management has been a critical issue in Kerala, especially in urban areas, for many years. Government of Kerala, through its Local Self Government Department, is in the process of implementing an integrated Solid Waste Management solution for the State on a high priority and for this purpose it is envisaged to setup and operate Waste to Energy Plants at identified locations across the State through Public Private Partnership under ‘Design Build Finance Operate and Transfer (DBFOT)’ basis. Kerala State Industrial Development Corporation (KSIDC) is appointed as the Nodal Agency for the selection of Private Partner for the implementation of such projects at various locations/clusters.

KSIDC has received an unsolicited proposal from an agency for the development of a solid waste management project through a waste to energy plant of 400 TPD capacity in Design, Build, Finance, Operate and Transfer basis under public private partnership mode at Vizhinjam in Thiruvananthapuram district

This RFP is issued to invite competent firms for the submission of proposals under Swiss Challenge tendering method for the development of the project.

2. INVITATION FOR BID

- 2.1. Kerala State Industrial Development Corporation Ltd. (KSIDC), as the Nodal Agency on behalf of GoK, invites online Bids (E-Tender) in two cover system under Swiss Challenge tender process from eligible applicants, who fulfill qualification criteria as stipulated in clause 3 of this section, through the Kerala Government e-tender portal <https://etenders.kerala.gov.in>, for the Development of an **“integrated solid waste management project ‘with a Waste to Energy Plant of minimum 300 TPD processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis for the Thiruvananthapuram cluster comprising of the Local Self Government Institutions of Thiruvananthapuram District operating in the State of Kerala,** under Public Private Partnership.
- 2.2. Interested parties may obtain the Request for Proposal documents from the website by paying a non-refundable fee of INR 25,000/- (Indian Rupees Twenty Five Thousand only)+ GST as Tender fee.
- 2.3. The RFP contains information about the Project, bidding process, Bid submission, qualification and Financial Proposal requirements and includes the following documents.

Volume 1:

Section A: Notice Inviting Tender (NIT)

Section B: Project Details and Scope of the Project (PDS)

Section C: Instruction to Bidders (ITB)

Appendices

Volume 2: Draft Concession Agreement

Volume 3: Schedules to the Draft Concession Agreement

3. **MINIMUM ELIGIBILITY CRITERIA**

3.1. The Bidder may be a Single Specified Entity OR a group of entities joined together as a Consortium subject to the conditions specified in clause 4 of this RFP.

3.2. The bid under this RFP will be considered only from those bidders who meet minimum eligibility criteria stipulated hereunder. If the bidder is a single specified entity, the stipulated criteria shall be fulfilled by the bidder itself or through its affiliate or parent or subsidiary. If the bidder is a consortium or joint venture, the stipulated criteria shall be fulfilled by any member of the consortium by itself or through its Affiliate or Parent or Subsidiary. In case of consortium, the bidder will be considered to have met the stipulated criteria only if the condition for consortium specified against each criterion is fulfilled.

3.3. Stipulated Criteria :

| | Stipulated Criteria | Conditions for Consortium | Supporting Document to be submitted |
|-----|---|--|--|
| (A) | Technical Capacity: | | |
| | <p>For demonstrating technical capacity and experience (the “Technical Capacity”), the Bidder;</p> <p>(i) shall be in continuous existence for minimum 3 (Three) years as on 1st March 2020 AND has been in operation since the last three financial years;</p> <p>AND</p> <p>(ii) shall have experience of design & development of at least one Waste to Energy Plant of minimum 1 MW in India or abroad in the period of past five years from the bid due date and the relevant plant is currently in operation;</p> <p>OR</p> <p>successful operation of at least one Waste to Energy Plant of minimum 1 MW capacity for a minimum period of 1 year in India or abroad in the period of past five years from the bid due date and the relevant plant is currently in operation;</p> | <p>At least one member of the consortium (not being an individual) shall meet this criterion</p> | <p>Copy of Certificate of Registration under relevant Act and certificate by Statutory Auditors in the format given in Annex-II of Appendix I.</p> <p>AND</p> <p>Copy of relevant Work Orders & Invoices OR Work completion Certificate/ satisfactory client Certificate or other evidence, certified by Statutory Auditors in the format given in Appendix VI.</p> |

| | Stipulated Criteria | Conditions for Consortium | Supporting Document to be submitted |
|------------|---|---|--|
| (B) | Financial Capacity: | | |
| | For demonstrating financial capacity (the “Financial Capacity”), the Bidder shall have a minimum Net Worth of INR.250,000,000/-(Indian Rupees Two Hundred Fifty Million) or its equivalent in US Dollars, converted as per specified Exchange Conversion Method given in Annex-III-A of Appendix I, as per the Latest Audited Financial Statement. For this clause, the closure of latest financial year shall not be before 31 st March 2017. | At least one member of the consortium (not being an individual) holding more than 26% (Twenty Six percent) stake shall meet this criterion. | Certificate evidencing Net Worth by the Statutory Auditors in the format given in Annex-IIA, Appendix I. |

3.4. In the case of bidding by Consortium, the Supporting Document specified above to prove eligibility criteria shall be submitted for all the members in the Consortium.

3.5. If any of the criteria is met through Affiliate or Parent or Subsidiary, Supporting Document specified above to prove the relevant criteria shall be submitted for such Affiliate or Parent or Subsidiary, as the case may be. The Bidder shall also submit a Certificate from the Statutory Auditors or Company Secretary demonstrating the relationship with the applicant in the format given in **Annex-IV of Appendix – I**.

3.6. If the stipulated criteria, either in full or in part, is fulfilled by the Bidder/member of Consortium through its Affiliate or Parent or Subsidiary, it shall submit an undertaking from such Affiliate or Parent or Subsidiary to the effect that the experience of such Affiliate or Parent or Subsidiary shall be available for the use of the bidder if selected for implementation of the project.

3.7. In addition to the above said technical and financial criteria the bidder should have an asset value of Rs. 300 Crores as on 01st January 2020. In case of a Consortium, any one of the members of the Consortium or Joint Partnership as applicable, should satisfy. Certificate from Chartered Accountant confirming the Asset value shall be submitted along with the bid documents.

3.8. The bidder should also demonstrate its ability to fund the project with a valid Letter of Intent (LoI) or Binding term sheet from Banks / Financial institutions

4. **CONDITIONS FOR FORMATION OF CONSORTIUM**

4.1. The number of members in a Consortium would be limited to Five (five) such as Power Developer Entity or Investment Entity or Solid Waste Collection & Transportation entity or Information and Communication Technology (ICT) entity etc.;

4.2. An individual, resident of India or a foreign resident holding Non-Resident Indian (NRI) / Overseas Citizen of India (OCI)/ Person of Indian Origin (PIO) status, as per Government of India documents may also become a member of the Consortium. However, such individual

shall not be considered for evaluation of either Technical Capacity or Financial Capacity requirement of the Bid, though he/she will be counted for the total number of members;

- 4.3. Any member of the Consortium could be appointed as Lead Member of the Consortium. The nomination(s) of Lead Member shall be supported by a Power of Attorney, as per the format at Appendix – II A, signed by all the members of the Consortium;
- 4.4. The Lead Member and a Member of the Consortium, meeting either Technical Capacity or Financial Capacity shall each have an equity share holding of at least 26% (Twenty Six percent) of the paid up and subscribed equity of the SPV in accordance with Clause 9.4 of this RFP. The other members of the Consortium shall be termed as “Other Members”;
- 4.5. The shareholding commitments of all the members of the Consortium shall be in accordance with Clause 9.4;
- 4.6. The Bid should contain the information required for each member of the Consortium;
- 4.7. The Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and / or operation & maintenance obligations;
- 4.8. An individual Bidder cannot at the same time be member of a Consortium applying for qualification. Further, a member of a particular Bidder Consortium cannot be a member of any other Bidder Consortium applying for qualification;
- 4.9. The Parties to the Consortium should agree to establish SPV for executing the Concession Agreement in respect of the Project(s) awarded to such Consortium.
- 4.10. Members of the Consortium shall enter into a binding Joint Bidding Agreement (JBA), as per the format provided in **Appendix – IV**, for the purpose of submitting Bid and should submit the same along with the Bid. The JBA should be specific to the Project and should fulfill the requirements set out below, failing which the Bid shall be considered non-responsive. The JBA shall, inter alia:
 - 4.10.1. convey the intent to form an SPV with shareholding/ownership equity commitment(s) in accordance with Clause 9.4, which would enter into the Concession Agreement and subsequently carry out all the responsibilities as Concessionaire in terms of the Concession Agreement, in case the Concession to undertake the Project is awarded to the Consortium;
 - 4.10.2. clearly outline the proposed roles and responsibilities of each member at each stage;
 - 4.10.3. commit the minimum equity stake to be held by each member; and
 - 4.10.4. All members of the Consortium (including Subsidiary or Parent or Affiliate, whose technical or financial experience has been claimed) shall under the Concession Agreement, be liable jointly and severally for obligations of the Concessionaire in relation to the Project.
- 4.11. Except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the JBA without the prior consent of the Authority.

5. KEY DETAILS

| | | |
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| 1) | Tender inviting Authority Designation and Address | The Managing Director Kerala State Industrial Development Corporation Limited, T.C. XI/266, Keston Road, Thiruvananthapuram Kerala - 695003, INDIA. Tel: +91 471 2318922 |
| 2) | Name of the Public Private Partnership project | (Tender Ref No...KSIDC/PMU/W2E/14/2020 dated 24th March 2020) : Development of an integrated solid waste management project with a Waste to Energy Plant of min 300 TPD capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam, for Thiruvananthapuram cluster in the State of Kerala for the Local Self Governments of Thiruvananthapuram District Kerala under Public Private Partnership |
| 3) | Mode of Tender | e-tender through the Government of Kerala tender portal https://etenders.kerala.gov.in (Please visit the e-tender portal for technical details of submission of tender through the portal) |
| 4) | Tender Fee | INR.25,000/- (Indian Rupees Twenty Five Thousand Only) plus 18% GST (To be paid online through e-tender portal) |
| 5) | Bid Security Amount (EMD) | INR.10 Million /- (Indian Rupees Ten Million Only (To be paid online through e-tender portal) |
| 6) | Bid validity | Min. 180 (One Hundred and Eighty) days from the Bid Due Date, extendable for maximum of another 180 days on mutual consent. |
| 7) | Validity of Bid Security | Min 240 (Two Hundred and Forty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended subject to maximum of 180 days on mutual consent. |
| 8) | Completion period of the work and commissioning of the project. | In consonance with the Swiss Challenge proposal attached in Appendix VII of this RFP document. |
| 9) | Concession Period | 25 years from COD |
| 10) | Date of start of Tender Document download | 24 th March 2020 (at https://etenders.kerala.gov.in and www.ksidc.org) |
| 11) | Site Visit | Will be arranged on request |
| 12) | Last date of seeking clarification | 31st March 2020. Queries if any may be sent before 17.00 hrs to tvmwte@ksidcmail.org |
| 13) | Pre-bid Meeting | On 2 nd April 2020 at 11:00 hrs at KSIDC Corporate office, Keston Road, Kowdiar, |

RFP for Development of Integrated Solid Waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership

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| | | Trivandrum |
| 14) | Response to Pre-bid Queries | On or before 06 th April 2020 |
| 15) | Date of start of Bid upload | 15 th April 2020 (at https://etenders.kerala.gov.in and www.ksidc.org) |
| 16) | Last Date and Time of submission of Tender | 14.00 hrs on 24th April 2020 (at https://etenders.kerala.gov.in only) |
| 17) | Date and Time of opening of Cover 1 (“Fee/Prequal/Technical proposal”) | 26 th April 2020, IST 17:30 hrs at KSIDC Corporate office, Keston Road, Kowdiar, Trivandrum |
| 18) | Technical Evaluation and Presentation by Bidders | On 30 th April 2020 at IST 10:00 hrs at KSIDC Corporate office, Keston Road, Kowdiar, Trivandrum |
| 19) | Date and Time of opening of Cover 2 (“Price Bid”) | 2 nd May 2020, IST 16:00 hrs at KSIDC Corporate office, Keston Road, Kowdiar, Trivandrum |
| 20) | Authority for seeking clarifications | Kerala State Industrial Development Corporation Limited |
| 21) | Website from which Tender Documents and any additional information can be downloaded | https://etenders.kerala.gov.in or www.ksidc.org |
| 22) | Hard copy submission of technical proposal, stamp paper/notarised documents | On or before 24 th April 2020 , IST 15.00 hrs At Kerala State Industrial Development Corporation Limited, T.C. XI/266, Keston Road, Thiruvananthapuram Kerala - 695003, INDIA |
| 23) | Issue of Letter Of Intent | Before 8 (Eight) weeks from opening of financial proposal |
| 24) | Acceptance by the successful bidder of the Letter of intent (LOI) | Within 15 (fifteen days) from issuance of LOI |
| 25) | Formation of SPV and submission of performance security by SPV | Formation of SPV Within 30 (Thirty) days and submission of performance security within 45 (Forty Five) days from acceptance of LOI |
| 26) | Signing of concession agreement | Within 60 (Sixty) days from acceptance of LOI |

Note: (a) If the date of submission of tenders happens to be a public holiday, Tenders will be received and opened on the next working day at the same venue and time. Bidders are requested to check the website for regular updates.

(b) Authority will endeavour to adhere to the dates indicated above. However, it reserves the right to effect changes to the above dates, if the need arises. Such change, if any, would be uploaded at Authority’s website (<https://etenders.kerala.gov.in>) from time to time.

6. INSTRUCTIONS ON E-TENDER

6.1. The Bid should be submitted online at website <https://etenders.kerala.gov.in> in the relevant covers only, by the due date and time, as specified in the Key Details. Late/delayed

tenders submitted online after the due date and time, for whatsoever reasons will not be considered. The Server Date & Time as appearing on the website **<https://etenders.kerala.gov.in>** shall only be considered for the critical date and time of tenders. Offers sent through post, telegram, fax, telex, e-mail, courier will not be considered.

- 6.2. Partially completed/incomplete bids shall not be considered.
- 6.3. All communication regarding how to submit offers shall be done online through website **<https://etenders.kerala.gov.in>**
- 6.4. Bidders shall be required to arrange all resources, including Digital Signature Certificates and Internet Connections at their own cost, for participating in online tenders at **<https://etenders.kerala.gov.in>**.
- 6.5. The Authority shall not be responsible for any delays reasons whatsoever in receiving as well as submitting offers, including connectivity issues. The Authority shall not be responsible for any other delays in submitting any documents wherever applicable.
- 6.6. The Authority will not be responsible for the cost incurred in preparation and submission of bids online including the cost of digital certificate, regardless of the conduct of outcome of the bidding process.
- 6.7. Two cover system :
As two bid system is insisted, Bidders are required to submit offer in two covers, namely “Fee/Prequalification/Technical “and “Financial”.
 - In Cover I (“Fee/Prequalification/Technical”), Bidders are requested to upload, the scanned copies of the documents specified under Technical Cover in the Checklist given in Clause36 Section C of Volume I of RFP, “online”.
 - In Cover II (“Finance”), Bidders are requested to quote rates in the file ‘BOQ’ and upload the same online. PLEASE DO NOT QUOTE/MENTION RATES ANYWHERE ELSE IN THE TENDER OTHER THAN BOQ
- 6.8. Incase if applicant does not hold any document which need to be uploaded OR there is no need to upload the mentioned document please upload a scanned copy stating the reason for not uploading OR a blank sheet for proceeding with tendering. Provisions for uploading cannot be left blank.
- 6.9. Please note that queries related to enquiry specifications, terms & conditions etc. should be submitted through email (tvmwte@ksidcmail.org) before the clarification end date/time specified in the Key Details.
- 6.10. Tender opening will be done online at the time and dates specified in the tender Key Details.
- 6.11. The bidders are requested to go through the instruction to the bidders in the website **<https://etenders.kerala.gov.in>**. The bidders who submit their bids for this tender after digitally signing using their Digital Signature Certificate (DSC), accept that they have clearly understood and agreed the terms and conditions in the website including the terms and conditions of this tender.

RFP for Development of Integrated Solid Waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership

SECTION B PROJECT DETAILS AND SCOPE OF THE PROJECT (PDS)

7. PROJECT BACKGROUND

- 7.1. Local Self Government Department, Government of Kerala, proposes to develop an Integrated Solid Waste Management project with a Waste to Energy plant of a minimum processing capacity of 300 Tonnes Per day (TPD) for the Thiruvananthapuram Cluster operating in the State of Kerala. This RFP is issued for inviting global competitive bids under swiss challenge method from interested entities or group of entities to execute the Project in partnership with GoK under Public Private Partnership under ‘Design, Build, Finance, Operate and Transfer’ basis, as detailed in this RFP.
- 7.2. The project is proposed to be developed as a port based power project at the back up area near Vizhinjam International Seaport Ltd. The power being generated in the plant will be consumed for the operation of the port and its allied activities. 15 acres of land adjacent to the port area at Vizhinjam will be provided on a nominal lease and the Private Partner is expected to design the plant and a comprehensive plan for the complete chain of solid waste management, build the same by arranging the finance required for the same, operate the project for the specified period and transfer it back to GoK/LSGIs at the end of the specified period, in accordance with the detailed terms and conditions contained in the draft Concession Agreement.
- 7.3. An un solicited proposal for the project was received on an integrated manner with state of the art Waste to Energy (WtE) facility at the proposed site. The complete details of proposal for collection, segregation, transportation and processing is enclosed as Appendix VII . The proposal shall require to be adhered in a complete manner. Any deviation in Draft Concession Agreement and Schedules and the Proposal, the Proposal shall supersede in all conditions.
- 7.4. The Thiruvananthapuram Cluster comprises of the following participating LSGIs,
- a) Thiruvananthapuram Municipal Corporation
 - b) Attingal Municipality
 - c) Nedumangadu Municipality
 - d) Neyyattinkara Municipality
 - e) Varkkala Municipality
 - f) Venganoor Grama Panchayath
 - g) Kalliyoor Grama Panchayath
 - h) Balaramapuram Grama Panchayath
 - i) Parassala Grama Panchayath
 - j) Poovar Grama Panchayath.

7.5. The scope of the Private Partner include the secondary collection, segregation, transportation and processing of solid waste generated in the cluster using the similar technology detailed in Appendix VII of this RFP document or a better technology by which the development of plant can be completed with in the time frame given in the Swiss Challenge proposal. In the process, the private partner shall collect, segregate the waste collected and all recyclables like metal, glass, plastics etc. are either sold to the recycling industry or recycled or re processed through re cycling/ re processing facilities directly or indirectly with in the allotted site. Such activity shall be at the risk and cost of the bidder and they may retain all income from such activity.

7.6. The Bidders are required to quote Tipping Fee, as detailed in Clause 28.4. Bidder shall quote Tipping Fee as on Bid Due Date.

The Tipping Fee shall be varied each year in the month of April (FY) in proportion to change in Consumer Price Index, issued by Ministry of Statistics and Program Implementation, Govt of India, as detailed in the Concession Agreement. First year of Tipping Fee payment would be the year in which collection & transportation of Solid Waste is started.

7.7. The income of the SPV from the project will be the monthly payable Tipping fee, power charges for the net exportable power generated at the tariff, as approved by KSERC and the income from sale of all by-products, the details of which are elaborated in the Draft Concession Agreement. The Authority shall facilitate the selected bidder to obtain the project specific power tariff for the WtE project, for which the selected bidder shall petition KSERC and submit their DPR covering technology proposed, capital investment plan, cost estimates and project financing details.

7.8. Authority will facilitate in obtaining any eligible financial assistance as per the prevailing guidelines of Swachh Bharat Mission (SBM) – Urban 2017, or any prevailing schemes of Ministry of Housing & Urban Affairs, GOI, at the time of execution of the concession agreement. The concessionaire shall prepare and submit to the Authority for approval, a DPR, covering the collection mechanism, technology for processing, detailed project costing and the capital investment plan.

The financial assistance as approved and released by SBM, MoH&UA and the corresponding GoK share if any will be released as reimbursement to the concessionaire based on the progress of project development and on recommendation of the PMU.

7.9. An escrow shall be opened by the SPV and all revenue shall be deposited into the same, as detailed in the Concession Agreement. The payment by Authority shall also be deposited into the said escrow account.

7.10. As part of the Bidding Documents, the Authority has provided the Draft Concession Agreement prepared by the Authority / its consultants in Volume II and III of the RFP, which contains the detailed terms and conditions for grant of the concession, including termination, exit, force majeure as well as the detailed scope of the Project.

8. **CONCESSION PERIOD**

The concession period is pre-determined and fixed as 25 (Twenty Five) years from the date of commencement of commercial operation by the Plant set up under the Project, which shall be achieved within the period stipulated in the concession agreement, from the date of completion of conditions precedent as specified in the concession agreement,.

9. **SPECIAL PURPOSE VEHICLE**

RFP for Development of Integrated Solid Waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership

- 9.1. The Selected Private Partner shall incorporate a Special Purpose Vehicle (“**SPV**”) who will be the “**Concessionaire**” and shall execute the Concession Agreement with the Authority in the form provided by in Volume II and III of this RFP. The SPV shall be responsible to execute Work under this project.
- 9.2. The SPV shall establish an office in Thiruvananthapuram and undertaking to this effect shall be submitted along with the Bid.
- 9.3. In case, the Selected Bidder is a single Entity, it shall hold at least 100% (hundred per cent) of subscribed and paid up equity share capital of the SPV along with its Affiliate or Parent or Subsidiary Company (whose technical or financial experience has been claimed for qualification) to implement the Project, until 5th (Fifth) anniversary of COD. Thereafter, the Selected Bidder along with its Affiliates or Parent or Subsidiary shall hold at least 51% (fifty one per cent) in the Project SPV until the 10th (Tenth) anniversary of COD.
- 9.4. In case the Selected Bidder is a Consortium, a member of the Consortium meeting technical capacity or financial capacity subscribe at least 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV until 2nd (Second) anniversary of the COD for member meeting technical criteria and until 1st (First) anniversary of the COD for member meeting financial criteria. The members of the Consortium along with their Affiliate or Parent or Subsidiary Company (whose technical or financial experience has been claimed for qualification) shall collectively hold 100% (hundred per cent) of the subscribed and paid up equity of the SPV until the 1st anniversary of the COD. The Consortium members in proportion to their shareholding shall hold at least 51% (Fifty one per cent) of the subscribed and paid up equity share capital of the Project SPV until 10th (Tenth) anniversary of COD and thereafter 26% shareholding in the paid up equity capital during the remaining concession period. The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such there under.

10. **SCOPE OF WORK FOR PRIVATE PARTNER**

- 10.1. The broad scope of Work of Private Partner shall be as below:
 - 10.1.1. To plan, design, engineering, develop, finance, construct, market, operate, maintain and manage integrated solid waste management with collection, segregation, transportation, processing and disposal in identified Cluster as per requisite norms and standards prescribed by regulatory authorities.
 - 10.1.2. To ensure compliance with the Guidelines & Policies issued by the concerned Government (Government of India and Government of Kerala), both present and future, with regard to solid waste management.
 - 10.1.3. To design and set up modern Waste to Energy plant at Project Site of minimum processing capacity of 300 TPD using the similar technology detailed in Appendix VII of this RFP document or a better technology by which the development of plant can be completed with in the time frame given in the Swiss Challenge proposal. The selected Private Partner shall strive to achieve complete elimination of landfill requirement but in no circumstances, the landfill shall be more than 10% of waste received at the Site (to be monitored on a monthly basis).
 - 10.1.4. To collect, segregate and transport solid waste from collection bins in the identified Cluster. (Participating LSGIs of each cluster);

The collection herein would mean a bin based secondary collection to ensure maximum coverage of waste collection from the city. The responsibility to undertake the door to door collection, collection from public spaces, street cleaning and delivering to the bins provided by the concessionaire at the designated collection points shall be vested with the participating LSGIs. The location of bins and concessionaire's collection points will be decided depending on area and population and with mutual consultation between LSGI and Concessionaire.

- 10.1.5. To transport solid waste to the Processing Facility with minimal handling and limited inter-vehicle transfers using best practices in vehicle planning, scheduling & handling to ensure no accumulation at a particular location for more than defined time;
- 10.1.6. To preferably segregate the waste (if required) at source by educating and creating awareness among customers and by providing different collection containers for biodegradable and non- biodegradable wastes.
- 10.1.7. To segregate the non-usable and non-biodegradable waste viz. Plastic, Metal, Glass, Electronics & Other items and recycle /reprocess them through own units or sell them to re-processors/ recyclers/ Govt. authorized agencies. Other wastes such as Rubber, Tyre, Upholstery, Bags etc. may be sold to cement or other factories as energy source. The resources recovery shall be carried out at the cost and risk of the Concessionaire. It shall also be ensured that no part of Construction & Demolition waste is used in the plant.
- 10.1.8. To process the leachate in accordance with Central Pollution Control Board (CPCB) standards and in case of requirement, to develop Sanitary Landfill of Designed Capacity and set up a leachate treatment facility at the site;
- 10.1.9. To develop the surrounding of the plant with greenhouse concept having plants, lawns, gardens etc. as model spot for educating students/ public on environmental protection and best environment practices.
- 10.1.10. To do Operation and maintenance of the Processing Facilities and Sanitary Landfills by adhering to the pollution control standards for air, water and land prescribed by Kerala State Pollution Control Board (KSPCB) and Central Pollution Control Board (CPCB);
- 10.1.11. To install and operate the plant in full compliance with all laws of the land including Solid Waste Management Rules (2016) at all times.
- 10.1.12. To treat the flue gas vented to atmosphere adequately by scrubbing, neutralization and filtering or any combination of technologies so that the air pollution and other environmental laws and their amendments within the acceptance level as per statutory requirements.
- 10.1.13. To Develop and Manage ICT infrastructure for the project including but not limited to GPS tracking of vehicles, electronic weigh bridges at Project Site, surveillance cameras at Project Site etc.

Concessionaire shall provide all assistance in case the Authority is to undertake on its own or through a Third Party Monitoring Entity (Independent Engineer) the Development and Management of Information Communication and Technology (ICT) and IOT (with sensors and video analytics) infrastructure for monitoring the project, including but not limited to, GPS tracking of vehicles, Sensor based weight measurement in transportation vehicles, electronic weigh bridges at Project Site,

RFP for Development of Integrated Solid Waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership

surveillance cameras at Project Site etc. and a central command centre for all Waste Management Projects in Kerala.

- 10.1.14. To deploy its representatives in each participating LSGIs for prompt cognizance and redressal of any service complaint related to one or more of concessionaire's obligation.
- 10.2. The Draft Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire's services and obligations (the "**Concession**"). A detailed Scope of work is provided in "Schedule A" of Concession Agreement.
- 10.3. The statements and explanations contained in this Request for Proposal (the "RFP" document) are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Draft Concession Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the Concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority.

11. **ROLE OF THE AUTHORITY**

- 11.1. The broad scope for the Authority shall be as below:
- 11.1.1. To earmark a Project Site admeasuring to 15 Acres in Sy Nos. 269,270,271, 272,273,274,275,283,284,286 and 287 at Vizhinjam Village in Neyyattinkara Thaluk in Thiruvananthapuram district. .. and provide the same on lease of Rs. 100/- per annum per acre to SPV for a concession period of 25 years for Waste Processing.
- 11.1.2. To provide all assistance in seeking the requisite clearances and approvals from regulatory authorities of Government of India and Government of Kerala.
- 11.1.3. To ensure collection of minimum of 300 TPD from the identified cluster by the LSGIs and to put in place an appropriate mechanism, which will make it mandatory for the participating LSGIs to contribute solid waste based on their population, economic activities, tourism and other features. In case LSGI fails to assure the minimum assured quantity, LSGIs, will be liable to pay penalty to SPV calculated at 25% of the corresponding year Tipping Fee per ton for each ton of shortfall. The penalty shall be payable only if the monthly average of quantity received at the Site is below 90% of assured quantity.

Section C

INSTRUCTIONS TO BIDDERS (ITB)

12. INTRODUCTION

- 12.1. This Section aims to provide guidelines/instructions to the Participants, to be used while submitting the Bid. These are generic in nature, but Bidders are required to abide by them during the currency of the Project.

13. BRIEF DESCRIPTION OF BIDDING PROCESS

- 13.1. Based on the unsolicited proposal for the development of an integrated solid waste management project with a waste to energy plant the Authority has adopted a Swiss Challenge based Single-Stage Two Cover bidding process under the electronic tendering (e-tender) procedure of Government of Kerala for selection of the Bidder for award of the Project (the "Bidding Process") and invites Bids from eligible parties, (which expression shall, unless repugnant to the context include the members of the Consortium) for the Project in accordance with the terms of this RFP. The first Cover (the "Fee/Prequalification/Technical Proposal") of the Bidding Process involves evidence of payment of tender fee & submission of bid security, pre-qualification of interested parties on the basis of their Technical & Financial Capacity (the "Prequalification Stage") and their Technical Proposal (the "Technical Proposal Stage"). At the end of the Prequalification Stage, the Authority shall short list Bidders whose "Financial" cover containing price bid are eligible for opening during the financial proposal evaluation stage. In the price bid, the proposers are required to quote Tipping Fee as specified in Clause 28.4.
- 13.2. After Technical Proposal Stage and subject to requirements of the RFP, the Tipping Fee shall constitute the sole criteria for evaluation of bids and the selection of the Successful Bidder.

14. CONDITIONS FOR BIDDING

- 14.1. A Bidder is eligible to submit only one bid for the Project.
- 14.2. A bidder bidding individually or as a member of a consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.
- 14.3. While Qualification is open to persons from any country, the following provisions shall apply:
- (a) Where, on the date of the Bid, not less than 15% (fifteen percent) of the aggregate issued, subscribed and paid up equity share capital in a Bidder is held by persons resident outside India or where a Bidder is controlled by persons resident outside India; or
 - (b) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 15% (fifteen percent) of the aggregate issued, subscribed and paid up equity share capital or control by persons resident outside India in or of the Bidder;

then the Qualification of such Bidder or in the event described in sub clause (b) above, the continued Qualification of the Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final, conclusive and binding on the Bidder.

The holding or acquisition of equity or 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 principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 or any substitute thereof as in force on the date of such acquisition.

14.4. Change in Ownership :

14.4.1. 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.

14.4.2. By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Affiliate, Parent or Subsidiary Company whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing under and in accordance with the RFP, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may disqualify the Bidder or withdraw the LOI from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall be entitled to forfeit the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement or otherwise.

14.5. Cost of Bidding: The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bid Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

14.6. Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification called for in this RFP with reference the financial year immediately preceding the latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

14.7. The documents including this RFP and all attached documents, provided by the Authority are and shall remain or become the properties of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause shall also apply mutatis mutandis to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid, document or any information provided along therewith.

14.8. The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP. Any such verification or lack of such verification by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

15. ACKNOWLEDGEMENT BY BIDDER:

- 15.1. It shall be deemed that by submitting the Bid, the Bidder has;
- 15.1.1. made a complete and careful examination of the RFP;
 - 15.1.2. received all relevant information requested from the Authority;
 - 15.1.3. accepted the risk of inadequacy, error or mistake in the information provided in this RFP or furnished by or on behalf of the Authority relating to any of the matters referred to in this RFP;
 - 15.1.4. agreed to be bound by the undertakings provided by it under and in terms hereof;
 - 15.1.5. satisfied itself about all matters, things and information including matters relating to the project site necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder; and
 - 15.1.6. acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters relating to the project shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement by the Concessionaire.
- 15.2. The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFP or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

16. CONFLICT OF INTEREST

- 16.1. A Bidder shall not have a conflict of interest (the “Conflict of Interest”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit 100% (one hundred percent) of the value of Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damage payable to the Authority for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder’s proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
- 16.1.1. the Bidder or its Affiliate, Parent or Subsidiary Company (or any constituent thereof) and any other Bidder or any of its Affiliate, Parent or Subsidiary Company thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder or an Affiliate, Parent or Subsidiary Company thereof (or any shareholder thereof having a shareholding of not more than 25% (twenty five per cent) of the paid up and subscribed share capital of such Bidder or Affiliate or Parent or Subsidiary Company, as the case may be) in the other Bidder or Affiliate or Parent or Subsidiary Company, is not more than 25% (twenty five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act, 1956 or its equivalent legislation. For the purposes of this Clause,

indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “Subject Person”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

- 16.1.2. such Bidder or any Affiliate, Parent or Subsidiary Company thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder or Affiliate, Parent or Subsidiary Company, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder or any Affiliate or Parent or Subsidiary Company thereof; or
 - 16.1.3. such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
 - 16.1.4. such Bidder, or any Affiliate, Parent or Subsidiary Company thereof has a relationship with another Bidder, or any Affiliate, Parent or Subsidiary Company thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other’s’ information about, or to influence the Bid of either or each other; or
 - 16.1.5. such Bidder, or any Affiliate, Parent or Subsidiary Company thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.
- 16.2. Notwithstanding anything stated herein, a conflict of interest situation arising at the Qualification will be considered to subsist only, as between such Applicants attracting conflict of interest provisions on account of shareholdings, who submit bids under this document.
- 16.3. A Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Member or any Affiliate, Parent or Subsidiary Company thereof, as the case may be, in any manner for matters related to or incidental to the Project during the Bidding Process or subsequent to the (i) issue of the LOI or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder or Concessionaire, as the case may be, after issue of the LOI or execution of the Concession Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOI or the Concession Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture of the Bid Security or Performance Security, as the case may be, which the Authority may have there under or otherwise, the LOI or the Concession Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder or its Affiliate, Parent or Subsidiary Company in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFP. Nor will this disqualification apply where such adviser is engaged after a period of 1 (one) year from the date of signing of the Concession Agreement.

17. FRAUD AND CORRUPT PRACTICES

- 17.1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOI and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOI or the Concession Agreement, the Authority may reject a Bid, withdraw the LOI, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to forfeit the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Concession Agreement, or otherwise.
- 17.2. Without prejudice to the rights of the Authority under Clause 17 hereinabove and the rights and remedies which the Authority may have under the LOI or the Concession Agreement, or otherwise if a Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOI or the execution of the Concession Agreement, then both Bidder and Concessionaire shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

18. RIGHT TO ACCEPT OR REJECT ANY OR ALL BIDS

- 18.1. Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

19. DISQUALIFICATIONS

- 19.1. Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be disqualified and rejected as non-responsive.
- 19.2. Bids received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.
- 19.3. The Authority reserves the right to disqualify and reject any Bid if:
- 19.3.1. at any time, a material misrepresentation is made or uncovered, or
 - 19.3.2. the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid or
 - 19.3.3. the financial quote is included, directly or indirectly, in the Technical Proposal or any document accompanying the Technical Proposal.
- 19.4. Such misrepresentation / improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified / rejected. If such disqualification/ rejection occurs after the Bids have been

opened and the Lowest Bidder gets disqualified/ rejected, then the Authority reserves the right to annul the Bidding Process and to invite the fresh Bids.

- 19.5. Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 19.6. In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by the Authority, that one or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOI or entering into of the Concession Agreement, and if the Bidder/SPV has already been issued the LOI or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the Bidder. In such an event, the Authority shall be entitled to forfeit the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy which the Authority may have under this RFP, the Bidding Documents, and the Concession Agreement or under applicable law.

20. **CONFIDENTIALITY**

Information relating to the examination, clarification, evaluation, and recommendation for the short-listed Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the authority or as may be required by law or in connection with any legal process.

21. **CONTENTS OF THE RFP**

- 21.1. This RFP comprises the disclaimer set forth hereinabove, the contents as listed in Table of Content at the beginning of this document.
- 21.2. The Draft Concession Agreement and Schedules provided by the Authority as part of the Bid Documents shall be deemed to be part of this RFP.

22. **SITE VISIT AND VERIFICATION OF INFORMATION**

- 22.1. Bidders are encouraged to submit their respective Bids after visiting the Project site and proposed locations for transfer stations for ascertaining for themselves the existing conditions, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them. Bidders are also advised to visit the municipal / panchayat area of Participating LSGIs to understand the existing solid waste practices & process, people behavior, locations of secondary collection centres, routes of solid waste vehicles etc.
- 22.2. The request for Site Visit shall be submitted to the Authority as specified in Key Data. The Authority will make necessary arrangement for the Site Visit and will intimate the dates.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

23. **AMENDMENT OF RFP**

- 23.1. At any time prior to the Bid Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.
- 23.2. Any Addendum thus issued will be uploaded on the website. Bidders are advised to keep watch on www.etenders.kerala.gov.in for any modification in RFP and other updates about the Project. The Bidders must submit their Bids in compliance of the latest updates, addendums, modifications or amendments issued by the Authority. The Authority does not assume any responsibility to bidders, who fails to submit their bids in accordance with latest updates, addendums, modifications or amendments issued by the Authority before Bid Due Date. In such case the Authority may reject any bid for the non-compliance of hereunder.
- 23.3. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may extend the Bid Due Date.

24. **CLARIFICATIONS**

- 24.1. Bidders requiring any clarification on the RFP may notify the Authority through email to the id provided in key details . They should send in their queries before the date specified in Key Details. The Authority shall endeavor to respond to the queries within the period specified therein. The responses will be sent by e-mail. The Authority will forward all the queries and its responses thereto, to all purchasers of the RFP and upload on the website <https://etenders.kerala.gov.in> without identifying the source of queries.
- 24.2. The Authority shall endeavor to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.
- 24.3. The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the RFP. Verbal clarifications and information given by the Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

25. **PRE-BID CONFERENCE**

- 25.1. A Pre-Bid conference of the interested parties shall be convened at the designated date as provided in Key Details. A maximum of two representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 25.2. During the course of Pre-Bid conference, the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavor to provide clarifications and such further information, as it may consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

26. **VALIDITY OF BIDS**

The Bids shall be valid for a period of not less than 180 (One Hundred and Eighty) days from the Bid Due Date (the "**Bid Validity Date**"). The validity of Bids may be extended subject to a maximum period of 180 (One Hundred and Eighty) days by mutual consent of the respective Bidders and the Authority.

27. **BID SECURITY**

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

- 27.1. The Bidder shall deposit an unconditional, unequivocal and irrevocable Bid Security of **INR.10,000,000 (Indian Rupees Ten Million only)** in accordance with the provisions of this RFP, using the online payment facility available in the e-tender website <https://etenders.kerala.gov.in> .
- 27.2. The Bid Security shall be returnable no later than 60 (Sixty) days from the Bid Validity Date except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the provisions of Draft Concession Agreement.
- 27.3. The Authority shall be entitled to forfeit the Bid Security as Damages inter alia in any of the events specified herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP, no relaxation of any kind on Bid Security shall be given to any Bidder.
- 27.4. The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or under the Concession Agreement, or otherwise, under the following conditions:
- a) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice;
 - b) In the case of Selected Bidder, if it fails within the specified time limit:
 - (i) to sign and return the duplicate copy of LOI;
 - (ii) to sign the Concession Agreement; or
 - (iii) to furnish the Performance Security.
 - c) In case the Selected Bidder, commits any breach of any RFP condition prior to furnishing the Performance Security.
 - d) Under any clause for forfeiture of Bid Security contained elsewhere in this RFP.

28. **PREPARATION AND SUBMISSION OF BID**

28.1. **Language**

The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Bid may be in any other language provided that they are accompanied by true translations of it in the English language, duly authenticated and certified by the Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

28.2. **Format and signing of Bid**

28.2.1. The Bidder shall submit the Bid in the format specified at Appendix-I, together with all the documents specified hereunder and upload it in "Fee/ Prequalification / Technical Proposal". The formats given is the minimum requirement and the Bidders shall furnish all the relevant details necessary to ascertain the technical and financial capabilities of the bidder as well as the detailed technical and business plan for implementation of the project proposed by the bidder.

- 28.2.2. The Bidder shall upload the Financial Offer by duly filling up the BOQ file provided under the Financial Cover in e-tender portal.
- 28.2.3. Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexures is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information.
- 28.2.4. Information supplied in the Bid by the Bidder (or other constituent Member, if the Bidder is a Consortium) shall pertain either to the Bidder or to the Bidder's Affiliate or Parent or Subsidiary Company named in the Bid and not, unless specifically requested, to other associated companies or firms.
- 28.2.5. The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects. Incomplete and /or conditional Bids shall be liable to rejection.
- 28.2.6. The Bidder shall submit a Power of Attorney along with Board resolution in favour of executants as per the format at Appendix-II, authorizing the signatory of the Bid to commit the Bidder. In case the Bidder is a Consortium, the members thereof shall furnish a Power of Attorney in favour of the Lead Member in the format at Appendix – IIA.
- 28.2.7. The Bid and its copy shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page in blue ink. In case of printed and published Documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid. The Bid shall contain page numbers and in the case of hard copy submitted, it shall be bound together in hard cover.

28.3. **Submission of Technical Proposal**

- 28.3.1. The Bidder shall upload its Bid on www.etenders.kerala.gov.in by following all processes and systems defined under e-procurement rules of the State of Kerala by affixing the Digital Signature Certificate of the person authorized to sign the Bid as per the Power of Attorney submitted with the Bid.
- 28.3.2. Each Fee/Prequalification/Technical Proposal **submitted online** shall contain:
- (i) Bid in the prescribed format (Appendix-I) along with Annexes I to V and supporting documents;
 - (ii) Power of Attorney for signing the Bid as per the format at Appendix-II;
 - (iii) A Certificate from the Company Secretary of the Bidder certifying that the Bid signatory is authorized by the Board of Directors of the Company to do so with resolution number and date
 - (iv) Copy of Charter Document (Memorandum and Articles of Association/ Partnership Deed/ Trust Deed, as the case may be);
 - (v) Copies of Bidder's duly audited Financial Statement along with all schedules, auditors report and annual report for the preceding three financial years;
 - (vi) Payment Receipt towards the tender fee as specified in Key Details;

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

- (vii) Payment Receipt towards Bid Security
 - (viii) Certificate from the Company Secretary of Bidder (including each member of Consortium) clearly specifying the Affiliate, Parent or Subsidiary Company relationship as mentioned by the Bidder
 - (ix) Certificate from the Company Secretary to the effect that the Bidder (including each member of Consortium) is not blacklisted by any of the Ministry/ Department of Government of India/ State Governments
 - (x) Undertaking from the authorised signatory of the Bidder/Lead Member Certificate from the Company Secretary to the effect that the Bidder shall establish an office in Thiruvananthapuram
 - (xi) Power of Attorney for Lead Member of the Consortium in the prescribed format (Appendix II A), if applicable.
 - (xii) Joint Bidding Agreement (in case of Consortium) as prescribed in the prescribed format at Appendix IV
 - (xiii) Technical Proposal with details required is to be provided as Appendix VI of this RFP. The detailed Technical Plan required as part of the Technical Proposal shall not be more than 50 pages and it shall contain all requisite details specified in the Technical Plan Data Sheet (Appendix V Annex 2). The Detailed Technical Plan shall be final and binding during implementation of the project, however, it could be improved by mutual consent of both parties.
- 28.3.3. The Bidder shall also submit the hardcopies of the Fee/Prequalification/Technical Proposal IN TRIPLICATE (together with originals/ copies of documents required to be submitted along therewith pursuant to this RFP) to the address specified in Key Details. In the event of any discrepancy between the uploaded bid and the hard copy submission, the bid uploaded shall prevail.
- 28.3.4. All the original Stamp Papers and Notarized documents shall be submitted along with ORIGINAL set of hard copies. The duplicate and triplicate hard copies may be true photo copy of the Original set. Scanned copy shall be uploaded along with the Technical proposal submitted online.
- 28.3.5. The Fee/Prequalification/Technical Proposal submission in hard copy form shall clearly bear the following identification:
- Bid for: “Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership. In addition, the Bid Due Date should be indicated on the right hand corner of each of the envelopes.
- 28.3.6. If the Proposal is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid and consequent losses, if any, suffered by the Bidder.

28.4. **Submission of Financial Proposal**

- 28.4.1. Bids are invited on the basis of the lowest Tipping Fee per metric ton of waste at the waste processing site (“**Bidding Criteria**”). The Bidders shall submit the quote Tipping Fee in terms of INR per MT **as on bid due date**. The quote shall be

submitted in the BOQ file available in the Financial Cover of tender portal www.etenders.kerala.gov.in. The format of Price Bid is given in Appendix III for reference.

28.4.2. The Bidder shall upload the financial cover by affixing the Digital Signature Certificate of the person authorized to sign the Bid as per the Power of Attorney submitted with the Bid.

28.4.3. **THE PRICE BID SHALL NOT BE SUBMITTED IN HARD COPY.** Only uploaded version of the Price Bid would be accepted.

29. **MODIFICATIONS/ SUBSTITUTION/ WITHDRAWAL OF BIDS**

29.1. No Bid shall be modified, substituted or withdrawn by the Bidder after its submission to the Authority.

30. **BID OPENING**

30.1. The Authority shall open the Fee/Prequalification/Technical Proposals through the e-tender at the time and date as specified in Key Details and in the presence of the Bidders who choose to attend.

30.2. The Authority will subsequently examine and evaluate Bids in accordance with the provisions set out under clause 31.

30.3. Bidders are advised that qualification of Bidders will be entirely based on the provision contained in this RFP. Bidders shall be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.

30.4. Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.

30.5. The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.

30.6. Where any information is found to be patently false or amounting to a material misrepresentation, the Authority reserves the right to reject the Bid in accordance with the provisions contained herein.

30.7. **Clarifications on Technical Proposal :**

30.7.1. To facilitate evaluation of Bids, the Authority may seek clarifications from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

30.7.2. If a Bidder does not provide clarifications sought by the Authority within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

30.8. Correspondence with the Bidder

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

30.9. Short-Listing and Notification

30.9.1. After the evaluation of the Bids for Pre-qualification, the Authority would announce a list of short-listed Bidders who will be eligible for participation in the Technical Proposal Stage and Financial Bid Stage.

30.9.2. The Authority will not entertain any query or clarification from Bidders who fail to qualify.

31. BID EVALUATION

31.1. The Authority will carry out evaluation of the Bids through a Bid Evaluation Committee constituted by it at its sole discretion. The Committee will proceed with evaluation process as detailed hereunder.

31.2. Stage 1: Pre-Qualification

31.3. On opening of the bid, the Authority will ensure that the Bid is accompanied by Tender fee and Bid Security, as specified. The Bids without Tender Fee or Bid Security will be summarily rejected and will not be considered for further processing.

31.4. The Committee will verify the fulfillment of Minimum Eligibility Criteria by the bidders based on the documents submitted by the bidders and Bidders who do not meet these criteria will be rejected.

31.5. Stage 2: Evaluation of Technical Proposal

31.6. The Bidders qualified in the Pre-qualification stage shall be required to make presentation of their Technical Plan before the Committee on the date specified in the Key Data. The Authority may at its discretion change the date, time or venue of presentation.

31.7. The Authority shall communicate the status of pre-qualification by email and invite the qualified bidders to make the presentation and shall also confirm the date, time and venue of the presentation.

31.8. The bidders may be present in person.

31.9. Bidder shall depute a technically competent person to make the presentation and he/she shall be authorized to make decisions/ commitments to the Authority on behalf of the Bidder. The letter authorizing the person shall be submitted at least one day prior to the date of presentation.

31.10. The Committee shall evaluate the Technical Proposal based on the documents submitted by the bidder and the presentation of the Technical Plan before the Committee.

31.11. The Committee may seek technical clarifications from the Bidder during the presentation and the Bidder shall provide the clarifications or documents so required to be submitted. If a Bidder does not provide clarifications sought by the Authority within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its

understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

31.12. The Committee shall award Technical Score, out of total score of 100 (One Hundred), as per the scoring criteria given hereunder.

31.13. **Technical Scoring Criteria**

The Technical Evaluation Committee will award technical score on the following criteria, after evaluating the Technical Proposal.

| Criteria | | Marks |
|---|--------------------------------|-------|
| Number of years that the bidder has experience in successfully operating Waste to Energy Plants | More than 3 years | 25 |
| | 2-3 years | 20 |
| | 1-2 years | 15 |
| | Less than 1 year | 0 |
| Number of Waste to Energy projects implemented during the past 5 (five) years | More than 2 projects | 40 |
| | 2 projects | 35 |
| | 1 project | 30 |
| Average energy produced per day during the last financial year from the Waste to Energy projects implemented by the Bidder | More than 1,20,000 units / day | 25 |
| | 90,001 – 1,20,000 units / day | 20 |
| | 30,000 – 90,000 units / day | 15 |
| | Less than 30,000 units / day | 0 |
| Quality of Technical Presentation | | 10 |

32. **FINANCIAL OPENING AND EVALUATION**

32.1. Price Bid of Prequalified Bidders only will be opened for Financial Evaluation.

32.2. The Bidders who are shortlisted in Pre-qualification shall be informed about the opening date of the Financial Proposal in writing and on the following website i.e. <https://etenders.kerala.gov.in>.

32.3. The Committee shall open the Financial Bid through the e-tender portal in the presence of the shortlisted Prequalified Bidders who choose to attend.

32.4. The Prequalified Bidder who offers the lowest ‘Tipping Fee as on bid due date’ shall be the Lowest Bidder, who will be ranked as the L1..

33. **SELECTION OF BIDDER**

33.1. The authority has received an unsolicited proposal from an agency (here in after called “Proposer”) for the development of the project. The proposer will then be invited to match or lower the Tipping Fee offered by the lowest bidder (here in after called “Challenger”)

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

keeping the scope of services and technical parameters (as specified in the concession agreement) unchanged.

- 33.2. If the Proposer is not matching the Tipping Fee to the final quoted fee of the Challenger within 15 days the Tipping Fee offered by the Challenger will be Considered as the Final and project will be awarded to the Challenger. The Challenger, in this case, shall be considered as Selected Bidder.
- 33.3. If the Proposer matches or lower the Tipping Fee to the final quoted fee of the Challenger, the fee quoted by the Proposer shall be considered final and Proposer is considered Selected Bidder and project will be awarded to the Proposer.

34. **AWARD OF THE PROJECT**

- 34.1. After selection, a Letter of Intent (the “**LOI**”) shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 15 (fifteen) days of the receipt of the LOI, sign and return the duplicate copy of the LOI in acknowledgement thereof.
- 34.2. The Selected Bidder shall, then, within 30 (Thirty) days of acceptance of LOI incorporate a Special Purpose Vehicle (SPV) in the form of “Company” under the provisions of Companies Act, 2013. This SPV shall be the Concessionaire and Concession Agreement shall be executed amongst Concessionaire and Authority. Selected Bidder shall be the Confirming Party to the Concession Agreement.
- 34.3. The SPV shall furnish the Performance Security of INR.100,000,000/- (Indian Rupees Hundred Million), which is more particularly described in the Draft Concession Agreement, by way of Bank Guarantee in the manner and form specified in the Draft Concession Agreement, on achievement of necessary financial closure till the COD. Post COD, the Performance Security shall be reduced to INR. 50,000,000 (Indian Rupees Fifty Million only) till the end of Concession Period or till the Termination Date, as the case may be.
- 34.4. In the event the duplicate copy of the LOI duly signed by the Selected Bidder or the Performance Security by SPV is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, forfeit the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to accept the award.
- 34.5. After acknowledgement of the LOI, formation of SPV and submission of Performance Security as aforesaid, it shall cause the Concessionaire, the SPV, to execute the Concession Agreement within the period prescribed in Key Details.
- 34.6. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Concession Agreement.

35. **CONTACTS DURING BID EVALUATION**

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Authority and/or their employees/representatives on matters related to the Bids under consideration.

36. **DOCUMENT CHECK LIST FOR BID SUBMISSION**

| A | MINIMUM ELIGIBILITY |
|----------|---|
| 1 | Copy of Certificate of Registration under relevant Act and certificate by Statutory Auditors in the format given in Annex-II of Appendix I. |
| 2 | Copy relevant Work Orders & Invoices OR Work completion Certificate/ satisfactory client Certificate or other evidence, certified by Statutory Auditors in the format given in Appendix VI. |
| 3 | Certificate evidencing Net Worth by the Statutory Auditors in the format given in Annex-IIA, Appendix I |
| B | PRE-QUALIFICATION |
| 1 | Bid in the prescribed format (Appendix-I) along with Annexes I to V and supporting documents, signed and stamped in all pages by the authorised Signatory |
| 2 | Evidence of payment of Tender Fee |
| 3 | Evidence of submission of Bid Security |
| 4 | Power of Attorney for signing the Bid as per the format at Appendix-II |
| 5 | A Certificate from the Company Secretary of the Bidder certifying that the Bid signatory is authorized by the Board of Directors of the Company to do so with resolution number and date |
| 6 | Charter Document of the Bidder (including each member of Consortium), Affiliate or Parent or Subsidiary Company (if any) |
| 7 | Annual Report including Audited Financial Statements with its all schedules for the previous three audited years for the Bidder (including each member of Consortium)/Affiliate or Parent or Subsidiary Company |
| 8 | Certificate from the Company Secretary of Bidder (including each member of Consortium) clearly specifying the Affiliate, Parent or Subsidiary Company relationship as mentioned by the Bidder |
| 9 | Certificate from the Company Secretary to the effect that the Bidder (including each member of Consortium) is not blacklisted by any of the Ministry/ Department of Government of India/ State Governments |
| 10 | Undertaking from the authorised signatory of the Bidder/Lead Member Certificate from the Company Secretary to the effect that the Bidder shall establish an office in Thiruvananthapuram |
| 11 | Power of Attorney for Lead Member of the Consortium in the prescribed format (Appendix II A), if applicable |
| 12 | Joint Bidding Agreement (in case of Consortium) as prescribed in the prescribed format at Appendix IV |
| 13 | Technical Proposal is submitted with complete Technical Plan as per Appendix V |
| C | FINANCIAL COVER |
| 1 | Bid in the prescribed BOQ format to be uploaded |

37. **MISCELLANEOUS**

- 37.1. The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the competent Courts at Thiruvananthapuram shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 37.2. The Authority without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) pre-qualify or not to pre-qualify any Bidder and/ or to consult with any Bidder in order to receive clarification or further information;
 - (d) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 37.3. It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

APPENDICES

APPENDIX I
Letter Comprising the Bid

Dated: []

To,

**Managing Director,
Kerala State Industrial Development Corporation Ltd.
T.C. XI/266, Keston Road, Kowdiar, Thiruvananthapuram,
Kerala – 695003**

Sub: Bid for “Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership on Swiss Challenge route

Dear Sir,

With reference to your RFP document dated _____ 2020, I/we, having examined the RFP document and understood its contents, hereby submit my/our Bid for the aforesaid project. The Bid is unconditional and unqualified.

2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying such Bid for selection of the Concessionaire for the aforesaid project, and we certify that all information provided in the Bid and in Annexes I to IV is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Concessionaire for the development, construction, operation and maintenance of the aforesaid Project.
4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive to the fullest extent permitted by applicable law our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last three years, we / any of the consortium member or our/their Affiliates or Parent or Subsidiary Company have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority;
 - (b) I/ We do not have any conflict of interest in accordance with the RFP document;
 - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State in India; and

- (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of the RFP document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
- (e) the undertakings given by us along with the Application in response to the RFP for the Project were true and correct as on the date of making the Application.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with the RFP document.
9. I/ We believe that we / our Consortium Partner satisfy(s) the Net Worth criteria and meet(s) all the requirements as specified in the RFP document and are/ is qualified to submit a Bid.
10. I/ We certify that in regard to matters other than security and integrity of the country, we / any member of the Consortium or any of our / their Affiliate or Parent or Subsidiary Company have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
11. I/ We further certify that in regard to matters relating to security and integrity of the country, we / any member of the Consortium or any of our /their Affiliate or Parent or Subsidiary Company have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
12. I/ We further certify that no investigation by a regulatory authority is pending either against us or against any member of the Consortium or against our / their Affiliate or Parent or Subsidiary Company or against our CEO or any of our Directors/ Managers/ employees.
13. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFP, we shall intimate the Authority of the same immediately.
14. The Statement of Legal Capacity as per format provided in Appendices of the RFP document, and duly signed, is enclosed. The power of attorney for signing of Bid as per format provided at Appendix II, power of attorney for Lead Member at Appendix II a (in case of Consortium) of the RFP, is also enclosed.
15. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
16. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
17. I/ We certify that in terms of the RFP, my/our Net Worth is INR (Indian Rupees in words).
18. I/ We acknowledge and agree that in the event of a change in control of an Affiliate or Parent or Subsidiary Company whose Technical Capacity and/ or Financial Capacity is taken into consideration for the purposes of short-listing and pre-qualification in accordance with this RFP, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may disqualify us or withdraw the Letter of Intent, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

19. I/ We understand that if selected, we shall incorporate a Special Purpose Vehicle as Company incorporated under the Indian Companies Act, 2013 within the time stipulated in the RFP.
20. In the event of I / we being declared as the Selected Bidder, I/we agree to enter into a Concession Agreement through SPV in accordance with the Draft Concession Agreement that has been provided to me/us prior to the Bid Due Date.
21. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
22. I/ We have studied all the Bidding Documents carefully and also surveyed the Project site. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
23. I/ We offer an unconditional, unequivocal and irrevocable Bid Security of INR.10 Million /- (Indian Rupees Ten Million Only) to the Authority in accordance with Clause 27 Volume I of the RFP Document.
24. The non-refundable irrevocable Tender Fee has been remitted to your account through electronic bank transfer under reference no.....
25. The Bid Security has been transferred to your account through electronic bank transfer under reference no..... OR in the form of Bank Guarantee is attached (strike out whichever is not applicable).
26. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.
27. The Tipping Fee has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of cost and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.
28. I/ We shall keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP.
29. I/ We declare that we/ any Member of the Consortium, or our/ its associates are not a Member of a/ any other Consortium submitting a Bid for the Project.
30. {We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement in accordance with the Concession Agreement.}
31. I/We submit our Price Bid offer for Tipping Fee as per the process specified for the submission of BOQ in e-tender portal <https://etenders.kerala.gov.in> , to be paid to us for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement.

In witness thereof, I/ we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,

Date: (Signature, name and designation of the Authorized Signatory)
Place: Name and seal of the Bidder

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

Appendix I
Annex-I

Details of Bidder

(In case of consortium, to be submitted for all consortium members separately& to be submitted separately for all Affiliate/Parent/ Subsidiary whose data has been are used for prequalification)

| Details of the Bidder / Lead Member (Company) | |
|--|--|
| 1. | Name of the Bidder/Prime Bidder |
| 2. | Address of the Bidder |
| 3. | Status of the Company (Trust/ Firm/ LLP/Public Ltd/Pvt. Ltd) |
| 4. | Details of Incorporation of the Company Date : |
| | Ref # |
| 5. | Details of Commencement of Business Date : |
| | Ref #, if any |
| 6. | Valid GST registration no |
| 7. | Permanent Account Number (PAN)/ Tax Identification Number |
| 8. | Name & Designation of the contact person to whom all references shall be made regarding this RFP |
| 9. | Telephone No. (with STD Code) |
| 10. | Mail of the contact person |
| 11. | Fax No. (with ISD Code) |
| 12. | Website url |
| 13. | Name & Designation of Authorized Signatory Telephone No. (with ISD Code) E-Mail |
| 14 | Net Worth as per Latest audited Financial Statement (in INR) |
| 15 | Brief description of experience in implementation of Solid |

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

| Waste Management Projects in the last 5 years. | |
|--|--|
| 16 | Awards / recognitions received in the relevant area |
| 17 | Any other relevant information. |
| 18 | A statement by the Bidder or any of their Affiliate or Parent or Subsidiary Company disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary) |
| 19 | Name & Address to the Bankers |

Date: (Signature, name and designation of the Authorised Signatory)
Place: Name and seal of the Bidder

Note :

As required in RFP, the Bidder shall attach copies of the balance sheets, financial statements and Annual Reports for 3 (three) years preceding Financial years. The financial statements shall:

- a. reflect the financial situation of the Bidder and its Affiliate or Parent or Subsidiary Company where the Bidder is relying on its Affiliate or Parent or Subsidiary Company's financials;
- b. be audited by a Statutory Auditor;
- c. be complete, including all notes to the financial statements; and
- d. correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

**Appendix –I
Annex-II**

Format of certificate from Statutory Auditor certifying the Technical Capacity of the Bidder

(To be issued in the Letterhead of the Audit Firm)

Certificate from the Statutory Auditor

Based on its books of accounts and other published information authenticated by it, this is to certify that (*name of the Applicant/ Affiliate, Parent or Subsidiary Company*) is in existence and was incorporated on “ _____ ” and is into continuous Operations since “ _____ ”.

We also certify that the above information is in terms of Clauses 3.3 of the RFP:

{Signature}
{Name & membership No of Partner /Proprietor}
{Name of the audit firm :}
{Firm Identification No}
{Seal of the Audit Firm}

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

**Appendix-I
Annex-III**

**(To be issued in the Letterhead of the Audit Firm by the Statutory Auditors)
Certificate of Financial Capacity**

| | Net Worth as on ____________ | | Rate of Exchange applied |
|-----------------------|--|-------------------|--------------------------------|
| | In home Currency (Specify currency) | In INR Equivalent | |
| Name of Sole Bidder * | | | |
| Lead Member * | | | |
| Other Member 1 * | | | |
| Other Member 2 * | | | |
| TOTAL | | | |

* Strike off whichever is not applicable

{Signature}
 {Name & membership No of Partner /Proprietor}
 {Name of the audit firm :}
 {Firm Identification No}
 {Seal of the Audit Firm}

Note:

1. Each Consortium Member, or Affiliate/Parent/ Subsidiary whose financial data is relied on to meet Minimum Eligibility Criteria, shall provide details of its own Certificate of Financial Capacity.
2. For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees 65 (sixty five) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.
3. Net Worth shall be computed as per the definition of Net worth given in the RFP as at the end of the Latest Audited Financial Year.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

Appendix I
Annex-IV

In the event that credit is being taken for the Eligible Experience of an Affiliate / Parent or Subsidiary Company, as defined in RFP, the Bidder should also provide a certificate in the format below:

**Certificate from Statutory Auditor/ Company Secretary regarding Affiliate or Parent
Company or Subsidiary Company**

(To be issued in the Letterhead of the Audit Firm/ Company Secretary)

Based on the authenticated record of the company, this is to certify that more than [50% (fifty per cent) in case of Parent / Subsidiary OR 26% (twenty six percent) in case of Affiliate] {strike out whichever is not applicable} of the subscribed and paid up voting equity of(name of the Bidder / Affiliate/Parent or Subsidiary) is held as on 31st March 2018, directly or indirectly by (name of Affiliate or Parent / Subsidiary / Applicant). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Affiliate or Parent or Subsidiary as defined in the RFP.

A brief description of the said equity held, directly or indirectly, is given below:

{Describe the share-holding of the Bidder and the Affiliate or Parent or Subsidiary.}

{Signature}
{Name & membership No of Partner /Proprietor}
{Name of the audit firm}
{Firm Identification No}
{Seal of the Audit Firm}

\$ In the event that the Bidder exercises control over an Affiliate or Parent or Subsidiary Company by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

Appendix I
Annex-V

Statement of Legal Capacity

(To be forwarded on the letterhead of the Bidder / Lead Member)

Ref.

Date:

To,

**Managing Director,
Kerala State Industrial Development Corporation Ltd. T.C.
XI/266, Keston Road, Kowdiar, Thiruvananthapuram, Kerala –
695003**

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the application) satisfy the terms and conditions laid out in the RFQ document.

We have agreed that (insert member's name) will act as the Lead Member of our consortium.*

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf* and has been duly authorized to submit the RFP. Further, the authorized signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorized signatory)

For and on behalf of.....

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

APPENDIX II
Power of Attorney for signing of Bid
(To be executed on Non Judicial Stamp Paper of relevant jurisdiction)

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr/ Ms (name), son/daughter/wife of and presently residing at....., who is presently employed with us / the Lead Member of the Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the “Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership on Swiss Challenge route” (hereinafter referred to as “the Project”) proposed or being developed by the Kerala State Industrial Development Corporation Ltd. (the “Authority”) including but not limited to signing and submission of all bids and other documents and writings, participate in pre-bids and other conferences and providing information/ responses to the Authority, presenting us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 2.....

For

.....

(Signature, name, designation and address)

Witnesses:

1.

2.

Appendix II

Page 2

(Notarized)

Person indentified by me/ personally appeared before
me / signed before me/ Attested / Authenticated*
(* Notary to specify as applicable)

(Signature, Name and Address of the Notary)

Seal of the Notary

Registration Number of the Notary

Date: _____

Accepted

.....
(Signature)

(Name, Title and Address of the Attorney)

Notes:

- fl *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- fl *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- fl *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Apostille certificate.*

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

APPENDIX –II A

Power of Attorney for Lead Member of Consortium (To be executed on Non Judicial Stamp Paper of relevant jurisdiction)

Whereas, the *Kerala State Industrial Development Corporation Limited* (“the Authority”) has invited Bids, from qualified parties for ““Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership (“the **Project**)”.

Whereas, _____, _____, and _____ (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s Bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, _____ having our registered office at _____, M/s. _____, having our registered office at _____, and M/s. _____, having our registered office at _____, [the respective names and addresses of the registered office] (hereinafter collectively referred to as the “**Principals**”) do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s

_____, having its registered office at _____, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “**Attorney**”) and hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the Bidding Process and, in the event the Consortium is awarded the Concession/ Contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its Bid for the Project, including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in Bidders’ and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the Bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s Bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____ 20**.

For _____ (Name & Title)

For _____ (Name & Title)

For _____ (Name & Title)

Witnesses:

1

2

(Executants)

(To be executed by all the Members of the Consortium)

Notes:

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Also, wherever required, the bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this power of attorney for the delegation of power hereunder on behalf of the bidder.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

APPENDIX III

Format of BOQ for reference purpose only and not for submission in hard copy.

Tipping Fee as on bid due date

(To be submitted online and in a separate envelope with covering letter)

| Tipping Fee (Rs. / MT) | |
|--------------------------------|--|
| (Rs in figures) | |
| (Rs in words) | |

Appendix – IV Joint Bidding Agreement

(Applicable for incase of Consortium)
(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of
..... 20....

AMONGST

1. {..... } having its registered office at (hereinafter 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 (hereinafter referred to as the “Second Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {.....} having its registered office at (hereinafter referred to as the “Third Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)}♣

The above mentioned parties of the FIRST, SECOND and, THIRD PART are collectively referred to as the “Parties” and each is individually referred to as a “Party”

WHEREAS,

A. _____, established under the _____, represented by its _____ and having its principal offices at _____] (hereinafter referred to as “the Authority” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bids (the “Bids”) by its Request for Proposal dated(the “RFP”) for selection of bidders for _____”,Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership’ (the “Project”) through public private partnership.

♣ The number of Parties will be shown here, as applicable, subject to a maximum of 3 (three).

- B. The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project.
- C. It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. Consortium

The Parties do hereby irrevocably constitute a consortium (the “Consortium”) for the purposes of jointly participating in the Bidding Process for the Project.

The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Affiliate or Parent or Subsidiary Company.

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “SPV”) under the Indian Companies Act 1956 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Contractor in terms of the Concession Agreement for the Project.

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 Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Concession Agreement when all the obligations of the SPV shall become effective;
- b) {Party of the Second Part shall be _____ and}
- c) {Party of the Third Part shall be _____ }

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 of the RFP document and the Concession Agreement.

6. Shareholding in the SPV

6.1. The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:

First Party:

Second Party:

{Third Party:}

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

The Parties undertake that the members in the consortium shall hold equity as follows:

6.2. In case the Consortium is selected as the Selected Bidder, the Lead Member and a member of the Consortium meeting either technical capacity or financial capacity shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV until 5th anniversary of COD.

6.3. The members of the Consortium along with its Affiliate or Parent or its Subsidiary Company (whose technical or financial experience has been claimed for qualification) shall collectively hold at least 100% (hundred per cent) of the subscribed and paid up equity of the SPV at all times until the 5th anniversary of COD.

6.4. The Parties shall comply with all equity lock-in requirements set forth in the Concession Agreement.

7. Representation of the Parties

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

- a. Such Party is duly organized, validly existing and 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 authorized 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 Consortium Member 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 organizational documents thereof;
 - iv. violate any clearance, permit, concession, grant, license or other governmental authorization, 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 interests, 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

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

- 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 fulfillment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not qualified or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

9. Miscellaneous

This Joint Bidding Agreement shall be governed by laws of India.

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.

SIGNED, SEALED AND DELIVERED
For and on behalf of

LEAD MEMBER by:

SECOND PART

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

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

SIGNED, SEALED AND DELIVERED For
and on behalf of

SIGNED, SEALED AND DELIVERED
For and on behalf of

THIRD PART

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

SIGNED, SEALED AND DELIVERED
For and on behalf of

In the presence of:

1.

2.

RFP for Development of Integrated Solid waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster t under Public Private Partnership

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as 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 Consortium Member.

For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

Appendix – V
Technical Proposal

| | Item | Total |
|---|---|--------------------------|
| 1 | Number of years that the bidder has experience in successfully operating Waste to Energy Plants | [fill in no of years] |
| 2 | Number of Waste to Energy projects implemented during the past 5 (five) years | [fill in no of projects] |
| 3 | Energy produced in units in the last financial year from the Waste to Energy projects implemented by the Bidder | [fill in MWh] |

Date: _____ (Signature, name and designation of the Authorised Signatory)
Place: _____ Name and seal of the Bidder

Note:

1. If the bidder is a single specified entity, the stipulated criteria shall be fulfilled by the bidder itself or through its Affiliate or Parent or Subsidiary. If the bidder is a consortium or joint venture, the stipulated criteria shall be fulfilled by any member of the consortium by itself or through its Affiliate or Parent or Subsidiary, wherein the equity share of that member in the SPV shall be as specified in clause 5.4 of the RFP document.
2. If any of the criteria is met through Affiliate or Parent or Subsidiary, Supporting Document specified above to prove the relevant criteria shall be submitted for such Affiliate or Parent or Subsidiary, as the case may be. The Bidder shall also submit a Certificate from the Statutory Auditors or Company Secretary demonstrating the relationship with the applicant in the format given in Annex-IV of Appendix – I.
3. If the stipulated criteria, either in full or in part, is fulfilled by the Bidder/member of Consortium through its Affiliate or Parent or Subsidiary, it shall submit an undertaking from such Affiliate or Parent or Subsidiary to the effect that the experience of such Affiliate or Parent or Subsidiary shall be available for the use of the bidder if selected for implementation of the project.

[The following table shall be filled in for the Applicant and for each member of the Consortium]

Bidder/ Legal Name: [insert full name]

Date: [Insert day, month, year]

Consortium Members Legal Name: [insert full name]

Page [Insert Page Number] of [Insert total number of pages]

RFP for Development of Integrated Solid Waste Management Project with a Waste to Energy plant of minimum 300 TPD Processing capacity on Design, Build, Finance, Operate and Transfer (DBFOT) basis at Vizhinjam for Thiruvananthapuram cluster under Public Private Partnership

| SI No | Starting Month/Year | Ending Month/Year | Contract Identification | Role of Applicant | Certificate provided |
|-------|---------------------|-------------------|---|----------------------------------|---|
| | [Month/Year] | [Month/Year] | Project Name: Brief Description of the Project performed by the Bidder: [describe the works performed briefly] Client Name: Investment/Cost: Energy produced: | [Implementation /Operation etc.] | [Work Orders & Invoices OR Work completion Certificate/ satisfactory client Certificate or other evidence, certified by Statutory Auditors.] (Please attach) |

Annex 2: Technical Plan Data Sheet

[Please attach detailed Technical Plan of length not more than 50 pages as per clause 28.3.2 (xiii), covering the following aspects]

| | |
|----------------------|--|
| Secondary Collection | <ul style="list-style-type: none"> ▪ Secondary collection strategy from all types of waste sources with collection time from each during the day ▪ Any collection methodology (e.g., automated, semi-automated, one- or two-person crews, etc.), including discussion of special methods (if any) for collecting in narrow streets, courts, and alleys and special method (if any) for serving particular regions ▪ Number of and description of the collection vehicles to be utilized (e.g. vehicle description, manufacturer and model number, cost, capacity, age, lease or ownership arrangements, etc.) ▪ Any plans to make available bins to collect solid waste, recyclables or organic materials in various sizes ▪ City wide waste collection - pickup approach & strategies ▪ Monitor and report the volume, weight, frequency of pickup, recycled materials and all other relevant metrics on a periodic basis |
| Segregation | <ul style="list-style-type: none"> ▪ Strategy and action plan for promoting segregation either at source (optional) or centralized at waste processing site or their combination ▪ Proposed Segregation process, tools, equipment and machine at Project Site including its effectiveness & limitations ▪ Identify the best markets for all non-usable and non-degradable materials in the solid waste and arrange for the collection, segregation, processing and transportation of these resources to ensure materials enter those markets. This shall include all such non-usable and non-degradable materials in this plant, but not limited to, Metals, plastics, glass, electronics, Rubber, Tyre, Upholstery, Leather, Bags etc. ▪ Requirement of land and product/process disposition diagram on the land |
| Transportation | <ul style="list-style-type: none"> ▪ Proposed plan for pick-up schedule (regular & emergency if any), transportation from waste streams, including frequency, pickup points, alerting of waste generators, bin cleaning and routing strategies etc. ▪ Measure waste destined for disposal, maintain accurate records of each pickup's weights and volumes for transportation and disposal. ▪ Vehicle Planning, Scheduling & dispatching ▪ Strategies and use of ICT/IOT, if any |
| Processing | <ul style="list-style-type: none"> ▪ Detailed description of proposed technology to generate energy as well as 10% waste discharge including process flow diagrams for waste processing with its success stories and demonstration, including technology limitations, if any ▪ Expected number of average units of electricity generation out of each tonnes of solid waste collected ▪ Details of material balance, input/output, average throughput, power/water consumption etc., appropriateness and relevance of the technology, its track record and how it will ensure 10% |

| | |
|---------------------------|--|
| | <p>waste discharge & adherence to pollution control standards & environmental laws etc.</p> <ul style="list-style-type: none"> ▪ Intermittent processes e.g. Drying, Refuse Derived Fuel (RDF) Pelletization, digestion etc. ▪ RDF Pellets selling strategy and quantum during operation phase or subsequently as per evolved strategy. ▪ Biogas selling strategy if bio-methanation is used ▪ Fertilizer selling strategy if bio-methanation is used ▪ Grid connectivity – ensuring voltage & frequency stability and sustainability of power supply during the day ▪ Plant Maintenance & Management schedule with spare management & redundancy and other aspects for continued power supply and zero downtime for the plant. ▪ Requirement of land and product/process disposition diagram on the land ▪ Technology specific interventions & innovativeness ▪ Handling & Management of Byproducts of Processing unit e.g. fly ash due to combustion, Bio-digester residues etc. to ensure zero waste discharge ▪ Environmental emissions including flue gas emissions & Social issues and their mitigation strategies to meet Indian/state standards. Details of flue gas treatments viz; scrubbing, neutralization and filtration to be included. ▪ A detailed cost & revenue analysis for the activity |
| Disposal | <ul style="list-style-type: none"> ▪ Overall disposal ratio at landfill site (less than or equal to 10%) ▪ Type and variety of disposals (if any) with justification for no scientific process to reuse, recycle or decompose it. ▪ Comply with all applicable laws governing the recycling, storage, transportation, treatment and disposal (if any) of waste ▪ Environment & Social issues and their mitigation strategies |
| Implementation Strategies | <ul style="list-style-type: none"> ▪ Design standards and basis of calculation of capital and operating costs. The estimated project costs for the entire project life-cycle should be provided, including clearly the capital cost to be incurred ▪ Present the type, quantity and periodicity of replacement of infrastructure (bins, push -carts, tools) and vehicles to be provided for execution of the project ▪ Set out the area utilization plan for the New Site and Project Facilities including the secondary waste collection bins, processing facility, any other facilities and common areas etc. ▪ Implementation Plan – present a detailed activity schedule along with milestones in line with the requirements set out in the Concession Agreement. This should include a schedule for procuring installing, deploying equipment (including bins & ancillary equipment as applicable) for collection, transportation and processing of solid waste in the Site. This should also outline the timeline envisaged for obtaining various Government approvals ▪ Planning, development & implement strategy based on a greenhouse concept ▪ Operational strategy of the processing plant to ensure 24x7 uninterrupted operations ▪ Strategy to tackle gaseous emissions and meeting of Indian emission standards |

| | |
|----------|---|
| Manpower | <ul style="list-style-type: none">▪ Bidders should present the calculations for manpower requirement for different parts of the SWM value-chain.▪ Proposed organization structure and composition of the project and operational team to be presented, including staff deployment plan, number of shifts per day of operations and roles and responsibilities Bidders should indicate the number of staff to be sourced locally. |
|----------|---|

Appendix – VI Technical Capacity

Bidder/ Legal Name: [insert full name]

Date: [Insert day, month, year]

Consortium Members Legal Name: [insert full name]

Page [Insert Page Number] of [Insert total number of pages]

| Starting Month/Year | Ending Month/Year | Contract Identification | Role of Applicant | Certificate provided |
|------------------------|----------------------|--|---------------------------------------|--|
| [Month/Year] | [Month/Year] | Project Name: Brief Description of the Project performed by the Bidder: [describe the works performed briefly] Client Name: Investment/Cost: Energy produced: | [Design & Development/Operation etc.] | [Work Orders & Invoices OR Work completion Certificate/ satisfactory client Certificate or other evidence, certified by Statutory Auditors.] (Please attach) |

**Appendix – VII:
Swiss Challenge Proposal**