

Pawan Hans Limited (PHL) – Reply to Queries raised by Interested Bidders

Query	Reply
Qualification Related Points/ Consortium/ Other Issues	
<p>1. INR 5 Lac as Fee for EOI: Regarding refund or adjustment of fee for IBs who had submitted Rs. 5 lakhs along with EOI in terms of earlier PIM issued on October 13, 2017</p>	<p>IBs who had submitted Rs. 5 lakhs along with EOI in terms of earlier PIM issued on October 13, 2017 would be specifically intimated about any instructions pertaining to the same, if required</p>
<p>2. INR 5 Lac as a Non-refundable Fee for EOI: Please refer page 40 clause V sub clause 1 - The PIM requires Interested Bidder (IB) to deposit INR 5 lakhs as non-refundable fees for EOI. Please clarify if this fee is an EMD and if this is refundable in case the EOI or the bidding process is cancelled or withdrawn.</p>	<p>As described in Section 5 (Proposed Transaction) and Section 6 (Instructions For Submission of EOI), the fee is towards submission of EOI and not EMD and is non-refundable</p>
<p>3. Earnest Money Deposit at Stage II: Please refer Page 36 Clause 7 – Interested Bidder (IB) is required to deposit Earnest Money (EMD) at Stage II, if so required by GOI. Please specify the likely amount thereof</p>	<p>Relevant details may be provided at RFP stage</p>
<p>4. In case of Security Clearance failure by H1 bidder: Please refer Page 37 Clause 8- What happens if an H1 Bidder not having a Security Clearance gives an unreasonable bid to confuse the disinvestment process? Such a bid being unreasonable may be found difficult to be matched by H2 Bidder?</p>	<p>Decision in this regard will be made by GOI if such a situation arises</p>
<p>5. Employee Bids: Please refer Page 48, Clause 1 - It appears Employee Bids if found within 10% of the H1 bid, the same shall be considered for award. Please clarify that in such a case, Employee Bid shall be accepted at Employee Bid Value or the Employees shall be required to match the Highest Bid (H1) Offer?</p>	<p>Clauses (viii) to (xi) of Annexure 14 of the PIM may be referred in this regard</p>
<p>6. Charter Documents: Please refer Page 41 Clause (d)</p> <ul style="list-style-type: none"> • How would the IB or its member handle submission of Certificate of Commencement of Business if the same is not issued separately to a Pvt. Ltd Company? • What is meant by Charter Documents in case IB or its members 	<ul style="list-style-type: none"> • In the event that there is no legal requirement to obtain a certificate of commencement of business by a private company incorporated in India, the reasons for not providing the same shall be stated by the IB or members of consortium (as the case may be).

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<p>are a Pvt. Ltd Company?</p> <ul style="list-style-type: none"> • What is meant by Other Constitution Documents for a Pvt. Ltd Company? 	<ul style="list-style-type: none"> • In a private limited company incorporated in India, the Memorandum of Association, Articles of Association, and Certificate of Incorporation will constitute the Charter Documents. • Other Constitution Documents for a private limited company would mean and include the Certificate(s) of Incorporation since inception, all Articles of Incorporation, and Memorandum of Association, as may be applicable, including all amendments thereto.
<p>7. Audited Financial Statement: Please refer Page 42, what is meant by Consolidated Financial Statement in case of a Private Limited Company?</p>	<p>The same refers to consolidated financial statements prepared as per Accounting Standards and other statutory regulations applicable to the IB</p>
<p>8. Air Transport Service Operator (ATSO): Please provide the definition of the term ATSO with its meaning? Please also clarify whether the term ATSO includes and allows participation of NSOP holders in India as ATSO in terms of PIM.</p>	<ul style="list-style-type: none"> • Air Transport Service Operator has been defined on page no. 50 of Section 7 (Eligibility Criteria) of the PIM • ATSOs would also include NSOP operators which hold a valid Air Operator Permit issued by regulatory authorities in India
<p>9. Requisite Approvals from Authorities: Please refer Page 45 Clause XXII - IB or its member shall be required to obtain requisite approvals - Please clarify at which stage (Submission of EOI/ PIM, Stage II, Prior to definitive agreement or Award, or After Award)</p>	<p>Details, if any, may be provided at RFP stage*</p>
<p>10. SME Participation Criteria: Refer Eligibility Criteria at Page 48/49 - Can an entity owned by a Small Medium Entrepreneur having on board experienced aviation experts, be considered at par with ATSOs (for Financial Criteria - Net Worth & Profitability) if such SME entity bids in consortium with a lead financial partner</p>	<p>An entity to be considered eligible as an ATSO should satisfy the definition of ATSO as mentioned on page no. 50 of Section 7 (Eligibility Criteria) and other conditions applicable for ATSOs, as described in the PIM</p>
<p>11. Changes in Consortium Partners in State II: Refer Page 57 Clause 7 - Can the Lead Bidder modify/add/delete a consortium partner at Stage</p>	<p>A separate corrigendum will be issued in this regard, if required</p>

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<p>II if such partner wants to opt out after going through CIM or after visiting Data room?</p>	
<p>12. Net worth requirement: As per the PIM, the Net worth (NW) requirement for consortium members (Refer Page 49, Clause d(i) is combined net worth of all the members and calculated as: Combined NW of consortium= NW of member 1 + NW of member 2 + NW of member 3 However, on Example 2 of Financial Criteria Assessment in case of 3 member consortium (Refer Page 55), it reads that the consortium does not qualify as Member 2 does not meet minimum proportionate share (25%) of the NW criteria Please clarify whether NW calculation for consortium members are on proportionate basis or absolute basis? Further, we request that minimum net worth criteria for each member of the consortium should not be linked in respect to its shareholding in the consortium SPV, if the consortium with all its members meets the combined net worth criteria.</p>	<ul style="list-style-type: none"> • It is re-iterated that as per clauses 2 and 3 of Section 7 (Eligibility Criteria) of the PIM, except ATSOs holding up to 51% equity share capital of a Consortium, all entities should satisfy the minimum proportionate net worth requirement • Further, as per clauses 2 (a) and 3 (d) of Section 7 (Eligibility Criteria) of the PIM, consortiums (based on combined net worth) and sole bidders should satisfy the criteria for minimum Net worth of Rs. 500 crore
Litigation and Contingent Liabilities	
<p>13. Pending purchase orders for helicopters: It is requested if details on the Bell helicopter transaction and the status of the arbitration be provided. As visibility on the status of ongoing procurement tenders till the divestment is completed would assist the IB in submitting their response to the proposed transaction.</p>	<ul style="list-style-type: none"> • Kindly refer to Annexure I of this document for details and status of arbitration with Bell helicopters. Further details, if any, may be provided at RFP stage * • PHL does not have any immediate plans for further acquisition of helicopters. However, leasing of helicopters to meet business requirements will be considered by PHL as per need basis.
<p>14. Kindly advise on the status of the Bell litigation. What is the advance paid and the refund & interest that Bell has agreed to refund?</p>	<p>Kindly refer to Annexure I of this document for status of arbitration with Bell helicopters. Further details, if any, may be provided at RFP stage *</p>
<p>15. Status on contingent liabilities: The status of the contingent liabilities specifically for Delhi Government and its impact once change of ownership is triggered be provided. Further it is requested that the</p>	<p>The status of contingent liabilities has been provided on page 22 of Section 2 (Company Overview) of the PIM. Further details, if any, may be provided at RFP stage*</p>

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contingent liabilities be resolved before completion of the proposed transaction to the new equity holder.	
16. Will GOI indemnify the selected IB against the claims, VAT notices, Litigations that are currently open?	Details, if any, may be provided at RFP stage*
17. What are all the contingent liabilities? Please share detailed document against each of the current liabilities	Details about contingent liabilities have been provided on page 22 of Section 2 (Company Overview) of the PIM. Further details, if any, may be provided at RFP stage*
Business Related	
18. Real estate assets: As mentioned in the PIM the real estate assets are mostly on leasehold, it is requested if details on each of these including lease tenures etc. can be provided along with owned assets with their value. This being enquired as this has a direct implication on the bidding price which plays a major role in constituting the consortium.	Further details of real estate assets, if any, may be provided at RFP stage*
19. Leverage: It is requested ONGC's view on leveraging assets of PHL for raising structured finance for this acquisition be provided.	Details of conditions, if any, regarding the same may be conveyed at the RFP stage*
20. Asset valuation and physical inspection of the fleet: It is requested that details regarding when the IB will be allowed to physically audit the different assets belonging to PHL. Also, if details regarding the process for valuation of the assets have been calculated by the divestment committee be shared with the IB along with the ongoing contracts	Further details of fleet, if any, may be provided at RFP stage*. However, details of business or asset valuation of PHL shall not be shared with the IBs and IBs are expected to undertake their own assessment of the same.
21. Kindly share a breakup of the assets in a base wise manner listing tooling, equipment, and facilities at each base.	Details, if any, may be provided at RFP stage*
22. For the 11 routes that have been awarded to PHL under UDAN scheme, what is the deadline (date) to start and the penalties in case of failure to deploy? Please give details of helicopters (from fleet or new) that will be deployed for this?	Details, if any, may be provided at RFP stage*
23. Kindly share the status of the un-deployed machine. Please share a breakup of how many of these are grounded and for what reasons?	Details, if any, may be provided at RFP stage*
24. The EOI refers to insurance payments that are expected on account of	Details, if any, may be provided at RFP stage*

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previous accidents - what is the payout status of these insurances?	
25. Kindly confirm that the final IB will be free to make policy changes, implement workforce rationalization measure without any interference from the GOI/ONGC?	Details, if any, regarding the same may be provided at RFP stage*
26. Kindly provide the machine wise serviceability state for the last 6 months, major inspections due in next 24 months and to know how many assets are actually permanently grounded.	Details, if any, may be provided at RFP stage*
27. Change of ownership: It is requested if details of concessions / contracts / areas where the change of ownership clause exists which will have a negative impact on the future operations of PHL be provided.	Details, if any, may be provided at RFP stage*
28. Status of any staff related liabilities: Details on staff related liabilities whether in the balance sheet or contingent such as gratuity, PF, retirements / pensions, leave encashment etc. be provided	Details regarding the same are a part of the annual report for FY 17, which is available on PHL's website. Further information, if any, may be provided at the RFP stage*
29. Kindly provide the list of terminal benefits of the employees and their terms and conditions of employment (including VRS scheme, pension scheme, healthcare benefits etc. in place). Are there any provisional investments made for Employee insurance, gratuity. EPF, Leave encashment etc.	
30. List of all employees with demographics - average age by workforce type, department wise, qualifications etc.	Details may be provided at RFP stage*
31. Existing Client Contract: Please share the existing and future contracts that PHL is engaged in and will need to serve. This should include tenure, terms of contract, payment terms and penalties if any	Relevant details about PHL's contracts may be provided at RFP stage*
32. Order Book: Please share the current and projected order book of the company	Details, if any, may be provided at RFP stage*
33. Trade Payables: It is noted that trade payables are almost 22% of the total expense. Please share an itemized list of trade payables including aging of each payable.	Details, if any, may be provided at RFP stage*
34. Non-operating Assets: Please share an itemized list of all non-	Details, if any, may be provided at RFP stage*

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operating assets which are a part of disinvestment including the book value and tenure of each.	
35. Operating Assets: Please share an itemized list of operating assets which are a part of the dis investment process. Please include the book value, age and kilometers flown. Please also share the last audited health certificate for each of the asset.	
36. Inventory: There is an inventory listing of ~45 crore. Please share a line item detail of the same	
Finance Related	
37. Details about interest/ other income of PHL	Details regarding other income are a part of the annual report for FY 17, which is available on PHL's website
38. FY 16, FY 17 Annual Reports are not available on the website - these may be shared with the IB.	Annual reports of PHL are available on the following link: http://www.pawanhans.co.in/inner.aspx?status=2&menu_id=83
39. Changes in Profit and Loss Account: On comparing the financial details furnished in P&L account of the new PIM (as on 14/04/2018) with old PIM (as on 13/10/2017) the following changes were noticed which had a substantial impact on PHL's EBITDA margins <ul style="list-style-type: none"> • Decrease in Helicopter Operational & Maintenance Expense in FY 2015-16 (83cr) and FY 2016-17 (77 cr) • Increase in Depreciation and Amortization expense in FY 2015-16 (37cr) and FY 2016-17 (46 cr) • Increase in Extraordinary Items in FY 2015-16 (24 cr) and FY 2016-17 (64 cr) What is the purpose, basis and nature of such changes? How has the management adjusted for such changes? How have these changes impacted the operations and management of the company, if any?	Details regarding the same have been provided in Section 3 (Financial Performance of Company) of the PIM. Further details are available in the annual report for FY 17
40. Streams of revenue: Please share the last three years streams of	Details, if any, may be provided at RFP stage*

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revenue from operations and costs incurred in serving these streams (Account and route level detail as applicable)	
Other Queries	
41. Can the majority shareholder Brand/Re-brand some of the services - kindly clarify	There are no such restrictions presently in the PIM. Further updates, if any, may be provided at RFP stage*
42. ONGC is proposed to hold 49% of the share post the transaction. Will the minimum 3 year lock-in clauses that apply to the IB also apply to ONGC?	There are no such stipulations presently. Further updates, if any, may be provided at RFP stage*

IB: Interested Bidder; PIM: Preliminary Information Memorandum; RFP: Request for Proposal; NW: Net Worth; ONGC: Oil and Natural Gas Corporation Limited; ATSO: Air Transport Service Operator; CIM: Confidential Information Memorandum; EOI: Expression of Interest; GOI: Government of India; SPV: Special Purpose Vehicle; FY: Financial Year

Important Notice:

- ** At RFP stage, the shortlisted IBs, will be provided with CIM and access to the data room to review documents pertaining to PHL for conducting a due diligence on PHL. Each IB must seek its own advice from professionals for any matters pertaining to or relating to PHL or the Proposed Transaction or for evaluating the Proposed Transaction including with regard to legal, financial, commercial and taxation issues*
- *Kindly note that any requests or suggestions made which are not specifically accepted and commented on shall not be deemed to be accepted, at least at this stage and the Government reserves its rights to accept or reject such requests/suggestions at any stage in its sole discretion.*
- *The Disclaimer Notice enclosed as part of PIM dated April 14, 2018 shall apply to this document as well.*

Annexure I: Updated Status regarding PHL's Pending Purchase Orders Helicopters (originally detailed under Clause 2.8 of Section 2 (Company Overview) of the PIM dated April 14, 2018)

PHL was in the process of procuring 3 new medium helicopters from Bell Helicopters (Bell), for which the order was placed in August, 2016. The awarded order cost of procurement of the 3 helicopters was approximately Rs. 205 crore.

Out of the 3 helicopters, 2 were shipped by Bell and the same reached Mumbai with technical acceptance pending. However, as per PHL's Technical Committee recommendations, the helicopters could not be accepted due to deficient date of manufacturing as they did not meet acceptance parameters of the tender requirement and the purchase agreement. PHL also sought Legal Opinion on the same, subsequent to which PHL's Board opined that in view of the Technical Committee report, the Legal Opinion and Bell refusing to replace the offered helicopters, the helicopters in their present form could not be accepted, therefore there would be no alternative but to reject these helicopters and cancel the contract. The Board further advised PHL's management to invoke the Bank Guarantees (BG) furnished by Bell to recover the advance payments made by PHL. Bell subsequently filed an Other Miscellaneous Petition (OMP) in the Delhi High Court. In the meantime, High Court directed Citi Bank not to remit the amount under Bank Guarantees to PHL and to extend the BGs till end of November, 2017. Further, Bell issued notice for arbitration in the dispute and nominated its arbitrator and PHL also nominated a retired Justice of Supreme Court of India as its nominee arbitrator and the two arbitrators, in turn, nominated the third arbitrator.

On November 28, 2017, the Hon'ble Delhi High Court disposed-off the OMP as the Arbitral Tribunal stands constituted. The Court gave directions to Bell to file application under Section-17 of Arbitration & Conciliation Act before the Arbitral Tribunal and to extend the validity of BGs towards advance payment (expiring on November 30, 2017) for a further period of six months. The Court also directed for the stay on invocation of BGs to continue till the time a decision is passed by the Arbitral Tribunal. Accordingly, Bell extended the BG by another six months period.

Bell had approached PHL to amicably resolve the matter through settlement by way of repaying all advance paid to them for the purchase of helicopters along with interest. The settlement proposal of Bell was approved by the Board of PHL. However, PHL's advocates have informed them that M/s. Khaitan & Co., the Council for Bell Helicopters, had addressed an email on 1st May, 2018 to the arbitral tribunal that the settlement talks between the parties have failed and the arbitration will now resume. Notwithstanding, Pawan Hans Ltd. is in process of taking up the subject matter with Bell Management on the settlement proposal.