



STRATEGIC DIVESTITURE OF SRI LANKA TELECOM PLC

BID BULLETIN NO. 3

December 22, 2023

TO ALL PROSPECTIVE BIDDERS:

This Bid Bulletin No. 3 is issued by the Government of Sri Lanka through the Ministry of Finance, Economic Stabilization and National Policies, State Owned Enterprises Restructuring Unit in relation to the Request for Qualification (“RFQ”) dated November 10, 2023, to provide clarifications to the queries raised by Prospective Bidders in relation to the RFQ prior to the Clarification Request Deadlines, as set out in Annex A to this Bid Bulletin.

All other terms and conditions set out in the RFQ shall remain unchanged and unaffected.

ANNEX A

The following clarifications are being issued in response to the queries sought by the Prospective Bidders. All capitalised terms used below shall have the same meaning as ascribed to them in the RFQ.

S. No.	Queries	Clarification
1.	<p>Ref. Annex 3 – Pre qualification Criteria and Evidence 1(a): experience in owning and operating at least one Telecommunication Company with fixed access subscribers and/ or mobile access subscribers of at least 10 (ten) million, for a period of at least 4 (four) consecutive years in the past 10 (ten) years prior to the Prequalification Application Submission Deadline.</p> <p>Request you to kindly clarify as to what constitutes a “year”- whether it is financial or calendar year, to ascertain the prospective bidder’s eligibility/ qualification for this Bid.</p>	The Bidder shall demonstrate that it has experience spanning 4 (four) years, or, in other words, 48 consecutive months. These may span any calendar of financial year.
2.	<p>Ref. Annex 3 – Pre qualification Criteria and Evidence 1(a)</p> <p>Whether a Bidder meeting the above technical experience criteria ie to own and to operate at least one Telecommunication Company with fixed access subscribers and/ or mobile access subscribers of at least 10 (ten) million, during any 4 (four) consecutive financial years in the past 10 (ten) years including the current financial year will be eligible for participation in the RFQ.</p>	Experience incurred in the current financial year is acceptable.

<p>3.</p>	<p>Ref: Clause 4.3 (c) (i.) 1: A single Prospective Bidder may form a Consortium provided that such Prospective Bidder shall own (directly or indirectly) 51% or more of the overall equity interest in the Consortium;</p> <p>Though a single prospective bidder is permitted to form consortium, subject to condition of prospective bidder owing 51% or more of the overall equity interest in the Consortium, kindly clarify as to whether a single prospective bidder can change its shareholding pattern by inducting new shareholders during the bidding process? i.e., can the prospective bidder who is qualified in the RFQ stage can induct new shareholders before the RFP or final bid submission.</p>	<p>Refer to clause 4.1 (e) and 4.3 (c) and Bid Bulletin 1.</p> <p>Also note that the prospective Bidder <u>must continue to meet the Prequalification Criteria throughout the tender process in accordance with the terms of the RFQ.</u></p>
<p>4.</p>	<p>Is there any restriction on changing the shareholding pattern of the successful bidder post completion of the bidding process?</p>	<p>Rules related to the change in ownership of the Successful Bidder will be provided in the RFP.</p>
<p>5.</p>	<p>We understand that a prospective bidder participating in the bidding process can be changed between the RFQ and RFP to a group entity if the qualifying criteria is satisfied, and the parent entity remains the same.</p> <p>Are there any approvals required in case the parent company of both the companies i.e., the earlier participant and substituted bidder are one and the same?</p>	<p>Any change will need to be approved by GoSL in their exclusive and absolute discretion as per the provisions of Clause 4.1 (e) of the RFQ. The Consortium and its members should continue to satisfy the Technical, Financial and Legal Qualification Criteria throughout the tender process.</p>

<p>6.</p>	<p>The following facts may be considered for responding to the query. A Parent / holding company was owing more than 99% of the equity shares of the Operating Company (Telecom Company) since 2010 and the telecom project commenced in 2010 with the commercial launch of services in 2016. The Telecom Company has core experience in operating in telecom sector more than seven (7) years of experience. In 2019, the Parent company restructured its shareholding in the Telecom company by incorporating a subsidiary to attract more investment and business, thereby making the Telecom company a step-down subsidiary of the Parent Company. The newly created subsidiary holds 100% of the equity shares of the Telecom Company. As on date the Parent Company holds more than 51 % in the newly created subsidiary company which is holding 100% stake in the telecom Company.</p> <p>In view of the above facts,</p> <p>(a) Can the Parent Company or its subsidiary company (which is holding the telecom company) or the Telecom company itself be qualified to be a Bidder jointly or severally? or</p> <p>(b) Whether any subsidiary company incorporated by any of the above entities, relying on their qualifications will be eligible to be the bidder.</p>	<p>a) This could be acceptable.</p> <p>b) As per the provisions of the RFQ, a Prospective Bidder can evidence that it satisfies the Technical and Financial Qualification Criteria through the experience of its Parent company. The Legal Qualification Criteria must be satisfied by the Prospective Bidder itself (if single entity), or by each Consortium Member (if a Consortium).</p>
<p>7.</p>	<p>If a special Purpose Vehicle (SPV) is created for bidding from any jurisdictions including Sri Lanka, would it suffice for the holding company (whose qualifications are relied on) to hold a minimum of 51% of stake in the SPV directly or indirectly and the rest of the equity holding be held by other investors including financial, strategic investors etc.</p>	<p>This would be acceptable as long as the Consortium as a whole meets the Technical and Financial Qualification Criteria and each Consortium Member satisfies the Legal Qualification Criteria.</p>

8.	Whether the prospective bidder which is a wholly owned subsidiary of its parent company or a subsidiary where the parent company holds equity stake more than 51% is permitted to dilute up to 49% of the equity stake through investors post RFQ and before the award of the Bid or execution of definitive agreements?	As per the RFQ amendment of Clause 4.3 c) i), published in Bid Bulletin 1, a change to the composition of a Consortium, shall be allowed only when the original Prospective Bidder (be it a single bidder or a Consortium) shall continue to own (directly or indirectly) 51% or more of the overall equity interest in the Consortium.
9.	Whether the Principal Bidding entity has the flexibility to incorporate / invest in/ through SPV even before or after the award of the Bid.	An SPV can be incorporated at any point in time by the Prospective Bidder (whether a single bidder or a consortium) as long as the SPV is in place prior to the execution of the Definitive Agreements.