

**Evaluation Report
on
Expression of Interest for Short Listing of Consultants for
Transaction Advisors to Ministry of Mines**

Sustainable Development of Natural Resources Project (Phase-II)

**Ministry of Mines
Islamic Republic of Afghanistan**

May 2012

Evaluation Report on Expression of Interest for Short Listing of Consultants for Transaction Advisors to Ministry of Mines

1. Background

The Government of the Islamic Republic of Afghanistan (the “Government”) has received a grant from the World Bank to support the Second Sustainable Development of Natural Resources Project (“SDNRP II”) in Afghanistan. SDNRP II aims to assist Afghanistan’s Ministry of Mines (“MoM”) to foster private sector development of Afghanistan’s mineral resources in a transparent and efficient manner. In support of these goals, a Program Management Unit (“PMU”) within the MoM is seeking to hire a Transaction Advisor to assist the MoM with various legal and commercial matters relating to mineral rights awards.

2. Major Tasks Within the Scope of Services

Task 1: Prepare Licenses and Agreements for Hajigak Iron Ore Deposit

The MoM has recently concluded an international competitive tender leading to the award of mineral rights to explore and develop the Hajigak iron ore deposit. Following the successful conclusion of mining contracts with the winning bidders, the Transaction Advisor will assist the MoM to prepare the necessary mineral license documentation. The Transaction Advisor will also assist the MoM in negotiating and drafting any ancillary agreements related to the Hajigak mining contracts, such as agreements for the construction of required infrastructure, security arrangements, procurement of local goods or the employment of local persons. The Transaction Advisor is required to attend all negotiations and, pursuant to the general policies of the Ministry of Mines, all negotiations related to projects involving private sector development of Afghanistan’s natural resources are required to take place in Afghanistan. Finally, the Transaction Advisor will work with MoM personnel to develop the requisite capacity to monitor compliance with the mining contract and carry out the MoM’s contractual responsibilities.

Task 2: Design and Implement Tender of the Sya Dara Iron Ore Deposit

The Transaction Advisor will assist the MoM in the design and implementation of an international competitive tender process leading to the award of mineral rights to explore and develop the Sya Dara iron ore deposit.

Specific objectives for the tender process are to:

- generate a high level of interest in the project from leading private sector companies in the global mining industry;
- provide procedural clarity and certainty to prospective bidders;
- ensure fairness and transparency in the bidding and evaluation process;
- preserve sufficient flexibility to enable the MoM to negotiate the highest returns for Afghanistan and its people; and
- conclude a mining contract and any necessary ancillary agreements with a preferred bidder that has demonstrated its managerial and technical competence, financial strength, compliance with applicable social and environmental requirements and commitment to follow international best practices for sustainable development.

Task 3: Design and Implement Tender of the Northern Aynak Copper Deposit

The Transaction Advisor will assist the MoM in the design and implementation of an international competitive tender process leading to the award of mineral rights to explore and develop the Northern Aynak copper deposit. Specific objectives for the tender process will be the same as those described above for Task 2.

3. Invitation of EOI

EOI of this Consultancy services was published in Anis national newspaper on 18th March 2012 and through ARDS website on 14th March 2012. In addition it was published in UNDB and DG Market journal on 13th March 2012. EOI submission closing date was April 09, 2012. Up to the deadline total 05 (five) EOIs were received. A Proposal Opening Committee has been formed by Ministry of Mines to open the EOIs comprising of the following members shown in Table 1.

Table 1: Composition of Proposal Opening Committee

Sl	Name , Designation & Agency
1	Mr. Mohammad Haroon Naim, PMU Director of Operations
2	Mr. Abdul Moeen Zarif, PMU Procurement Officer
3	Mr. Abdul Ghafar Mateen, PMU Procurement Assistant

4. Proposal Evaluation Committee (PEC)

A Proposal Evaluation Committee (PEC) has been formed by Ministry of Mines to evaluate the proposals received against the REOI for the procurement of Consultants for Transaction Advisors to Ministry of Mines comprising the following members as shown in Table 2:

Table 2: Composition of Proposal Evaluation Committee

Sl	Name , Designation & Agency
1	Mr. Jalil Jumrani, Director General Policy & Promotions
2	Mr. Said Zaman Hashemi, Legal Director
3	Mr. Shaheer Shahriar, Director of Cadastre
4	Mr. Mohammad Haroon Naim, PMU Director of Operations

5. Proposal Opening

EOI submission dead line was April 09, 2012. Upton the deadline total 05 (five) EOIs were received. The name of the firms submitted the EOIs are shown in Table 3:

Table 3: the name of the firms submitted the EOIs

No	Name of the companies	Country	Date of Submission of Hard Copy	Date of Submission of Soft Copy	Full Contact Details
1	FICHNER WATER & TRANSPORTATION GmbH	Germany		April 5, 2012	Claus.krebs@fichtner.de
2	SNR DENTON Kazakhstan Limited & Satchu Zhouand, Lawyers and Advisors	Republic of Kazakhstan		15 th April 2012	Maria.valdez@snrdenton.com , zhouand@satchuandzhouand.com
3	ATOS consulting & technology services	United Kingdom		15 th April 2012	Rahzeb.chowdhury@atos.net
4	CURTIS , MALLET-PREVOST, COLT & MOSLE LLP	Washington DC		15 th April 2012	212 696-6000
5	BDCA Advisors , LLC (BDCA)	USA		15 th April 2012	jbowen@momentumcompanies.com

6. Evaluation Procedures

Proposal Evaluation Committee's meeting were held on 22 April & 23 April 2012 for short-listing the consultants. After detailed scrutiny and threadbare discussion keeping in view the guidelines, the Committee arrived at a decision to develop and approved an appropriate format contained sub criteria for collecting relevant information from the EOIs received. The committee members did scrutiny of the EOIs on 2nd May 2012 . At the beginning of the meeting the Convener of PEC appraised all the members regarding the assignment. The details of evaluation sub criteria are described in Table 4.

Table 4: Detail Evaluation Criteria & Sub Criteria

SL	Criteria	Sub -Criteria
1	Firm's Capability	Firm's facilities and areas of expertise
2	Availability of appropriate skills among staff	Availability of staff
3	Demonstrated capacity to handle the assignment in terms of resources	3.1 Qualifications of key staff
		3.2 Organization and staffing
		3.3 Understanding of the assignment
		3.4 Financial Strength

4	Experience in similar tasks	4.1 Specific Experience in Licenses and Agreements preparation
		4.2 Design and Implementation of Tender for mineral rights explored and developed.
		4.3 Afghan mining sector and the tender process.
5	Other Experience	Experience in legal and financial advisory practice, large infrastructure projects, preparation of agreements for the construction of power plants, roads and related project operations.

In each criteria four grades by letters A, B, C and D were used based on the information /supporting documents in the EOIs proposals. Letters A, B, C and D stand for Excellent, Good, Satisfactory and Poor respectively.

The Committee followed the World Bank's Procurement Guidelines: Selection and Employment of Consultants by World Bank Borrowers (January 2011). The PEC considered the qualification and competence of the concerned firms for selection of consultants.

7. Analysis and Findings

The Committee reviewed and checked all the documents submitted by the firms with its EOI and analyzed the information following the evaluation procedure. PEC observed that up to the deadline only five firms submitted EOI. The PEC decided to grade the entire 5 firms based on evaluation criteria and kept in view that less competition does not take place in upcoming selection process.

Sustainable Development of Natural Resources Project (Phase-II)
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EOI Evaluation for “Transaction Advisors to Ministry of Mines”

Firm & origin	Firm's Capability	Availability of Appropriate skills among the staff	Demonstrated capacity to handle the assignment in terms of resources				Experience in similar tasks			Other Experience
1	2	3	4	5	6	7	8	9	10	11
	Firm's facilities and areas of expertise	Availability of staff	Qualifications of key staff	Organization and Staffing	Understanding of the assignment	Financial Strength	Specific Experience in Licenses and Agreements preparation	Design and Implementation of Tender for mineral rights explored and developed	Afghan mining sector and the tender process.	Experience in legal and financial advisory practice, large infrastructure projects, preparation of agreements for the construction of power plants, roads and related project operations.
	Grade A/B/C/D	Grade A/B/C/D	Grade A/B/C/D	Grade A/B/C/D	Grade A/B/C/D	Grade A/B/C/D	Grade A/B/C/D	Grade A/B/C/D	Grade A/B/C/D	Grade A/B/C/D
	Grade A: Excellent; Grade B: Good ; C : Satisfactory ; and D : Poor									
FICHNER WATER & TRANSPORTATION GmbH	A	A	A	A	A	A	A	A	A	B
SNR DENTON Kazakhstan Limited & Satchu Zhouand, Lawyers and Advisors	A	A	A	B	A	C	A	A	A	B
ATOS consulting & technology services	A	A	A	B	A	C	A	A	A	B
CURTIS , MALLET-PREVOST, COLT & MOSLE LLP	A	A	A	B	B	C	A	B	A	A
BDCA Advisors , LLC (BDCA)	A	B	A	B	A	C	A	A	A	B

8. Recommendations

Based on the above mentioned findings and analysis (annexure-1), the PEC's recommendations are as follows:

- (1) The following 5 (five) firms (not as per merit) may be considered as short listed for the consultancy services:

Sl No	Name of Applicant firm and associates Consultant firm	Country of origin	Remark
1.	FICHER WATER & TRANSPORTATION GmbH	Germany	
2.	Lead firm: Satchu & Zhouand (S&Z) Lawyers & Advisors Associates: SNR DENTON Kazakhstan Limited Chris Morgan Associates (CMA)	Republic of Kazakhstan	
3.	Lead firm: ATOS consulting & technology services Associates: Baker & McKenzie	United Kingdom	
4.	CURTIS , MALLET- PREVOST, COLT & MOSLE LLP	Washington DC	
5.	BDCA Advisors , LLC (BDCA)	USA	

- (2) To issue the Request for Proposal (RFP) in favor of the above five firms.

(Mohammad Haroon Naim)
PMU Director of Operations

(Shaheer Shahriar)
Director of Cadastre

(Said Zaman Hashemi)
Legal Director

(Jalil Jumrani)
Director General Policy & Promotions

Approved by:
H. E. Wahidullah Shahrani, Minister of Mines

Strength and Weakness of the short listed consulting firm:

1. FICHNER WATER & TRANSPORTATION GmbH

FICHNER presents a sophisticated Expression of Interest that demonstrates their wide experience along with their specific knowledge for the Transaction Advisors to Ministry of Mines.

FICHNER has a pool of capable experts. The EOI shows that FICHNER has vast international experience in Mining Sector and worked in Afghanistan. It has also experience in large infrastructure projects & construction of power plants, and related project operations. But the EOI does not show experience in legal advisory practice.

2. Satchu Zhouand (“S&Z”), SNR Denton, & Chris Morgan Associates (CMA):

Satchu & Zhouand (S&Z) Lawyers & Advisors in association with SNR Denton and Chris Morgan Associates (CMA) jointly submit the expression of interest.

CMA is an international natural resources and energy resources consultancy firm. **CMA** has advised governments and global businesses on the negotiation of mineral exploitation rights. It has experience of advising Mining, Metals and Industrial Minerals companies, Governments and Financial Institutions related to business planning, exploration methods and priorities, mine planning and development, mineral and metals processing and raising funds to meet Project financing requirements.

SNR Denton is a global law firm. **SNR** has negotiated mining and oil and gas concessions in Central Asia.

S&Z has formed in January 2011 and provides legal and regulatory advice and strategic government advisory services for the Afghan market. The firm’s exclusive focus is on providing advice on Afghan related matters. The firm is staffed with a combination of Afghan, United States and Australian qualified lawyers. The firm has licensed to provide Afghan law advisory service to Afghan and foreign corporate and Government Organizations.

The Joint venture in combined has a team of expert to carry out the proposed assignment. The EOI does not show clear confirmation about financial strength but from the firms experiences reveal that the Joint Venture is financially capable.

CMA & SNR Denton are capable to complete the project separately. But S&Z has not the capability to complete the project alone. In view of capacity building in local country, the S&Z has considered as joint venture partner.

3. ATOS consulting & technology services JV with Baker & McKenzie

ATOS consulting & technology services submitted its EOI in Joint Venture with Baker & McKenzie.

ATOS consulting & technology services has experienced in strengthening private sector, public administration reform, capacity building, development of financial models and

restructuring the electricity distribution activities. But ATOS has less experienced in mining sector.

Baker & McKenzie is a law firm. Baker & McKenzie has experienced in mining and metals industry. Experienced includes projects of varying scale and at various stages of development in: coal, iron ore, copper, nickel, chromium, gold, lead/zinc, manganese, mineral sands, platinum, silver, uranium and rare earths.

The JV has proposed a team of experts with adequate qualification. The EOI does not show clear confirmation about financial strength but from the firms experiences reveal that the Joint Venture is financially capable.

ATOS consulting & technology services and Baker & McKenzie are capable to execute the project individually.

4. CURTIS , MALLET- PREVOST, COLT & MOSLE LLP

Curtis, Mallet-Prevost, Colt & Mosle LLP is a law firm. Curtis clients operate in the full range of natural resource activities, including extraction, mining, processing, refining and trading of mineral resources, as well as oil and gas exploration and development, refineries, substations, greenfield facilities, power plants, terminals, tankers, pipelines, and transmission lines. Members of the practice advise natural resource clients in project development, project financings, negotiation of concessions, new plant development and financing, terminal and warehouse operations, shipping and other operational and commercial matters.

The firm has experienced in the mining and natural resource sectors. Curtis has proposed a team of experts with adequate qualification. The EOI does not show clear confirmation about financial strength but from the firm experience reveal that the firm is financially capable.

Curtis has less experience in the design and implementation of international competitive tender process.

5. BDCA Advisors , LLC (BDCA), USA

BDCA has legal and financial advisory experienced, particularly in development and implementation of mineral resource tenders and development of financial models and work programs.

BDCA has the expertise in Afghan legal requirements applicable to mining sector and the tender process, including a working knowledge of the laws and regulations governing mining, taxation and investment, as well as World Bank guidelines and standards. The principals of BDCA are presently involved in representing the Ministry of Mines in the negotiation of the Hajigak iron ore contracts with AFISCO and Kilo Gold, were key participants in the successful tender of the Amu Darya oil blocks in 2011, and are also leading the tender efforts for the Afghan-Tajik Phase I and upcoming Tirpul Basin tenders.

BDCA has enclosed only three CVs for the project; which shows their insufficient pool of experts. The EOI does not show clear confirmation about financial strength but from the firm experience reveal that the firm is financially capable.