

Note No. #1

Sir,

It is submitted that, the tender process for the facility of MEET & GREET SERVICES AND PAID PORTERAGE SERVICES AT TRICHY INTL AIRPORT was under process in order to finalize the fresh tender, as the existing short term license awarded to Shri. P Varatharajan, Coimbatore was expiring on 18.02.2020 and the schedule process of the tender are as follows:-

Sl.No.	Description	Date Schedules
1	NIT date	03.01.2020
2	Last date of submission of tender	24.01.2020
3	Date of Opening of Technical bids	27.01.2020
4	Date of opening of Financial bids	17.02.2020

As per the above NIT schedules, 03 responses were received on 24.01.2020 through NIC CPPP Portal. Accordingly, the technical bids were opened on 27.01.2020, as per the schedule. After evaluation of the technical bids, being all the following 03 bidders found to be technically qualified, the technical bids were approved 18.02.2020 and the financial bids were opened on 19.02.2020 and the quotes are mentioned against each bidder.

Sl.No.	Name of the bidder	Quotes
1	Shri. P Varatharajan, Coimbatore {existing licensee}	Rs.3,23,100/- {H-1 bidder}
2	M/s. SpeedWings Services, Trivandrum	Rs.3,15,676/- {H-2 bidder}
3	M/s. Bright Shine Services, Chennai	Rs.2,60,100/- {H-3 bidder}

Copy of NIT dated 03.01.2020 is placed as **ANNEXURE-A**, for reference.

At this juncture, AAI, Calicut letter No.AAI/CL/B.12019/9/CAS /7940 dated 17.02.2020 (**placed as ANNEXURE-B**) has intimated that Shri. P Varatharajan, Coimbatore has been debarred from participating future tenders / RFPs floated by AAI, for a period of 01 (One) year from the date of issue of this letter.

As per the above referred AAI Calicut letter dated 17.02.2020, it is understood that, ***the Competent Authority has debarred Shri. P Varatharajan, Coimbatore from participating future tenders / RFPs floated by AAI, for a period of 01 (One) Year from the date of issue of this letter i.e., 17.02.2020, whereas the bidder had already participated in the tender and technical bid had been already opened on 27.01.2020 before debarring by AAI Calicut, as the debar is wef 17.02.2020.***

In view of the above facts, it is suggested **to obtain legal opinion** from **SR Legal Department for further course of action** in awarding the license to H-1 bidder Shri. P Varatharajan, Coimbatore, as the bidder had already participated in the tender **before debar** from participation in AAI tenders / RFPs floated by AAI wef 17.02.2020 in order to avoid any litigation in future by the H-1 bidder.

Submitted, please.

27/02/2020 6:37 PM

**J MAGESH
(MGR(COMML)-SR)**

Note No. #2

Submitted to Legal section for suitable advice for the above Noting.

28/02/2020 3:31 PM

**GUNASEKARAN K
(APD(TRICHY)-SR)**

Note No. #3

Reference may please be made to the notes ante.

This office has perused the documents placed in the file and opines that AAI may take action vide Para 9(a)(i) of the General Information and Guidelines of NIT, which renders power to AAI to disqualify the bidder at any stage of the NIT under various circumstances enumerated in the list, wherein getting debarred by the Government agency and others is one among them.

04/03/2020 12:05 PM

**V N R CHAITANYA
(MGR(LAW)-SR)**

Note No. #4

For necessary action.

JOSY FRANCIS
Airport Director - Offg.

04/03/2020 3:57 PM

GUNASEKARAN K
(APD(TRICHY)-SR)

Note No. #5

Sir,

Please refer to pre-page notings of RHQ/SR, with regards to the legal opinion on the issue, which is self-explanatory.

*In this regard, it is submitted that, the legal opinion rendered by SR Legal Department states that **“AAI may take action vide Para 9 (a) (i) of the General Information and Guidelines of NIT, which renders power to AAI to disqualify the bidder at any stage of the NIT under various circumstances enumerated in the list, wherein getting debarred by the Government agency and others is one among them.”***

Para 9 (a) (i) of the General Information and Guidelines of NIT is reproduced hereunder for reference.

‘Quote’ 9. Fraud & Corrupt Practices and Penalty:

(a) Even if the bidder satisfies every criterion as per the guidelines set forth above, but at any stage during the tender process, or after the issuance of LOIA to the successful bidder, or after the execution of concession agreement or during the subsistence thereof, AAI at its discretion can disqualify the bidder or terminate the concession (as the case maybe), if the bidder/licensee:

(i) has been debarred by any state or central government or government agency in India and **the same is subsisted at the time of NIT;**

On perusal on Para 9 (a) (i) of the General Information and Guidelines of NIT, it is understood that “if the agency has been debarred by any state or central government or government agency in India and the same is subsisted at the time of NIT” whereas in the

instant case, at the time of NIT (i.e., Notice Inviting Tender), the agency was not debarred.

*Hence, it is felt that, it may not be appropriate to disqualify the bidder in terms of **Para 9 (a) (i) of the General Information and Guidelines of NIT**, as the agency was debarred in participation of future tenders floated by AAI wef 17.02.2020 only.*

*In view of the above, it is recommended to refer the issue to **GM (Comml) – SR to examine and deliberate the issue in terms of the NIT conditions and provisions of the New Commercial Manual**, for further course of action in this regard.*

Submitted, please.

09/03/2020 4:16 PM

J MAGESH
(MGR(COMML)-SR)

Note No. #6

Forwarded to JGM(Comml)/SR for your advice please.

JOSY FRANCIS
Airport Director - Offg.

10/03/2020 11:44 AM

GUNASEKARAN K
(APD(TRICHY)-SR)

Note No. #7

Since the agency has already been debarred from AAI tenders, it would not be appropriate to award a fresh contract at this stage to the agency.

Since the contract is yet to be awarded, we may ask the Station to cancel the tenders without assigning any reason and re-invite fresh tenders.

10/03/2020 2:07 PM

N JAYAKUMAR
(JGM(COMML)-SR)

Note No. #8

pl examine

11/03/2020 10:43 AM

MADHAVAN R
(RED-SR)

Note No. #9

The Recommendation of station and RHQ are not matching. Station says not debarred at the time of NIT and RHQ recorded as the agency is already debarred from AAI Tenders.

However, Manager(LAW),SR has mentioned in NOTE-3 that AAI may take action vide Para 9(a)(i) of the General Information and Guidelines of NIT, which renders power to AAI to disqualify the bidder at any stage of the NIT under various circumstances enumerated in the list, wherein getting debarred by the Government agency and others is one among them.

In such case, the H-1 bidder be rejected and the award can be given to H-2 bidder.

Legal department may furnish their opinion on the above.

11/03/2020 1:32 PM

V B CHANDRAKUMAR
(GM(FIN)-SR)

Note No. #10

Reference may please be made to the notes ante.

This office has perused the comments given in note 5 and opines that until the awarding the contract, it is the stage of subsistence of NIT as mandated under provision 9(1)(a), thus attracting the subject disqualification. However, in view of the above conflicting opinions, opinion of Panel Advocate may be taken for getting clear and fresh perspective.

13/03/2020 10:47 AM

V N R CHAITANYA
(MGR(LAW)-SR)

Note No. #11

obtain the opinion of the panel advocate and submit the proposal through JGM Commercial.

13/03/2020 1:32 PM

V B CHANDRAKUMAR
(GM(FIN)-SR)

Note No. #12

Reference may please be made to the notes ante.

Kindly, see the comments of this office and GM(Fin) in the above notes. Accordingly, it is requested to obtain the opinion of the panel advocate at Trichy in the subject matter due to presence of conflicting opinions.

13/03/2020 3:34 PM

V N R CHAITANYA
(MGR(LAW)-SR)

Note No. #13

For necessary action as per RHQ advice.

16/03/2020 10:55 AM

GUNASEKARAN K
(APD(TRICHY)-SR)

Note No. #14

Pl. refer to the observation made by GM(Fin) - SR and Manager(Law)-SR vide e-office note dated 13.03.2020

As desired, the legal opinion given by our Panel Advocate, Shri.S.Sundaram, Trichy 639101 is attached in [page 66](#) for taking necessary action / advise at RHQ-SR.

The file may be forwarded to RHQ-SR as advised by GM(Fin)-SR.

Submitted pl.

06/05/2020 12:04 PM

J MAGESH
(MGR(COMML)-SR)

Note No. #15

08/05/2020 12:58 PM

GUNASEKARAN K
(APD(TRICHY)-SR)

Note No. #16

Reference may please be made to the notes ante.

This office has perused the opinion of the Advocate in this regard.

The opinion of the Advocate indirectly indicates that the H1 bidder in this case may not be considered and left option to AAI to choose other bidders as per the terms and conditions of the NIT. Accordingly, it is in conformity with the opinion of this office.

In view of the above, you are requested to take further necessary action.

22/05/2020 3:25 PM

V N R CHAITANYA
(MGR(LAW)-SR)

Note No. #17

22/05/2020 3:35 PM

N JAYAKUMAR
(JGM(COMML)-SR)

Note No. #18

Referring to previous notes

Both the panel advocate and Manager(Law)-SR opine the same i.e. **not** to consider the offer of H-1 bidder. Further in relation the suggestion of considering the offer of H-2 to award (Refer [Note#9](#), opinion of panel advocate [66/C](#)), it is not in line with the provisions of the commercial manual. Therefore we may ask the station to cancel the current tenders and re-invite fresh tender if need be.

27/05/2020 12:40 PM

SATYA SEKHAR BABU K
(MGR(COMML)-SR)

Note No. #19

Refer preceding note.

In view of legal opinion given by both AAI Panel Advocate and Legal

Dept SR and also since the H1 bidder has already been debarred from AAI tender for a period of one year for non-completion of tender formalities at Calicut and Coimbatore Airport, we may advise the Station to cancel the existing tender.

Regarding calling of fresh tender, we may ask the Station to consider the same keeping in view the ground realities and protocols to be followed with regard to social distancing etc. and submit the proposal to RHQ-SR before the tenders are invited.

27/05/2020 5:39 PM

N JAYAKUMAR
(JGM(COMML)-SR)

Note No. #20

as proposed

28/05/2020 5:55 PM

MADHAVAN R
(RED-SR)

Note No. #21

29/05/2020 10:43 AM

N JAYAKUMAR
(JGM(COMML)-SR)

Note No. #22

29/05/2020 1:32 PM

GUNASEKARAN K
(APD(TRICHY)-SR)