

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF DISINVESTMENT**

**REQUEST FOR PROPOSALS TOWARDS ENGAGEMENT OF ADVISOR FOR
DISINVESTMENT OF TYRE CORPORATION OF INDIA LIMITED THROUGH
OUTRIGHT SALE**

1. Introduction

1.1 Tyre Corporation of India Limited (TCIL), a Central Public Sector Enterprise under the Department of Heavy Industry, was incorporated on 24.2.1984 as per the Companies Act, 1956 and assets of nationalized units (M/s Incheck Tyre Limited, Kankinara, and M/s National Rubber Manufacturers Limited, Tangra, by the Nationalization Act No. 17 of 1984) were vested on TCIL on 5.3.1984. TCIL has two units, namely Tyre Division at Kankinara, and Reclaimed Rubber Unit at Kalyani. The Tyre unit at Kankinara is at present the single operating unit of TCIL, through which, the Company is engaged in the manufacturing and marketing of automotive tyres.

1.2 The paid up equity capital of TCIL as on 31.3.2011 is Rs. 29.63 crore. The Government of India (GOI) holds 100% of the paid up equity capital of the Company. For details about TCIL, please refer to the Company's website: www.tcilcorp.gov.in.

2. Government Decision

2.1 Pursuant to the passage of the TCIL (Disinvestment of Ownership) Bill 2007 by the Parliament, the GOI decided to disinvest 100% equity shareholding held by it in TCIL through outright sale. A copy of the aforesaid Act is at ***Annexure-I***.

2.2 The GOI proposes to engage the services of an Advisor to advise and manage the outright sale process successfully. Internationally reputed Merchant bankers/ Investment bankers, Consulting firms and Financial Institutions, with expertise in transactions of the nature as indicated in the TCIL (Disinvestment of Ownership) Act 2007, are invited to submit proposals under the guidelines at paragraph 5 hereunder for selection as Advisor, singly or as a consortium, on or before **12th December 2011**.

3. Responsibilities of the Advisor

3.1 The Advisor will be required to undertake tasks related to all aspects of the outright sale of TCIL, which will inter-alia include: advising the Government on the timing and the modalities of the outright sale process; identification and selection of specific intermediaries; carrying out of due diligence activities; preparation of information memoranda; marketing; invitation and evaluation of bids; assessment and valuation of the Company; preparation and execution of requisite agreements; ensure best returns to the Government; and advising the Government on post-sale matters. The detailed scope of work is at ***Annexure-II***.

4. Eligibility

4.1 Bidders should have handled at least one transaction {of the nature as indicated in the TCIL (Disinvestment of Ownership) Act 2007} of the size of Rs. 500 crore or more.

4.2 The Government has prescribed revised guidelines for qualifications for Advisors for disinvestment process, enclosed at **Annexure-III**. The interested Bidders fulfilling eligibility criteria mentioned in para 4.1 above are advised to go through the guidelines, and if eligible, furnish the following certificate as a part of the Proposal:

“We certify that there has been no conviction by a Court of Law or indictment/ adverse order by a regulatory authority for a grave offence against us or any of our sister concern(s). It is further certified that there is no investigation pending against us or our sister concern(s) or the CEO, Directors/ Managers/ Employees of our concern or of our sister concern(s). It is certified that no conflict of interest as defined in O.M. No. 5/3/2011-Policy dated 8th June, 2011 exists as on date and if in future such a conflict of interest arises, we will intimate the same to the Government of India/ Company.

Further, we certify that as on the date we are not advising or acting on behalf of or associated with any other person or entity (including any company, partnership, propriety concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/ or the Company (being disinvested) is proposing to select the Advisor, except for the list of the mandates, duly signed by us, in the same line of business and for the same type of transaction, as enclosed.

Further, we certify and undertake that for a period commencing from the date of our appointment (if so appointed) as the Advisor till the completion of the transaction, we shall keep the Government/ CPSE informed of any mandate/ contracts entered into, to advise or act on behalf of or associate ourselves with, any other person or entity (including any company, partnership, propriety concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company being disinvested, in respect of any transaction of same nature as the transaction in respect of which we have been appointed as the Advisor.”

Note: The authorized signatory of the Bidder should sign the certificate. The content of the certificate must not be changed. Clarification, if any is to be sought separately.

5. Submission of Proposal:

5.1 Proposals have to be submitted as per the following directions:

- (i) **Envelope 1 (Sealed)** containing the following:

- (a) Non-refundable fee of **Rs. 1,00,000** (Rupees One lakh only) by way of a demand draft drawn in favour of 'Pay and Accounts Officer, Ministry of Finance, Department of Disinvestment, New Delhi' payable at Delhi;
 - (b) Certificate, duly signed by the authorized signatory of the bidder, as per paragraph 4.2;
 - (c) Certificate on unconditional bid in the format at **Annexure-III**; and
 - (d) Authority letter authorizing the person of the bidder to sign the proposal and other documents.
- (ii) **Envelope 2 (Sealed)** containing the technical bid as per format in paragraph 5.4 below, to be opened in the presence of the bidders on **13th December 2011 at 1600 hours** in the Committee Room of Department of Disinvestment (Room No. 515, Block No.14, CGO Complex, New Delhi-110003).
- (iii) **Envelope 3 (Sealed)** containing the Financial Bid, to be opened only after the presentations and of only those parties who qualify in the technical bid. The financial bids of the technically qualified bidders will be opened in the presence of such bidders who choose to be present at a date and time to be announced at the time of presentations. Please note that bids with conditionality will be summarily rejected.

5.2 The proposal (**all three envelopes**) can be submitted **by 1530 hours on 12th December 2011 to SHRI T. THIAGARAJAN, Under Secretary, Department of Disinvestment, Room No. 205, 2nd Floor, Block No. 11, CGO Complex, New Delhi- 110003**, in hard copies in original, duly signed by the authorized officer(s) of the bidders. No proposal will be entertained after the appointed date and time and any proposal received thereafter will be summarily rejected. The Department will not be responsible for any postal/ courier delay. Proposals, incomplete in any respect, will be liable for rejection.

5.3 The Government reserves the sole right to accept or reject any or all proposals thus received without assigning any reason thereof.

5.4 **Format for the Proposal**

The Proposals are to be submitted in detail as indicated in the following Sections. The weightage for evaluation of the bidders in respect of each criterion has been indicated against each Section.

Section (A): Outright sale experience **(Weightage for evaluation: 25/100)**

- (i) Profile of the organization with full particulars of the constitution, ownership and business activities of the prospective Advisor (Bidder).

In case of consortium bids, the particulars of the coordinating firm having the principal responsibility for the mandate (Consortium Leader) as well as those of other partners may be furnished along with letters of acceptance from each partner. The responsibility of the consortium bidders shall be 'joint' and 'several'.

Note: Consortium will be treated as one party, and in case of selection, only the consortium leader's name will appear in the documents. The partner(s) of one consortium are precluded from participating in the bid, as a partner to another consortium.

- (ii) Unabridged Annual Reports or audited financial accounts for the last three years of the firm submitting the Proposal and of each consortium partner, if applicable.
- (iii) Details of all pending litigation and contingent liabilities, if any, should be indicated. Details of past conviction and pending litigation against sponsors/ partners, Directors, etc., if any, and areas of possible conflicts of interest may also be indicated. In case of consortia, similar details of each proposed partner will be required.
- (iv) Details of Domestic and International transactions {of the nature as indicated in the TCIL (Disinvestment of Ownership) Act 2007} managed as Advisor in respect of transaction size of Rs. 500.00 crore or more.
- (v) Number of strategic/ outright sale transactions managed for the Department of Disinvestment, if any.

Section (B): Sector Expertise and Experience
(Weightage for evaluation: 20/100)

- (i) Indicate work done in the areas of Tyre manufacturing and allied sectors-like studies or research undertaken.
- (ii) Exhibit strength/ expertise in the areas of Tyre manufacturing and allied sector, if any.
- (iii) Transactions {of the nature as indicated in the TCIL (Disinvestment of Ownership) Act 2007} handled in the area of Tyre manufacturing and allied sectors.

Section (C): Local presence and the level of commitment to India
(Weightage for evaluation: 20/100)

A brief note evidencing the bidder's presence in India, in both qualitative and quantifiable terms, with specific reference to research teams and details of available infrastructure may be furnished.

Section (D): Understanding of Tyre Corporation of India Limited
(Weightage for evaluation: 10/100)

- (i) Research reports done on the companies operating in the Tyre manufacturing and allied sectors, including TCIL.
- (ii) SWOT analysis on TCIL.
- (iii) Views on likely valuation of TCIL, transaction structuring, marketing strategy, bid evaluation methodology and tentative time-frame.

Section (E): Deal Team and Manpower Commitment to the Deal
(Weightage for evaluation: 15/100)

Details of **core team** that will be handling the proposed issue, their status in the organization, their background, qualification, experience and present addresses, e-mail, telephone numbers – office, residence, mobile, etc. – hands-on experience should be furnished. Separately, similar details in respect of the **supervisory team** may be indicated.

Details of other professionals who would provide back up support may also be indicated separately.

Note: An undertaking is also to be given that if during the process, any of the core team members is not available due to resignation, leave of absence, etc., another person of the same qualification and experience would be made available with the concurrence of the Government.

Section (F): Research Capability
(Weightage for evaluation: 5/100)

Research strength in the country, sector, region and world, based on rating as established by independent global surveys- Details should be given relating to research capabilities, experience and background of the research team.

Section (G): Global Presence
(Weightage for evaluation: 5/100)

- (i) Indicate global network.
- (ii) Experience of handling global transactions {of the nature as defined in the TCIL (Disinvestment of Ownership) Act 2007}.

5.5 The complete information sought above with any additional information considered necessary by the bidder, should be sent (maximum of 10 pages in font size 12) to the officer mentioned in para 5.2 as part of the Proposal.

5.6 A Pre-Bid Meeting (PBM) will be held on **2nd December 2011 at 1500 hours** in the Committee Room of Department of Disinvestment (Room No. 515, Block No.14, CGO Complex, New Delhi-110003) to address any relevant query the Bidders may have concerning the instant RFP and the selection process. **Bidders desirous of attending the PBM may give prior intimation in this regard to the officer mentioned at Para 5.2 above.** At the PBM itself, the Government reserves the right to defer answering any question or to decline answering inappropriate questions, as it deems fit. A maximum of 3 (three) representatives of the Bidder or the consortium, as the case may be, will be allowed to attend the PBM. Attendance at the PBM will not be mandatory.

5.7 Prior to the due date for submission of proposals as mentioned at Para 5.2 above, a Bidder may request for modification or withdrawal of their bid with a written notice addressed only to the designated officer. The modification or withdrawal notice will have to be sealed, marked and delivered to the designated officer, with

the envelopes being additionally marked 'MODIFICATION' or 'WITHDRAWAL', as appropriate. The fee prescribed in para 5.1 (i) (a) as part of the proposal, being non-refundable in nature, will not be refunded in any case.

5.8 The Bidders shall bear all expenses/ costs associated with the preparation and submission of their respective bids and the Government will not in any way be responsible or liable for these expenses/ costs, regardless of the conduct or outcome of the bidding process.

5.9 Bids, which are not disqualified, will be checked for any arithmetic errors in computation, and in the event of a discrepancy between amounts in figures and in words, the amount in words will govern. The Government will adjust the figures in the Bid according to this method without the concurrence of the Bidder, and if so adjusted, shall be binding upon the Bidders.

6. Procedure for Selection of Advisor

6.1 Qualified interested Bidders would be required to make a presentation of their credentials **in the format prescribed in paragraph 5.4** above for the proposed transaction, before an Inter-Ministerial Group (IMG) at New Delhi in the Committee Room of Department of Disinvestment (Room No. 515, Block No.14, CGO Complex, New Delhi-110003). The presentations will be held on **15th December 2011 (1030 hours onwards), and if necessary, on 16th December 2011**. The time of the presentation will be posted on the website of the Department of Disinvestment (www.divest.nic.in) on **13th December 2011 (evening)**. Only the Team Leader of the Core Team shall make the presentation.

6.2 The IMG would evaluate the Bidders on the criteria mentioned in paragraph 5.4 above based on their presentation and Proposals received and shortlist them for the purpose of opening of their Financial Bids. Only the parties scoring pre-determined marks/ score out of 100, which will be announced before presentation, will be technically short-listed.

6.3 After the short-listing of Bidders based on their presentations, the IMG would open the Financial Bids of only the technically qualified/ short-listed Bidders. The short-listed bidders, if they so desire, may remain present at the time of opening of the financial bids. The marks scored by the short-listed bidders will be announced before opening of the financial bids. The date and time of opening of the financial bids would be announced at the time of the presentations.

6.4 The marks scored by the short listed bidders in the technical evaluation will then be given a weightage of 70. Similarly, the financial bids of the short-listed bidders will be given a weightage of 30. The combined score of technical and financial bids will determine the H1, H2, H3 and so on.

6.5 The party scoring the highest combined marks (H1) based on the above principles would be appointed for the transaction.

7. Requirements for Financial Bids

7.1 The Bidder is required to quote a fee in INR (in a sealed envelope) for the transaction. The fee quoted by the Bidder should be minimum Re. 1.00 (Rupee one) or in multiples of Re. 1.00 (Rupee One), failing which the financial bid would be rejected. The fee quoted by the Bidder should include all the applicable taxes, cess, duties, etc. The different taxes should be indicated separately while raising the bills for payment of fee. All bills are to be raised in INR and will be payable in INR only after successful and satisfactory closure of the transaction.

7.2 Expenditure on account of fees to intermediaries such as legal advisor, accountant or any other consultant, if appointed by the GOI and/ or TCIL, should not be included in the financial bid.

7.3 The fee quoted should be unconditional. The travel related expenses and all the other expenses including those related to due diligence would have to be borne by the Advisor.

7.4 The Bidders may quote a drop-dead fee, if any, payable by the Government in case of calling off of the transaction by the Government after initiation of the process by the Bidder. The drop-dead fee applicable at various stages of the transaction should be indicated. The drop-dead fee should not exceed the fee quoted for the transaction. Drop-dead fee will not be a criterion in determining the H1 Bidder.

7.5 The Bidders will be liable to pay taxes applicable as per law.

7.6 The successful bidder shall be required to enter into an Engagement Agreement with the GOI, failing which the appointment of the successful bidder is liable to be cancelled.

8. For any further clarification, contact SHRI T. THIAGARAJAN, Under Secretary, Department of Disinvestment, Ministry of Finance, Room No. 205, 2nd Floor, Block No. 11, CGO Complex, New Delhi- 110003, Tele: 011-24368531, Fax: 011-24366524, e-mail: t.thiagarajan@nic.in.

Annexure-I

The TCIL (Disinvestment of Ownership) ACT 2007
Notification.

विन्दी के डी एल—(एन)04/0007/2003—07

DL—(N)04/0007/2003—07



भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न-भिन्न संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 13th December, 2007/Agrahayana 22, 1929 (Saka)

The following Act of Parliament received the assent of the President on the 12th December, 2007, and is hereby published for general information:—

THE TYRE CORPORATION OF INDIA LIMITED (DISINVESTMENT
OF OWNERSHIP) ACT, 2007

No. 50 OF 2007

[12th December, 2007.]

An Act to provide for disinvestment of Government's equity in the Tyre Corporation of India Limited and for matters connected therewith or incidental thereto.

WHEREAS the Inchek Tyres Limited and the National Rubber Manufacturers Limited, engaged in the manufacture, production and distribution of articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951, namely, tyres, tubes and other rubber goods, were nationalised under the Inchek Tyres Limited and National Rubber Manufacturers Limited (Nationalisation) Act, 1984 and transferred to, and vested in, the Tyre Corporation of India Limited, Calcutta from the 5th day of March, 1984;

AND WHEREAS for the purpose of securing optimum utilisation of the available facilities for the manufacture, production and distribution of tyres, tubes and other rubber goods, investment of large amount is necessary;

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AND WHEREAS it is expedient to disinvest the Government's equity in the Tyre Corporation of India Limited, Kolkata to enable the private sector to have investment made to ensure that the interest of general public are served by the continuance of the manufacture, production and distribution of the aforesaid articles which are essential to the needs of the economy of the country.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Tyre Corporation of India Limited (Disinvestment of Ownership) Act, 2007.

Disinvestment in the company

2. Where the Central Government, on the recommendations of the Board for Reconstruction of Public Sector Enterprises, is of the opinion that disinvestment is to be made in the Tyre Corporation of India Limited (hereinafter referred to as the company), it may pass an order providing for transfer, exchange or relinquishment of shares in the company to any person on such terms and conditions as may be agreed upon.

Payment of consideration for disinvestment in the company

3. (1) For the transfer to, and vesting in, any person, the shares of the company, there shall be given to the Central Government by such person or in case such person is a company, by such company, such consideration, having regard to the optimum valuation of land, assets and liabilities of the company in accordance with a valuation method as specified by the Central Government.

Manner of disinvestment.

(2) The manner of payment of consideration for transfer of shares of the company to the transferee shall be such as may be agreed upon between the transferor, the company and the transferee, the person or the company, as the case may be.

4. The Central Government may, in its order made under section 2, specify that disinvestment of shares shall be effected by one or more of the following methods as may be specified in such order, namely:—

(a) by making a public offer or preferential allotment or private placement in accordance with such procedure as applicable in case of any other Government company;

(b) by directing the company to make further issue of equity capital to the members of the public or preferential allotment or private placement, as the case may be, in accordance with such procedure as applicable in case of the Government company.

Provision in respect of officers and other employees of the company.

5. (1) Every officer or other employee of the company, except the Chairman and Directors, serving in its employment immediately before the disinvestment of the company under this Act, shall continue in office or service after such disinvestment, on same terms and conditions as would have been admissible to him if there had been no such disinvestment and shall continue to do so until the expiry of the period of three years from the date of disinvestments.

(2) Where an officer or other employee of the company opts under sub-section (1) not to be in the employment or service of the company, such officer or other employee shall be deemed to have resigned.

Act to have overriding effect

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Inchek Tyres Limited and National Rubber Manufacturers, Limited (Nationalisation) Act, 1984 or any other law for the time being in force.

17 of 1984.

K. N. CHATURVEDI,
Secy. to the Govt. of India

Scope of Services of the Advisor

The outright sale of GOI's shareholding in TCIL is to enable the private sector to make investment in order to secure optimum utilization of the available facilities for continuance of the manufacture, production and distribution of tyres, tubes and other rubber goods. In selling off the Company, the GOI proposes to maximize realization from the sale of its shareholding, keeping in mind the qualitative attributes of the purchaser. In keeping with the GOI's objectives mentioned above, the scope of services of the Advisor shall include the services as set out below to assist and advise the GOI in all aspects of the outright sale process of TCIL:

Transaction strategy

- (i) The Advisor will advise the GOI on the timing and the modalities of the outright sale of TCIL and will prepare and submit a detailed operation scheme to implement the outright sale process indicating tentative timelines for each activity.

Selection of Intermediaries

- (ii) The Advisor will advise and assist the GOI in identifying and selecting specified intermediaries such as legal advisor, asset valuer, auditor and accountant, to be appointed by the GOI. To streamline the different activities of the intermediaries, the Advisor will act as their coordinator.

Due diligence process

- (iii) The Advisor will assist TCIL in setting up of the data room and assist the Company in the smooth conduct of the due diligence process.

Identification of prospective purchaser

- (iv) The Advisor will develop a list of potential purchasers with sufficient interest and apparent resources to enter into a transaction with GOI towards outright sale of TCIL. The Advisor will obtain and develop information on each of the potential purchasers identified, so that together the Advisor and the GOI can place in priority those purchasers, which have the best potential for consummating a transaction with GOI. In doing so, the Advisor will make use of its international offices, global network and contacts, and industry knowledge. The Advisor will also include any other potential purchaser which the GOI would like to consider.

Marketing and Information memoranda

- (v) To provide prospective purchaser with information on the business and the unique selling points of TCIL so as to enable them to decide whether to provide initial indications of interest and thereafter initiate serious discussions, the Advisor will prepare preliminary information memorandum (hereinafter "PIM") and detailed confidential information memorandum (hereinafter "CIM"). The memoranda shall contain information such as background of TCIL and key features, rationale for divestment and inviting a purchaser, current activities, product profile, manufacturing facilities, financial performance, management, customers and suppliers, contracts, any research and

development activity, details of surplus real estate assets and any other relevant detail. While the information in PIM shall be in brief, the CIM shall be in detail with much-more in-depth information about the Company.

- (vi) If and once the prospective purchasers indicate a sufficient level of interest in the Company and the proposed transaction, and if GOI so instructs, the Advisor will forward the CIM to them upon receipt of a signed Confidentiality Agreement. The Advisor will control the release of any further information based on the level of interest evinced by the potential purchaser and after obtaining GOI's approval.
- (vii) To effectively market the outright sale of TCIL, the Advisor will prepare any other marketing literature, in addition to the information memoranda as mentioned at para (v), as may be required from time to time.

Assessment and valuation

- (viii) The Advisor, with the assistance of other intermediaries so appointed by the GOI and/ or TCIL, will assist GOI in carrying out assessment and valuation of the Company. In performing such assessment and valuation, the Advisor will use the 'discounted cash-flow' approach, the 'earnings' approach, the 'net asset value' approach or any other relevant approach to determine a range of fair values in respect of the Company.
- (ix) The valuation will be based on illustrative financial projections and information provided by TCIL to the Advisor. The projections would show a possible valuation based on assumptions as per the business plan of TCIL. The Advisor shall emphasize to the potential purchasers that the realization of the projections would be dependent on the continuing validity of the assumptions on which they are based. The assessment and valuation of TCIL by the Advisor therefore shall not, and cannot be directed to providing any assurance about the achievability of the financial projections. The Advisor shall further emphasize to the potential purchasers that since the projections relate to the future, actual results are likely to be different from the projected results because events and circumstances do not occur as expected, and that the differences may be material.

Bidding and negotiations process towards selection of a purchaser

- (x) The Advisor will take all requisite steps towards invitation of bids from prospective purchasers and evaluation thereof, and prepare the requisite documents.
- (xi) The Advisor will assist during the negotiation process with the prospective purchasers by ways and means such as those mentioned below:
 - ✓ Discuss the analysis on assessment and valuation of TCIL;
 - ✓ Communicate with prospective purchasers with sufficient interest in the transaction;
 - ✓ Negotiate the terms and conditions of the transaction;
 - ✓ Report potential problems to the GOI;
 - ✓ Suggest counter-proposal alternatives;

- ✓ Prepare, along with the legal counsel, the requisite agreements such as share purchase agreement, etc. to incorporate the terms and conditions of the transaction and circulate them amongst the prospective buyers for any comment there from.

Miscellaneous

- (xii) The Advisor will assist, advise and facilitate completion of any regulatory requirement including obtaining requisite approvals and clearances, coordinate and monitor the progress of the transaction until its completion, and assist and advise the GOI on any post-sale matter pertaining to the transaction.

Note: The 'Scope of Services of the Advisor' mentioned above is indicative only and is non-restrictive in nature. There may be a service or services pertaining to the outright sale process of TCIL that is or are not expressly captured in the aforesaid 'Scope of services'. Such service or services, upon being brought to the notice of the Advisor by the GOI will also form part of the Scope of Services of the Advisor for the transaction.

No. 5/3/2011-Policy
Government of India
Ministry of Finance
Department of Disinvestment

Block 14, CGO Complex,
Lodhi Road, New Delhi- 110003

Dated the 8th June, 2011

OFFICE MEMORANDUM

Subject: Guidelines for qualification of Advisers for disinvestment process.

In order to inspire public confidence in the selection of Advisers through competitive bidding, the Government had framed comprehensive and transparent guidelines defining the criteria for their selection. In addition to using a set of criteria like sector experience, knowledge, commitment etc., additional criteria for qualification/disqualification of the parties to act as Advisers to the Government for disinvestment transactions were prescribed by the Department of Disinvestment vide its O.M. No. 5/3/2011 – Policy dated 2.5.2011.

2. In supersession of the above-mentioned O.M. of this Department, the revised criteria for qualification/disqualification of the parties to act as Advisers for disinvestment transactions would be as under:

- (a) Any conviction by a Court of Law or indictment/adverse order by a regulatory authority for a grave offence against the Advising concern or its sister concern would constitute a disqualification. Grave offence would be defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of offence would be taken on a case-to-case basis after considering the facts of the case and relevant legal principles by the Government. Similarly, the decision in regard to the relationship between the sister concerns would be taken based on relevant facts and after examining whether the two concerns are substantially controlled by the same person/persons.
- (b) In case such a disqualification takes place, after the entity has already been appointed as Adviser, the party would be under an obligation to withdraw voluntarily from the disinvestment process, failing which the Government would have the liberty to terminate the appointment/contract.
- (c) Disqualification shall continue for a period that Government deems appropriate.
- (d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated

merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.

- (e) The disqualification criteria would come into effect immediately and would apply to all the Advisers already appointed by the Government for various disinvestment transactions, which have not yet been completed.
- (f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.
- (g) Henceforth, these criteria will be prescribed in the advertisements seeking Expressions of Interest (EOI) from the interested parties to act as Adviser. Further, the interested parties shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against the CEO or any of its Directors/Managers/Employees, full details of such investigation including the name of the investigating agency, the charge/offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, similar undertaking will be obtained along with EOI. They would also have to give an undertaking that if they are disqualified as per the prescribed criteria, at any time before the transaction is completed, they would be required to inform the Government of the same and voluntarily withdraw from the assignment.
- (h) The interested parties would also be required to submit a list of or disclose any mandated transactions which are in the same line of business as that of the company (being disinvested) in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser and confirm in writing that there exists no conflict of interest as on the date of submitting their proposal for appointment/ their appointment as Advisers in handling of the transaction and that, in future, if such a conflict of interest arises, the Adviser would immediately intimate the Government/Company (being disinvested) of the same.

The Government/Company (being disinvested) shall at its sole discretion after providing due and reasonable opportunity decide whether such future conflict of interest shall materially adversely affect the interest of the Government and the Company (being disinvested) in relation to the transaction and shall be entitled to grant the consent to the Adviser to continue as Adviser or terminate the appointment of the Adviser. For disinvestment purposes, conflict of interest is defined to include engaging in any activity or business by the Adviser in association with any third Party, during the engagement, which would or may be reasonably expected to, directly or indirectly, materially adversely affect the interest of Government of India and/ or the Company (being disinvested) in relation to the transaction, and in respect of which the

Adviser has or may obtain any proprietary or confidential information during the engagement, that, if known to any other client of the Adviser, could be used in any manner by such client to the material disadvantage of Government of India and/ or the Company (being disinvested) in the transaction.

- (i) The conflict of interest would be deemed to have arisen if any Adviser in respect of the transaction is appointed by a third party for advising or acting on behalf of or associated with any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser. Further, the decision of the Government/Company (being divested) as to whether such other person or entity is engaged in the same line of business as that of the Company being disinvested, shall be final and binding on the Adviser.
- (j) The conflict of interest would also be deemed to have arisen if any Adviser firm/ concern has any professional or commercial relationship with any bidding firm/ concern for the same disinvestment transaction during the pendency of such transaction. In this context, both Adviser firm and bidding firm would mean the distinct and separate legal entities and would not include their sister concern, group concern or affiliates etc. The professional or commercial relationship is defined to include acting on behalf of the bidder or undertaking any assignment for the bidder of any nature, whether or not directly related to disinvestment transaction. (This clause is applicable in strategic sale only).
- (k) The interested parties would also be required to give information and disclose that as on the date of submitting their proposal for appointment/ their appointment as Advisers in respect of the transaction, they are advising or acting on behalf of or associated with any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser.

- In the event the Adviser fails to disclose that it is advising or acting on behalf of or associated with any other person or entity which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/ or the Company (being disinvested) is proposing to select or have appointed the Adviser, at the time of giving the afore-mentioned undertaking, the Government/Company (being disinvested) shall be entitled to terminate their appointment. Before terminating the appointment, a show cause notice stating

why its appointment should not be terminated would be issued giving it an opportunity to explain its position.

- (l) For a period commencing from the date of appointment of the Adviser till the completion of the transaction, the Adviser shall keep the Company/ Government informed of any mandate/contract entered into to advise or act on behalf of or associate itself with, any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company being disinvested, in respect of any transaction of same nature as the transaction in respect of which the Adviser has been appointed as the Adviser. Provided that, if six months or more have elapsed from the date of appointment as Adviser to the government disinvestment transaction, the Adviser would normally be permitted by the Government/Company (being disinvested), save for exigent circumstances. The decision of the Government/Company (being disinvested) in this regard shall be final and binding on the Adviser. Further, the decision of the Government/Company (being divested) as to whether such other person or entity is engaged in the same line of business as that of the Company being disinvested, shall be final and binding on the Adviser.
- (m) For the purpose of clauses (k) and (l) above, the 'nature' of transaction may include, but not be limited to, a capital market transaction which in turn could include, but not be limited to, a domestic offering of shares or any other security, whether by way of initial public offer or further public offer or qualified institutions placement or issue of IDRs or by any other manner, as well as the international offering of securities, whether by way of issue of ADRs, GDRs or FCCBs or by any other manner.
- (n) In the event the Adviser fails to obtain the prior written consent of the Government/Company (being disinvested) as aforesaid, the Government/ Company (being disinvested) shall be entitled to terminate the appointment of the Adviser. Before terminating the appointment, a show cause notice stating why its appointment should not be terminated would be issued to the Adviser giving it an opportunity to explain its position.

Sd/-
(V.P. Gupta)
Deputy Secretary to the Government of India
Tel: 2436 8036

FORMAT OF UNCONDITIONAL BID ON THE LETTERHEAD OF THE BIDDER

This is to certify that the fee quoted by us for engagement as Advisor for disinvestment in Tyre Corporation of India Limited through outright sale is in accordance with the terms and conditions laid down in the Request for Proposals displayed on the website of the Department of Disinvestment and is unconditional.

Seal with signatures of authorized signatory of the Bidder