

## INVITATION

### **Expression of Interest (EOI) for Publication of Compendium of Orders of the Competition Commission of India for the years: (i) 2014, (ii) 2015 and (iii) 2016**

#### **1. Who we are?**

The Competition Commission of India ('Commission') is a statutory body established under the Competition Act, 2002 (the 'Act'). It has a duty to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade carried on by other participants, in markets, in India. In pursuance of these objectives, the Commission *inter alia* enforces various prohibitions, namely, (a) anti-trust activities - cartels (vertical or horizontal, including bid rigging) and abuse of dominant position, and (b) combination of enterprises which causes or is likely to cause an appreciable adverse effect on competition within the relevant markets in India. It generally enforces these prohibitions by orders issued *inter alia* under sections 26(2), 27, and 31 of the Act.

#### **2. Objective of Compendium**

The Commission places the orders it issues immediately on its web site. However, the professionals, students of professional courses, compliance departments of enterprises, academic institutes and other stakeholders often look for succinct competition jurisprudence at one place. Given that the evolution of competition jurisprudence in Indian jurisdiction is in nascent stage, the stakeholders look for an authentic compendium of the orders pronounced by the Commission along with the digest of such orders and emerging legal principles. Keeping this in view, the Commission wishes to publish compendium of orders along with head notes of each order in partnership with a reputed law publisher.

#### **3. Scope of Work**

The work is publication of three separate compendiums as under:

- (a) Compendium of orders issued by the Commission under sections 26(2), 27, and 31 of the Act in 2014 along with head notes,
- (b) Compendium of orders issued by the Commission under sections 26(2), 27, and 31 of the Act in 2015 along with head notes, and
- (c) Compendium of orders issued by the Commission under sections 26(2), 27, and 31 of the Act in 2016 along with head notes.

#### **4. Other Specifications**

The other specifications for the work are:

- a. The Commission as well as the publisher shall have copy rights over the compendiums. The Commission may use the compendiums or any part of any of the compendiums in any form for non-commercial purposes.
- b. The compendiums shall be printed in font size, font type, paper type, paper quality, paper size, printing quality, binding quality, colour scheme, etc. for inside and cover page and for texts, as per the model publication. The model publication is available with the Commission for inspection to ascertain these specifications. Prospective bidders can take inspection in the premises of the Commission on **20<sup>th</sup> January, 2016 between 2PM and 4PM.**
- c. The prospective bidders can seek any clarification in person about this invitation in a pre-bidding meeting in the premises of the Commission on **20<sup>th</sup> January, 2016 at 4PM.**

- d. There will be separate work orders for each compendium. A compendium shall be published within six months of placing the work order by the Commission. This timeline includes the time to be taken by the Commission for approving head notes and vetting the compendiums. The Commission would need one month for vetting the head notes in a compendium and one month for vetting each compendium.
- e. The **Commission shall buy 300 copies of each compendium** from the publisher at a discounted price for its own use, including distribution among stakeholders.
- f. The published price of the compendium should be comparable to the price of similar book dealing with regulatory matters or text book.
- g. The publisher is free to publish as many copies as it wishes over three years from the date of respective work orders. The Commission may assign the work of publishing compendiums for 2014, 2015 and 2016 to any other publisher after three of the date of respective work order.

#### **5. Respective Responsibilities**

- a. Commission: The Commission shall approve the head notes submitted by the publisher. It shall vet the each compendium entirely before printing.
- b. Publisher: The entire responsibility of the publication, except as stated at (a) above, rests with the publisher.

#### **6. Invitation of EOI**

The EOI is invited from publishers who are engaged in publication of law books and or law journals for at least three years with an average annual turnover of Rs.1 crore from law publications in the last three years. The EOI must be submitted in three parts, namely, (a) Pre-qualification Bid, (b) Technical Bid, and (c) Financial Bid.

##### **a. Pre-qualification Bid**

The Pre-qualification Bid shall contain a brief proposal clearly indicating the profile of the publisher, its experience in publishing law books and law journals, details of the projects undertaken in past three years, qualification and experience of the team that will be undertaking preparation of head notes, and other details elaborating on its capacity to undertake the work. This must be submitted in **Annexure - I**. The sealed envelope containing this shall be super scribed as Part-I.

##### **b. Technical Bid**

The Technical Bid shall carry a sample of the work dealing with two orders of the Commission, namely, (a) order in the matter of M/s. Financial Software and System Private Limited vs. M/s. ACI Worldwide Solutions Private Limited & Ors. (Case No. 52/2013), and (b) order in the matter of Holcim Limited and Lafarge S.A (Combination Registration No. C-2014/07/190). The sample must be an exact replica of the publication in terms of content and physical quality (paper, printing, font, colour, etc.) that the publisher wishes to make. This must be submitted in **Annexure - II**. The sealed envelope containing this shall be super scribed as Part-II.

##### **c. Financial Bid**

The Financial Bid shall quote the consideration for the work. This must be submitted in **Annexure - III**. The sealed envelope containing this shall be super scribed as Part-III. The publishers shall bid on the following four parameters for each of these compendiums:

- i. Number of copies of the compendium to be published;
- ii. Printed price of compendium;

- iii. Royalty per copy of compendium to be paid or received by the bidder (It has the option to quote either a negative royalty or a positive royalty per copy. Positive royalty means the amount per copy it would be paying to the Commission. Negative royalty means the amount per copy it would need from the Commission); and
- iv. Price per copy for 300 copies of compendium to be sold to the Commission.

## **7. Submission of EOI**

The following procedure need to be followed for submission of the EOI:

- a. The EOI, complete in all respects with all enclosures, duly sealed and signed by authorized signatory, must be submitted **before 3PM on 31<sup>st</sup> January, 2016**.
- b. All three parts of the bid, namely, Part I, Part II & Part III shall be submitted together in separate sealed envelopes and all the three envelopes shall be kept in one big sealed envelope.
- c. All envelopes shall be addressed to Assistant Director (Advocacy), and dropped in Tender Box at 3<sup>rd</sup> Floor Reception, Competition Commission of India, Hindustan Times House, 18-20, Kasturba Gandhi Marg, New Delhi -110 001.
- d. The EOI shall be submitted along with a refundable Earnest Money Deposit (EMD) of Rs.10,000 (Rupees Ten Thousand only) by way of Demand Draft in favour of "Competition Commission of India (Competition Fund) Account". The amount of EMD will be refunded without any interest to the unsuccessful bidders within one month of signing / award of work with the successful bidder. EMD to successful bidder will be returned only after submission of Performance Security Deposit (PSD) by the selected publisher.
- e. The selected publisher shall submit a PSD of Rs.50,000 (Rupees Fifty Thousand only). The PSD shall be deposited within a period of 7 days from the award of work in the form of FDR drawn in favour of "Competition Commission of India (Competition Fund) Account" payable at New Delhi. The PSD of the selected publisher is liable to be forfeited in case of non-compliance of the work and or any of the terms of contract of the work.
- f. The EOIs received not in compliance with the requirements may be summarily rejected.
- g. The Commission will not be responsible for postal or any other delays in receipt of EOIs. EOIs received after due date will not be considered.
- h. No overwriting, corrections or cutting in any of the Bids is permitted.
- i. Unsealed or unsigned offers will not be considered.
- j. The Commission reserves the right to reject any or all EOIs at any stage as well as the right to add/delete/modify any one or more of the terms and conditions with reasons to be recorded in writing.
- k. No TA/DA or out of pocket expenses will be admissible to attend any meeting, submission of offer or during completion of job.
- l. Interested publishers are advised to keep a watch on the website for any related information in this regard.
- m. The Pre-qualification Bids will be opened **on 31<sup>st</sup> January, 2016 at 3.30PM**. The bidders or their authorized representatives may remain present at this time of opening.

## **8. Award of Work**

- Pre-qualification bids will be opened and evaluated first.
- The Technical Bids of only those bidders who have qualified in the Pre-Qualification Bid will be opened at such time as will be indicated on the web site.

- The Technical Bids will be evaluated by a team of officers of the Commission. Based on such evaluation, a list of eligible bidders, whose Technical Bids are found acceptable, will be prepared. The eligible bidders will be ranked in terms of quality of their Technical Bids.
- The Financial Bids of only those bidders who are found eligible in the Technical Bid will be opened and evaluated to select a publisher for the work. The procedure for evaluation of Financial Bids is detailed in Para 9.
- The selected bidder shall enter into an ‘Agreement, including Confidentiality’, with applicable clauses.
- The selected publisher shall disclose all conflicts of interests as and when they arise.

### 9. Evaluation of Financial Bids

The bidder which gets the highest score of X will be the winner. If two bidders get the exactly same score of X, the one which has scored higher in Technical Bid will be the winner.

X will be arrived at as under:

$$X = W_1 Q + W_2 P + W_3 R + W_4 S$$

Where,

$W_1 = 0.4$ , weight for number of copies of the compendium to be published;

Q = Score for number of copies of the compendium to be published;

$W_2 = 0.2$ , weight for printed price of the compendium;

P = Score for printed price of the compendium;

$W_3 = 0.2$ , weight for royalty per copy to be paid or received by the bidder;

R = Score for royalty per copy to be paid or received by the bidder;

$W_4 = 0.2$ , weight for price per copy for 300 copies to be sold to the Commission; and

S = Score for price per copy for 300 copies to be sold to the Commission.

Q will be derived for a bidder based on the number of copies of the compendium it has bid. The bidder which bids for the highest number of copies will get a score of 100. The bidder which bids for the lowest number of copies will get a score of 0. The difference between the highest number bid and the lowest number bid will be normalised to 100 and other bidders will get scores between 0 and 100 depending on the number of copies they have bid. Take an example:

Bidder / Publisher	No. of Copies Bid	Difference between the No. of Copies Bid by the Publisher and the Lowest No. of Copies Bid	Formula	Score (Q)
1	3000	2500	$2500/2500*100$	100
2	2500	2000	$2000/2500*100$	080
3	2000	1500	$1500/2500*100$	060
4	1500	1000	$1000/2500*100$	040
5	1000	0500	$0500/2500*100$	020
6	0500	0000	$0000/2500*100$	000

P will be derived for a bidder based on the printed price per copy of the compendium it has bid. The bidder which quotes the highest price will get a score of 0. The bidder which quotes the lowest price will get a score of 100. The difference between the lowest price bid and the

highest price bid will be normalised to 100 and other bidders will get scores between 0 and 100 depending on the printed price they have bid. Take an example:

Bidder / Publisher	Printed Price (in Rs.) Bid	Difference (In Rs.) between the Highest Price Bid and the Price Bid by the Publisher	Formula	Score (P)
1	0200	1000	$1000/1000*100$	100
2	0400	0800	$0800/1000*100$	080
3	0600	0600	$0600/1000*100$	060
4	0800	0400	$0400/1000*100$	040
5	1000	0200	$0200/1000*100$	020
6	1200	0000	$0000/1000*100$	000

R will be derived for a bidder based on the royalty per copy of compendium bid to be paid or received by the bidder from the Commission. The bidder which bids for the highest royalty will get a score of 100. The bidder which bids for the lowest royalty will get a score of 0. The difference between the highest royalty bid and the lowest royalty bid will be normalised to 100 and other bidders will get scores between 0 and 100 depending on royalty per copy they have bid. Take an example:

Bidder / Publisher	Royalty (in Rs.) per copy*	Difference (in Rs.) between the Royalty Bid by the Publisher and the Lowest Royalty Bid	Formula	Score (R)
1	200	400	$400/400*100$	100
2	160	360	$360/400*100$	090
3	100	300	$300/400*100$	075
4	040	240	$240/400*100$	060
5	000	200	$200/400*100$	050
6	-040	160	$160/400*100$	040
7	-100	100	$100/400*100$	025
8	-140	060	$060/400*100$	015
9	-200	000	$000/400*100$	000

\* A positive figure means the amount per copy to be paid by the bidder to the Commission. A negative figure means the amount per copy to be received by the bidder from the Commission. In the above example, the highest royalty is Rs.200 per copy and the lowest royalty is (minus) Rs.200 per copy.

S will be derived for a bidder based on the price per copy bid for 300 copies to be sold to the Commission. The bidder which bids for the lowest price will get a score of 100. The bidder which bids for the highest price will get a score of 0. The difference between the highest price bid and the lowest price bid will be equated to 100 and other bidders will get scores between 0 and 100 depending on price per copy they have bid. Take an example:

Bidder / Publisher	Sale Price (in Rs.) Bid	Difference (In Rs.) between the Highest Sale Price Bid and the Sale Price Bid by the Publisher	Formula	Score (S)
1	0200	1000	$1000/1000*100$	100
2	0400	0800	$0800/1000*100$	080
3	0600	0600	$0600/1000*100$	060

4	0800	0400	0400/1000*100	040
5	1000	0200	0200/1000*100	020
6	1200	0000	0000/1000*100	000

**Illustration 1**

Thus, if a publisher has bid for 2500 copies, with a printed price of Rs.800, royalty of Rs.100 per copy, and sale price of Rs.400 per copy to the commission, it will get a X of 71:

$$X = W_1 Q + W_2 P + W_3 R + W_4 S = 0.4 * 80 + 0.2 * 40 + 0.2 * 75 + 0.2 * 80 = 32 + 08 + 15 + 16 = 71.$$

**Illustration 2**

If a publisher has bid for 2000 copies, with a printed price of Rs.1000, royalty of Rs.40 per copy, and sale price of Rs.600 per copy to the commission, it will get a X of 52.

$$X = W_1 Q + W_2 P + W_3 R + W_4 S = 0.4 * 60 + 0.2 * 20 + 0.2 * 60 + 0.2 * 60 = 24 + 04 + 12 + 12 = 52.$$

**10. Dispute Resolution**

Any dispute at any stage of the work shall be resolved by a sole arbitrator appointed by the Commission.

## Part-I Pre-Qualification Bid

SL.	PARTICULARS	
1	Name of the publisher	
2	Address  Telephone Number Fax number Email Address	
3	Details of the contact person of the publisher Name Designation E-mail Telephone No. Fax Number	
4	Income Tax PAN No. ( <i>copy to be enclosed</i> )	
5	Service Tax Registration no. ( <i>copy to be enclosed</i> )	
6	Audited financial statements for last three years ( <i>copies to be enclosed</i> )	
7	Details of the experience in publishing law book and law journals ( <i>attach separate sheets</i> )	
8	Details of project undertaken in the last three years ( <i>attach documents pertaining to completion of such projects</i> )	
9	Details of Staff to dedicated for this work ( <i>attach details of qualifications and experience of each staff</i> )	
10	Other details elaborating on the capacity to execute the work ( <i>attach separate sheets</i> )	
11	<b>Any other information, if any</b>	

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Signature with Seal of Publisher \_\_\_\_\_

Full Name \_\_\_\_\_

Designation \_\_\_\_\_

**Part-II Technical Bid**

Please attach an exact replica of compendium that

- (i) demonstrates font size, font type, paper type, paper quality, paper size, printing quality, binding quality, colour scheme, etc. for inside pages and cover pages and for texts; and
- (ii) carries head notes of the orders of the Commission viz. M/s Financial Software and System Private Limited vs. M/s ACI Worldwide Solutions Private Limited & Ors. (Case no 52/2013) and Holcim Limited and Lafarge S.A (Combination Registration No. C-2014/07/190)

It is attached.

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Signature with Seal of Publisher \_\_\_\_\_

Full Name \_\_\_\_\_

Designation \_\_\_\_\_

**Part-III Financial Bid**

Sl. No.	Parameter	Compendium for Orders issued in		
		2014	2015	2016
1	Number of copies of the compendium to be published			
2	Printed price of compendium			
3	Royalty per copy of compendium to be paid or received by the bidder			
4	Price per copy for 300 copies to be sold to the Commission			

Signature of the Authorised Signatory  
Name of the Publisher

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Organisation Seal