

**LIMITED TENDER**

**Request for Proposal (RFP)**

**for Selection of**

**Financial Consultants and**

**Transaction Advisers**

No. RITES/RW&IE/DLMF/Marhowra/Financial Consultant

April, 2012

RITES Ltd.  
RITES Bhawan, Plot No. 1,  
Sector 29, Gurgaon – 122001

# Contents

## Request for Proposal

<b>Disclaimer</b>	4
<b>Invitation for Proposal</b>	6
<b>1 Introduction</b>	7
<b>2 Instructions to Applicants</b>	11
A. General	11
B. Documents	20
C. Preparation and Submission of Proposal	22
D. Evaluation Process	29
E. Appointment of Consultant	31
<b>3 Criteria for Evaluation</b>	34
<b>4 Fraud and corrupt practices</b>	37
<b>5 Pre-Proposal Conference</b>	39
<b>6 Miscellaneous</b>	40
<b>Schedules</b>	42
<b>1 Terms of Reference</b>	43

<b>2</b>	<b>Guidance Note on Conflict of Interest</b>	<b>54</b>
	<b>Appendices</b>	<b>57</b>
<b>1</b>	<b>Appendix-I: Technical Proposal</b>	<b>58</b>
	Form 1: Letter of Proposal	58
	Form 2: Particulars of the Applicant	62
	Form 3: Statement of Legal Capacity	67
	Form 4: Power of Attorney	69
	Form 5: Financial Capacity of the Applicant	
	Form 6: Particulars of Key Personnel	71
	Form 7: Abstract of Eligible Assignments of the Applicant	
	Form 7A: Abstract of other relevant experience of the Applicant	
	Form 8: Abstract of Eligible Assignments of Key Personnel	72
	Form 8A: Abstract of other relevant experience of Key Personnel	73
	Form 9: Eligible Assignments of Applicant	
	Form 9A: Other relevant assignments of Applicant	
	Form 10: Eligible Assignments of Key Personnel	74
	Form 10A: Other relevant assignments of Key Personnel	75
	Form 11: CVs of Professional Personnel	76
<b>2</b>	<b>Appendix-II: Financial Proposal</b>	
	Form 1: Covering Letter	78
	Form 2: Financial Proposal	79

## **DISCLAIMER**

The information contained in this Request for Proposal document (“**RFP**”) or subsequently provided to Applicants, whether verbally or in documentary or any other form by or on behalf of the Authority or any of its employees or advisers, is provided to Applicants on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement or an offer by the Authority to the prospective Applicants or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Applicants may be on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

The Authority, its employees and advisers make no representation or warranty and shall have no liability to any person including any Applicant under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFP and any assessment, assumption, statement or information contained

therein or deemed to form part of this RFP or arising in any way in this Selection Process.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise however caused arising from reliance of any Applicant upon the statements contained in this RFP.

The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select an Applicant or to appoint the Selected Applicant, as the case may be, for the Consultancy and the Authority reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Proposal. All such costs and expenses will remain with the Applicant and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Proposal, regardless of the conduct or outcome of the Selection Process.

# **Invitation for Proposal**

**LIMITED TENDER**

# INTRODUCTION

## 1.1 Background

- 1.1.1 RITES Limited, a Government of India Enterprise, represented by the General Manager (RW&IE), RITES, (the “**Authority**”) has been engaged by Ministry of Railways (MoR), Government of India, for bid process management for selection of Developer for Setting up a new Mainline Diesel Locomotive Factory at Marhowra, Saran District, Bihar State (India) for manufacturing and supplying Mainline Diesel Electric Locomotives to Indian Railways along with long term maintenance of these locomotives (the “**Project**”).
- 1.1.2 The private entity (the “**Developer**”) shall be selected through a competitive bidding process. The Project would be implemented in accordance with the terms and conditions stated in the “Request for Proposal” (RFP) and “Procurement cum Maintenance Agreement’ (PCMA) to be entered into between MoR and the Developer.
- 1.1.3 In pursuance of the above, the Authority has decided to carry out the process for selection of a Financial Consultant cum Transaction Adviser (the “**Consultant**”), for Bid Process Management of the Project. The Consultant shall appraise the Project, assist in the bid process, provide financial, commercial and transaction advisory in accordance with the Terms of Reference specified at Schedule-1 (the “**TOR**”).

## 1.2 Request for Proposal

The Authority invites proposals from interested firms (the “**Proposals**”) for selection of a financial consultant and transaction adviser (the “**Consultant**”) who shall assist the Authority in the bidding process (collectively the “**Consultancy**”).

The Authority intends to select the Consultant through limited tender enquiry process in accordance with the procedure set out herein.

## 1.3 Due diligence by Applicants

Applicants are encouraged to inform themselves fully about the assignment and the local conditions before submitting the Proposal by paying a visit to the Authority and the Project site, sending written queries to the Authority, and attending a Pre-Proposal Conference on the date and time specified in Clause 1.10.

#### **1.4 Sale of RFP Document**

RFP document can be obtained between 1100 hrs and 1600 hrs on all working days on payment of a fee of Rs. 5,000 (Rupees five thousand only) in the form of a demand draft or banker's cheque drawn on any Scheduled Bank in India in favour of **RITES Ltd.** and payable at Delhi / Gurgaon. Bidders may also download the document from RITES website [www.rites.com](http://www.rites.com) and submit the cost of the document along with the proposal.

#### **1.5 Validity of the Proposal**

The Proposal shall be valid for a period of not less than 90 days from the Proposal Due Date (the “PDD”) specified in Clause 1.8.

#### **1.6 Brief description of the Selection Process**

The Authority has issued a limited tender in which the request for participation has been sent to limited number of bidders and has adopted a single stage selection process (collectively the “**Selection Process**”) in evaluating the Proposals comprising technical and financial bids to be submitted together. Technical evaluation will be carried out as specified in Clause 3.1. Technical Evaluation shall be only for qualifying the bid. Financial evaluation will be carried out as specified in Clause 3.3. Proposals will finally be ranked according to Financial Bid subject to qualification of Technical Bid. The first ranked Applicant (the “**Selected Applicant**”) shall be called for negotiation, if necessary, while the second ranked Applicant will be kept in reserve.

#### **1.7 Currency conversion rate and payment**

1.7.1 Not Applicable as the bids shall be accepted in INR only.

1.7.2 All payments to the Consultant shall be made in INR in accordance with the provisions of this RFP. The Consultant may convert INR into any foreign currency as per Applicable Laws and the exchange risk, if any, shall be borne by the Consultant.

#### **1.8 Schedule of Selection Process**

The Authority would endeavour to adhere to the following schedule:



<b>Event Description</b>	<b>Date</b>
1. Document Sale Period	17-04-2012 to 30-04-2012
2. Last date for receiving queries/clarifications	07-05-2012
3. Pre-Proposal Conference	14-05-2012
4. Authority response to queries	17-05-2012
5. Proposal Due Date or PDD	23-05-2012
6. Opening of Proposals	On Proposal Due Date
7. Letter of Award (LOA)	Within 10 days of PDD
8. Signing of Agreement	Within 7 days of LOA
9. Validity of Applications	60 days of Proposal Due Date

### **1.9 Pre-Proposal visit and inspection of data**

Prospective applicants may visit the office of the Authority (RITES) and review the available documents and data at any time prior to PDD. For this purpose, they will provide at least two days' notice to the nodal officer specified below:

Sh. Anil Vij  
 General Manager (RW&IE)  
 RITES Ltd.  
 Phone: 0124-2818768  
 Mobile: 9811929944  
 Email: anil\_vij100@yahoo.com

### **1.10 Pre-Proposal Conference**

The date, time and venue of Pre-Proposal Conference shall be:

Date: 14-05-2012

Time: 1100 hrs

Venue: RITES Bhawan, Plot No.1, Sector 29, Gurgaon - 122001

## **1.11 Communications**

1.11.1 All communications including the submission of Proposal should be addressed to:

Sh. Anil Vij, General Manager (RW&IE), RITES Ltd.,  
Phone: 0124-2818768, Mobile: 9811929944,  
Email: anil\_vij100@yahoo.com

1.11.2 The **Official Website** of the Authority is:

<http://www.rites.com>

1.11.3 All communications, including the envelopes, should contain the following information, to be marked at the top in bold letters:

RFP Notice No. RITES/RW&IE/DLMF/Marhowra/Financial Consultant  
FOR SELECTION OF FINANCIAL CONSULTANT AND  
TRANSACTION ADVISER

## 2. INSTRUCTIONS TO APPLICANTS

### A. GENERAL

#### 2.1 Scope of Proposal

2.1.1 Detailed description of the objectives, scope of services, Deliverables and other requirements relating to this Consultancy are specified in this RFP. Applications are being invited only from limited number of Applicants who have experience in transaction advisory and financial consultancy in PPP Projects. The term applicant (the “**Applicant**”) means the Sole Firm as consortium is not permitted to participate in this tender. Consultancy is required only in Transactional and Financial areas. The authority is engaging separate consultant for legal advice for the Project. The manner in which the Proposal is required to be submitted, evaluated and accepted is explained in this RFP.

2.1.2 Applicants are advised that the selection of Consultant shall be on the basis of an evaluation by the Authority through the Selection Process specified in this RFP. Applicants shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and that the Authority’s decisions are without any right of appeal whatsoever.

2.1.3 The Applicant shall submit its Proposal in the form and manner specified in this Section of the RFP. The Technical proposal shall be submitted in the form at Appendix-I and the Financial Proposal shall be submitted in the form at Appendix-II. Upon selection, the Applicant shall be required to enter into an agreement with the Authority. The Agreement shall be as per the ‘Agreement for Provision of Financial and Transactional Advisory Services’ in the ‘Model RFP for Selection of Financial Consultants and Transaction Advisors’ published in the website of Planning Commission and modified mutatis mutandis. The Applicants may view the document at [http://infrastructure.gov.in/pdf/financial\\_consultants.pdf](http://infrastructure.gov.in/pdf/financial_consultants.pdf)

#### 2.1.4 Key Personnel

The Consultant’s team (the “**Consultancy Team**”) shall consist of the following key personnel (the “**Key Personnel**”) who shall discharge their respective responsibilities as specified below:

**Key Personnel****Responsibilities**

Financial Expert-cum-Team Leader (the “ <b>Financial Expert</b> )	He will lead, co-ordinate and supervise the Consultancy Team for delivering the Transactional Advisory and Financial Consultancy in a timely manner as envisaged in this RFP. He shall not delegate his responsibilities except with the prior written approval of the Authority.
Associate Consultant	He will assist the Financial Expert as may be necessary.

**2.2 Conditions of Eligibility of Applicants**

2.2.1 Applicants must read carefully the minimum conditions of eligibility (the “**Conditions of Eligibility**”) provided herein. Proposals of only those Applicants who satisfy the Conditions of Eligibility will be considered for evaluation.

2.2.2 To be eligible for evaluation of its Proposal, the Applicant shall fulfil the following:

- (A) **Availability of Key Personnel:** The Applicant shall offer and make available all Key Personnel meeting the requirements specified in Sub-clause (D) below.
- (B) **Conditions of Eligibility for Key Personnel:** Each of the Key Personnel must fulfill the Conditions of Eligibility specified below:

<b>Key Personnel</b>	<b>Educational Qualification</b>	<b>Length of Professional Experience</b>	<b>Experience on Eligible Assignments</b>
Financial Expert	MBA/ CA/ CFA or equivalent	15 years	He should have led financial team in the preparation of Bid Documents for 5(five) Eligible Assignments, of which at least 2 (two) should be PPP projects in last 10 years.

Associate Consultant	MBA/CA/CFA or equivalent	5 years	He should have worked as member of a financial team in preparation of Revenue Model and/or Bid Documents for at least two Eligible Assignments.
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2.2.3 DELETED

2.2.4 The Applicant should submit a Power of Attorney as per the format at Form - 4 of Appendix- I; provided, however, that such Power of Attorney would not be required if the Application is signed by a partner or Director (on the Board of Directors) of the Applicant

2.2.5 Any entity which has been barred by the Central Government, any State Government, a statutory authority or a public sector undertaking, as the case may be, from participating in any project and the bar subsists as on the date of the Proposal, would not be eligible to submit a Proposal either by itself or through its Associate.

2.2.6 An Applicant or its Associate should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant or its Associate, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Applicant or its Associate.

2.2.7 While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.

**2.3 Conflict of Interest**

2.3.1 An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “**Conflict of Interest**”). Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Performance Security, if available, as mutually agreed genuine pre-estimated compensation and damages payable to

the Authority for, *inter alia*, the time, cost and effort of the Authority including consideration of such Applicant's Proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.

- 2.3.2 The Authority requires that the Consultant provides professional, objective, and impartial advice and at all times hold the Authority's interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the Authority.
- 2.3.3 Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in the Guidance Note at Schedule-3. Without limiting the generality of the above, an Applicant shall be deemed to have a Conflict of Interest affecting the Selection Process, if:
- (a) the Applicant, its consortium member (the "**Member**") or Associates (or any constituent thereof) and any other Applicant, its consortium member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be) in the other Applicant, its consortium member or Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof. For the purposes of this Clause 2.3.3(a), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "**Subject Person**") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to Sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this Sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or

- (b) a constituent of such Applicant is also a constituent of another Applicant; or
- (c) such Applicant or its Associate receives or has received any direct or indirect subsidy or grant from any other Applicant or its Associate; or
- (d) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
- (e) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Application of either or each of the other Applicant; or
- (f) there is a conflict among this and other consulting assignments of the Applicant (including its personnel and other members, if any) and any subsidiaries or entities controlled by such Applicant or having common controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the Authority for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or
- (g) a firm which has been engaged by the Authority to provide goods or works or services for a project, and its Associates, will be disqualified from providing consulting services for the same project save and except as provided in Clause 2.3.4; conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project; or
- (h) the Applicant, its Member or Associate (or any constituent thereof), and the bidder or Developer, if any, for the Project, its contractor(s) or sub-contractor(s) (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be, in the bidder or Developer, if any, or its contractor(s) or sub-contractor(s) is less than 5% (five per cent) of the paid up and subscribed share capital of such Developer or its

contractor(s) or sub-contractor(s); provided further that this disqualification shall not apply to ownership by a bank, insurance company, pension fund or a Public Financial Institution referred to in section 4A of the Companies Act 1956. For the purposes of this Sub-clause (h), indirect shareholding shall be computed in accordance with the provisions of Sub-clause (a) above.

For purposes of this RFP, Associate means, in relation to the Applicant, a person who controls, is controlled by, or is under the common control with such Applicant, or is deemed or published as an “Associate Office”; or has a formal arrangement such as tie up for client referral or technology sharing, joint venture with the Applicant (the “Associate”); provided, however, that if the Applicant has any formal arrangement such as consortium membership in a consortium of advisers/ consultants for a particular assignment/ project, not being this project, with any other person, then such other person shall not be treated to be an Associate of the Applicant solely due to the reason of forming such consortium. As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law or by contract.

- 2.3.4 An Applicant eventually appointed to provide Consultancy for this Project, its Associates, affiliates and the Financial Expert, shall be disqualified from subsequently providing goods or works or services related to the construction and operation of the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 3 (three) years from the completion of this assignment or to any consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services performed for the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services performed for the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant’s firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Consultant, as the case may be, and any Associate thereof. For the avoidance of doubt, in the event that: (a) the Financial Expert of an Applicant/ Consultant was a partner or an employee of another firm, which attracts the provisions relating to Conflict of Interest hereunder; and (b) was directly or indirectly associated with any assignment that causes a Conflict of Interest hereunder, then such Financial Expert shall be deemed to suffer from Conflict of Interest for the purpose hereof.



2.3.5 The Applicants must give an undertaking that they, their Associates or affiliates are not auditors or financial advisers to any of the bidders for the Project, (GE Global Sourcing India Pvt. Ltd. India, Electro Motive Diesels, USA). They shall examine their status with respect to this para 2.3 on Conflict of Interest and make a disclosure to the Authority as soon as any potential conflict comes to their notice Any breach of this obligation of disclosure shall be construed as Conflict of Interest. The Authority shall, upon being notified by the Consultant under this Clause 2.3.5, decide whether it wishes to terminate this Consultancy or otherwise, and convey its decision to the Consultant within a period not exceeding 15 (fifteen) days.

## **2.4 Number of Proposals**

No Applicant or its Associate shall submit more than one Application for the Consultancy. An Applicant applying individually or as an Associate shall not be entitled to submit another application either individually or as a member of any consortium, as the case may be.

## **2.5 Cost of Proposal**

The Applicants shall be responsible for all of the costs associated with the preparation of their Proposals and their participation in the Selection Process including subsequent negotiation, visits to the Authority, Project site etc. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

## **2.6 Visit to the Authority and verification of information**

Applicants are encouraged to submit their respective Proposals after visiting the office of the Authority and ascertaining for themselves the availability of documents and other data with the Authority, Applicable Laws and regulations or any other matter considered relevant by them.

## **2.7 Acknowledgement by Applicant**

2.7.1 It shall be deemed that by submitting the Proposal, the Applicant has:

- (a) made a complete and careful examination of the RFP;
- (b) received all relevant information requested from the Authority;
- (c) accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority or relating to any of the matters referred to in Clause 2.6 above;

- (d) satisfied itself about all matters, things and information, including matters referred to in Clause 2.6 herein above, necessary and required for submitting an informed Application and performance of all of its obligations thereunder;
- (e) acknowledged that it does not have a Conflict of Interest; and
- (f) agreed to be bound by the undertaking provided by it under and in terms hereof.

2.7.2 The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP or the Selection Process, including any error or mistake therein or in any information or data given by the Authority.

## **2.8 Right to reject any or all Proposals**

2.8.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore.

2.8.2 Without prejudice to the generality of Clause 2.8.1, the Authority reserves the right to reject any Proposal if:

- (a) at any time, a material misrepresentation is made or discovered, or
- (b) the Applicant does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal.

Misrepresentation/ improper response by the Applicant may lead to the disqualification of the Applicant. If the Applicant is the Lead Member of a consortium, then the entire consortium may be disqualified / rejected. If such disqualification / rejection occurs after the Proposals have been opened and the highest ranking Applicant gets disqualified / rejected, then the Authority reserves the right to consider the next best Applicant, or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

## **B. DOCUMENTS**

### **2.9 Contents of the RFP**

- 2.9.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.11:

#### **Request for Proposal**

- 1 Introduction
- 2 Instructions to Applicants
- 3 Criteria for Evaluation
- 4 Fraud and corrupt practices
- 5 Pre-Proposal Conference
- 6 Miscellaneous

#### **Schedules**

- 1 **Terms of Reference**
- 2 **Form of Agreement (See Planning commission website mentioned in Cl. 2.1.3)**
- 3 **Guidance Note on Conflict of Interest**
- 4 **Appendices**

### **2.10 Clarifications**

- 2.10.1 Applicants requiring any clarification on the RFP may send their queries to the Authority in writing before the date mentioned in the Schedule of Selection Process at Clause 1.8. The envelopes shall clearly bear the following identification:

“Queries/Request for Additional Information concerning RFP for .....”

The Authority shall endeavour to respond to the queries within the period specified therein but no later than 4 (four) days prior to the PDD. The responses will be sent by fax or e-mail. The Authority will post the reply to all such queries to all Applicants who have purchased the RFP document without identifying the source of queries.

2.10.2 The Authority reserves the right not to respond to any queries or provide any clarifications, in its sole discretion, and nothing in this Clause 2.10 shall be construed as obliging the Authority to respond to any question or to provide any clarification.

## **2.11 Amendment of RFP**

2.11.1 At any time prior to the deadline for submission of Proposal, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFP document by the issuance of Addendum/ Amendment.

2.11.2 All such amendments will be notified in writing through fax or e-mail to all Applicants who have purchased the RFP document. The amendments will also be posted on the Official Website and will be binding on all Applicants.

2.11.3 In order to afford the Applicants a reasonable time for taking an amendment into account, or for any other reason, the Authority may, in its sole discretion, extend the PDD<sup>s</sup>.

## **C. PREPARATION AND SUBMISSION OF PROPOSAL**

### **2.12 Language**

The Proposal with all accompanying documents (the “**Documents**”) and all communications in relation to or concerning the Selection Process shall be in English language and strictly on the forms provided in this RFP. No supporting document or printed literature shall be submitted with the Proposal unless specifically asked for and in case any of these Documents is in another language, it must be accompanied by an accurate translation of all the relevant passages in English, in which case, for all purposes of interpretation of the Proposal, the translation in English shall prevail.

### **2.13 Format and signing of Proposal**

2.13.1 The Applicant shall provide all the information sought under this RFP. The Authority would evaluate only those Proposals that are received in the specified forms and complete in all respects.

2.13.2 The Applicant shall prepare one original set of the Proposal (together with originals/ copies of Documents required to be submitted along therewith pursuant to this RFP) and clearly marked “ORIGINAL”. In addition, the Applicant shall submit 1 (one) copy of the Proposal, along with

Documents, marked “COPY”. In the event of any discrepancy between the original and its copies, the original shall prevail.

2.13.3 The Proposal, and its copy, shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant who shall initial each page, in blue ink. In case of printed and published Documents, only the cover shall be initialled. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be initialled by the person(s) signing the Proposal. The Proposals must be properly signed by the authorised representative (the “**Authorised Representative**”) as detailed below:

- (a) by the proprietor, in case of a proprietary firm; or
- (b) by a partner, in case of a partnership firm and/or a limited liability partnership;  
or
- (c) by a duly authorised person holding the Power of Attorney, in case of a Limited Company or a corporation;

A copy of the Power of Attorney certified by a notary public in the form specified in Appendix-I (Form-4) shall accompany the Proposal (if required).

2.13.4 Applicants should note the PDD, as specified in Clause 1.8, for submission of Proposals.

Except as specifically provided in this RFP, no supplementary material will be entertained by the Authority, and that evaluation will be carried out only on the basis of Documents received by the closing time of PDD as specified in Clause 2.17.1. Applicants will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected.

## **2.14 Technical Proposal**

2.14.1 Applicants shall submit the technical proposal in the formats at Appendix-I (the “**Technical Proposal**”).

2.14.2 While submitting the Technical Proposal, the Applicant shall, in particular, ensure that:

- (a) all forms are submitted in the prescribed formats and signed by the prescribed signatories;
- (b) power of attorney, if applicable, is executed as per Applicable Laws;

- (c) CVs of all Key Personnel have been included;
- (d) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 2.2.2 of the RFP;

IMPORTANT: If CV of any key personnel does not meet the Conditions of Eligibility laid down at Clause 2.2.2 of the RFP, the Bid shall be summarily rejected as Technically unsuitable.

- (e) no alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
- (f) the CVs have been recently signed and dated, in blue ink by the respective Personnel and countersigned by the Applicant. Photocopy or unsigned / countersigned CVs shall be rejected;
- (g) the CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFP;
- (h) Key Personnel proposed have good working knowledge of English language;
- (i) Key Personnel would be available for the period indicated in the TOR;
- (j) no Key Personnel should have attained the age of 75 years at the time of submitting the proposal; and
- (k) the proposal is responsive in terms of Clause 2.21.3.

2.14.3 Failure to comply with the requirements spelt out in this Clause 2.14 shall make the Proposal liable to be rejected.

2.14.4 If an individual Key Personnel makes a false averment regarding his qualification, experience or other particulars, he shall be liable to be debarred for any future assignment of the Authority for a period of 3 (three) years. The award of this Consultancy to the Applicant may also be liable to cancellation in such an event.

2.14.5 The Technical Proposal shall not include any financial information relating to the Financial Proposal.

2.14.6 The proposed team shall include experts and specialists (the “**Professional Personnel**”) in their respective areas of expertise and managerial/support staff (the “**Support Personnel**”) such that the Consultant should be able to complete the Consultancy within the specified time schedule. The Key Personnel specified in Clause 2.1.4 shall be included in the proposed team of Professional Personnel. The team shall comprise other competent and

experienced professional personnel in the relevant areas of expertise (where applicable) as required for successful completion of this Consultancy. The CV of each such professional personnel, if any, should also be submitted in the format at Form-11 of Appendix-I.

2.14.7 DELETED

2.14.8 The Authority reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFP. Any such verification or the lack of such verification by the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

2.14.9 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Agreement, and if the Selected Applicant has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority without the Authority being liable in any manner whatsoever to the Selected Applicant or Consultant, as the case may be.

In such an event, the Authority shall forfeit and appropriate the Performance Security, if available, as mutually agreed pre-estimated compensation and damages payable to the Authority for, *inter alia*, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority.

**2.15 Financial Proposal**

2.15.1 Applicants shall submit the financial proposal in the formats at Appendix-II (the “**Financial Proposal**”) clearly indicating the total cost of the Consultancy (Item F of Form-2 of Appendix II) in both figures and words, in Indian Rupees, and signed by the Applicant’s Authorised Representative. In the event of any difference between figures and words, the amount indicated in words shall prevail. In the event of a difference between the arithmetic total and the total shown in the Financial Proposal, the lower of the two shall prevail.

2.15.2 While submitting the Financial Proposal, the Applicant shall ensure the following:

- (i) All the costs associated with the assignment shall be included in the Financial Proposal. These shall normally cover remuneration for all the Personnel (Expatriate and Resident, in the field, office etc), accommodation, air fare, equipment, printing of documents, etc. The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected. Only a single lump-sum cost is to be quoted for the tender.
- (ii) The Financial Proposal shall take into account all expenses and tax liabilities. For the avoidance of doubt, it is clarified that all taxes shall be deemed to be included in the costs shown under different items of the Financial Proposal. Further, all payments shall be subject to deduction of taxes at source as per Applicable Laws.
- (iii) Costs (including break down of costs) shall be expressed in INR.

## **2.16 Submission of Proposal**

2.16.1 The Applicants shall submit the Proposal in hard bound form with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be initialled by the Authorised Representative of the Applicant as per the terms of this RFP. In case the proposal is submitted on the document down loaded from Official Website, the Applicant shall be responsible for its accuracy and correctness as per the version up- loaded by the Authority and shall ensure that there are no changes caused in the content of the downloaded document. In case of any discrepancy between the downloaded or photo- copied version of the RFP and the original RFP issued by the Authority, the later shall prevail.

2.16.2 The Proposal will be sealed in an outer envelope which will bear the address of the Authority, RFP Notice number, Consultancy name as indicated at Clause 1.11.1 and 1.11.3 and the name and address of the Applicant. It shall bear on top, the following:

“Do not open, except in presence of the Authorised Person of the Authority”

If the envelope is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted and consequent losses, if any, suffered by the Applicant.



2.16.3 The aforesaid outer envelope will contain “Technical Proposal” and ‘Financial Proposal’. The envelope marked “Technical Proposal” shall contain the Application in the prescribed format (Form 1 of Appendix-I) along with Forms 2 to 12 of Appendix-I and supporting documents.

“Financial Proposal” shall contain the financial proposal in the prescribed format (Forms 1, 2 & 3 of Appendix-II).

2.16.4 The Technical Proposal and Financial Proposal shall be typed or written in indelible ink and signed by the Authorised Representative of the Applicant. All pages of the original Technical Proposal and Financial Proposal must be numbered and initialled by the person or persons signing the Proposal.

2.16.5 The completed Proposal must be delivered on or before the specified time on PDD. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained.

2.16.6 The Proposal shall be made in the Forms specified in this RFP. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents. No separate documents like printed annual statements, firm profiles, copy of contracts etc. will be entertained.

2.16.7 The rates quoted shall be firm throughout the period of performance of the assignment upto and including discharge of all obligations of the Consultant under the Agreement.

## **2.17 Proposal Due Date**

2.17.1 Proposal should be submitted before 1100 hrs on the PDD specified at Clause 1.8 at the address provided in Clause 1.11 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified therein.

2.17.2 The Authority may, in its sole discretion, extend the PDD by issuing an Addendum in accordance with Clause 2.11 uniformly for all Applicants.

## **2.18 Late Proposals**

Proposals received by the Authority after the specified time on PDD shall not be eligible for consideration and shall be summarily rejected.

## **2.19 Modification/ substitution/ withdrawal of Proposals**

- 2.19.1 The Applicant may modify, substitute, or withdraw its Proposal after submission, provided that written notice of the modification, substitution, or withdrawal is received by the Authority prior to PDD. No Proposal shall be modified, substituted, or withdrawn by the Applicant on or after the PDD.
- 2.19.2 The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.16, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.
- 2.19.3 Any alteration / modification in the Proposal or additional information or material supplied subsequent to the PDD, unless the same has been expressly sought for by the Authority, shall be disregarded.

## **2.20 Performance Security<sup>12</sup>**

Performance Security shall be 5% of the awarded contract value. The Applicant, by submitting its Application pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Authority’s any other right or remedy hereunder or in law or otherwise, the Performance Security shall be forfeited and appropriated by the Authority as the mutually agreed pre-estimated compensation and damage payable to the Authority for, *inter alia*, the time, cost and effort of the Authority in regard to the RFP including the consideration and evaluation of the Proposal under the following conditions:

- (a) If an Applicant engages in any of the Prohibited Practices specified in Clause 4.1 of this RFP;
- (b) if the Applicant is found to have a Conflict of Interest as specified in Clause 2.3; and
- (c) if the selected Applicant commits a breach of the Agreement.

## **D. EVALUATION PROCESS**

### **2.21 Evaluation of Proposals**

- 2.21.1 The Authority shall open the Proposals at 1530 hours on the PDD, at the place specified in Clause 1.11.1 and in the presence of the Applicants who choose to attend. This is a single packet tender, hence both “Technical Proposal” and “Financial Proposal” shall be opened on the PDD.

- 2.21.2 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.19 shall not be opened.
- 2.21.3 Prior to evaluation of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:
- (a) Technical Proposal is received in the form specified at Appendix-I and Financial Proposal is received in the form specified at Appendix-II;
  - (b) it is received by the PDD including any extension thereof pursuant to Clause 2.17; (c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.13 and 2.16;
  - (d) it is accompanied by the Power of Attorney as specified in Clause 2.2.4;
  - (e) it contains all the information (complete in all respects) as requested in the RFP;
  - (f) it does not contain any condition or qualification; and
  - (g) it is not non-responsive in terms hereof.
- 2.21.4 The Authority reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Proposals.
- 2.21.5 The Authority shall subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 1.6 of the 'Introduction' and the criteria set out in Section 3 of this RFP.
- 2.21.6 On the PDD, at nominated time, the Proposals (Technical and Financial) shall be opened. The opening of Proposals shall be done in presence of respective representatives of Applicants who choose to be present. Financial bids of the Applicants shall be read out. The Authority will not entertain any query or clarification from Applicants who fail to qualify in the Selection Process. The financial evaluation and final ranking of the Proposals shall be carried out in terms of Clauses 3.3 and 3.4.
- 2.21.7 Applicants are advised that Selection shall be entirely at the discretion of the Authority. Applicants shall be deemed to have understood and agreed that the Authority shall not be required to provide any explanation or justification in respect of any aspect of the Selection Process or Selection.
- 2.21.8 Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant if the Consultancy is subsequently awarded to it.

## **2.22 Confidentiality**

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising the Authority in relation to matters arising out of, or concerning the Selection Process. The Authority shall treat all information, submitted as part of the Proposal, in confidence and shall require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or to enforce or assert any right or privilege of the statutory entity and/or the Authority or as may be required by law or in connection with any legal process.

## **2.23 Clarifications**

- 2.23.1 To facilitate evaluation of Proposals, the Authority may, at its sole discretion, seek clarifications from any Applicant regarding its Proposal. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.
- 2.23.2 If an Applicant does not provide clarifications sought under Clause 2.23.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the Authority may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

## **E. APPOINTMENT OF CONSULTANT**

### **2.24 Negotiations**

- 2.24.1 The Selected Applicant may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the Proposal, but will be for re-confirming the obligations of the Consultant under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan shall be discussed during negotiations. In case the Selected Applicant fails to reconfirm its commitment, the Authority reserves the right to designate the next ranked Applicant as the Selected Applicant and invite it for negotiations.
- 2.24.2 The Authority will examine the CVs of all other Professional Personnel and those

not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.

- 2.24.3 The Authority will examine the credentials of all Sub-Consultants/ Consortium Members proposed for this Consultancy and those not found suitable shall be replaced by the Selected Applicant to the satisfaction of the Authority.

## **2.25 Substitution of Key Personnel**

- 2.25.1 The Authority will not normally consider any request of the Selected Applicant for substitution of the Financial Expert. Substitution will, however, be permitted in exceptional circumstances if the Financial Expert is not available for reasons of any incapacity or due to health, subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.
- 2.25.2 The Authority expects the Key Personnel to be available during implementation of the Agreement. The Authority will not consider substitution of the Key Personnel except for reasons of any incapacity or due to health. Such substitution shall ordinarily be limited to one Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Without prejudice to the foregoing, substitution of the Financial Expert shall only be permitted subject to reduction of remuneration equal to 20% (twenty per cent) of the total remuneration specified for the original Financial Expert who is proposed to be substituted.
- 2.25.3 Notwithstanding Clauses 2.25.1 and 2.25.2, Applicants should specifically note that substitution of the Financial Expert will not normally be considered during the implementation of the Agreement and may lead to disqualification of the Applicant or termination of the Agreement. Applicants are expected to propose only such Financial Expert who will be in a position to commit the time required for and be available for delivering the Consultancy in accordance with the Key Dates specified herein and in the Agreement.

## **2.26 Indemnity**

The Consultant shall, subject to the provisions of the Agreement, indemnify the Authority, for an amount not exceeding 3 (three) times the value of the Agreement, for any direct loss or damage that is caused due to any deficiency in Services.

## **2.27 Award of Consultancy**

After selection, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Selected Applicant and the Selected Applicant shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Applicant is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, cancel the LOA and the next highest ranking Applicant may be considered.

## **2.28 Execution of Agreement**

After acknowledgement of the LOA as aforesaid by the Selected Applicant, it shall execute the Agreement as per Clause 2.1.3 within the period prescribed in Clause 1.8. The Selected Applicant shall not be entitled to seek any deviation in the Agreement.

## **2.29 Commencement of Assignment**

The Consultant shall commence the Consultancy within seven days of the date of the Agreement, or such other date as may be mutually agreed. If the Consultant fails to either sign the Agreement as specified in Clause 2.28 or commence the assignment as specified herein, the Authority may invite the second ranked Applicant for negotiations. In such an event, the LOA or the Agreement, as the case may be, may be cancelled /terminated.

## **2.30 Proprietary data**

Subject to the provisions of Clause 2.22, all documents and other information provided by the Authority or submitted by an Applicant to the Authority shall remain or become the property of the Authority. Applicants and the Consultant, as the case may be, are to treat all information as strictly confidential. The Authority will not return any Proposal or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the Consultant to the Authority in relation to the Consultancy shall be the property of the Authority.

### 3. CRITERIA FOR EVALUATION

#### 3.1 Evaluation of Technical Proposals

3.1.1 Limited tenders have been sent to Applicants who have experience of transactional and financial advisory for PPP projects. Hence the Technical Proposal will be evaluated only on the basis of the experience of Key Personnel. Only those Applicants whose all Key Personnel qualify the minimum eligibility criteria, shall be considered as technically eligible.

3.1.2 Each Key Personnel must have minimum relevant experience as indicated in para 3.1.3 below.

3.1.3 The relevant minimum experience of the Key Personnel is required as given below:

#### Minimum Experience of the Key Personnel

(See para 2.2.2)

Financial/transactional Expert	Should have worked as leader or head of a financial team for at least 5 (five) Eligible Assignments, of which at least 2 (two) should have been PPP projects.
Associate Consultant (one)	Should have worked as member of a financial team for at least 2 (two) Eligible Assignments.

3.1.4 Eligible Assignments (For the CVs of Consultants)

For the purposes of satisfying the Conditions of Eligibility and for evaluating the Proposals under this RFP, advisory/ consultancy assignments granted by the government, regulatory commission, tribunal, statutory authority or public sector entity in respect of preparation of revenue model and/or preparation of transaction / bid documents and other similar assignments in relation to the bidding process or other transactions, as the case may be, for the following projects shall be deemed as eligible assignments (the “**Eligible Assignments**”):

- (a) An infrastructure project undertaken through Public Private Partnership (PPP) or other forms of private participation and having an estimated capital cost (excluding land) of at least Rs. 200 crore (Rupees two hundred crore) in case of a project in India, and US \$ 100

million (US\$ 100 million) for infrastructure projects undertaken elsewhere through PPP or other forms of private participation (the “**PPP Projects**”);

or

- (b) an infrastructure project having an estimated capital cost (excluding land) of at least Rs. 200 crore (Rupees two hundred crore) in case of a project in India, and US \$ 100 million (US\$ hundred million) for projects elsewhere, provided that the payment of professional fee to the Applicant was at least Rs. 5 lakh (Rupees five lakh) in case of a project in India, and US \$ 25,000 (US\$ twenty five thousand) for any infrastructure project elsewhere (the “**Other Projects**”);

### 3.1.5 Other relevant assignments

Assignments undertaken by the Applicant/ Key Personnel for private sector entities shall be considered for evaluation if: (a) the advisory/ consultancy services relate to an infrastructure project; (b) the estimated capital cost of the project exceeds [Rs. 200 crore (Rupees two hundred crore)] in case of a project in India, and [US \$ 100 million (US\$ 100 million)] for projects elsewhere; and (c) the professional fee for the assignment was at least [Rs. 5 lakh (Rupees five lakh)] in case of a project in India, and [US \$ 25,000 (US\$ twenty five thousand)] for projects elsewhere.

## 3.2 Short-listing of Applicants

DELETD

## 3.3 Evaluation of Financial Proposal

- 3.3.1 The financial evaluation of technically eligible Applicants as per Clause 2.1.1, will be carried out as per this Clause 3.3.
- 3.3.2 For financial evaluation, the lump-sum total cost indicated in the Financial Proposal, will be considered. No additional costs are admissible.
- 3.3.3 The Authority will determine whether the Financial Proposals are complete, unqualified and unconditional. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the Consultant to be compensated and the liability to fulfill its obligations as per the TOR within the total quoted price shall be that of the Consultant.



### **3.4 Final Evaluation**

- 3.4.1 Lowest Financial Proposal, out of the technically suitable, shall be given the highest rank i.e. 1. Second lowest Financial Proposal, out of the technically suitable, shall be given the second highest rank i.e. 2; and so on.
- 3.4.2 The Selected Applicant shall be the Applicant having the highest rank. The second highest Applicant shall be kept in reserve and may be invited in its discretion for negotiations in case the first-ranked Applicant withdraws, or fails to comply with the requirements specified in Clauses 2.24, 2.28 and 2.29, as the case may be.

## 4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the Authority shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “**Prohibited Practices**”) in the Selection Process. In such an event, the Authority shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Performance Security, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter alia*, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Applicant’s Proposal.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Applicant or Consultant, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or Consultant shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Applicant or Consultant, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Clause, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process; or (ii) save as provided herein, engaging in any

manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of the Authority in relation to any matter concerning the Project;

- (b) “**fraudulent practice**” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) “**coercive practice**” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;
- (d) “**undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) “**restrictive practice**” means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

## **5. PRE-PROPOSAL CONFERENCE**

- 5.1 Pre-Proposal Conference of the Applicants shall be convened at the designated date, time and place. A maximum of two representatives of each Applicant shall be allowed to participate on production of an authority letter from the Applicant.
- 5.2 During the course of Pre-Proposal Conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Selection Process.

## 6. MISCELLANEOUS

- 6.1 The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
- (a) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
  - (b) consult with any Applicant in order to receive clarification or further information;
  - (c) retain any information and/or evidence submitted to the Authority by, on behalf of and/or in relation to any Applicant; and/or
  - (d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Applicant.
- 6.3 It shall be deemed that by submitting the Proposal, the Applicant agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.
- 6.4 All documents and other information supplied by the Authority or submitted by an Applicant shall remain or become, as the case may be, the property of the Authority. The Authority will not return any submissions made hereunder. Applicants are required to treat all such documents and information as strictly confidential.
- 6.5 The Authority reserves the right to make inquiries with any of the clients listed by the Applicants in their previous experience record.

# Schedules

SCHEDULE-1  
(See Clause 1.1.3)

**TERMS OF REFERENCE (TOR)  
CONSULTANCY  
FOR  
FINANCIAL AND TRANSACTION SERVICES  
FOR THE PROJECT:**

SELECTION OF DEVELOPER FOR SETTING UP A  
NEW MAINLINE DIESEL LOCOMOTIVE FACTORY  
AT MARHOWRA, SARAN DISTRICT, BIHAR STATE  
(INDIA) FOR MANUFACTURING AND SUPPLYING  
MAINLINE DIESEL ELECTRIC LOCOMOTIVES TO  
INDIAN RAILWAYS ALONGWITH LONG TERM  
MAINTENANCE OF THESE LOCOMOTIVES

## **Terms of Reference (TOR)**

### **1. GENERAL**

- 1.1 The Authority seeks the services of a qualified firm for acting as a Financial Consultant and Transaction Adviser. The Consultant shall appraise the Project, assist in the bid process, provide financial, commercial and transaction advisory (collectively the “**Consultancy**”). The Terms of Reference (the “**TOR**”) and the scope of the Consultancy for this assignment are specified below.
- 1.2 The Ministry of Railways i.e. the “Project Authority” has appointed RITES (i.e. the “Authority” for this RFP) for bid process management of the Project. The bid process has cleared the RFQ stage in which two Applicants to the Project RFQ (GE Global Sourcing India Pvt. Ltd. India, Electro Motive Diesels, USA) have cleared the RFQ stage. They have been issued the Project RFP, duly approved by the Project Authority. The bid process is to be taken forward from this stage onwards. The initial stages of the Project i.e. feasibility and appraisal are over. However the Consultant may have to go into the aspects of Project costing and revenues at the time of evaluation of bids.
- 1.3 Consultant shall be guided in its assignment by the Project RFP and the PCMA (Procurement cum Maintenance Agreement) Document (including Land Lease and shareholder’s Agreements, and the guidelines issued by Ministry of finance and Planning Commission on the PPP Projects. for appraising the Project, reviewing bid documents, suggesting changes in the RFP pursuant to the pre-bid meeting.
- 1.4 The Consultant shall assist the Authority and its Technical Consultant and the Legal Adviser by furnishing clarifications as required for the structuring, documentation and award of the Project.
- 1.5 The Consultant shall also participate in the pre-bid conferences with the Bidders of the Project and assist the Authority in clarifying the financial aspects arising from the Bid Documents.
- 1.6 The Consultant shall make available the Financial Expert and other Key Personnel to attend and participate in meetings, conferences and discussions with the Authority and shall otherwise advise on and assist the Authority in the diverse commercial issues that may arise from time to time.



## **2. OBJECTIVE**

The objective of this Consultancy (the “**Objective**”) is to procure transaction related and financial advice and assist in the bidding process.

## **3. SCOPE OF SERVICES**

### **3.1** The scope of services shall include:

- (i) assisting the Authority in the entire bidding process up to the signing of the project agreements;
- (ii) evaluation of the strategic objectives of the Authority in relation to the Project and advising on the commercial and capital aspects, especially with reference to Applicable Laws;
- (iii) collection, compilation and analysis of relevant financial data relating to all costs and revenues; (if and as applicable)
- (iv) review cost estimates contained in the Feasibility Report (if any);
- (v) assisting the Authority in identification of project risks and in allocation of the same in an efficient and economic manner;
- (vi) advising on tax-related issues arising out of the Project structuring;
- (vii) comment on the draft Project Agreement;
- (xi) preparation of a consolidated list of approvals/consents/clearances required from Government Instrumentalities; and

In making its projections, recommendations and Reports, the Consultant shall identify the underlying assumptions and reach an agreement with the Authority in relation thereto. The services to be rendered by the financial consultants are briefly explained hereunder:

### **3.2 Transaction Adviser**

The Consultant shall be responsible for review of the financial parameters and examination of the viability of the Project as applicable. The Consultant will also render advisory services for conducting the bid process and will assist in the preparation of bidding documents, as applicable, and in conducting the bidding process for selection of the Developer for the project. The Consultant shall also maintain, update and disseminate the necessary data and information related to the Project and the bid process. During interaction with the bidders and stakeholders, the Consultant shall assist the Authority in responding to all queries satisfactorily and within the specified time. The Consultant shall render advisory services upto the signing of the Project Agreement.

### **3.3 Compilation and analysis of Data**

The Consultant shall, based on available information, and as applicable for this project, compile and analyze the financial and commercial data relating to the Project.

### **3.4 Impact of Project on Government Resources**

The Consultant shall also identify and quantify the estimated financial impact of the Project on the resources of the Central / State Governments [and the Project Authority], if and as required.

### **3.5 Assistance in preparation of Bid Documents**

The RFP documents have been issued to the bidders. The pre-bid queries raised by the bidders are to be studied and changes made in the RFP document if found necessary and approved by the Authority. For this purpose, he shall work closely with the Authority and its legal advisers and technical consultants. Bid documents would include the 'Procurement cum Maintenance Agreement' (PCMA), shareholder's Agreement, Land Lease Agreement or any other related document required to execute these project agreements. Bids to be submitted by the bidders shall be based on the aforesaid bid documents.

### **3.6 Assistance in the Bid Process**

The Consultant shall assist the Authority in the bid process for selection of the Developer from among the Bidders and till the signing of the Project Agreement. This will primarily relate to participation in pre-bid meetings and answering questions or issuing clarifications with the approval of the Authority. It will also assist the Authority in preparing internal notes and projections for securing governmental approvals, if any.

### **3.7 Assistance in selection of the preferred Bidder**

The Authority intends to select the preferred bidder on the basis of the Proposals received from pre-qualified bidders. Only financial proposals will be invited as part of the Bidding Process. The Consultant shall also assist the Authority in evaluating the financial proposals and in engaging with the selected bidder till execution of the Project Agreement.

### **3.8 Rendering advisory services**

The Consultant shall provide such other advice and assistance as may be necessary and incidental to the Services and as may be requested by the Authority in respect of the Project, including but not limited to attending meetings, conferences and discussions with the Authority, and shall otherwise advise on and assist the Authority in the diverse commercial issues that may arise from time to time. The Consultant shall be responsible primarily for providing advice relating to financial issues arising from or during the course of the bidding process and the documents relating thereto.

### **3.9 Tax and insurance-related matters**

During the course of the Consultancy, the Consultant may be called upon to advise on tax and / or insurance related issues affecting the Project.

### **3.10 Scope not exhaustive**

The Scope of Services specified in this Clause 3 are not exhaustive and the Consultant shall undertake such other tasks as may be necessary to appraise the project financially, prepare the Revenue Model and successfully complete the bid process for the Project.

## **4. DELIVERABLES**

In pursuance of this TOR, the Consultant shall undertake/deliver the following deliverables (the “**Deliverables**”) during the course of this Consultancy. Each deliverable shall include an executive summary, analyses, assumptions, results of computations, tables, charts, recommendations, and such other contents that generally comprise deliverables for similar consultancy work by way of best practices. Ten (10) hard copies and three (3) soft copies of all the Reports mentioned herein below shall be submitted to the Authority. The deliverables shall include:

- A. Submission of Final RFP Documents (PCMA and other related documents) after incorporating the decisions after the pre-bid meetings.
- B. Evaluation of RFP Bids, submission of evaluation report to MoR and acceptance of evaluation report by MoR.

- C. Preparation of final Project Agreements, negotiations and Signing of the Agreements with selected Bidder.

**5. TIME AND PAYMENT SCHEDULE**

- 5.1 Subject to the provisions of Clause 10.1 of the TOR, the total duration of the bidding process shall be 20 weeks, excluding the time taken by the Authority in providing the requisite documents or in conveying its comments on the Draft Reports. The Consultant shall deploy the Key Personnel as per the deployment of Personnel proposed. Intermittent services will be required beyond the 20 weeks and until the end of 52 weeks or two months after the signing of the Project Agreement, whichever is earlier. However the lump-sum price quoted by the Applicant shall include the cost towards the intermittent services period as well.
- 5.2 Important Deliverables of the Consultancy (Milestones) and the payment schedule linked to the specified Deliverables are given below:

<b>Milestone</b>	<b>(as % of total fee)</b>
Submission of Final RFP Documents after incorporating the decisions after the pre-bid meetings and issue of final RFP document to the bidders by the Project Authority.	35%
Evaluation of RFP Bids and acceptance of the evaluation report by the Project Authority.	30%
Signing of Project Agreements with selected Bidder	35%

- 5.3 Payment for the Services shall be based on the lump-sum quoted by the bidder and as per the payment schedule in para 5.2, expressed as the percentage of the lump-sum quoted. The costs include all costs to the Consultants like man-hours, travel, lodging, boarding, incidental expenses, contingency etc. No other payment shall be made to the consultant except the lump-sum quoted by the bidder. Each milestone shall be considered achieved only after the approval of MoR is obtained for that stage. Payment shall be considered as due only after successful completion of the milestone.

## 6. MEETINGS

- 6.1 The Authority may review with the Consultant, any or all of the documents and advice forming part of the Consultancy, in meetings and conferences which will be held in New Delhi at the office of MoR or the Authority's office. Further, the Consultant may be required to attend meetings and conferences with pre-qualified bidders or the Selected Bidder. The expenses towards attending such meetings during the period of Consultancy, including travel costs and *per diem*, including incidental or any other expenses, shall be considered included in the lump-sum price quoted by the bidder.
- 6.2 The Authority may, in its discretion, require the Consultant to participate in extended meetings and/ or work from the offices of the Authority and the Consultant shall, on a best endeavour basis and without unreasonable delay, provide such services at the offices of the Authority.

## 7. CONSULTANCY TEAM

- 7.1 The Consultant shall form a team (the "**Consultancy Team**") for undertaking this assignment. The Consultancy Team shall consist of experts who have the requisite qualifications and experience. Financial Expert shall be the leader of the Consultancy Team. The following Key Personnel whose experience and responsibilities are briefly described herein would be considered for evaluation of the Technical Proposal. Other expertise as required for the services to be rendered by the Consultant shall be included in the Team either through the Key Personnel specified below or through other Professional Personnel, as necessary.

Financial Expert-cum-Team Leader (the "**Financial Expert**")

Educational Qualifications	MBA/ CA/ CFA or equivalent
Essential Experience	15 years in financial services. He should have led the financial team in preparation of Bid Documents for five Eligible Assignments of which at least two should have been PPP projects in the last 10 years.
Job responsibilities	He will lead, co-ordinate and supervise the Consultancy Team for delivering the Consultancy in a timely manner as envisaged in this RFP. He shall not delegate his responsibilities except with the prior written approval of the Authority.

## Associate Consultant

Educational Qualifications	MBA/CA/CFA or equivalent
Essential Experience	5 years in financial services. He should have worked as member of a financial team in preparation of Bid Documents for at least two Eligible Assignments.
Job responsibilities	He will assist the Financial Expert as may be necessary.

- 7.2 The Consultant shall mobilize and demobilize its Professional Personnel and Support Personnel with the concurrence of the Authority and shall maintain the time sheet/ attendance sheet of the working of all Personnel in the Project Office.
- 7.3 The Consultant shall establish a Project Office at a suitable location in New Delhi for efficient and coordinated performance of its Services. **All the Key Personnel shall be deployed at this office during the first week of issuing LOA by the Authority.** The authorised officials of the Authority may visit the Consultant's Project Office at any time during office hours for inspection and interaction with the Consultant's Personnel. It is not expected of the Consultant to carry out the operations from the Head/Home Office. However, he may do so for the remaining consultancy services beyond the first 20 weeks.

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## 8. REPORTING

### 8.1 DELETED

- 8.2 The Consultant will work closely with the Authority and its technical and legal consultants. The Authority has established a Working Group (the "WG") to enable conduct of this assignment. A designated Project Director of the Authority (GM/RW&IE, RITES) will be responsible for the overall coordination and project development. He will play a coordinating role in dissemination of the Consultant's outputs, facilitating discussions, and ensuring required reactions and responses to the Consultant.
- 8.3 The Consultant may prepare Issue Papers highlighting issues that could become critical for the timely completion of the Project and that require attention from the Authority.
- 8.4 The Consultant will make a presentation on the inception report for discussion with the WG at a meeting. This will be a working document. The Consultant is required to prepare and submit a monthly report that includes and describes, *inter*

*alia*, general progress to date; data and reports obtained and reviewed, conclusions to date, if any; concerns about availability of, or access to, data, analyses, reports; questions regarding the TOR or any other matters regarding work scope and related issues; and so on. The Consultants' work on the TOR tasks should continue while the report is under consideration and is being discussed.

8.5 Regular communication with the WG and the Project Director is required in addition to all key communications. This may take the form of telephone/teleconferencing, emails, faxes, and occasional meetings.

8.6 The Deliverables will be submitted as per schedule provided in this RFP.

## **9. DOCUMENTS TO BE MADE AVAILABLE BY THE AUTHORITY**

The Authority shall provide to the Consultant the following:

- (a) RFQ of the Project ;
- (b) RFP of the Project; and
- (c) Procurement cum Maintenance Agreement (PCMA).

Available data as may be required by the Consultant will be provided by the Authority on request. The Nodal Officer designated by the Authority shall facilitate handing over of such information to the Consultant.

## **10. COMPLETION OF SERVICES**

10.1 All the Deliverables shall be compiled, classified and submitted by the Consultant to the Authority in soft form, to the extent possible. The documents comprising the Deliverables shall remain the property of the Authority and shall not be used by the Consultant for any purpose other than that intended under these Terms of Reference without the permission of the Authority. The Consultancy shall stand completed on acceptance by the Authority of all the Deliverables of the Consultant. Unless completed earlier, the Services shall be deemed completed and finally accepted by the Authority and the final Deliverable shall be deemed approved by the Authority as satisfactory upon expiry of 60 (sixty) days after receipt of the final Deliverable unless the Authority, within such 60 (sixty) day period, gives written notice to the Consultant specifying in detail, the deficiencies in the Services. The Consultant shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated. The Consultancy shall in any case be deemed to be completed upon expiry of 1 (one) year from the Effective Date, unless extended by mutual consent of the Authority and the Financial Consultant.

SCHEDULE-3  
(See Clause 2.3.3)

**Guidance Note on Conflict of Interest**

1. This Note further explains and illustrates the provisions of Clause 2.3 of the RFP and shall be read together therewith in dealing with specific cases.
2. Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the Authority and a consultant or between consultants and present or future developers/ contractors. Some of the situations that would involve conflict of interest are identified below:
  - (a) Authority and consultants:
    - (i) Potential consultant should not be privy to information from the Authority which is not available to others.
    - (ii) Potential consultant should not have defined the project when earlier working for the Authority.
    - (iii) Potential consultant should not have recently worked for the Authority overseeing the project.
  - (b) Consultants and Developers/contractors:
    - (i) No consultant should have an ownership interest or a continuing business interest or an on-going relationship with a potential Developer/ contractor save and except relationships restricted to project-specific and short-term assignments.
    - (ii) No consultant should be involved in owning or operating entities resulting from the project.
    - (iii) No consultant should bid for works arising from the project.



The participation of companies that may be involved as investors or consumers and officials of the Authority who have current or recent connections to the companies involved, therefore, needs to be avoided.

4. The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Authority. All conflicts must be declared as and when the consultants become aware of them.
5. Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Authority.
6. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
7. Another form of conflict of interest called “scope–creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.
8. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

## **Appendices**

(Note: The document has been adopted from the Model Document of Ministry of Finance. Certain Appendices have been deleted as per the requirement of this tender. However the original numbers of the Appendices have been retained to keep the cross-reference intact. The Appendices have been listed in the Contents)

APPENDIX-I  
(See Clause 2.1.3)  
**TECHNICAL PROPOSAL**  
Form-1  
**Letter of Proposal**  
(On Applicant's letter head)

(Date and Reference)

To,  
\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

Sub: Appointment of Consultant for Financial and Transaction Advisory Services for  
.....

Dear Sir,

With reference to your RFP Document dated ....., I/We, having examined all relevant documents and understood their contents, hereby submit our Proposal for selection as Consultant for Financial and Transaction Services (the “**Consultant**”)for [\*\*\*\*\*]. The proposal is unconditional and unqualified.

2. I/We acknowledge that the Authority will be relying on the information provided in the Proposal and the documents accompanying the Proposal for selection of the Consultant, and we certify that all information provided in the Proposal and in the Appendices is true and correct, nothing has been omitted which renders such information misleading; and all documents accompanying such Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of appointment as the Consultant for the aforesaid Project.
4. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
5. I/We acknowledge the right of the Authority to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/We certify that in the last three years, we or any of our Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

7. I/We declare that:
- (a) I/We have examined and have no reservations to the RFP Documents, including any Addendum issued by the Authority;
  - (b) I/We do not have any conflict of interest in accordance with Clause 2.3 of the RFP Document;
  - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
  - (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant, without incurring any liability to the Applicants in accordance with Clause 2.8 of the RFP document.
9. I/We declare that we are not a member of any other Consortium applying for Selection as a Consultant.
10. I/We certify that in regard to matters other than security and integrity of the country, we or any of our Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.
11. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
12. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors/Managers/employees.
13. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority [and/ or the Government of India] in connection with the selection of Consultant or in connection with the Selection Process itself in respect of the above mentioned Project.

14. I/We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall I/we have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened or rejected.
15. I/We agree to keep this offer valid for 90 (ninety) days from the PDD specified in the RFP.
16. A Power of Attorney in favour of the authorised signatory to sign and submit this Proposal and documents is attached herewith in Form 4.
17. In the event of my/our firm being selected as the Consultant, I/we agree to enter into an Agreement in accordance with the form at Schedule–2 of the RFP. We agree not to seek any changes in the aforesaid form and agree to abide by the same.
18. In the event of my/our firm being selected as the Consultant, I/we agree and undertake to provide the services of the Financial Expert in accordance with the provisions of the RFP and that the Financial Expert shall be responsible for providing the agreed services himself and not through any other person or Associate.
19. I/We have studied RFP and all other documents carefully. We understand that except to the extent as expressly set forth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.
20. The Financial Proposal is being submitted in a separate cover. This Technical Proposal read with the Financial Proposal shall constitute the Application which shall be binding on us.
21. I/We agree and undertake to abide by all the terms and conditions of the RFP Document.

In witness thereof, I/we submit this Proposal under and in accordance with the terms of the RFP Document.

Yours faithfully,

(Signature, name and designation of the authorised signatory)  
(Name and seal of the Applicant)

APPENDIX-I  
Form-2  
**Particulars of the Applicant**

1.1	Title of Consultancy:
1.2	Title of Project:
1.3	State whether applying as Sole Firm or Lead Member of a consortium: DELETED

1.4	<p>State the following:</p> <p>Name of Firm:</p> <p>Legal status (e.g. sole proprietorship or partnership):</p> <p>Country of incorporation:</p> <p>Registered address:</p> <p>Year of Incorporation:</p> <p>Year of commencement of business:</p> <p>Principal place of business:</p> <p>Name, designation, address and phone numbers of authorised signatory of the Applicant:</p> <p>Name:</p> <p>Designation:</p> <p>Company:</p> <p>Address:</p> <p>Phone No.:</p> <p>Fax No. :</p> <p>E-mail address:</p>
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1.5	<p>If the Applicant is Lead Member of a consortium, state the following for each of the other Member Firms:</p> <ul style="list-style-type: none"><li data-bbox="555 312 808 341">(i) Name of Firm:</li><li data-bbox="555 389 1122 418">(ii) Legal Status and country of incorporation</li><li data-bbox="555 466 1227 494">(iii) Registered address and principal place of business.</li></ul>
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1.6	<p>For the Applicant, (in case of a consortium, for each Member), state the following information:</p> <p>(i) In case of non Indian Firm, does the Firm have business presence in India? <span style="float: right;">Yes/No</span> If so, provide the office address(es) in India.</p> <p>(ii) Has the Applicant or any of the Members in case of a consortium been penalised by any organization for poor quality of work or breach of contract in the last five years? <span style="float: right;">Yes/No</span></p> <p>(iii) Has the Applicant/ or any of its Associates ever failed to complete any work awarded to it by any public authority/ entity in last five years? <span style="float: right;">Yes/No</span></p> <p>(iv) Has the Applicant or any member of the consortium been blacklisted by any Government department/Public Sector Undertaking in the last five years? <span style="float: right;">Yes/No</span></p> <p>(v) Has the Applicant or any of its Associates, in case of a consortium, suffered bankruptcy/insolvency in the last five years? <span style="float: right;">Yes/No</span></p> <p><b>Note: If answer to any of the questions at (ii) to (v) is yes, the Applicant is not eligible for this consultancy assignment.</b></p>
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1.7	<p>(Signature, name and designation of the authorised signatory) For and on behalf of .....</p>
-----	---

APPENDIX-I  
Form-3  
**Statement of Legal Capacity**  
*(To be forwarded on the letter head of the Applicant)*

Ref. Date: To,  
\*\*\*\*\*

\*\*\*\*\* Dear Sir,

Sub: RFP for Consultant for Financial and Transaction Services: [\*\*\*\*\*] I/We hereby confirm that we, the Applicant (along with other members in case of consortium, constitution of which has been described in the Proposal\*), satisfy the terms and conditions laid down in the RFP document.

I/We have agreed that ..... (insert Applicant's name) will act as the Lead Member of our consortium.

I/We have agreed that ..... (insert individual's name) will act as our Authorised Representative/ will act as the Authorised Representative of the consortium on our behalf and has been duly authorized to submit our Proposal. Further, the authorised signatory is vested with requisite powers to furnish such proposal and all other documents, information or communication and authenticate the same.

Yours faithfully,

(Signature, name and designation of the authorised signatory

For and on behalf of .....

\*Please strike out whichever is not applicable

APPENDIX-I  
Form-4  
**Power of Attorney**

Know all men by these presents, We, ..... (name of Firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr / Ms..... son/daughter/wife and presently residing at ....., who is presently employed with/ retained by us and holding the position of ..... as our true and lawful attorney (hereinafter referred to as the “Authorised Representative”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for and selection as the Consultant for Financial and Transaction Services for [\*\*\*\*\*], proposed to be developed by the \*\*\*\*\* (the “Authority”) including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with the Authority.

AND, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorised Representative pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Authorised Representative in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, ..... THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ..... DAY OF ....., 20\*\*

For ..... (Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Notarised

Accepted

..... (Signature, name, designation and address of the Attorney)

Notes:

*The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*

*Wherever required, the Applicant should submit for verification the extract of the charter documents and other documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.*

*For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX-I  
Form-6  
**Particulars of Key Personnel**

S. No.	Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Eligible Assignments <sup>#</sup>
					Name of Firm	Employed Since	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Financial Expert						
2.	Associate Consultant(s)						
3.	Other Personnel, if any						
4.							

APPENDIX-I  
Form-8<sup>@</sup>  
**Abstract of Eligible Assignments of Key Personnel<sup>§</sup>**  
(Refer Clause 3.1)

Name of Key Personnel:

Designation:

S.No	Name of Project*	Name of Client	Estimated capital cost of project (in Rs. cr./ US\$ million)	Name of firm for which the Key Personnel worked	Designation of the Key Personnel on the assignment	Date of completion of the assignment	Man hours spent on the assignment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1							
2							
3							
4							
5							

<sup>@</sup> Use separate Form for each Key Personnel.

<sup>§</sup> In the case of Financial Expert, only those assignments shall be included where the Financial Expert worked as the Team Leader or the leader of the Financial Team in the relevant assignment.

\* The names and chronology of projects included here should conform to the project-wise details submitted in Form-10 of Appendix-I.

APPENDIX-I  
 Form-8A<sup>@</sup>  
**Abstract of other relevant experience of Key Personnel<sup>§</sup>**  
*(Refer Clause 3.1.5)*

Name of Key Personnel:

Designation:

S.No	Name of Project*	Name of Client	Estimated capital cost of project (in Rs. cr./ US\$ million)	Name of firm for which the Key Personnel worked	Designation of the Key Personnel on the assignment	Date of completion of the assignment	Man hours spent on the assignment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1							
2							
3							
4							
5							

<sup>@</sup> Use separate Form for each Key Personnel.

<sup>§</sup> In the case of Financial Expert, only those assignments shall be included where the Financial Expert worked as the Team Leader or the leader of the Financial Team in the relevant assignment.

\* The names and chronology of assignments included here should conform to the project-wise details submitted in Form 10A of Appendix-I.



APPENDIX-I  
Form-10  
**Eligible Assignments of Key Personnel**  
*(Refer Clause 3.1.4)*

Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Length in kms or other particulars:	
Name of Consulting Firm where employed:	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of the Project (in Rs crore or US\$ million):	
Start date and finish date of the services (month/ year):	
Brief description of the Project:	

**Notes:**

1. Use separate sheet for each Eligible Assignment.
2. In the case of Financial Expert, only those Eligible Assignments shall be included where the Financial Expert worked as the Team Leader or the leader of the Financial Team in the relevant assignment.
3. Exchange rate should be taken as Rs. [50] per US \$ for converting in Indian Rupees.

APPENDIX-I  
Form-10A  
**Other relevant assignments of Key Personnel**  
(Refer Clause 3.1.5)

Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Length in kms or other particulars:	
Name of Consulting Firm where employed:	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of the Project (in Rs crore or US\$ million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

**Notes:**

1. Use separate sheet for each assignment.
2. In the case of Financial Expert, only those assignments shall be included where the Financial Expert worked as the Team Leader or the leader of the Financial Team in the relevant assignment.
3. Exchange rate should be taken as Rs. [50] per US \$ for converting in Indian Rupees.

APPENDIX-I  
Form-11  
**Curriculum Vitae (CV) of Professional Personnel**

1. Proposed Position:
2. Name of Personnel:
3. Date of Birth:
4. Nationality:
5. Educational Qualifications:
6. Employment Record:  
(Starting with present position, list in reverse order every employment held.)
7. List of projects on which the Personnel has worked  

Name of Project	Description of responsibilities
-----------------	---------------------------------

Certification:

- 1 I am willing to work on the Project and I will be available for entire duration of the Project assignment as required.
- 2 I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes my qualifications, my experience and me.

Place..... (Signature and name of the Professional Personnel)

(Signature and name of the authorised signatory of the Applicant)

**Notes:**

- 1 Use separate form for each Key Personnel and Professional Personnel.
- 2 In the case of Financial Expert, only those assignments shall be included where the Financial Expert worked as the Team Leader or the leader of the Financial Team in the relevant assignment.
3. The names and chronology of assignments included here should conform to the project-wise details submitted in Form-7 or Form-7A, as the case may be, of Appendix-I.
4. Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorised Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.

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APPENDIX-II  
**FINANCIAL PROPOSAL**

Form-1  
**Covering Letter**

(On Applicant's letter head)

(Date and Reference)

To,

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\*\*\*\*\*

\*\*\*\*\*

Dear Sir,

Subject: Appointment of Consultant for Financial and Transaction Advisory Services for  
[\*\*\*\*\*]

I/We, ..... (Applicant's name) herewith enclose the Financial Proposal for selection of my/our firm as Consultant for Financial and Transaction Advisory Services for above.

I/We agree that this offer shall remain valid for a period of 30 (thirty) days from the Proposal Due Date or such further period as may be mutually agreed upon.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

**Note:** The Financial Proposal is to be submitted strictly as per forms given in the RFP.

APPENDIX-II  
(See Clause 2.1.3)

Form-2

**Financial Proposal**

<b>Item No.</b>	<b>Description</b>	<b>Amount (Rs.)</b>
<b>A.</b>	<b>Price</b>	
I	Total Lumpsum Fee for the services	
<b>B.</b>	<b>Taxes</b>	
II	(Mention the taxes applicable)	
	<b>TOTAL (including taxes)</b>	