

**GOVERNMENT OF ORISSA  
FINANCE DEPARTMENT**

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No. 42280/F Date 26.09.2011  
Codes-27/11

**OFFICE MEMORANDUM**

**Subject: Guidelines for engagement of consultants.**

Consultants are now being engaged by the State Government and its various agencies to provide a wide range of services to supplement the capacity of the employers. Pending revision of Orissa General Financial Rules on the lines of General Financial Rules-2005, there is a need to lay down the fundamental principles regarding engagement of consultant(s) applicable to all Administrative Departments, Heads of Departments and Heads of Offices. These instructions are to be followed in conjunction with the guidelines contained in the “**Manual of Policies and Procedure for Employment of Consultants**” issued by the Department of Expenditure, Ministry of Finance and available in the website of the Ministry of Finance ([www.finmin.nic.in](http://www.finmin.nic.in)). However, engagement of Consultants for Externally Aided Projects funded by loan or grant from bilateral / multilateral donor agencies like IBRD, IDA, ADB, DFID, JICA etc. would be guided by the procurement procedures envisaged in the respective loan/credit agreement.

**2. Identification of Work / Services required to be performed by Consultants:**

Engagement of consultants may be resorted to in situations requiring services for which requisite expertise and manpower is not available within the organisation.

**3. Authority competent to hire Consultants:** The Administrative Department and Heads of Department may hire professionals, consultancy firms or consultants (referred to as consultant hereinafter) for a specific job, which is well defined in terms of content and time frame for its completion or outsource certain services.

**4. Powers to sanction expenditure and approved engagement of consultants:**

Administrative Departments and Heads of Departments, are hereby authorized to approve engagement of consultants and sanction expenditure on engagement of consultants in each case subject to the financial limits indicated below:

Administrative Departments ₹ 200.00 lakh

Heads of Department ₹ 50.00 lakh

The Administrative Departments and Heads of Departments may enter into contracts for consultancy assignments within the aforesaid financial limits without

reference to Finance Department. However, sanction of expenditure for consultancy services shall be subject to availability of budget provision.

**5. Estimating reasonable expenditure:** The competent authority proposing to engage consultant(s) should estimate reasonable expenditure for the same by ascertaining the prevalent market conditions and consulting other Organizations / Departments/ PSUs engaged in similar activities and ensure that available budget provision is adequate for the purpose.

**6. Identification of likely sources:**

(i) Where the estimated cost of the work or service is up to Rupees Ten lakhs, preparation of a long list of potential consultants may be done on the basis of formal or informal enquiries from other Administrative Departments, Heads of Departments, Heads of offices or Organisations involved in similar activities, Chambers of Commerce & Industry, Association of consultancy firms etc.

(ii) Where the estimated cost of the work or service is above Rupees Ten lakhs, in addition to (i) above, an enquiry for seeking 'Expression of Interest' from consultants should be published through a brief advertisement in at least one national daily, one local daily and the details be made available in the web site of competent authority. The web site address should also be indicated in the advertisement. Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs/support/materials/data to be provided by them, eligibility and the pre-qualification criteria to be met by the consultant(s) and consultant's past experience in similar work or service. Adequate time should be allowed for getting responses from interested consultants.

**7. Short listing of consultants:** On the basis of responses received from the interested parties as per the above paragraph, consultants meeting the requirements should be short listed for further consideration. The number of short listed consultants should not be less than three.

**8. Preparation of Terms of Reference (TOR) :** The TOR should include

- (i) Precise statement of objectives of the consultancy assignment;
- (ii) Outline of the tasks to be carried out;
- (iii) Schedule for completion of tasks;
- (iv) The support or inputs/ materials/ data to be provided by the competent authority to facilitate the consultancy.
- (v) The final outputs in quantifiable/ comprehensible terms that will be required of the Consultant;

**9. Preparation and Issue of Request for Proposal (RFP):** RFP is the document to be used by the competent authority for obtaining offers from the consultants for the required work / service. The RFP should be issued to the shortlisted consultants to seek their technical and financial proposals. The RFP should contain:

- (i) A letter of Invitation
- (ii) Information to Consultants regarding the procedure for submission of proposal.
- (iii) Terms of Reference (TOR).
- (iv) Eligibility and pre-qualification criteria in case the same has not been ascertained through Enquiry for Expression of Interest.
- (v) List of key positions/ resource persons whose CV and experience would be evaluated.
- (vi) Bid evaluation criteria and selection procedure.
- (vii) Standard formats for technical and financial proposal.
- (viii) Proposed contract terms.
- (ix) Procedure proposed to be followed for mid-term review of the progress of the work and review of the final draft report.

**The standardized format developed by the Ministry of Finance, Government of India** and available in the website of the Ministry of Finance ([www.finmin.nic.in](http://www.finmin.nic.in)) **may be adopted for the purpose with suitable customisation to meet specific needs.**

**10. Receipt and opening of proposals:** Proposals should ordinarily be asked for from consultants in 'Two-bid' system with technical and financial bids sealed separately. The bidder should put these two sealed envelopes in a bigger envelop duly sealed and submit the same to the competent authority by the specified date and time at the specified place. On receipt, the technical proposals should be opened first by the competent authority at the specified date, time and place.

**11. Evaluation of Technical & Commercial Bids:** Technical & commercial bids are to be analysed and evaluated by the committee constituted under Rule 12 (3) of the Delegation of Financial Power Rules to identify the bids, which are technically & commercially qualified. However, suitable domain experts may be included in the Committee to render assistance in evaluation of the bids. This committee shall record in detail the reasons for acceptance or rejection of the bids analysed and evaluated by it.

**12. Evaluation of Financial Bids of the technically qualified bidders:** The competent authority shall open the financial bids of only those bidders who have been declared technically qualified by the Committee as per the provisions of the foregoing paragraph for further analysis or evaluation and ranking and selecting the successful bidder for placement of the consultancy contract. The task of evaluation and ranking may be carried out by the Committee referred to in paragraph 11 above.

### 13. Negotiations and Award of Contract:

13.1 Negotiations are not an essential part of the selection process. In many cases, however, it is felt necessary to conduct negotiations with the selected consultant. Negotiations shall include discussions of the TOR, the methodology, staffing, Government / Department's inputs, and special conditions of the contract. These discussions shall not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. The final TOR and the agreed methodology shall be incorporated in "Description of Services," which shall form part of the contract.

13.2 Financial negotiations shall only be carried out if due to negotiations as mentioned in para 13.1 above, there is any change in scope of work which has any financial bearing on the final prices or if the costs/cost elements quoted are not found to be reasonable. In such negotiations, the selected firm may also be asked to justify and demonstrate that the prices proposed in the contract are not out of line with the rates being charged by the consultant for other similar assignments. However, in no case such financial negotiation should result in increase in the financial cost as originally quoted by the consultant and on which basis the consultant has been called for the negotiations.

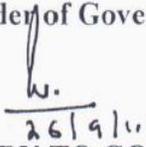
13.3 If the negotiations with the selected consultant fail, the employer shall cancel the bidding procedure and re-invite the bids.

**14. Late Bids:** Late bids i.e. bids received after the specified date and time of receipt, should not be considered.

**15. Consultancy by nomination:** Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Department. Full justification for single source selection should be recorded in the file and approval of next higher authority be obtained before resorting to such single-source selection.

**16. Monitoring the Contract:** The competent authority employing the Consultant should be involved throughout in the conduct of consultancy continuously monitoring the performance of the consultant(s) so that the output of the consultancy is in line with their objectives.

These instructions shall be deemed to be a part of Orissa General Financial Rules & Delegation of Financial Power Rules.

By Order of Governor  
  
 PRINCIPAL SECRETARY TO GOVERNMENT

**Memo No. 42281(500) /F.,**

**Date 26.09.2011**

Copy forwarded to the Secretary to Governor/Principal Secretary to Chief Minister/Private Secretary to all Ministers and Ministers of State/Accountant General(Civil Audit), Orissa, Bhubaneswar/ Accountant General (A&E), Orissa, Bhubaneswar/ Deputy Accountant General(Works) Orissa, Puri/ All Departments of Government/ All Heads of Departments/ All Financial Advisors/All Asst. Financial Advisors/ All Collectors / All Treasury Officers and Sub-Treasury Officers/ Director, Madhusudan Das Regional Academy of Financial Management, Chandrasekharpur, Bhubaneswar /Director, Gopabandhu Academy of Administration, Bhubaneswar / Registrar of all Universities for information.

  
 UNDER SECRETARY TO GOVERNMENT

**Memo No. 42282(100) /F.,**

**Date 26.09.2011**

Copy forwarded to P.A. to Principal Secretary/P.S. to Special Secretary/P.S. to all Additional Secretaries/All Officers/all Branches of Finance Department/Guard File (100 copies) for information and necessary action.

  
 UNDER SECRETARY TO GOVERNMENT

**Memo No. 42287 /F.,**

**Date 26.09.2011**

Copy forwarded to the Head of Portal Group, Secretariat, Orissa for information and necessary action.

It is requested to host this Office Memorandum in the website ([www.orissa.gov.in/finance/index.htm](http://www.orissa.gov.in/finance/index.htm)) of Finance Department for general information.

  
 UNDER SECRETARY TO GOVERNMENT

# **STANDARD REQUEST FOR PROPOSALS**

## **Selection of Consultants**

**GOVERNMENT OF INDIA**

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Reference No: .....  
Project Name: .....  
Name of the Ministry / Department : .....

Title of Consulting Services: .....

## **Section 1. Letter of Invitation**

[insert: Name and Address of Consultant]

Dear Mr./Ms.:

1. The [insert: Name of the Ministry / Department] (hereinafter called “Employer”) is executing [insert: name of Project].

2. The employer has invited EOI to provide the following consulting services: [insert: name of consulting services assignment]. More details on the services are provided in the Terms of Reference in this RFP document. As your firm was short-listed based on your EOI, you are now invited to submit your proposal as per the attached RFP document.

3. A firm will be selected under [insert: Selection Method] and procedures described in this RFP.

5. The RFP includes the following documents:

Section 1 - Letter of Invitation

Section 2 - Information to Consultants (including Data Sheet)

Section 3 - Technical Proposal - Standard Forms

Section 4 - Financial Proposal - Standard Forms

Section 5 - Terms of Reference

Section 6 - Standard Forms of Contract

6. Please inform us in writing at the following address [insert address], upon receipt:

- (a) that you received the Letter of Invitation and RFP document; and
- (b) that you will submit the proposal by the date & time indicated in part II of the information to consultants called project specific information.

Yours sincerely,

[insert: Signature, name, and title of Client’s representative]

## **Section 2**

### **Instructions to Consultants**

#### **Part I**

#### **Standard**

[Note to the Employer: this Section 2 (part I) - Information to Consultants shall not be modified. Any necessary changes, to address project specific or assignment specific issues shall be introduced only under part II special information]

#### **1. Definitions**

- (a) “Employer” means the Ministry / department who have invited the bids for consultancy services and with which the selected Consultant signs the Contract for the Services and to which the selected consultant shall provide services as per the terms and conditions and TOR of the contract.
- (b) “Consultant” means any entity or person or associations of person who have been short-listed to submit their proposals that may provide or provides the Services to the Employer under the Contract.
- (c) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is the General Conditions (GC), the project Specific Conditions (SC), and the Appendices.
- (d) “Project specific information” means such part of the Instructions to Consultants used to reflect specific project and assignment conditions.
- (e) “Day” means calendar day.
- (f) “Government” means the government of India
- (g) “Instructions to Consultants” (Section 2 of the RFP) means the document which provides short-listed Consultants with all information needed to prepare their proposals.
- (i) “LOI” (Section 1 of the RFP) means the Letter of Invitation being sent by the Employer to the short-listed consultants.
- (j) “Personnel” means professionals and support staff provided by the Consultant or by any Sub-Consultant and assigned to perform the Services or any part thereof; “Foreign Personnel” means such professionals and support staff who at the time of being so provided had their domicile outside the Government’s country; “Domestic Personnel” means such professionals and support staff who at the time of being so provided had their domicile in India.
- (k) “Proposal” means the Technical Proposal and the Financial Proposal.
- (l) “RFP” means the Request For Proposal prepared by the Employer for the selection of Consultants, based on the SRFP.
- (m) “SRFP” means the Standard Request for Proposals, which must be used by the Employer as a guide for the preparation of the RFP.

- (n) “Assignment / job” means the work to be performed by the Consultant pursuant to the Contract.
- (o) “Sub-Consultant” means any person or entity with whom the Consultant subcontracts any part of the Assignment/job.
- (p) “Terms of Reference” (TOR) means the document included in the RFP as Section 5 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Employer and the Consultant, and expected results and deliverables of the Assignment/job.

## **2. Introduction**

2.1 The Employer named in the Part II Data Sheet will select a consulting firm/organization (the Consultant) from those to whom the LOI has been addressed, in accordance with the method of selection specified in the Part II Data Sheet.

2.2 The name of the assignment/Job has been mentioned in Part II Data Sheet. Detailed scope of the assignment/ job has been described in the Terms of Reference in Section 5.

2.3 The date, time and address for submission of the proposals has been given in Part II Data Sheet.

2.4 The short-listed Consultants are invited to submit a their Proposal, for consulting Assignment/job named in the Part II Data Sheet. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.

2.5 Consultants should familiarize themselves with Local conditions and take them into account in preparing their Proposals. To obtain first-hand information on the Assignment/job and Local conditions, Consultants are encouraged to meet the Employer’s representative named in part II Data Sheet before submitting a proposal and to attend a **pre-proposal meeting** if one is specified in the Part II Data Sheet. Attending the pre-proposal meeting is optional. Consultants should contact the Employer’s representative to arrange for their visit or to obtain additional information on the pre-proposal meeting. Consultants should ensure that these representatives are advised of the visit in adequate time to allow them to make appropriate arrangements.

2.6 The Employer will provide at no cost to the Consultants the inputs and facilities specified in the Part II Data Sheet, assist the consultants in obtaining licenses and permits needed to carry out the Assignment/job, and make available relevant project data and reports.

2.7 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The Employer is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultants.

## **3. Eligibility of Association of consultants and Sub-Consultants**

3.1 If the consultant had formed an association of consultants, each member of the association of consultant shall be evaluated as per the the qualification/ eligibility criteria set forth in Part II data Sheet. The combined score of the each member of the association of consultant shall be taken into account for evaluation purpose. If any member of the association of consultas is dropped at the RFP stage, such a association of consultant is liable to be rejected by the Employer. However, the Employer, at its sole discretion, may decide to evaluate for short-listing such association of consultant without considering the strength of the dropped member and if found eligible, may allow such association of consultant to submit their proposal.

3.2 A short-listed consultant may associate with consultants and /or individual expert at the time of submission of proposal with. Under such circumstances each member of the association of consultant shall be evaluated as per the qualification/ eligibility criteria set forth in Part II data Sheet. The combined score of the each member of the association of consultant shall be taken into account for evaluation purpose. However, the lead member of the association of the consultant shall be the consultant who has been short-listed by the Employer and employer shall deal with only the lead member for the purpose of this assignment. Although the contract shall be signed by all the members of the associations of the consultants, the lead member of the association of the consultant shall be responsible and liable to the Employer for every aspects of their proposal, contract etc.

#### **4. Clarification and Amendment of RFP Documents**

4.1 Consultants may request a clarification on any clause of the RFP documents up to the number of days indicated in the Part II Data Sheet before the proposal submission date. Any request for clarification must be sent in writing, or by standard electronic means to the Employer's address indicated in the Part II Data Sheet. The Employer will respond in writing, or by standard electronic means and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Consultants. Should the Employer deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure under para. 4.2 below.

4.2 At any time before the submission of Proposals, the Employer may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be sent to all Consultants and will be binding on them. Consultants shall acknowledge receipt of all amendments. To give Consultants reasonable time in which to take an amendment into account in their Proposals the Employer may, if the amendment is substantial, extend the deadline for the submission of Proposals.

#### **5. Conflict of Interest**

5.1 Employer requires that Consultants provide professional, objective, and impartial advice and at all times hold the Employer's interests paramount, strictly avoid conflicts with other Assignment/jobs or their own corporate interests and act without any consideration for future work.

5.2 Without limitation on the generality of the foregoing, Consultants, and any of their affiliates, shall be considered to have a conflict of interest and shall not be recruited, under any of the circumstances set forth below:

**Conflicting activities** : (i) A firm that has been engaged by the Employer to provide goods, works or Assignment/job other than consulting Assignment/job for a project, and any of its affiliates, shall be disqualified from providing consulting Assignment/job related to those goods, works or Assignment/job. Conversely, a firm hired to provide consulting Assignment/job for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from

subsequently providing goods or works or Assignment/job other than consulting Assignment/job resulting from or directly related to the firm's consulting Assignment/job for such preparation or implementation. For the purpose of this paragraph, Assignment/job other than consulting Assignment/job are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.

**Conflicting Assignment/job** ; (ii) A Consultant (including its Personnel and Sub-Consultants) or any of its affiliates shall not be hired for any Assignment/job that, by its nature, may be in conflict with another Assignment/job of the Consultant to be executed for the same or for another Employer. For example, a Consultant hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and a Consultant assisting a Employer in the privatization of public assets shall not purchase, nor advise purchasers of, such assets. **Similarly, a Consultant hired to prepare Terms of Reference for an Assignment/job should not be hired for the Assignment/job in question. [This may be deleted]**

**Conflicting relationships** (iii) A Consultant (including its Personnel and Sub-Consultants) that has a business or family relationship with a member of the Employer's staff who is directly or indirectly involved in any part of (i) the preparation of the Terms of Reference of the Assignment/job, (ii) the selection process for such Assignment/job, or (iii) supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Employer throughout the selection process and the execution of the Contract.

5.3 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Employer, or that may reasonably be perceived as having this effect. Any such disclosure shall be made as per the Standard forms of technical proposal provided herewith. If the consultant fails to disclose said situations and if the Employer comes to know about any such situation at any time, it may lead to the disqualification of the Consultant during bidding process or the termination of its Contract during execution of assignment.

5.4 No agency or current employees of the Employer shall work as Consultants under their own ministries, departments or agencies.

## **6. Unfair Advantage**

6.1 If a short-listed Consultant could derive a competitive advantage from having provided consulting Assignment/job related to the Assignment/job in question and which is not defined as conflict of interest as per para 5 above, , the Employer shall make available to all short-listed Consultants together with this RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants.

## **7. Proposal**

7.1 Short-listed Consultants may only submit one proposal. If a Consultant submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the participation of the same Sub-Consultant, including individual experts, to more than one proposal.

## **8. Proposal Validity**

8.1 The Part II Data Sheet to consultant indicates how long Consultants' Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal and also the financial proposal unchanged. The Employer will make its best effort to complete negotiations within this period. Should the need arise, however, the Employer may request Consultants to extend the validity period of their proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal and their financial proposal remain unchanged, or in their confirmation of extension of validity of the Proposal, Consultants could submit new staff in replacement, who would be considered in the final evaluation for contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals, under such circumstance the Employer shall not consider such proposal for further evaluation.

## **9. Preparation of Proposals**

9.1 The Proposal as well as all related correspondence exchanged by the Consultants and the Employer, shall be written in English language, unless specified otherwise.

9.2 In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of a Proposal.

9.3 While preparing the Technical Proposal, Consultants must give particular attention to the following:

(a) If a short-listed Consultant considers that it may enhance its expertise for the Assignment/job by associating with other Consultants in sub-consultancy, it may associate with a non-short-listed Consultant.

(b) The estimated number of Professional staff-months for the Assignment/job is as shown in the Part II Data sheet. However, the Proposal shall be based on the number of Professional staff-months or budget estimated by the Consultants. While making the proposal, the consultant must ensure that he proposes the minimum number and type of experts as sought by the Employer, failing which the proposal shall be considered as non-responsive.

(c) Alternative professional staff shall not be proposed, and only one curriculum vita (CV) may be submitted for each position mentioned.

9.4 Depending on the nature of the Assignment/job, Consultants are required to submit a Technical Proposal (TP) in forms provided in Section-III. The Part II Data sheet in Section-II indicates the formats of the Technical Proposal to be submitted. **Submission of the wrong type of Technical Proposal will result in the Proposal being deemed non-responsive.** The Technical Proposal shall provide the information indicated in the following paras from (a) to (g) using the attached Standard Forms (Section 3). Form Tech – I in Section-III is a sample letter of technical proposal which is to be submitted alongwith the technical proposal.

(a) (i) A brief description of the consultant's organization and in the case of a consortium/ joint venture, of each partner, will be provided in Form Tech-2. In the same Form, the consultant and in the case of a consortium/ joint venture, each partner will provide details of experience of assignments which are similar to the proposed assignment/ job as per the terms of reference.. For each Assignment/job, the outline should indicate the names of Sub-Consultants/ Professional staff who participated, duration of the Assignment/job, contract amount, and Consultant's involvement. Information should be provided only for those Assignment/jobs for which the Consultant was legally contracted by the Employer as a corporation or as one of the major firms within a joint venture. Assignment/jobs completed by individual Professional staff working privately or through other consulting firms cannot be claimed as the experience of the Consultant, or that of the Consultant's associates, but can be claimed by the Professional staff themselves in their CVs. Consultants should be prepared to substantiate the claimed experience alongwith the proposal and must submit letter of award / copy o contract for all the assignments mentioned in the proposal.

(b) (i) Comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the Assignment/job; and on requirements for counterpart staff and facilities including: administrative support, office space, Domestic transportation, equipment, data, etc. to be provided by the Employer (Form TECH-3 of Section 3).

(c) (i) A description of the approach, methodology and work plan for performing the Assignment/job covering the following subjects: technical approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Proposals is provided under Form TECH-4 of Section 3. The work plan should be consistent with the Work Schedule (Form TECH-8 of Section 3) which will show in the form of a bar chart the timing proposed for each activity.

(d) The list of the proposed Professional staff team by area of expertise, the position that would be assigned to each staff team member, and their tasks is to be provided in Form TECH-5 of Section 3.

(e) Estimates of the staff input needed to carry out the Assignment/job needs to be given in Form TECH-7 of Section 3. The staff-months input should be indicated separately for each location where the Consultants have to work and / or provide their key staff.

(f) CVs of the Professional staff as mentioned in para 9.4 (d) above signed by the staff themselves or by the authorized representative of the Professional Staff (Form TECH-6 of Section 3).

(g) A detailed description of the proposed methodology and staffing for training needs to be given, if the Part II Data sheet specifies training as a specific component of the Assignment/job.

9.5 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information may be declared non responsive.

9.6 **Financial Proposals:** The Financial Proposal shall be prepared using the attached Standard Forms (Section 4). It shall list all costs associated with the Assignment/job, including (a) remuneration for staff and (b) reimbursable expenses indicated in the Part II Data sheet. If appropriate, these costs should be broken down by activity and, if appropriate, into foreign (if applicable) and domestic expenditures. The financial proposal shall not include any conditions attached to it and any such conditional financial proposal shall be rejected summarily.

## **10. Taxes**

10.1 The Consultant shall fully familiarize themselves about the applicable to Domestic taxes (such as: value added or sales tax, service tax or income taxes, duties, fees, levies) on amounts payable by the Employer under the Contract. All such taxes must be included by the consultant in the financial proposal.

## **11. Currency**

11.1 Consultants shall express the price of their Assignment/job in India Rupees.[In case of assignment where payment in foreign currency are allowed to be made, the consultants are free to make their quote in any foreign currency. The employer shall mention the provision regarding conversion of such foreign currency to Indian Rupees]

## **12 Earnest Money Deposit (EMD) and Bid processing Fees**

### **12.1 Earnest Money Deposit**

- I. An EMD of Rs. \_\_\_\_\_, in the form of DD drawn in favor of the Employer (mention name of employer,) and payable at \_\_\_\_\_, must be submitted alongwith the Proposal.
- II. Proposals not accompanied by EMD shall be rejected as non-responsive.
- III. No interest shall be payable by the Employer for the sum deposited as earnest money deposit.
- IV. No bank guarantee will be accepted in lieu of the earnest money deposit.
- V. The EMD of the unsuccessful bidders would be returned back within one month of signing of the contract.

12.2 The EMD shall be forfeited by the Employer in the following events:

- I. If Proposal is withdrawn during the validity period or any extension agreed by the consultant thereof.
- II. If the Proposal is varied or modified in a manner not acceptable to the Employer after opening of Proposal during the validity period or any extension thereof.
- III. If the consultant tries to influence the evaluation process.
- IV. If the First ranked consultant withdraws his proposal during negotiations (failure to arrive at consensus by both the parties shall not be construed as withdrawal of proposal by the consultant).

### 13 Bid Processing Fees

All consultants are required to pay Rs. [\_\_\_\_\_] towards Bid Processing Fees in the form of demand Draft drawn in favor of Employer (insert name) and payable at \_\_\_\_\_. The Bid Processing Fee is Non-Refundable.

**Please note that the Proposal, which does not include the bid processing fees, would be rejected as non-responsive.**

### 14. Submission, Receipt, and Opening of Proposal

14.1 The original proposal, both technical and Financial Proposals shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person who signed the proposal must initial such corrections. Submission letters for both Technical and Financial Proposals should respectively be in the format of TECH-1 of Section 3, and FIN-1 of Section 4.

14.2 An authorized representative of the Consultants shall initial all pages of the original Technical and Financial Proposals. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative has been dully authorized to sign. The signed Technical and Financial Proposals shall be marked "ORIGINAL".

14.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "TECHNICAL PROPOSAL" Similarly, the original Financial Proposal shall be placed in a sealed envelope clearly marked "FINANCIAL PROPOSAL" followed by the name of the Assignment/job. The envelopes containing the Technical Proposals, Financial Proposals, EMD and bid processing fees shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address, reference number be clearly marked "DO NOT OPEN, BEFORE [insert the time and date of the opening indicated in the Data sheet]". The Employer shall not be responsible for misplacement, losing or premature opening if the outer envelope is not sealed and/or marked as stipulated. This circumstance may be case for Proposal rejection. **If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.**

14.4 The Proposals must be sent to the address/addresses indicated in the Data sheet and received by the Employer no later than the time and the date indicated in the Data sheet, or any extension to this date in accordance with para 4.2 above. Any proposal received by the Employer after the deadline for submission shall be returned unopened.

## **15. Proposal Evaluation**

15.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultants should not contact the Employer on any matter related to its Technical and/or Financial Proposal. Any effort by Consultants to influence the Employer in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultants' Proposal.

15.2 The employer has constituted a Consultant Selection Committee (CSC) which will carry out the entire evaluation process.

### **15.3 Evaluation of Technical Proposals:**

CSC while evaluating the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and the competent authority accepts the recommendation.

15.4 The CSC shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and by applying the evaluation criteria, sub-criteria specified in the Data sheet. In the first stage of evaluation, a Proposal shall be rejected if it is found deficient as per the requirement indicated in the Data sheet for responsiveness of the proposal. Only responsive proposals shall be further taken up for evaluation. Evaluation of the technical proposal will start first and at this stage the financial bid (proposal) will remain **unopened**. The qualification of the consultant and the evaluation criteria for the technical proposal shall be as defined in the Data sheet.

### **15.5 Public opening & evaluation of the Financial Proposals:**

Financial proposals of only those firms who are technically qualified shall be opened publicly on the date & time specified the Data sheet, in the presence of the Consultants' representatives who choose to attend. The name of the Consultants, their technical score (if required) and their financial proposal shall be read aloud.

15.6 The CSC will correct any computational errors. When correcting computational errors, in case of discrepancy between a partial amount and the total amount, or between word and figures, the former will prevail. In addition to the above corrections the items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items. In case an activity or line item is quantified in the Financial Proposal differently from the Technical Proposal, (i) if the Time-Based form of contract has been included in the RFP, the Evaluation Committee shall correct the quantification indicated in the Financial Proposal so as to make it

consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity and correct the total Proposal cost, (ii) if the Lump-Sum form of contract has been included in the RFP, no corrections are applied to the Financial Proposal in this respect. If permitted under RFP to quote in any currency other than Indian Rupees, **prices shall be converted to Indian Rupees using the selling rates of exchange, source and reference date indicated in the Data sheet. Normally, the date will be the date of opening of the tender unless specified otherwise in the Data sheet.**

15.7 After opening of financial proposals, appropriate selection method shall be applied to determine the consultant who will be declared winner and be eligible for award of the contract. The methods of selections are described in the Data Sheet [The employer shall mention here which method out of all listed method shall be applied for selection of consultant for this assignment / job]  
This selected consultant will then be invited for negotiations, if considered necessary.

## **16. Negotiations**

16.1 Negotiations will be held at the date, time and address intimated to the qualified and selected bidder. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm availability of all Professional staff. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude a Contract.

16.2 Technical negotiations: Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organization and staffing, and any suggestions made by the Consultant to improve the Terms of Reference. The Employer and the Consultants will finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as “Description of Assignment/job”. Special attention will be paid to clearly defining the inputs and facilities required from the Employer to ensure satisfactory implementation of the Assignment/job. The Employer shall prepare minutes of negotiations which will be signed by the Employer and the Consultant.

16.3 Financial negotiations : After the technical negotiations are over, financial negotiations should be carried out in order to reflect any change in financials due to change in scope of work or due to clarification on any aspect of the technical proposal during the technical negotiations. Under no circumstance, the financial negotiation shall result in to increase in the price originally quoted by the consultant. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates. For other methods, Consultants will provide the Employer with the information on remuneration rates described in the Appendix attached to Section 4 - Financial Proposal - Standard Forms of this RFP.

16.4 Availability of Professional staff/experts: Having selected the Consultant on the basis of, among other things, an evaluation of proposed Professional staff, the Employer expects to negotiate a Contract on the basis of the Professional staff named in the Proposal. Before contract negotiations, the Employer will require assurances that the Professional staff will be actually available. The Employer will not consider substitutions during contract negotiations unless both

parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity or if the professional staff has left the organisation. If this is not the case and if it is established that Professional staff were offered in the proposal without confirming their availability, the Consultant may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate and be submitted by the Consultant within the period of time specified in the letter of invitation to negotiate.

16.5 Conclusion of the negotiations: Negotiations will conclude with a review of the draft Contract. To complete negotiations the Employer and the Consultant will initial the agreed Contract. If negotiations fail, the employer will reject all the proposals received and invite fresh proposals.

## **17. Award of Contract**

17.1 After completing negotiations the Employer shall issue a Letter of Intent to the selected Consultant and promptly notify all other Consultants who have submitted proposals about the decision taken.

17.2 The consultants will sign the contract after fulfilling all the formalities/pre-conditions mentioned in the standard form of contract in Section-6, within 15 days of issuance of the letter of intent.

17.2 The Consultant is expected to commence the Assignment/job on the date and at the location specified in the Part II Data Sheet.

## **18. Confidentiality**

Information relating to evaluation of Proposals and recommendations concerning awards shall not be disclosed to the Consultants who submitted the Proposals or to other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal and may be subject to the provisions of the Employer's antifraud and corruption policy.

# INSTRUCTIONS TO CONSULTANT

## Part-II

### DATA SHEET

<u>Clause No.</u> <u>of Data Sheet</u>	<u>Ref of ITC</u>	<u>Particulars</u>
1.	2.2	Name of the Employer:
2.	2.2	Name of the Assignment/job is:
3.	2.5	A pre-proposal meeting will be held: Yes [If yes, indicate date, time, and venue]
		No
4.	14.4	Date & time and address for submission of proposal/ bid:  Date  Time  Address
5.	2.5	The Employer's representative is:  Address:  Telephone:  Facsimile:  E-mail:
6.	2.6	The Employer will provide the following inputs and facilities:

7. The Employer envisages the need for continuity for downstream work:  
 Yes  
 No [If yes, outline in the TOR the scope, nature, and timing of future work]
8. 8.1 Proposals must remain valid [Insert number: normally between 60 and 90 days] days after the submission date, i.e. until: [Insert date]
9. 4.1 Clarifications may be requested not later than [Insert number] days before the submission date.  
 The address for requesting clarifications is:  
 Facsimile:  
 E-mail:
10. 9.3 (b) The estimated number of professional staff-months required for the Assignment/job is:  
 [Indicate the requirement/expertise for each key professional for example financial analyst, designer, engineer, planner etc. ]
11. 9.4 The formats of the Technical Proposal to be submitted are:  
 ( Note: Delete whichever is not applicable. More formats can also be added depending upon the nature of the assignment)  
 Form Tech 1: Letter of Proposal submission  
 Form Tech 2 : Consultant’s organization & experience  
 Form Tech 3 : Comments & suggestions on TOR  
 Form Tech 4 : Approach & methodology  
 Form Tech 5 : Team composition  
 Form Tech 6 : Curriculum vitae  
 Form Tech 7 : Staffing Schedule  
 Form Tech 8 : Work Schedule  
 Form Tech 9 : Comment / modification suggested on draft contract.  
 Form Tech 10 : Information regarding any conflicting activities and declaration thereof.

12. Training is a specific component of this Assignment/job:

Yes.

No.

[If yes, provide appropriate information]:

13. 11.1 Consultant to state the cost in Indian Rupees:

14. 14.3 Consultant must submit the original and [Insert number] copies of the Technical Proposal, and the original of the Financial Proposal.

15. 15.4 Evaluation Criteria : Criteria, sub-criteria, for evaluation of Technical Proposals have been prescribed : (1) Simplified evaluation, and (2) Detailed evaluation.  
( Delete the procedure, which is not applicable.)

**(1) Simplified Procedure for evaluation of Technical Proposals**

(i) Specific experience of the Consultants (that is, the firm's) relevant to the Assignment/job:

[Specify the nature of the experience required and the number of minimum assignments / jobs performed in the past.]

The CSC will divide the Proposals into qualifying and non-qualifying category. The non-qualifying proposals shall be treated as un-responsive.

(ii) Adequacy of the proposed methodology and work plan in responding to the Terms of Reference:

The CSC will classify them as qualifying / non qualifying. The non-qualifying proposals will be treated as non-responsive.

The methodology and work plan will be evaluated under the following two sub criteria:

- a) Work plan
- b) Organization and staffing

A qualifying proposal should qualify under both the sub-criteria mentioned above.

(iii) Key professional staff qualifications and competence for the Assignment/job:

The CSC shall first see if the consultant has provided all the professionals as per the requisite expertise. If the consultant has not provided all the professionals as per the requisite expertise, the bids can be termed as non-qualifying. The qualification & experience of key professionals including the team leader will be evaluated for the following sub-criteria:

- 1) General qualifications (Education, special training, age etc.)
- 2) Adequacy for the Assignment/job ( experience, positions held etc.)
- 3) Experience in region and language (specific local area experience and language proficiency)

Against each of the above sub-criteria, the employer will indicate the minimum qualifying requirement very clearly. The CSC will classify them as **qualifying / non-qualifying**. The non-qualifying proposals will be treated as non-responsive.

(iv) Suitability of the transfer of knowledge (training) program:

When transfer of knowledge is a particularly important component of the Assignment/job, the employer will indicate here the specific requirement of training and will seek information about the firms experience/ availability of professional staff capable of providing training.

The CSC will classify them as qualifying / non-qualifying. The non-qualifying proposals will be treated as non-responsive.

**OR**

**(2) Procedure for Detailed evaluation of technical qualifications**

Criteria, sub-criteria and point system for evaluation to be followed under this procedure is as under:

- i) Specific experience of the consultant firm relevant to the assignment / job (10 to 20 marks)
- ii) Adequacy of the proposed methodology and work plan in response to the terms of reference. (10 to 20 marks)

Sub-criteria

- a) Technical approach & methodology ( 40 to 60 %)
- b) Work plan ( 20 to 30 %)
- c) Organisation & staffing ( 20 to 30% )

- iii) Key professional staff: Qualification & competency for the assignment / job. ( 60 to 80 marks)

Qualifications and competency of each of the key professional will be evaluated separately

The marks for key professionals will be further divided as under:

- a) Team Leader ( 30% )  
b) Other key professionals ( 70% in total & equal score assigned to each

professional staff proposed)

For evaluation of each of the key professionals the following sub-criteria can be followed:

- a) Educational qualifications ( upto 20% )  
b) Adequacy for the assignment / job ( 60 to 80% )  
(Experience in carrying out similar assignment/job)  
c) Experience of the region & language ( upto 10% )

16. 15.7 Method of Selection:

(Note: delete whichever is not applicable)

1. In the case of simplified procedure of technical evaluation, the consultants who are found qualified under all the parameters of the eligibility criteria mentioned above under para 15 will be considered technically qualified for award of contract. Price bids of all these technically qualified firms will be opened and **contract awarded to the lowest bidder**, after negotiations, if necessary.  
or
2. In the case of detailed procedure of technical evaluation, all the consultant who secure above a specified percentage of marks (to be specified here. It can range from 60 to 80% depending upon the quality of the expertise required) will be considered as technically qualified for award of contract. Alternatively, the consultant may be selected based on their relative ranking (which needs to be specified in the RFP document for example, the first three ranked consultant may be qualified technically). Financial bids of only such qualified consultants will be opened and the consultant quoting the lowest evaluated price for the assignment will be considered for negotiations and award of contract.  
or
3. In certain primarily highly technical and complex situations where it is considered that technical score should have a high weightage in deciding the final selection of the consultant, the technical quality of the proposal will be given a weightage of 70 % (percentage to be specified), the method of evaluation of technical qualification

will follow the procedure given in para 15(2) above. The price bids of only those consultants who qualify technically will be opened. The proposal with the lowest cost may be given a financial score of 100 and the other proposal given financial score that are inversely proportionate to their prices. The financial proposal shall be allocated weight of 30%. For working out the combined score, the employer will use the following formula:

Total points =  $T(w) \times T(s) + F(w) \times LEC / EC$ , where

T (w) stands for weight of the technical score.

T (s) stands for technical score

F (w) stands for weight of the financial proposal

EC stands for Evaluated Cost of the financial proposal

LEC stands for Lowest Evaluated Cost of the financial proposal.

The proposals will be ranked in terms of total points scored. The proposal with the highest total points (H-1) will be considered for award of contract and will be called for negotiations, if required.

or

4. In the case of QBS method of selection the proposal securing the highest marks in the evaluation of technical proposal shall be considered for award of contract. The financial proposals of only this consultant will be opened and negotiations carried out, if required before award of contract.

17. Expected date for commencement of consulting Assignment/job

[Insert date] at: [Insert location]

18. Location for performance assignment / job:

## **Section 3**

### **Technical Proposal - Standard Forms**

## LETTER OF PROPOSAL SUBMISSION

[Location, Date]

To: [Name and address of Employer]

Dear Sirs:

We, the undersigned, offer to provide the consulting Assignment/job for [Insert title of Assignment/job] in accordance with your Request for Proposal dated [Insert Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope and requisite EMD and bid processing fees..

We are submitting our Proposal in association with: [Insert a list with full name and address of each associated Consultant]

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Paragraph 4 of the Part II Data Sheet, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

## CONSULTANT’S ORGANIZATION AND EXPERIENCE

### A - Consultant’s Organization

[Provide here a brief description of the background and organization of your firm/entity and each associate for this Assignment/job. The brief description should include ownership details, date and place of incorporation of the firm, objectives of the firm etc. Also if the consultant has formed a consortium, details of each of the member of the consortium, name of lead members etc shall be provided]

### B - Consultant’s Experience

[Using the format below, provide information on each Assignment/job for which your firm, and each partner in the case of consortium or joint venture, was legally contracted either individually as a corporate entity or as one of the major partners within an association, for carrying out consulting Assignment/job similar to the ones requested under this Assignment/job(If possible, the employer shall specify exact assignment / job for which experience details may be submitted). In case of consortium, association of consultant, the consultant must furnish the following information for each of the consortium member separately]

1. Firm’s name:

1	Assignment/job name:	
1.1	Description of Project	
1.2	Approx. value of the contract (in Rupees):	
1.3	Country:	
1.4	Location within country:	
1.5	Duration of Assignment/job (months) :	

1.6	Name of Employer:	
1.7	Address:	
1.8	Total No of staff-months of the Assignment/job:	
1.9	Approx. value of the Assignment/job provided by your firm under the contract (in Rupees):	
1.10	Start date (month/year):	
1.11	Completion date (month/year):	
1.12	Name of associated Consultants, if any:	
1.13	No of professional staff-months provided by associated Consultants:	
1.14	Name of senior professional staff of your firm involved and functions performed.	
1.15	Description of actual Assignment/job provided by your staff within the Assignment/job:	

Note : Please provide documentary evidence form the client i.e copy of work order, contract for each of above mentioned assignment. The experience shall not be considered for evaluation if such requisite support documents are not provided with the proposal.

## **FORM TECH-3**

# **COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE AND ON COUNTERPART STAFF AND FACILITIES TO BE PROVIDED BY THE EMPLOYER**

### **A - On the Terms of Reference**

[Suggest and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the Assignment/job (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]

### **B - On Inputs and Facilities to be provided by the employer**

[Comment here on Inputs and facilities to be provided by the Employer according to Paragraph 6 of the Part II Special information to consultants including: administrative support, office space, Domestic transportation, equipment, data, etc.]

## FORM TECH-4

# DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT/JOB

[Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal divided into the following three chapters:

- a) Technical Approach and Methodology,
- b) Work Plan, and
- c) Organization and Staffing,

a) Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the Assignment/job, approach to the Assignment/job, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

b) Work Plan. The consultant should **propose and justify** the main activities of the Assignment/job, their content and duration, phasing and interrelations, milestones (including interim approvals by the Employer), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work Schedule of Form TECH-8.

c) Organization and Staffing. The consultant should **propose and justify** the structure and composition of your team. You should list the main disciplines of the Assignment/job, the key expert responsible, and proposed technical and support staff.]





[List all tasks to be performed under this Assignment/job]

13. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned

[Among the Assignment/jobs in which the staff has been involved, indicate the following information for those Assignment/jobs that best illustrate staff capability to handle the tasks listed under point 12.]

Name of Assignment/job or

project: Year:

Location:

Employer:

Main project features:

Positions held:

Activities performed:

14. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

Date:

Place:

[Signature of staff member or authorized  
representative of the staff]

[Full name of authorized representative]:

## FORM TECH-7

### STAFFING SCHEDULE

S.No.	Name of Staff	Staff input (in the form of a bar chart)												Total Months
		1	2	3	4	5	6	7	8	9	10	11	12	

1.

2.

3.

Note:

- 1 For Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category (e.g.: draftsmen, clerical staff, etc.).
- 2 Months are counted from the start of the Assignment/job. For each staff indicate separately staff input for home and field work.

**WORK SCHEDULE**

S.No.	Activity	Months												Total Months
		1	2	3	4	5	6	7	8	9	10	11	12	

- 1.
- 2.
- 3.
- 4.

- 1 Indicate all main activities of the Assignment/job, including delivery of reports (e.g.: inception, interim, draft and final reports), and other benchmarks such as Employer approvals. For phased Assignment/jobs indicate activities, delivery of reports, and benchmarks separately for each phase.
- 2 Duration of activities shall be indicated in the form of a bar chart.

## **FORM TECH-9**

# **COMMENTS / MODIFICATIONS SUGGESTED ON DRAFT CONTRACT**

[Here the consultant shall mention any suggestion / views on the draft contract attached with the RFP document. The consultant may also mention here any modifications sought by him in the provisions of the draft contract. This information shall be used at the time of the negotiations. However, the Employer is not bound to accept any/all modifications sought and may reject any such request of modification.]

## FORM TECH-10

### INFORMATION REGARDING ANY CONFLICTING ACTIVITIES AND DECLARATION THEREOF

Are there any activities carried out by your firm or group company or any member of the consortium which are of conflicting nature as mentioned in para 5 of section 2. If yes, please furnish details of any such activities.

If no, please certify,

We hereby declare that our firm, our associate / group firm or any of the member of the consortium are not indulged in any such activities which can be termed as the conflicting activities under para 5 of the section 2. We also acknowledge that in case of misrepresentation of the information, our proposals / contract shall be rejected / terminated by the Employer which shall be binding on us.

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

## **Section 4.**

### **Financial Proposal - Standard Forms**

**FORM FIN-1**

**FINANCIAL PROPOSAL SUBMISSION FORM**

[Location, Date]

To: [Name and address of Employer]

Dear Sirs:

We, the undersigned, offer to provide the consulting Assignment/job for [Insert title of Assignment/job] in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal. Our attached Financial Proposal is for the sum of [Insert amount(s) in words and figures]. This amount is inclusive of the Domestic taxes. We hereby confirm that the financial proposal is unconditional and we acknowledge that any condition attached to financial proposal shall result in reject of our financial proposal.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Paragraph 4 of the Part II Data Sheet.

Commissions and gratuities paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed below:

Name and Address of Agents	Amount and Purpose of Commission	Gratuity
-------------------------------	----------------------------------	----------

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

**SUMMARY OF COSTS**

S.No.	Particulars	Amount in Rupees *	Amount in words
1	Remuneration		
2	Reimbursable		
3	Miscellaneous expenses		
4	Service Tax / Any other tax		
5	Total		

\*- Mention the currency in which the prices are quoted if it is permitted to do so under RFP.

Authorized Signature

Name: .....

Designation .....

Name of firm:

Address:

**BREAKDOWN OF REMUNERATION**

(for details please refer to Note below)

S.No.	Name of Staff	Position	Man Month Rates (A)	Proposed Man Months (B)	Total Amount in Rupees.* (A)*(B)
1	Key professionals *1				
2.	Support Staff *2				
	Total				

\*- Mention the currency in which the prices are quoted if it is permitted to do so under RFP.

\*1 Key Professionals are to be indicated by name

\*2 Support Staff is to be indicated per category (e.g: Draftsman, Assistant etc.)

**Total Remuneration = \_\_\_\_\_ Amount in Rupees**

(Amount in Words) :

:

**Note:**

1 Professional Staff should be indicated individually; Support Staff should be indicated per category (e.g.: draftsmen, Assistants etc.). Cost of Secretarial services, if any, will be indicated in form Fin-5.

2 Positions of Professional Staff shall coincide with the ones indicated in Form TECH-5 & 7.

3 Indicate separately staff-month rate for each activity separately.

## FORM FIN-4

### BREAKDOWN OF REIMBURSABLE EXPENSES

(Note: Reimbursable expenses will be quoted only for work related travel outside the place of work decided by the employer in the data sheet. It can also include travel from the Headquarter of the consultant to the place of work).

Activity No: \_\_\_\_\_

Name: \_\_\_\_\_

No.	Description	Unit	Quantity	Unit Price In	Total Amount
1.	Travel expense flights/Train _____	Trip			
2.	Miscellaneous travel expenses	Trip			
3.	Subsistence allowance	Day			
4.	Local transportation costs				
5.	Office rent/accommodation/ clerical assistance				

**Total Reimbursable: = \_\_\_\_\_ Total amount in Rupees (or other currency).**

Amount in words:

**Miscellaneous Expenses**

(It will include only such expenses which are directly chargeable to the assignment/job)

S.No	Particulars	Unit Rate	Quantity(staff months)/number	Amount
1	Secretarial staff			
2	Office equipment			
3	Preparation of reports / deliverables.			
	Total			

## Section 5

### Terms of Reference

# **TERMS OF REFERENCE**

## **Part I**

### **Objective and Scope of Work**

(The Terms of Reference (TOR) are drafted by the employer while compiling the RFP.)

TOR should be compiled clearly indicating details under the following heads:

1. Background
2. Purpose / objective of the assignment.
3. Detailed scope of work / assignment.
4. Deliverables, stages of deliverables, content of each deliverables.

**Part – II**  
**TOR related information**

1. Names of different departments / ministries and different places where different tasks relating to the assignment are to be performed.
2. Procedure for review of the work of the consultant after award of contract including testing, validation, approval. The name and / or designation and address of the officials responsible for reviewing the work of the consultants may also be included here.
3. Expected input of key professionals and requisite expertise and number of key professional staff.
4. Expected schedule for completing the assignment. If an assignment consists of more than one activity, the target period / date for completing each activity can also be specified.
5. Background material including data available and to be provided to the consultant.
6. Facilities which can be provided to the consultants.
7. Any other related information specific to the study / assignment which is necessary to be furnished to all the bidders.

## **Section 6. Standard Form of Contract**

# **STANDARD FORM OF CONTRACT**

**Consultants' Services**

**Lump-Sum**

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**CONTRACT FOR CONSULTANTS' SERVICES**

**between**

**[name of the Client]**

**and**

**[name of the Consultant]**

**Dated:**

## **I. Form of Contract**

(Text in brackets [ ] should be filled up appropriately; all notes should be deleted in final text)

This CONTRACT (hereinafter called the “Contract”) is made the [day] day of the month of [month], [year], between the President of India acting through (designation), Ministry of ----, Department of -- ----, Government of India, (office address), [name of employer] (hereinafter called the “Employer”), of the First Part and, [name of Consultant] (hereinafter called the “Consultant”) of the Second Part.

[Note: If the Consultant consist of more than one entity, the above should be partially amended to read as follows: “...(hereinafter called the “Employer”) and, on the other hand, a joint venture/consortium/association consisting of the following entities, namely, lead consultant [name of lead Consultant] and [name of Consultant/s] (hereinafter called the “Consultant”).

### **WHEREAS**

- (a) the Consultant, having represented to the “Employer” that he has the required professional skills, personnel and technical resources, has offered to provide in response to the Tender Notice dated \_\_\_\_\_ issued by the Employer ;
- (b) the “Employer” has accepted the offer of the Consultant to provide the services on the terms and conditions set forth in this Contract.

**NOW, THEREFORE, IT IS HEREBY AGREED** between the parties as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract;
- (b) The Special Conditions of Contract;
- (c) The following Appendices:

Appendix A: Description of Services  
Appendix B: Reporting Requirements  
Appendix C: Staffing schedule  
Appendix D: Cost Estimates  
Appendix E: Duties of the “Employer”  
Appendix F: Duties of the Consultant

2. The mutual rights and obligations of the “Employer” and the Consultant shall be as set forth in the Contract, in particular:

- (a) the Consultants shall carry out and complete the Services in accordance with the provisions of the Contract; and
- (b) the “Employer” shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

Signed by -----

In presence of

1. For and on behalf of the President of India[name of “Employer”]

(Witnesses)

(i)

[Authorized Representative]

(ii)

2. For and on behalf of [name of Consultant]

In presence of

(Witnesses)

(i)

(ii)

[Authorized Representative]

[Note: If the Consultant consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]

3. For and on behalf of each of the Members of the Consultant.

[name of member]

[Authorized Representative]

4.[name of member]

[Authorized Representative]

## II. General Conditions of Contract

### 1. GENERAL PROVISIONS

1.1 **Definitions** Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Applicable Law” means the laws and any other instruments having the force of law in India for the time being.
- (b) “Consultant” means any private or public entity that will provide the Services to the “Employer” under the Contract.
- (c) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is this General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (d) “Day” means calendar day.
- (e) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- (f) “Foreign Currency” means any currency other than the currency of the “Employer’s” country.
- (g) “GC” means these General Conditions of Contract.
- (h) “Government” means the Government of India
- (i) “Local Currency” means Indian Rupees.
- (j) “Member” means any of the entities that make up the joint venture/consortium/association; and “Members” means all these entities.
- (k) “Party” means the “Employer” or the Consultant, as the case may be, and “Parties” means both of them.
- (l) “Personnel” means professionals and support staff provided by the Consultants or by any Sub-Consultants and assigned to perform the Services or any part thereof; “Foreign Personnel” means such professionals and support staff who at the time of being so provided had their domicile outside the Government’s country; “Local Personnel” means such professionals and support staff who at the time of being so provided had their domicile inside the Government’s country; and “Key Personnel” means the Personnel referred to in Clause GC 4.2(a).
- (m) “Reimbursable expenses” means all assignment-related costs [such as travel, translation, report printing, secretarial expenses, subject to specified maximum limits in the Contract].
- (n) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented.
- (o) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- (p) “Sub-Consultants” means any person or entity to whom/which the Consultant subcontracts any part of the Services.
- (q) “Third Party” means any person or entity other than the “Employer”, or the Consultant.
- (r) “In writing” means communicated in written form with proof of receipt.

## 1.2 **Relationship Between the Parties**

Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the “Employer” and the Consultant. The Consultant, subject to this Contract, has complete charge of Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 **Law Governing Contract:** This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the applicable laws of India.

1.4 **Headings:** The headings shall not limit, alter or affect the meaning of this Contract.

## 1.5 **Notices**

1.5.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered post to such Party at the address specified in the SC.

1.5.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.

1.6 **Location:** The Services shall be performed at such locations as are specified in **Appendix A hereto** and, where the location of a particular task is not so specified, at such locations, as the “Employer” may approve.

1.7 **Authority of Lead Partner:** In case the Consultant consists of a joint venture/consortium/association of more than one entity, the Members hereby authorize the entity specified (Lead Consultant) in the SC to act on their behalf in exercising all the Consultant’s rights and obligations towards the “Employer” under this Contract, including without limitation the receiving of instructions and payments from the “Employer”. However, each member or constituent of Consortium of Consultant shall be jointly and severally liable for all obligations of the Consultant under the Contract.

1.8 **Authorized Representatives:** Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the “Employer” or the Consultant may be taken or executed by the officials specified in the SC.

1.9 **Taxes and Duties:** The Consultant, Sub-Consultants and Personnel shall be liable to pay such direct and indirect taxes, duties, fees and other impositions levied under the applicable laws of India.

## **1.10 Fraud and Corruption**

**1.10.1 Definitions:** It is the Employer's policy to require that Employers as well as Consultants observe the highest standard of ethics during the execution of the Contract. In pursuance of this policy, the Employer defines, for the purpose of this provision, the terms set forth below as follows:

(i) "corrupt practice" means the offering, receiving, or soliciting, directly or indirectly, of any thing of value to influence the action of a public official in the selection process or in contract execution;

(ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;

(iii) "collusive practices" means a scheme or arrangement between two or more consultants, with or without the knowledge of the Employer, designed to establish prices at artificial, noncompetitive levels;

(iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract;

### **1.10.2 Measures to be taken by the Employer**

(a) The Employer may terminate the contract if it determines at any time that representatives of the consultant were engaged in corrupt, fraudulent, collusive or coercive practices during the selection process or the execution of that contract, without the consultant having taken timely and appropriate action satisfactory to the Employer to remedy the situation;

(b) The Employer may also sanction against the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Employer-financed contract;

### **1.10.3 Commissions and Fees**

At the time of execution of this Contract, the Consultants shall disclose any commissions or fees that may have been paid or are agreed to be paid to agents, representatives, or commission agents with respect to the selection process or execution of the contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

## **2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT**

**2.1 Effectiveness of Contract:** This Contract shall come into force and effect on the date (the "Effective Date") of the "Employer"'s notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the conditions precedent and effectiveness conditions, if any, listed in the SC have been met.

**2.2 Termination of Contract for Failure to Become Effective:** If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SC, either Party may, by not less than twenty one (21) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

**2.3 Commencement of Services:** The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.

**2.4 Expiration of Contract:** Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.

**2.5 Entire Agreement:** This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any other statement, representation, promise or agreement not set forth herein.

**2.6 Modifications or Variations:** (a) Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause GC 7.2 here of, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

(b) In cases of substantial modifications or variations, the prior written consent of the Employer is required.

## **2.7 Force Majeure**

**2.7.1 Definition** (a) For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable and not brought about by or at the instance of the Party claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other extreme adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.

(b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or by or of such Party’s Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

(c) Subject to clause 2.7.2, Force Majeure shall not include insufficiency of funds or inability to make any payment required hereunder.

**2.7.2 No Breach of Contract:** The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

**2.7.3 Measures to be Taken:** (a) A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

(b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

(c) Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

(d) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the “Employer”, shall either:

(i) demobilize,; or

(ii) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid proportionately and on prorata basis, under the terms of this Contract.

(e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 8.

**2.8 Suspension:** The “Employer” may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall allow the Consultant to remedy such failure, if capable of being remedied, within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

## **2.9 Termination**

**2.9.1.1 By the “Employer”:** The “Employer” may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (h) of this Clause GC 2.9.1.1.

(a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the “Employer” may have subsequently approved in writing.

(b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its Members becomes and which has substantial bearing on providing Services under this contract) insolvent or go into liquidation or receivership whether compulsory or voluntary.

(c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.

(d) If the Consultant, in the judgment of the “Employer”, has engaged in corrupt or fraudulent practices in competing for or in executing this Contract.

(e) If the Consultant submits to the “Employer” a false statement which has a material effect on the rights, obligations or interests of the “Employer”.

(ee) If the Consultant places itself in position of conflict of interest or fails to disclose promptly any conflict of interest to the Employer.

(f) If the consultant fails to provide the quality services as envisaged under this Contract. The Consultancy Monitoring Committee (CMC) formulated to monitor the progress of the assignment may make judgment regarding the poor quality of services, the reasons for which shall be recorded in writing. The CMC may decide to give one chance to the consultant to improve the quality of the services.

(g) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

(h) If the “Employer”, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.1.2 In such an occurrence the “Employer” shall give a not less than thirty (30) days’ written notice of termination to the Consultants, and sixty (60) days’ in case of the event referred to in (h).

**2.9.2 By the Consultant:** The Consultant may terminate this Contract, by not less than thirty (30) days’ written notice to the “Employer”, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 2.9.2.

(a) If the “Employer” fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue.

(b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

(c) If the “Employer” fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

(d) If the “Employer” is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the “Employer” of the Consultant’s notice specifying such breach.

**2.9.3 Cessation of Rights and Obligations:** Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GC 3.3 hereof, (iii) the Consultant’s obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 hereof, and (iv) any right which a Party may have under the Law.

**2.9.4 Cessation of Services:** Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt

and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the “Employer”, the Consultant shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

**2.9.5 Payment upon Termination:** Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the “Employer” shall make the following payments to the Consultant:

(a) If the Contract is terminated pursuant to Clause 2.9.1 (g), (h) or 2.9.2, remuneration pursuant to Clause GC 6.3(h) (i) hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures pursuant to Clause GC 6.3(h)(ii) hereof for expenditures actually and reasonably incurred prior to the effective date of termination;

(b) If the agreement is terminated pursuant of Clause 2.9.1 (a) to (f), the consultant shall not be entitled to receive any agreed payments upon termination of the contract. However, the “Employer” may consider to make payment for the part satisfactorily performed on the basis of Quantum Merit as assessed by it, if such part is of economic utility to the Employer. Applicable Under such circumstances, upon termination, the client may also impose liquidated damages as per the provisions of Clause 9 of this agreement. The consultant will be required to pay any such liquidated damages to client within 30 days of termination date.

**2.9.6 Disputes about Events of Termination:** If either Party disputes whether an event specified in paragraphs (a) through (g) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (30) days after receipt of notice of termination from the other Party, refer the matter to Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

### **3. OBLIGATIONS OF THE CONSULTANT**

#### **3.1 General**

**3.1.1 Standard of Performance:** The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the “Employer”, and shall at all times support and safeguard the “Employer”’s legitimate interests in any dealings with Sub-Consultants or Third Parties.

**3.2 Conflict of Interests:** The Consultant shall hold the “Employer”’s interests paramount, without any consideration for future work, and strictly avoid conflict of interest with other assignments or their own corporate interests. If during the period of this contract, a conflict of interest arises for any reasons, the Consultant shall promptly disclose the same to the Employer and seek its instructions.

**3.2.1 Consultant not to benefit from Commissions, Discounts, etc.:** (a) The payment of the Consultant pursuant to Clause GC 6 hereof shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GC 3.2.2 hereof, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.

(b) Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the "Employer" on the procurement of goods, works or services, the Consultant shall comply with the Employer's applicable procurement guidelines, and shall at all times exercise such responsibility in the best interest of the "Employer". Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the "Employer".

**3.2.2 Consultant and Affiliates Not to Engage in Certain Activities:** The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.

**3.2.3 Prohibition of Conflicting Activities:** The Consultant shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

**3.3 Confidentiality:** Except with the prior written consent of the "Employer", the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and its Personnel make public the recommendations formulated in the course of, or as a result of, the Services.

**3.4 Insurance to be Taken out by the Consultant:** The Consultant (i) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain insurance, at their (or the Sub-Consultants', as the case may be) own cost but **on terms and conditions approved by the "Employer"**, insurance against the risks, and for the coverages specified in the SC, and (ii) at the "Employer"'s request, shall provide evidence to the "Employer" showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

**3.5 Accounting, Inspection and Auditing:** The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof, and (ii) shall periodically permit the "Employer" or its designated representative and/or the Employer, and up to five years from expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the "Employer" or the Employer, if so required by the "Employer" or the Employer as the case may be.

**3.6 Consultant's Actions Requiring "Employer"'s Prior Approval:** The Consultant shall obtain the "Employer"'s prior approval in writing before taking any of the following actions:

(a) Any change or addition to the Personnel listed in Appendix C.

(b) Subcontracts: the Consultant may subcontract work relating to the Services to an extent and with such experts and entities as may be approved in advance by the "Employer". Notwithstanding such approval, the Consultant shall always retain full responsibility for the Services. In the event that any Sub-Consultants are found by the "Employer" to be incompetent or incapable or undesirable in discharging assigned duties, the "Employer" may request the Consultant to provide a replacement, with qualifications and experience acceptable to the "Employer", or to resume the performance of the Services itself.

**3.7 Reporting Obligations:** The Consultant shall submit to the "Employer" the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix. Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.

**3.8 Documents Prepared by the Consultant to be the Property of the "Employer":** All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the "Employer" under this Contract shall become and remain the property of the "Employer", and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the "Employer", together with a detailed inventory thereof. The Consultant may retain a copy of such documents, but shall not use anywhere, without taking permission, in writing, from the Employer and the Employer reserves right to grant or deny any such request.. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the "Employer"'s prior written approval to such agreements, and the "Employer" shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

**3.9 Equipment, Vehicles and Materials Furnished by the "Employer":** Equipment, vehicles and materials made available to the Consultant by the "Employer", or purchased by the Consultant wholly or partly with funds provided by the "Employer", shall be the property of the "Employer" and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the "Employer" an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the "Employer"'s instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the "Employer" in writing, shall insure them at the expense of the "Employer" in an amount equal to their full replacement value.

**Equipment and Materials Provided by the Consultants:** Equipment or materials brought into the Government's country by the Consultant and the Personnel and used either for the Project or personal use shall remain the property of the Consultant or the Personnel concerned, as applicable.

## 4. CONSULTANTS' PERSONNEL AND SUB-CONSULTANTS

4.1 **General:** The Consultant shall employ and provide such qualified and experienced Personnel and Sub-Consultants as are required to carry out the Services.

4.2 **Description of Personnel:** (a) The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Personnel are as per the consultant's proposal and are described in Appendix C. If any of the Key Personnel has already been approved by the "Employer", his/her name is listed as well.

(b) If required to comply with the provisions of Clause GC 3.1.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix C may be made by the Consultant by written notice to the "Employer", provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the "Employer"'s written approval.

(c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix C may be increased by agreement in writing between the "Employer" and the Consultant. In case where payments under this Contract exceed the ceilings set forth in Clause GC 6.1(b) of this Contract, this will be explicitly mentioned in the agreement.

4.3 **Approval of Personnel:** The Key Personnel and Sub-Consultants listed by title as well as by name in Appendix C are hereby approved by the "Employer". In respect of other Personnel which the Consultant proposes to use in the carrying out of the Services, the Consultant shall submit to the "Employer" for review and approval a copy of their Curricula Vitae (CVs). If the "Employer" does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such Personnel shall be deemed to have been approved by the "Employer".

4.4 **Removal and/or Replacement of Personnel:** (a) Except as the "Employer" may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications.

(b) If the "Employer" (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the "Employer"'s written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the "Employer".

(c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Consultants may wish to claim as a result of such replacement, shall be subject to the prior written approval by the "Employer". The rate of remuneration applicable to a replacement person will be the rate of remuneration paid to the replacement person. Also (i) the Consultant shall bear all

additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.

**4.5 Resident Project Manager** : If required by the SC, the Consultant shall ensure that at all times during the Consultant's performance of the Services a resident project manager, acceptable to the "Employer", shall take charge of the performance of such Services.

## **5. OBLIGATIONS OF THE "EMPLOYER"**

**5.1 Assistance and Exemptions** : Unless otherwise specified in the SC, the "Employer" shall use its best efforts to ensure that the Government shall:

(a) Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.

(b) Arrange for the Foreign Personnel to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in India.

(c) Issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

(d) Provide to the Consultant, Sub-Consultants and Personnel any such other assistance as may be specified in the SC.

**5.2 Change in the Applicable Law Related to Taxes and Duties:** If, after the date of this Contract, there is any change in the Applicable Laws of India with respect to taxes and duties, which are directly payable by the consultant for providing the services i.e. service tax or any such applicable tax from time to time, which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GC 6.1(b).

**5.3 Services, Facilities and Property of the "Employer":** (a) The "Employer" shall make available to the Consultant and its Personnel, for the purposes of the Services and **free of any charge**, the services, facilities and property described in Appendix E at the times and in the manner specified in said **Appendix E**.

(b) In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Appendix E, the Parties shall agree on any time extension that it may be appropriate to grant to the Consultant for the performance of the Services .

**5.4 Payment:** In consideration of the Services performed by the Consultant under this Contract, the "Employer" shall make to the Consultant such payments and in such manner as is provided by Clause GC 6 of this Contract.

**5.5 Counterpart Personnel:** (a) If necessary, the “Employer” shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the “Employer” with the Consultant’s advice, if specified in Appendix E.

(b) Professional and support counterpart personnel, excluding “Employer”’s liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the “Employer” shall not unreasonably refuse to act upon such request.

## **6. PAYMENTS TO THE CONSULTANT**

**6.1 Total Cost of the Services** (a) The total cost of the Services payable is set forth in Appendix D as per the consultant’s proposal to the Employer and as negotiated thereafter.

(b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the amount specified in Appendix-D.

(c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clauses GC 4.2 (c) or 5.2 hereof, the Parties shall agree that additional payments shall be made to the Consultant in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

**6.2 Currency of Payment:** All payments shall be made in Indian Rupees.[In case the payment is to be made in the currency other than Indian Rupees, the same shall be mentioned in stead of Indian Rupees]

**6.3 Terms of Payment** The payments in respect of the Services shall be made as follows:

(a) The consultant shall submit the invoice for payment when the payment is due as per the agreed terms. The payment shall be released as per the work related milestones achieved and as per the specified percentage as per SC 13.

(b) Once a milestone is completed, the consultant shall submit the requisite deliverables as specified in this Contract. The Employer shall release the requisite payment upon acceptance of the deliverables. However, if the Employer fails to intimate acceptance of the deliverables or its objections thereto, within 30 days of receipt of it, the Employer shall release the payment to the consultant without further delay.

(c) **Final Payment :** The final payment as specified in SC 13 shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the “Employer”. The Services shall be deemed completed and finally accepted by the “Employer” and the final report and final statement shall be deemed approved by the “Employer” as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the “Employer” unless the “Employer”, within such ninety (90) day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or

final statement. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount, which the “Employer” has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract, shall be reimbursed by the Consultant to the “Employer” within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the “Employer” for reimbursement must be made within twelve (12) calendar months after receipt by the “Employer” of a final report and a final statement approved by the “Employer” in accordance with the above.

(d) For the purpose of payment under Clause 6.3 (b) above, acceptance means; acceptance of the deliverables by the Employer after submission by the consultant and the consultant has made presentation to the CMC / Employer (Mention this if presentation is required) with / without modifications to be communicated in writing by the Employer to the consultant.

(e) If the deliverables submitted by the consultant are not acceptable to the Employer / CMC, reasons for such non-acceptance should be recorded in writing; the Employer shall not release the payment due to the consultant. This is without prejudicing the Employer’s right to levy any liquidated damages under clause 9. In such case, the payment will be released to the consultant only after it re-submits the deliverable and which is accepted by the Employer.

(f) All payments under this Contract shall be made to the accounts of the Consultant specified in the SC.

(g) With the exception of the final payment under (c) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder, unless the acceptance has been communicated by the Employer to the consultant in writing and the consultant has made necessary changes as per the comments / suggestions of the Employer communicated to the Consultant.

(h) In case of early termination of the contract, the payment shall be made to the consultant as mentioned here with: (i) Assessment should be made about work done from the previous milestone, for which the payment is made or to be made till the date of the termination. The consultant shall provide the details of persons reasonably worked during this period with supporting documents. Based on such details, the remuneration shall be calculated based on the man month rate as specified.

(ii) A reasonable assessment of the reimbursable and miscellaneous expenses shall be made based on details furnished by the consultant in this regard with supporting documents and based on the assessment of the work done and the respective rates as provided. Wherever such an assessment is difficult, the rates should be arrived at by calculating the amount on pro-rata basis. The total amount payable shall be the amount calculated as per (i) and (ii) above plus any applicable tax.

## **7. FAIRNESS AND GOOD FAITH**

**7.1 Good Faith:** The Parties undertake to act in good faith with respect to each other’s rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

**7.2 Operation of the Contract:** The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

## **8. SETTLEMENT OF DISPUTES**

**8.1 Amicable Settlement:** Performance of the contract is governed by the terms & conditions of the contract, in case of dispute arises between the parties regarding any matter under the contract, either Party of the contract may send a written Notice of Dispute to the other party. The Party receiving the Notice of Dispute will consider the Notice and respond to it in writing within 30 days after receipt. If that party fails to respond within 30 days, or the dispute cannot be amicably settled within 60 days following the response of that party, clause GC 8.2 shall become applicable.

**8.2 Arbitration:** In the case of dispute arising upon or in relation to or in connection with the contract between the Employer and the Consultant, which has not been settled amicably, any party can refer the dispute for Arbitration under (Indian) Arbitration and Conciliation Act, 1996. Such disputes shall be referred to an Arbitral Tribunal consisting of 3 (three) arbitrators, one each to be appointed by the Employer and the Consultant, the third arbitrator shall be chosen by the two arbitrators so appointed by the parties and shall act as Presiding Arbitrator. In case of failure of the two arbitrators, appointed by the parties to reach a consensus regarding the appointment of the third arbitrator within a period of 30 days from the date of appointment of the two arbitrators, the Presiding arbitrator shall be appointed by the Secretary of the Ministry / Department. The Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof, shall apply to these arbitration proceedings.

8.3. Arbitration proceedings shall be held in India at the place indicated in SC and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.

8.4 The decision of the majority of arbitrators shall be final and binding upon both parties. The expenses of the arbitrators as determined by the arbitrators shall be shared equally by the Employer and the Consultant. However, the expenses incurred by each party in connection with the preparation, presentation shall be borne by the party itself. All arbitration awards shall be in writing and shall state the reasons for the award.

## **9. Liquidated Damages**

9.1 The parties hereby agree that due to negligence of act of any party, if the other party suffers losses, damages the quantification of which may be difficult, and hence the amount specified hereunder shall be construed as reasonable estimate of the damages and both the parties agree to pay such liquidated damages, as defined hereunder as per the provisions of this Contract.

9.2 The amount of liquidated damages under this Contract shall not exceed [ \_\_\_ ] % of the total value of the contract as specified in Appendix D.

9.3 The liquidated damages shall be applicable under following circumstances:

(a) If the deliverables are not submitted as per schedule as specified in SC 13, the Consultant shall be liable to pay 1% of the total cost of the services for delay of each week or part thereof.

(b) If the deliverables are not acceptable to the Employer as mentioned in Clause 6.3 (f), and defects are not rectified to the satisfaction of the Employer within 30 days of the receipt of the notice, the Consultant shall be liable for Liquidated Damages for an amount equal to [ ]% of total cost of the services for every week or part thereof for the delay.

## **10. Miscellaneous provisions:**

(i) “Nothing contained in this Contract shall be construed as establishing or creating between the Parties, a relationship of master and servant or principal and agent.

(ii) Any failure or delay on the part of any Party to exercise right or power under this Contract shall not operate as waiver thereof.

(iii) The Contractor/Consultant shall notify the Employer/ the Government of India of any material change in their status, in particular, where such change would impact on performance of obligations under this Contract.

(iv) Each member/constituent of the Contractor/Consultant, in case of a consortium, shall be jointly and severally liable to and responsible for all obligations towards the Employer/Government for performance of works/services including that of its Associates/Sub Contractors under the Contract.

(v) The Contractor/Consultant shall at all times indemnify and keep indemnified the Employer/Government of India against all claims/damages etc. for any infringement of any Intellectual Property Rights (IPR) while providing its services under the Project.

(vi) The Contractor/Consultant shall at all times indemnify and keep indemnified the Employer/Government of India against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its (the Contractor’s/Consultant’s) employees or agents or by any other third Party resulting from or by any action, omission or operation conducted by or on behalf of the Contractor/Consultant.

(vii) The Contractor/ Consultant shall at all times indemnify and keep indemnified the Employer/Government of India against any and all claims by Employees, Workman, Contractors, sub-contractors, suppliers, agent(s), employed engaged or otherwise working for the Contractor, in respect of wages, salaries, remuneration, compensation or the like.

(viii) All claims regarding indemnity shall survive the termination or expiry of the Contract.

- (ix) It is acknowledged and agreed by all Parties that there is no representation of any type, implied or otherwise, of any absorption, regularization, continued engagement or concession or preference for employment of persons engaged by the (Contractor/Consultant) for any engagement, service or employment in any capacity in any office or establishment of the Government of India or the Employer.

### III. Special Conditions of Contract:

(Clauses in brackets { } are optional; all notes should be deleted in final text)

SC Clause	Ref. of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
-----------	-------------------	--

1.	1.5	The addresses are:
----	-----	--------------------

		1. “Employer” :
--	--	-----------------

		Attention :
--	--	-------------

		Facsimile :
--	--	-------------

		2. Consultant :
--	--	-----------------

		Attention :
--	--	-------------

		Facsimile :
--	--	-------------

2.	1.7	{Lead Partner is [insert name of member]}
----	-----	---

Note: If the Consultant consists of a joint venture/ consortium/ association of more than one entity, the name of the entity whose address is specified in Clause SC 1.6 should be inserted here. If the Consultant consists only of one entity, this Clause SC 1.8 should be deleted from the SC.

3.	1.8	The Authorized Representatives are:
----	-----	-------------------------------------

		For the “Employer”:
--	--	---------------------

		For the Consultant:
--	--	---------------------

4.	2.1	{The effectiveness conditions are the following: [insert conditions]}
----	-----	---

Note: List here any conditions of effectiveness of the Contract e.g., approved of the Contract by the Employer, “Employer”’s approval of Consultant’s proposals for appointment of specified key staff members, effectiveness of Employer Loan, receipt by Consultant of advance payment and by “Employer” of advance payment guarantee

(see Clause SC 6.4(a)), etc. If there are no effectiveness conditions, delete this Clause SC 2.1 from the SC.

- 5. 2.2 The time period shall be [insert time period, e.g.: four months].
- 6. 2.3 The time period shall be [insert time period, e.g.: four months].
- 7. 2.4 The time period shall be [insert time period, e.g.: twelve months].
- 8. 3.4 Limitation of the Consultants' Liability towards the "Employer"

{Note: Proposals to introduce exclusions/limitations of the Consultants' liability under the Contract should be carefully scrutinized by Employers/"Employer"s. In this regard the parties should be aware of the Employer's policy on this matter which is as follows:

1. If the Parties agree that the Consultants' liability should simply be governed by the Applicable Laws of India, they should delete this Clause SC 3.4 from the SC.

2. If the Parties wish to limit or to partially exclude the Consultants' liability to the "Employer", they should note that, to be acceptable to the Employer, any limitation of the Consultants' liability should at the very least be reasonably related to (a) the damage the Consultants might potentially cause to the "Employer", and (b) the Consultants' ability to pay compensation using their own assets and reasonably obtainable insurance coverage. The Consultants' liability should not be limited to less than a multiplier of the total payments to the Consultants under the Contract for remuneration and reimbursable expenses. A statement to the effect that the Consultants are liable only for the re-performance of faulty Services is not acceptable to the Employer. Also, the Consultants' liability should never be limited for loss or damage caused by the Consultants' gross negligence or willful misconduct.

- 9. 3.5 The risks and the insurance coverage shall be as follows:  
(Note : Delete/modify whichever is not applicable)

(a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Government's country by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with a minimum coverage of [insert amount and currency];

(b) Third Party liability insurance, with a minimum coverage of [insert amount and currency];

(c) Professional liability insurance to cover the employer against any loss suffered by the employer due to the professional service provided by the Consultant, with a minimum coverage of [insert amount and currency];

(d) Workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultants, in accordance with the relevant provisions of the Applicable Laws of India, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and

(e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services, by theft, fire or any natural calamity.

Note: If there are no other actions, delete this Clause SC 3.6. If the Services consist of or include the supervision of civil works, the following action should be inserted:

{taking any action under a civil works contract designating the Consultant as "Engineer", for which action, pursuant to such civil works contract, the written approval of the "Employer" as "Employer" is required.}

- |     |         |  |
|-----|---------|--|
| 10  | 4.6     | {The person designated as resident project manager in Appendix C shall serve in that capacity, as specified in Clause GC 4.6.}   |
|     |         | Note: If there is no such manager, delete this Clause SC 4.6.  |
| 11. | {5.1}   | Note: List here any changes or additions to Clause GC 5.1. If there are no such changes or additions, delete this Clause SC 5.1. |
| 12. | 6.1 (b) | The ceiling in local currency is: [insert amount and currency]   |

13. 6.3 [Delete whichever is not applicable]

1. For lump-sum contracts payment will be made based on milestones indicated for each activity as below:

Activity 1:

Sr. No.	Milestone (Deliverables)	Time period for submission	Payment (as % of the total service cost)
1.			
2.			
3.			
4.			
Total			

Activity 2:

Sr. No.	Milestone (Deliverables)	Time period for submission	Payment (as % of the total service cost)
1.			
2.			
3.			
4.			
Total			

**OR**

**2. For time based contracts remuneration will be paid on monthly basis.**

14. 8.3 The Arbitration proceedings shall take place in (indicate name of the city) in India.

Binding signature of Employer Signed by \_\_\_\_\_  
(for and on behalf of the President of India)

Binding signature of Contractor Signed by \_\_\_\_\_  
(for and on behalf of \_\_\_\_\_ duly authorized vide Resolution  
No \_\_\_\_\_ dated \_\_\_\_\_ of the Board of Directors of \_\_\_\_\_)

In the presence of  
(Witnesses)

- 1.
- 2.

## **IV. Appendices**

## **APPENDIX A – DESCRIPTION OF SERVICES**

Note: This Appendix will include the final Terms of Reference worked out by the “Employer” and the Consultants during technical negotiations, dates for completion of various tasks, place of performance for different tasks/activities, specific tasks/activities/outcome to be reviewed, tested and approved by “Employer”, etc.

## **APPENDIX B - REPORTING REQUIREMENTS**

Note: List format, frequency, and contents of reports; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

## **APPENDIX C – STAFFING SCHEDULE**

(Include here the agreed (negotiated staffing schedule including the engagement of sub-contractors, if any)

## **APPENDIX D – Total COST OF SERVICES IN**

( Include here the rates quoted in the financial proposal or the negotiated rates, whichever is applicable)

## **APPENDIX E - DUTIES OF THE “EMPLOYER”**

(Include here the list of Services, facilities and property to be made available to the Consultant by the “Employer”).

## Instructions to the User

(It will not form part of RFP. To be detached before sending the RFP to the short listed consultants.)

1. This document is the Standard Request for Proposals (SRFP) for use of Government Ministries / Department where the expenditure is to be financed from the budgetary resources of the Central Government. The document is based on the Manual of Policies and Procedure of Employment of Consultants (Nov 2005) (hereinafter called the manual) as may be amended from time to time . The SRFP must be used whenever possible in the selection of Consultants. However, specific assignments will require modification of the SRFP which shall be carried out based on the nature of the assignment / job, the selection process to be adopted and the assignment specific conditions of contract. This activity will be called “preparation of RFP”.

2. Before preparing an RFP, the user must be familiar with the Manual, provisions of the GFR and other guidelines issued by the Government of India from time to time. As mentioned in para 2.4.1 of the Manual, except in the case of low cost assignment where the procedure to be followed is mentioned in para 2.4.3 of manual, for all other consultancy contracts the process of engagement of consultants shall begin with an advertisement called “request for expression of interest” (EOI) for preparing a short list of consultants. The advertisement shall be released in at least one National Newspaper and on the Ministries Website. The advertisement should include in brief the broad scope of assignment / job, requirement of Ministry or department and last date of submission of the details. The detailed must be provided on the web site (preferably in the form of EOI document) which should mention scope of work, instruction to the consultants, evaluation criteria, details about submission regarding consultants past experience, man power details and financial details. The ministry or department shall furnish prescribed formats to be filled up by the consultant. Based on the response received the Ministry / Department will prepare a short list of those consultants based on the pre-qualification criteria as mentioned in the manual and as prescribed in the details of EOI. Details can be seen in the Manual. The short listed consultants are, thereafter, requested to submit their technical and financial proposals in the standard RFP prepared by the Ministry / Department for the assignment. The process of preparation of RFP will involve the following:

- (a) Preparation of the “data sheet” which contains assignment specific instructions to the consultants for preparation and submission of their proposal / bid.
- (b) Preparation of TOR.
- (c) Preparation of selection criteria including Technical Qualification (TQ) and financial criteria of the consultants.
- (d) Decision about the selection process.
- (e) Formats for technical and financial proposals.
- (f) Assignment / job specific conditions of contract.
- (g) Form of contract.

3. Evaluation of proposals will be carried out as per details given in paras 2.9 to 2.14 of the Manual. Negotiations, if any, will be done as per para 2.15 of the Manual.

4. In very special circumstances the employer may also modify suitably the general conditions of contract and the standard instructions to consultant. This should, however, be done only with legal and financial concurrence.

5. An important aspect of the preparation of RFP is the preparation of a draft Contract document. For this purpose the following guidelines will be followed:

a. The Standard Contract consists of four parts: the Form of Contract to be signed by the Client and the Consultant, the General Conditions of Contract, the Special Conditions of Contract, and the Appendices. General Conditions are generally not to be modified. Clauses in the Special Conditions will be used to modify the General conditions.

b. For assignments for which remuneration is being determined on the basis of the time actually spent by the Consultant in carrying out the services for example disinvestment process, project management services, advisory services etc., the Time-based contracts are recommended. In such cases generally the scope of the services cannot be established with sufficient precision, or the duration and quantity of services depends on variables that are beyond the control of the Consultant. In time-based contracts the Consultant provides services on a timed basis according to quality specifications, and Consultant's remuneration is based on (i) agreed upon unit rates for Consultant staff multiplied by the actual time spent by the staff in executing the assignment, and (ii) reimbursable expenses using actual expenses and/or agreed unit prices. This type of contract requires the Client to closely supervise Consultant and to be involved in the daily execution of the assignment.

c. Lump-sum contracts are normally used when definition of the tasks to be performed is clear and unambiguous, when the commercial risk taken by the Consultant are relatively low, and when therefore such Consultant are prepared to perform the assignment for an agreed predetermined lump-sum price. Such price is arrived at on the basis of inputs including rates – provided by the Consultant. The Client agrees to pay the Consultant according to a schedule of payments linked to the delivery of certain outputs, for example reports. A major advantage of the lump-sum contract is the simplicity of its administration, the Client having only to be satisfied with the outputs without monitoring the staff inputs. Studies are usually carried out on a lump-sum basis: for example, surveys, master plans, disinvestment reports, simple feasibility and engineering studies.

6. After the RFP for the assignment has been prepared it will be sent to the short listed consultants for obtaining their technical and financial proposals.

7. For evaluation of the RFP bids, suggested formats and criteria have been provided in the manual.



**Manual of Policies  
and  
Procedure of Employment  
of  
Consultants**



सत्यमेव जयते

डा० आदर्श किशोर  
Dr. Adarsh Kishore

वित्त सचिव  
भारत सरकार  
वित्त मंत्रालय  
व्यय विभाग

FINANCE SECRETARY  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF EXPENDITURE

नई दिल्ली/New Delhi, the ..... 20  
August 31, 06

### PREFACE

Every Government organization procures a wide variety of goods and services and executes works to perform the duties and responsibilities assigned to it. A need was felt to review the government procurement system with a view to avoiding scope for subjectivity and improving objectivity and transparency in decision making.

Laying out clear guidelines for Public Procurement is a part of the 'Thrust Areas' and priority items directed by the Government, in tune with the imperatives of a growing and liberalized economy.

Government had constituted a Task Force to examine in detail revision of public procurement norms and to make suitable recommendations in this regard. The recommendations of the Task Force were accepted 'in principle' by the Government, which, *inter alia*, included preparation of Manuals on Policies and Procedures, along with other allied documents for procurement of Goods, Works and Consultancy Services, in consonance with the fundamental principles of transparency, fairness, competition, economy, efficiency and accountability.

The Manuals on Policies and Procedures for Goods, Works and Consultancy have been prepared in conformity with the applicable directives contained in the new General Financial Rules, 2005. The draft Manuals were widely circulated to all Ministries / Departments, and their suggestions were duly considered for making appropriate changes. Concerted efforts have been made to cover all major aspects of procurement in these Manuals in a user-friendly manner taking into account the developments in the economy and the need to introduce quality, competition and transparency in public procurement.

Manuals issued by this Ministry are to be taken as generic guidelines, which have to be necessarily broad in nature. Ministries / Departments are advised to supplement these manuals by issuing detailed operating instructions to serve as practical instructions for their officers, evolve checklists to ensure completeness of examination of cases and customize the formats to suit local/specialized needs. We intend to revise and update the Manual once in two years.

(Adarsh Kishore)

## ACKNOWLEDGEMENT

Ministry of Finance, Department of Expenditure wishes to acknowledge the dedicated efforts of Shri R.N. Ghosh, former Addl. Director <sup>General,</sup> DGS&D, Ministry of Commerce, Shri Fuad Mahmood, Executive Director (F&A), Rail Vikas Nigam, and Shri Basab Majumdar, former DG, CPWD and his team of officers, and appreciate their valuable contribution in drafting these Manuals on Policies and Procedures, along with other related documents for procurement of Goods, Works and Consultancy Services.

Ministry of Finance, Department of Expenditure also wishes to place on record their appreciation for the contribution made and advice tendered by Ms. Somi Tandon, former Secretary (Defence-Finance), for successful completion of this task.



( Rita Menon )

Additional Secretary to the Government of India  
Ministry of Finance  
Department of Expenditure

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## Chapter – I

### 1.1 Purpose

1.1.1 The purpose of these Guidelines is to define the Government of India's broad policies and procedures for selection, contracting and monitoring of consultants and other professional services providers financed from Govt. of India's resources. *Projects funded partially or in whole by loan/grant from International organizations like International Bank for Reconstruction and Development (IBRD), International Development Association (IDA) or grant from the Bank or trust funds would normally be governed by guidelines agreed to in the respective loan/credit agreement with them.*

1.1.2 For the purpose of these Guidelines, the term consultant(s) includes a wide variety of private and public entities, including consulting firms, engineering firms, construction management firms, management firms, procurement agents, inspection agents, auditors, investment and merchant bankers, universities, research institutions, government agencies, non governmental organizations (NGOs) and individuals/experts. These organizations as consultants could be used for help in a wide range of activities – such as policy advice; institutional reforms; management; engineering services; construction supervision/ project management; feasibility studies, financial services; privatization studies and procedures, procurement services; social and environmental studies; and identification and preparation of projects, development of Computer hardware /software services etc. to complement the capabilities of the Government Ministry / department or other Government authorities( referred as “employer” hereafter).

### 1.2 When and how to engage Consultant

1.2.1 The specific purpose and the specific rules and procedures to be followed for employing Consultants depend on the circumstances of the particular case. However, following main considerations would guide the need and the selection process:-

- (a) Absence of required expertise in-house;
- (b) The need for high quality services;
- (c) The need for economy and efficiency;
- (d) The need to have qualified Consultants for providing the specific services;
- (e) The importance of transparency in the selection process;
- (f) The identification of scope of work and the time frame for which services are to be availed of.

1.2.2 Engagement of Consultants / professional service providers in any office of the Government of India will follow the guidelines for administrative and financial sanctions as laid down by the Government of India from time to time.

1.2.3 Engagement of Officials of Government of India or Retired Officers either in their individual capacity or as a part of a Consultant's team will be made keeping in view the guidelines of the Government of India (Department of Personnel & Training) issued from time to time on this subject.

### **1.3 Applicability of Guidelines**

1.3.1 These guidelines are applicable for selection of consultants by any Ministry / department / organization of Government of India where the costs of the Project/Assignment are funded by the Government of India.

1.3.2 The consulting services to which these Guidelines apply are of an intellectual and advisory nature. These Guidelines do not apply to other types of services in which the physical aspects of the activity predominate (for example, construction of works, manufacture of goods, operation and maintenance of facilities or plant).

### **1.4 Consortium of Consultants**

Consultants may associate with each other to form a consortium to complement their respective areas of expertise, or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The consortium may take the form of a joint venture or of a sub consultancy. In case of a joint venture, all members of the joint venture shall sign the contract and shall be jointly and severally liable for the entire assignment. Even after the short list is finalized, and Request for Proposals (RFPs) are issued, any association in the form of joint venture or sub consultancy among short-listed firms shall be permissible. Under such circumstance, one of the short-listed consultants must become the lead member of the consortium and the Employer shall only deal with the lead member for all the purposes.

### **1.5 Selection of Consultants**

1.5.1 For selection of the consultants, normally, the employer shall adopt two stage procedure in terms of Rules 168 to 175 of General Financial Rules, 2005. In the first stage, the employer shall identify the likely sources on the basis of formal or informal enquiries and by inviting Expression of Interest (EOI) through advertisement as per Rule 168 of GFRs. On the basis of responses received, Consultants meeting the requirement will be short listed for further consideration. In the second stage, the short-listed consultant will be invited to submit (Request for Proposals or RFP) their Technical and Financial Proposals. The consultant shall be selected based on evaluation of their Technical and Financial bids, the details of which are provided in Chapter III.

1.5.2 The selection of consultant shall follow any of the following methods; as considered appropriate:

1. Quality and Cost Based Selection (QCBS): Under normal circumstances, this method of evaluation shall be used.

2. Combined Quality Cum Cost Based System (CQCCBS): This method of selection shall be used for highly technical projects where weightage needs to be given to higher technical standards, while finalizing the prices, as per para 3.12 below.

3. Quality Based Selection (QBS): This method of selection may be used under the following circumstances:

(i) the outcome of the assignment will have high impact and hence it is essential to engage most qualified consultant. Examples are national policy formulation; capacity building program etc.

(ii) the assignment is very complex or highly specialized where it is difficult to define scope of work with accuracy. Examples are country specific study; reforms related studies, high precision scientific work etc.

4. Cost Based Selection (CBS): This method of selection may be used for the assignments of following nature: (i) assignment where any experienced consultant can deliver the services without requirement of specific expertise. Examples are traffic surveys, market surveys etc. and (ii) cost of which shall not exceed Rs. Ten lakh.

1.5.3 Selection by direct negotiations: The selection by direct negotiations/nomination is permissible in terms of Rule 176 of General Financial Rules, 2005 under exceptional circumstance such as (a) for tasks that represent a natural continuation of previous work carried out by the firm, (b) in case of emergency situation, situation arising after natural disasters, situations where timely completion of the assignment is of utmost importance, (c) situations where the execution of assignment may involve use of proprietary techniques or only one consultant has requisite expertise. Such selection may normally be restricted to a financial ceiling of Rs. Ten lakh.

### **1.6 Consultancy Evaluation Committee (CEC)**

For all cases having financial implications of more than Rs. Ten lakh, a CEC comprising of at least three members at appropriate level including Financial Adviser or his representative and also a representative of the user shall be constituted by the employer in order to carry out the consultant selection procedure. The CEC shall be responsible for all aspects and stages of the consultant selection i.e. issuance of EOI, evaluation of EOI, short-listing of consultants, deciding Terms of Reference, issuance of RFP, evaluation of technical and financial proposals, negotiations and final selection of the consultant. Even in case of selection of consultant by direct negotiations having financial implication of more than Rs. 10 lakh, the CEC shall negotiate with the consultant on technical and financial aspects.

**[Note: Separate committees may be constituted for separate assignments.]**

### **1.7 Consultancy Monitoring Committee (CMC)**

1.7.1 The employer shall constitute a CMC comprising at least three members at appropriate level, including user's representative, after the selection procedure is over for monitoring the progress of the assignment. If considered appropriate, the employer may select all or any of the members of CEC as members of CMC. The CMC shall be responsible to monitor the progress of the assignment, to oversee that the assignment is carried out as per agreed TOR and contractual conditions,

to assess the quality of the deliverables, to accept / reject any part of assignment, to levy appropriate liquidated damages or penalty if the assignment is not carried out as per the contract and if the quality of services is found inferior and for any such deficiency related to the completion of the assignment.

1.7.2 For the assignments which are very complex and/or are of highly technical nature, the employer may decide to appoint another qualified consultant to assist the CMC in carrying out its functions. However, the cost of such additional consultant shall not exceed five per cent [5 %] of the total cost of the assignment monitored.

1.7.3 The employer may also include in CMC individual experts from Government / private sector / educational / research institute or individual consultants. Cost of such members, if any, shall be borne by the employer.

### **1.8 Forms of Contracts**

1.8.1 Various forms of the contracts may be entered into by the Employer with the consultant depending upon the nature of the assignment. Following are various forms of contracts:

- (i) Lump sum contract;
- (ii) Time based contracts;
- (iii) Success fee based contract;
- (iv) Percentage contract;
- (v) Indefinite delivery contract.

1.8.2 The lump sum contract is the preferred form of contract and under normal circumstances, the employer shall use this form of contract. The other forms of contract shall only be used under special circumstances, as specified in Chapter V.

## **Chapter-II**

### **Expression of Interest**

#### **2.1 Invitation of Expression of Interest**

For all consultancy contracts exceeding estimated cost of Rs. 50 lakh except in cases of nomination or where direct negotiation is carried out, an advertisement called "invitation for Expression of Interest" (EOI) shall be released in at least one National Newspaper and the Ministry's website for preparing the short list. Attention of known reputed consultants may also be separately drawn wherever possible. Advertisement in newspapers may be brief and shall give reference to departmental website. The advertisement must include, among other things, the last date of submission of EOI, how to get copy of EOI document, contact information of the employer with name of contact person etc.

#### **2.2 EOI Document**

2.2.1 The Employer shall prepare an EOI document. The EOI document shall contain following information:

- (i) Invitation to EOI: It shall include a copy of the advertisement whereby consultants are invited to submit their EOI.
- (ii) Brief about objectives and scope of work : This may include brief description about objective of carrying out the assignment, broad scope of work and expected deliverables of the assignment. This may also include the place of execution of the assignment.
- (ii) Instructions to the Consultants: It may include instructions regarding nature of job; submission requirement; requirement of bid processing fees; if any; last date of submission; place of submission; and any related instruction;
- (iii) Pre-qualification Criteria; this may clearly lay down the pre-qualification criteria which shall be applied by the employer for short listing the consultants.
- (iv) Formats for submission. This section shall specify the format in which the consultants are expected to submit their EOI.

2.2.2 The employer shall make available the copies of the EOI document to the interested consultants in hard copies as well as on its web site.

#### **2.3 Short List of Consultants**

2.3.1 The Employer shall evaluate the consultants for short listing, inter-alia, based on their past experience of handing similar types of projects, strength of their man power and financial strength of the firm.

2.3.2 The employer may assign scores to the response of each consultant based on weightages assigned to each of the criteria in EOI. Normally, the following weightages may be used for such evaluation:

Sr. No.	Criteria	Weightage
1	Past Experience of The firm <ul style="list-style-type: none"> <li>• Number of years experience</li> <li>• Past Experience of studies of similar nature.</li> <li>• Past experience in carrying out studies in related sectors.</li> <li>• Studies carried out in India.</li> </ul>	<b>60%</b> 20% 50% 20% 10%
2	Experience of Key Personnel. <ul style="list-style-type: none"> <li>• Qualifications</li> <li>• Relevant Experience</li> </ul>	<b>25%</b> 30% 70%
3	Financial Strength of the Consultant. <ul style="list-style-type: none"> <li>• Turnover figure for Last three Years.</li> <li>• Net Profit Figure for Last three years</li> </ul>	<b>15%</b> 50% 50%

2.3.3 The Employer shall short list all the consultants who secure the minimum required marks [normally 50%]. The minimum qualifying requirement shall be specified in the EOI document.

2.3.4 Alternatively, the employer may specify in the EOI document minimum qualifying requirement for each of the criteria i.e. minimum years of experience, minimum number of assignments executed, minimum turnover etc. Under such circumstances, the employer shall apply pass-fail test and short list all the consultants who meet the minimum requirement as specified.

2.3.5 The short lists shall normally comprise at least three firms.

2.3.6 The short list may comprise only national consultants (firms registered or incorporated in the country), if the EOI document specifically states so.

## **2.4 Cost Based Selection**

2.4.1 For small assignments, where the employer decides to select the consultant based on CBS method, the consultant shall be selected following single stage bidding procedure. Under single stage bidding procedure, the employer shall invite financial proposals along with the EOI in two separate envelopes.

2.4.2 The financial proposals of all the consultants who have been short listed, as per clause 2.3 above, shall be opened in the presence of the short listed consultants who choose to remain present. The consultant, who has submitted the lowest financial bid, shall be selected as the L1 and shall be called for further negotiations.

**Chapter -III**  
**SELECTION OF CONSULTANTS**

**3.1 Once the short listing of consultants is completed, the employer shall start the process of final selection of the consultant.**

The selection process generally includes the following steps:

- (a) preparation of Terms of Reference (TOR);
- (b) preparation of cost estimate and the budget;
- (c) preparation and issuance of the Request for Proposals (RFP);
- (d) pre-bid meeting;
- (e) receipt of proposals;
- (f) evaluation of technical proposals: consideration of quality;
- (g) public opening of financial proposals;
- (h) evaluation of financial proposal;
- (i) selection of the winning proposal;
- (j) negotiations with the selected consultant, if required
- (k) award of the contract to the selected firm.

**3.2 Terms of reference**

The Employer shall be responsible for preparing the TOR for the assignment. TOR shall be prepared by those who have sufficient knowledge and experience in the area of the assignment. If the required experience is not available in-house, the task of preparation of the TOR can also be assigned to experienced consultants.

The TOR shall include:

- i) Purpose/ objective of the assignment;
- ii) Detailed scope of work;
- iii) Expected input of key professionals (number of experts, kind of expertise required);
- iv) Proposed schedule for completing the assignment;
- v) Reports/deliverables required from the consultant.
- vi) Background material, records of previous surveys etc. available and to be provided to the consultant
- vii) Facilities such as local conveyance, office space, secretarial assistance etc., which can be provided to the consultant

viii) Procedure for review of the work of consultant after award of contract

The scope of the services described in the TOR shall be compatible with the available budget. TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is also an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources. TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys). However, TOR should not be too detailed and inflexible, so that competing consultants may propose their own methodology and staffing. Firms shall be encouraged to comment on the TOR in their proposals. The employer's and consultants' respective responsibilities should be clearly defined in the TOR.

### **3.3 Cost Estimate (Budget)**

Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate shall be based on the employer's assessment of the resources needed to carry out the assignment: staff time, logistical support, and physical inputs (for example, vehicles, laboratory equipment). Costs shall be divided into two broad categories: (a) fee or remuneration (according to the type of contract used) and (b) reimbursable, and further divided into foreign (if applicable) and local currency payments. The cost of staff time shall be estimated on a realistic basis for the personnel, as applicable, by ascertaining the prevalent market conditions and consulting other organizations engaged in similar activities.

### **3.4 Preparation and Issuance of the Request for Proposals (RFP)**

3.4.1 Request For Proposal (RFP) is the bidding document in which the technical and financial proposals from the consultants are obtained. It contains the following:

- (i) A letter of invitation (LOI)
- (ii) Instructions to consultants (ITC)
- (iii) Terms of Reference (TOR)
- (iv) List of key positions / professionals required for the assignment
- (v) Requirement of qualification and experience of the firm and of the key professional staff
- (vi) Criteria of bid evaluation and selection procedure
- (vii) Standard formats for technical proposal
- (viii) Standard formats for financial proposal
- (ix) Proposed form of contract

The employer shall use the applicable standard RFP with minimal changes as necessary to address project-specific issues. The employer may use an electronic system to distribute the RFP. If the RFP is distributed electronically, the electronic system shall be secured to avoid modifications to the RFP and shall not restrict the access of short listed consultants to the RFP.

The RFP will be sent only to the short listed consultants.

**3.4.2 Letter of Invitation (LOI)**

The LOI shall state the intention of the employer to enter into a contract for the provision of consulting services, the details of the employer and the date, time, and address for submission of proposals.

**3.4.3 Instructions to Consultants (ITC)**

**3.4.3.1** The ITC shall consist of two parts, (1) Standard information, and (2) Assignment specific information. The assignment specific information is added through “data sheet”. The ITC, therefore, contains all necessary information that would help the consultants prepare responsive proposals, and shall bring as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum passing quality score. The standard information include clauses relating to the procedure of bid submission, the procedure relating to pre-bid meeting, procedure for seeking clarifications etc. The assignment / job specific information will be prepared separately and it will include the date and time of bid submission, contact address, the qualification criteria, the method of selection, the evaluation process, the factors of evaluation and their respective weights etc.

**3.4.3.2** The ITC shall not indicate the budget (since cost is a selection criterion), but shall indicate the expected input of key professionals (staff time). Consultants, however, shall be free to prepare their own estimates of staff time necessary to carry out the assignment. The ITC shall specify the proposal validity period (normally 90-120 days).

**3.4.4 Standard formats for technical and financial proposals**

**3.4.4.1** The standard formats for technical proposal include:

- (i) Format for Letter of Proposal submission
- (ii) Format for Consultant's organization and experience
- (iii) Format for Comments and suggestions on TOR
- (iv) Format for Approach and methodology
- (v) Format for Team Composition
- (vi) Format for Curriculum Vitae of key professionals
- (vii) Format for Staffing Schedule
- (viii) Format for Work Schedule
- (ix) Format for Comments / modifications suggested on draft contract.
- (x) Format for information regarding any conflicting activities and declaration thereof.

3.4.4.2

The standard formats for financial proposal include:

- (i) A summary sheet of the cost estimate to be quoted by the consultant.
- (ii) Remuneration payable.
- (iii) Reimbursables.

### **3.4.5**

#### **Proposed form of contract**

3.4.5.1

The contract includes accepted TOR methodology, general and specific conditions of contract, etc. wherever possible, the employer shall use the Standard Form of Contract.

3.4.5.2

The general conditions of contract shall include all such conditions which are common in nature and not project specific. Such conditions include clauses pertaining to sub contracting, methods of payment, termination and extension of contracts, arbitration, variation in quantities, indemnity and insurance, force majeure, conflict of interest, compliance to local laws and taxes and duties etc.

3.4.5.3

The project specific conditions include clauses relating to the assignment in hand. These clauses should be carefully developed to protect the interest of the employer.

### **3.5**

#### **Pre-bid meeting**

In all cases of large value or complex assignments, a pre-bid meeting may be prescribed in the RFP. The date and time for such a meeting should normally be after 15 to 30 days of issue of RFP and should be specified in the RFP itself. During this meeting, the scope of assignment, responsibilities of either parties or other details should be clearly explained to the prospective bidders so that there is no ambiguity later on at the time of submission of technical/financial bids. Where some significant changes are made

in the terms/scope of RFP as a result of pre bid meeting or otherwise considered necessary by the employer, a formal Corrigendum to RFP may be issued, to all short listed consultants. In such cases, it should be ensured that after issue of Corrigendum, reasonable time (not less than 15 days) is available to the bidders to prepare/submit their bid. If required, the time for preparation and submission of bids may be extended, suitably.

3.6 **Receipt of proposal**

3.6.1 The employer should allow enough time to the short listed consultants to prepare their proposals. The time allowed shall depend on the assignment, but normally shall not be less than four weeks and more than three months. **In cases, where participation of international consultants is contemplated, a period of not less than eight weeks should normally be allowed.** If necessary, the Government Ministry / Department shall extend the deadline for submission of proposals. The technical and financial proposals shall be submitted at the same time. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. The technical bids will be opened immediately after closing of receipt of technical bids by the Consultancy Evaluation Committee (CEC). The financial proposals shall remain sealed and shall be opened publicly only of those firms who have qualified technically. Any proposal received after the closing time for submission of proposals shall be returned unopened.

3.6.2 Government Ministry / Departments may use electronic systems permitting consultants to submit proposals by electronic means, provided the Ministry/Department is satisfied with the adequacy of the system, including, inter alia, that the system is secure, maintains the confidentiality and authenticity of the proposals submitted, uses an electronic signature system or equivalent to keep consultants bound to their proposals and only allows proposals to be opened with due simultaneous electronic authorization of the consultant and the Government Ministry/ Department.

3.6.3 **Late Bids:** Late bids that is bids received after the specified date and time of receipt shall not be considered and shall be returned unopened.

**3.7 Evaluation of Proposals: Consideration of responsiveness**

The evaluation of the proposals shall be carried out in two stages: At the first stage evaluation of technical proposals is taken up. Proposals without earnest money (bid security), bid processing fees, if specified, unsigned and incomplete ( i.e. when the required bid formats have not been submitted), not responding to the TOR fully and properly and those with lesser validity than that prescribed in the RFP will be summarily rejected as being non-responsive, before taking up the appraisal of the technical proposal for evaluation of quality. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation is concluded. The envelope containing the financial proposal is not opened till the technical evaluation is complete. The financial proposal of only such bidders will be opened which obtain minimum qualifying marks / standards prescribed for the technical proposal. The evaluation shall be carried out in full conformity with the provisions of the RFP.

**3.8 Evaluation of the Quality**

**3.8.1** The Employer shall evaluate each technical proposal (using the evaluation committee, CEC), taking into account criteria as prescribed in the RFP: (a) the consultant’s relevant experience for the assignment, (b) the quality of the methodology proposed, (c) the qualifications of the key staff proposed and (d) capability for transfer of knowledge. Each of the **responsive** technical proposal will be evaluated for the criteria prescribed in the RFP by awarding marks so as to make total maximum technical score as 100. The criteria and weightage to each criteria or sub-criteria would depend on the requirements of each case and may be fixed objectively. A model scheme of maximum marks is, however, proposed as under:

	<u>Details</u>	<u>Max. Marks</u>
1.	Experience of the firm	20
2.	Methodology, work plan and understanding of TOR	25
3.	Suitability of the Key personnel for the assignment	45
4.	Capability for Transfer of knowledge/ training*	10
	<b>TOTAL</b>	<b>100</b>

\* If this criteria is not required, the marks can be adjusted against some other criteria.

The weight given to the firm’s experience can be relatively modest, since this criterion has already been taken into account when short-listing the consultant. More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies).

**Alternatively** a simplified procedure for evaluation of quality can be followed which has been described in para 3.9 below.

3.8.2 For evaluation of the technical bids with the simplified and detailed methods of evaluation, suggested formats have been given at Appendix I & II respectively of this manual. They can be referred to for guidance. Suitable modifications can be made based on the requirements of the evaluation criteria.

3.8.3 The CEC shall normally divide the above criteria mentioned in para 3.8.1 into sub criteria. For example, sub criteria under methodology, work plan and understanding of TOR can be divided into (i) understanding of TOR, (ii) acceptability and detailing of methodology and work plan (iii) innovation, if it is important. However, the number of sub criteria should be kept to the minimum that is considered essential. The sub criteria for suitability of the key professionals for the assignment can also be divided into: (i) Educational qualifications (20% weight), (ii) professional experience in the required area of assignment (80% weight).

3.8.4 Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The CEC shall review the qualifications and experience of proposed key personnel in their *curricula vitae*, which must be accurate, complete, and signed by an authorized official of the consultant and the individual proposed. When the assignment depends critically on the performance of key staff, such as a Project Manager in a large team of specified individuals, it may be desirable to conduct interviews.

3.8.5 At the end of the technical evaluation process, the CEC shall prepare a technical evaluation report of the “quality” of the proposals and take competent authority’s approval. The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and its audit.

3.8.6 Minimum qualifying marks or relative qualifying method for quality of the technical proposal will be prescribed and indicated in the RFP. The consultants who are qualifying as per the technical evaluation criteria will only be considered as eligible for the consultancy assignment.

**3.9 Simplified procedure for evaluation of quality**

Alternatively, the following simplified procedure for technical evaluation can also be followed.

3.9.1	<b>Purpose:</b> Most of the Govt. departments need consultants who should only fulfill a minimum qualifying standard. For such assignment a higher technical score of 60% and above may not be necessary. Engagement of accountants, auditors, consultant engineers etc. can be carried out by following this simplified procedure for evaluation of technical quality.
3.9.2	Under this procedure minimum qualifying standards / criteria will be fixed for each parameter. As mentioned earlier, the following parameters can be used:  <ul style="list-style-type: none"> <li>(i) Minimum experience including number of assignments handled by the firm similar to the area of assignment.</li> <li>(ii) Turn over and other financial parameters of the firm, if required.</li> <li>(iii) Minimum educational qualifications of each of the key professionals.</li> <li>(iv) Minimum requirement of experience of the key professionals in an area similar to the proposed assignment.</li> </ul>
3.9.3	All the firms which meet the minimum qualifying standards / criteria so prescribed will stand technically qualified for consideration of their financial bids. No ranking of firms among the qualifying firms will be required.
<b>3.10</b>	<b>Evaluation of Cost</b>
3.10.1	After evaluation of quality has been completed, the employer shall notify those consultants whose proposals did not meet the minimum qualifying standard or were considered non-responsive to the RFP and/or TOR, indicating that their financial proposals will be returned unopened after completing the selection process. In case of QCBS, the employer shall simultaneously notify the consultants that have successfully satisfied the qualifying standard or where marks have been awarded, the minimum qualifying marks, and indicate the date and time set for opening the financial proposals. In such a case, the opening date shall not be later than three weeks after the notification date. The financial proposals shall be opened publicly in presence of the representatives of the technically qualified consultants who choose to attend. The name of the consultant, the quality scores, and the proposed prices shall be read aloud and recorded when the financial proposals are opened. The employer shall prepare the minutes of the public opening.
3.10.2	The CEC will then examine if there are any arithmetical errors to be corrected. For the purpose of comparing proposals, the costs shall be converted to Indian Rupees as stated in the RFP. The CEC shall make this conversion by using the selling exchange rates for those currencies as per exchange rate quoted by an official source e.g. State Bank of India. The RFP shall specify the source of the exchange rate to be used and the date of exchange rate to be taken

for comparison of the costs. This date shall be the date of opening of financial bids.

3.10.3 For the purpose of evaluation, the total cost shall include all taxes and duties for which the employer makes payments to the consultant and other reimbursable expenses, such as travel, translation, report printing, or secretarial expenses.

3.10.4 If there are conditions attached to any financial proposal, which shall have bearing on the total costs as indicated in the proposal, the CEC shall reject any such proposals as non-responsive financial proposal. However, if the CEC feels it necessary to seek clarification on any financial proposals regarding taxes, duties or any such matter, the CEC may do so by inviting responses in writing.

### **3.11 Selection of the winning consultant**

Under the QCBS procedure as mentioned in paras 3.8 and 3.9, the financial proposals will be ranked in terms of their total evaluated cost. The least cost proposal will be ranked as L-1 and the next higher and so on will be ranked as L-2, L-3 etc. The least cost proposal (L-1) will be considered for award of contract. The CEC will put up a report on financial evaluation of the technically qualified consultants to the competent finance authority along with the recommendation that the least cost proposal (L-1) can be approved / invited for negotiation and for final award of contract. Negotiations will be carried out as per the guidelines in para 3.13.

### **3.12 Cost Evaluation under Combined Quality Cum Cost Based System (CQCCBS)**

3.12.1 Under CQCCBS, the technical proposals will be allotted weightage of 70% while the financial proposals will be allotted weightages of 30%.

3.12.2 Proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices.

3.12.3 The total score, both technical and financial, shall be obtained by weighing the quality and cost scores and adding them up. **The proposed weightages for quality and cost shall be specified in the RFP.**

**3.12.4 Highest points basis:** On the basis of the combined weighted score for quality and cost, the consultant shall be ranked in terms of the total score obtained. The proposal obtaining the highest total combined score in evaluation of quality and cost will be ranked as H-1 followed by the proposals securing lesser marks as H-2, H-3 etc. The proposal securing the highest combined marks and ranked

H-1 will be invited for negotiations, if required and shall be recommended for award of contract.

As an example, the following procedure can be followed. In a particular case of selection of consultant, It was decided to have minimum qualifying marks for technical qualifications as 75 and the weightage of the technical bids and financial bids was kept as 70 : 30. In response to the RFP, 3 proposals, A,B & C were received. **The technical evaluation committee awarded them 75, 80 and 90 marks respectively.** The minimum qualifying marks were 75. All the 3 proposals were, therefore, found technically suitable and their financial proposals were opened after notifying the date and time of bid opening to the successful participants. The price evaluation committee examined the financial proposals and evaluated the quoted prices as under:

<u>Proposal</u>	<u>Evaluated cost</u>
A	Rs.120.
B	Rs.100.
C	Rs.110.

Using the formula  $LEC / EC$ , where LEC stands for lowest evaluated cost and EC stands for evaluated cost, the committee gave them the following points for financial proposals:

A :	$100 / 120$	= 83 points
B :	$100 / 100$	= 100 points
C :	$100 / 110$	= 91 points

In the combined evaluation, thereafter, the evaluation committee calculated the combined technical and financial score as under:

Proposal A:	$75 \times 0.70 + 83 \times 0.30 = 77.4$ points.
Proposal B:	$80 \times 0.70 + 100 \times 0.30 = 86$ points
Proposal C :	$90 \times 0.70 + 91 \times 0.30 = 90.3$ points.

The three proposals in the combined technical and financial evaluation were ranked as under:

Proposal A:	77.4 points	: H3
Proposal B:	86 points	: H2
Proposal C:	90.3 points	: H1

Proposal C at the evaluated cost of Rs.110 was, therefore, declared as winner and recommended for negotiations/approval, to the competent authority.

**3.12.5** Under QBS method, the consultant who has secured first rank in technical evaluation shall be called for further negotiation after opening and evaluation of its financial proposals.

**3.12.6** The Name of the successful bidder along with details of cost etc. shall be posted on the departmental website after the award to the

successful bidder has been made and communicated to him in writing.

### **3.13 Negotiations and Award of Contract**

3.13.1 Negotiations are not an essential part of the selection process. In many cases, however, it is felt necessary to conduct negotiations with the selected consultant. Negotiations shall include discussions of the TOR, the methodology, staffing, Government Ministry / Department's inputs, and special conditions of the contract. These discussions shall not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. The final TOR and the agreed methodology shall be incorporated in "Description of Services," which shall form part of the contract.

3.13.2 Financial negotiations shall only be carried out if due to negotiations as mentioned in para 3.13.1 above, there is any change in scope of work which has any financial bearing on the final prices or of the costs/cost elements quoted are not found to be reasonable. In such negotiations, the selected firm may also be asked to justify and demonstrate that the prices proposed in the contract are not out of line with the rates being charged by the consultant for other similar assignments. However, in no case such financial negotiation should result into increase in the financial cost as originally quoted by the consultant and on which basis the consultant has been called for the negotiations.

3.13.3 If the negotiations with the selected consultant fail, the employer shall cancel the bidding procedure and re-invite the bids.

### **3.14 Rejection of All Proposals, and re-invitation**

The Government Ministry / Department will have the right to reject all proposals. However, such rejections should be well considered and normally be in cases where all the bids are either substantially in deviation to the TOR or considered unreasonably high in cost and in latter case, the lowest qualified bidder during negotiations fails to reduce the costs to a reasonable level. If it is decided to **re-invite** the bids, the terms of reference should be critically reviewed/modified so as to address the reasons of not getting any acceptable bid in the earlier Invitation for Bids.

### **3.15 Confidentiality**

Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not

officially concerned with the process, until the award of contract is notified to the successful firm.

## Chapter - IV

### Other Methods of Selection

#### **4.1 Selection through Direct Negotiations (Single Source Selection)**

4.1.1 Selection of consultants through direct negotiations does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases.

4.1.2 This method of selection may be adopted only if it presents a clear advantage over competition and under circumstances as mentioned in para 1.5.3.

4.1.3 When continuity for downstream work is essential, the initial RFP shall outline this prospect, and, if practical, the factors used for the selection of the consultant should take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, the Ministry or Department shall ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by the Ministry or Department, which shall then be negotiated.

4.1.4 If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or reserved procurement or if the downstream assignment is substantially larger in value, a competitive process shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest.

4.1.5 For selecting a consultant under this method, the employer should prepare a full justification and take the approval of the competent authority, which normally should not be below the rank of a head of department.

4.1.6 While selecting the consultant under this method, the employer shall ensure that the consultant has the requisite qualification and experience to undertake the assignment. Normally the employer shall adopt the same short listing criteria as applied to similar assignments while evaluating the EOI.

- 4.2 **Selection of Service Providers:** Government Ministries and Departments are also often engaging various service providers such as, for upkeep and maintenance of office (other than Civil & Electrical Works etc.), transport services etc. In such cases, which are generally low value contracts, it may not be necessary to take separate technical and financial proposals. In such case CBS method of selection can be used, after stating the minimum qualifying criteria (such as past experiences etc.).
- 4.3 **Procurement Agents (PAs).** When a Govt. department lacks the necessary organization, resources or experience, it may be efficient and effective for it to employ, as its agent, a firm that specializes in handling procurement. When PAs provide only advisory services for procurement and do not act as “agents” and are not paid a percentage fee at all, they shall be selected following the appropriate procedures as for other consulting assignments, specified in these Guidelines.
- 4.4 **Inspection Agents.** Government Ministry / Departments may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival in the Government Ministry / Department country. **The inspection by such agencies usually covers the quality and quantity of the goods concerned.** Inspection agencies may be selected using two bid system procedures and using a contract format with payments based on a percentage of the value of goods inspected and certified.
- 4.5 **Financial Advisors.** Investment and commercial banks, financial firms, and fund managers hired by the Ministry or Department for the sale of assets, issuance of financial instruments, and other corporate financial transactions, notably in the context of privatization operations, shall be selected under two bid systems. The RFP shall specify selection criteria relevant to the activity—for example, experience in similar assignments or network of potential purchasers—and the cost of the services. In addition to the conventional remuneration (called a “retainer fee”), the compensation includes a “success fee”; this fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The RFP shall indicate that the cost evaluation will take into account the success fee in combination with the retainer fee. The financial scores shall be based on the retainer fee and success fee as a percentage of a pre-disclosed notional value of the assets. The RFP shall specify clearly how proposals will be presented and how they will be compared.
- 4.6 **Auditors.** Auditors typically carry out auditing tasks under well defined TOR and professional standards. They shall be selected according to two bid system, with cost as a selection factor.

## CHAPTER – V

### Types of Contracts

- 5.1 Lump Sum (Firm Fixed Price) Contract :** Lump sum consultancy contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth. Payments are linked to outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents, and software programs. While lump sum consultancy contracts are easy to administer because payments are due on clearly specified outputs, it is essential that the terms of payments for these consultancy contracts are linked with the output and the time frame within which each of the defined activities are to be completed.

This type of contracts shall normally be used by all Government Ministry / Departments for hiring services of the consultants under this guideline.

- 5.2 Time-Based Contract :** This type of contract is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. This type of contract is widely used for complex studies, supervision of construction, advisory services, etc. Payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices. The rates for staff include salary, social costs, overhead, fee (or profit), and, where appropriate, special allowances. This type of contract shall include a maximum amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate. Time-based contracts need to be closely monitored and administered by the Ministry or Department to ensure that the assignment is progressing satisfactorily and that payments claimed by the consultants are appropriate.

- 5.3 Retainer and/or Contingency (Success) Fee Contract.** Retainer and contingency fee contracts are widely used when consultants (banks or financial firms) are preparing companies for sales or mergers of firms, notably in privatization operations. The remuneration of the consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.
- 5.4 Percentage Contract.** These contracts are commonly used for architectural services. They may be also used for procurement and inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected. The selection is made based on two stage bidding. The final selection is made among the technically qualified consultants who has quoted the lowest percentage while the notional value of assets is fixed. It should be borne in mind that in the case of architectural or engineering services, percentage contracts implicitly lack incentive or economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services.
- 5.5 Indefinite Delivery Contract (Price Agreement).** These contracts are used when Ministry or Department need to have “on call” specialized services to provide advice on a particular activity, the extent and timing of which cannot be defined in advance. These are commonly used to retain “advisers” for implementation of complex projects (for example, dam panel), expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more. The Government Ministry / Department and the firm agree on the unit rates to be paid for the experts, and payments are made on the basis of the time actually used. The consultant shall be selected based on the unit rate quoted by them for providing the services.

## CHAPTER –VI

### Important Provisions in RFP / Contract

- 6.1. Currency.** Under normal circumstances, all the contracts should be based on Indian Rupees only. However, for exceptional case, contracts in foreign currency may be permitted with prior approval of competent authority. RFPs shall clearly state that firms may express the price for their services, in the currency specified in RFP. If RFP allows proposals in any other currency, the date and the exchange rate for converting all the bid prices to Indian Rupees shall be indicated in RFP.
- 6.2 Payment Provisions.** Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed upon during negotiations vis-a-vis RFP and also indicated in the draft contract. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). Payments for advances if any should normally be backed by Bank Guarantee. The limit for advance payment will be as prescribed by GFR. Normally, it should not exceed 10% of the cost of the contract. Any advance payment should be backed by a bank guarantee.
- 6.3 Bid Securities and bid processing fees.** The consultants submitting the proposals shall provide bid security along with their proposal. The amount, form and mode of submission of bid security and the method of refund of the bid security shall be specified in the RFP document. The employer may also charge an appropriate bid processing fees, which is not refundable. However, for smaller assignment, the employer may waive the requirement of bid security.
- 6.4 Conflict of Interest.** The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting activities that conflict with the interest of the client under the contract and shall be excluded from downstream supply of goods or construction of works or purchase of any asset or provision of any other service related to the assignment other than a continuation of the “Services” under the ongoing contract. It should be the requirement of the consultancy contract that the consultants should provide professional, objective and impartial advice and at all times hold the client’s interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry

out the assignment in the best interest of the Employer. Without limitation on the generality of the foregoing, consultants shall not be hired, under the circumstances set forth below:

a) **Conflict between consulting activities and procurement of goods, works or services:** A firm that has been engaged to provide goods, works, or services for a project, and each of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and each of its affiliates, shall be disqualified from subsequently providing goods, works or services for such preparation or implementation.

b) **Conflict among consulting assignments:** Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization of public assets shall neither purchase nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.

c) **Relationship with Government Ministry / Department's staff:** Consultants (including their personnel and sub-consultants) that have a business or family relationship with such member(s) of the Ministry or Department's staff or with the staff of the project implementing agency, who are directly or indirectly involved in any part of ; (i) the preparation of the TOR of the contract, (ii) the selection process for such contract, or (iii) supervision of such contract; may not be awarded a contract unless it is established to the complete satisfaction of the employing authority, for the reason to be recorded in writing, that such relationship would not affect the aspects of fairness and transparency in the selection process and monitoring of consultant's work.

#### **6.5 Unfair Competitive Advantage**

Fairness and transparency in the selection process require that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the request for proposals and all information would be made available to all short listed consultants together.

**6.6 Professional Liability.** The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing

standards of the profession. As the consultant's liability to the employer will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that (a) there must be no such limitation in case of the consultant's gross negligence or willful misconduct; (b) the consultant's liability to the employer may in no case be limited to less than the total payments expected to be made under the consultant's contract, or the proceeds the consultant is entitled to receive under its insurance, whichever is higher; and (c) any such limitation may deal only with the consultant's liability toward the employer and not with the consultant's liability toward third parties.

**6.7 Staff Substitution.** During an assignment, if substitution is necessary (for example, because of ill health or because a staff member proves to be unsuitable, or the member is no longer working with the consultant), the consultant shall propose other staff of at least the same level of qualifications for approval by the Employer. The contract must specifically make provision for terms and conditions under which the staff can be replaced, about the remuneration to be paid etc.

**6.8 Applicable Law and Settlement of Disputes.** The contract shall include provisions dealing with the applicable law, which should be the law applicable in India and the forum for the settlement of disputes.

**6.9 Training or Transfer of Knowledge**

If the assignment includes an important component of training or transfer of knowledge to Government/Project staff, the Terms of Reference (TOR) shall indicate the objectives, nature, scope, and goals of the training program, including details on trainers and trainees, skills to be transferred, time frame, and monitoring and evaluation arrangements. The cost for the training program shall be included in the consultant's contract and in the budget for the assignment.

**6.10 Standards of ethics** Government Ministry / Department as well as consultants should observe the highest standard of ethics during the selection and execution of such contracts.

(a) In pursuance of the above objective, this policy defines, the terms set forth below as follows:

“corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the selection process or in contract execution; and

“fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract,

“Collusive practice” means a scheme or arrangement between two or more consultants, with or without the knowledge of the employer, designed to establish prices at artificial noncompetitive levels.

“Coercive practice’ means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

(b) It is further provided that :-

(i) Employer will reject a proposal for award if it determines that the consultant recommended for award has engaged in corrupt or fraudulent activities in competing for the contract in question;

(ii)The Government will declare a consultant ineligible, either indefinitely or for a stated period of time, to be awarded a Government contract if it at any time determines that the consultant has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract; and

The employer has the right to require that, in contracts, a provision be included requiring consultants to permit the employer to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the employer.

**6.11 Monitoring of the Contract:** The Ministry / Department awarding the consultancy contract should be involved throughout in monitoring the progress of the assignment. Suitable provision for this should be made in the contracts which should also take care of the need to terminate / penalize the contractor or to suspend payments till satisfactory progress has not been achieved. As mentioned in para 1.7, CMC shall be formed by the employer to monitor the progress.

## **Chapter – VII**

### **Selection of Individual Consultants**

- 7.1. Individual consultants are normally employed on assignments for which (a) teams of personnel is not required, (b) no additional outside professional support is required, and (c) the experience and qualifications of the individual are the paramount requirement.
- 7.2. Selection of Individual consultants shall be carried out by advertising the requirement in at least one national newspaper of repute. Selection shall be based on their qualifications for the assignment. They shall be selected through comparison of qualifications of at least three candidates among those who have expressed interest in the assignment or have been approached directly by the Employer. Individuals employed by Employer shall meet all relevant qualifications and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organization.
- 7.3. Selection will be carried out by the CEC as mentioned in para 1.6 which will award marks for the educational qualifications and experience and select the most suitable candidate for the assignment. The CEC may also interview the candidates and award marks for their performance in the interview and recommend the remuneration to be paid.
- 7.4. From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these Guidelines shall apply to the parent firm.
- 7.5. Individual consultants may be selected on a direct negotiation basis with due justification in exceptional cases such as: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) assignments lasting less than six months; (c) emergency situations resulting from natural disasters; and (d) when the individual is the only consultant qualified for the assignment.

## Appendix I

### Format for Simplified evaluation of quality.

Name of the consultancy firm:

#### 1. Responsiveness

Sr. No.	Item	Required response
1	Has the consultant paid the RFP document fees,	Yes
2	Has the consultant submitted the requisite bid processing fee and bid security.	Yes
3	Have all the pages required to be signed by the authorized representative of the consultant been signed.	Yes
4	Has the power of attorney been submitted in the name of authorized representative.	Yes
5	In the case of JV/consortium, whether the MOU has been submitted.	Yes
6	Has the consultant submitted all the required forms of the technical proposal.	Yes
7	Does the technical proposal contain any financial information.	No
8	Is financial proposal submitted separately in a sealed cover.	Yes

#### 2. Evaluation of proposal.

Sr. No.	Item	Required response
1	Does the consultancy firm have the required experience.	Yes
2	Does the proposed methodology of work fulfill the objectives of the assignment / job till the last detail of	Yes

	the TOR.	
3	Does the methodology, work plan and staffing schedule provide coverage of the entire scope of work as described in TOR.	Yes
4	Does the team leader fulfill the minimum educational qualification and experience criteria.	Yes
5	Has the consultant provided for all the professionals for requisite expertise	Yes
6	Does the key professional (indicate the position) fulfill the minimum educational qualification and experience criteria. [Evaluate for all the proposed key personnel]	Yes
7	Does the staffing schedule including the key professionals proposed, the responsibility assigned to them and the support staff together is adequate for performing the entire scope of work indicated in the TOR.	Yes

Note: If the answer is yes, in all the cases, the consultancy firm is considered technically qualified for the assignment.

**Appendix II**

**Format for Detailed evaluation of quality.**

**Summary Sheet**  
**(Compiled from II-A, II-B, II-C, II-D)**

(Only for proposals considered as responsive)

S.No_	Name of the Consultant	Firm's Experience (Max. Marks)	Methodology & Work schedule (Max. Marks)	Qualifications of Key Professionals (Max. Marks)	Total Marks. ( Max. Marks 100)

**Responsiveness****Name of the Consultancy Firm**

<b>Sr. No.</b>	<b>Item</b>	<b>Required response</b>
1	Has the consultant paid the RFP document fees	Yes
2	Has the consultant submitted the requisite bid processing fees and bid security.	Yes
2	Have all the pages required to be signed by the authorized representative of the consultant been signed.	Yes
3	Has the power of attorney been submitted in the name of authorized representative.	Yes
4	In the case of JV/consortium, whether the MOU/ Contract Agreement has been submitted.	Yes
5	Has the consultant submitted all the required forms of the technical proposal.	Yes
6	Has the consultant provided all the professionals for the requisite expertise.	Yes
7	Does the technical proposal contains any financial information	No
8	Is the financial proposal submitted separately in a sealed cover.	Yes

**II-B**

**Evaluation of Consultancy Firm's Experience**

<b>Sr.No.</b>	<b>Name of the Consultancy Firm</b>	<b>Number of Projects of similar nature</b>	<b>Marks Awarded (Max. Marks)</b>

**Evaluation of Methodology & Work Schedule**

<b>S.No.</b>	<b>Name of the Consultancy Firm</b>	<b>Understanding of TOR (Max. Marks)</b>	<b>Work Plan &amp; Methodology (Max. Marks)</b>	<b>Organization and Staffing for the proposed assignment (Max. Marks)</b>	<b>Total</b>

**Evaluation of the Consultants Key Professionals**

Name of the Consultancy Firm :

Sr. No.	Name of the Key Professionals	Educational Qualification	Max. Marks	No. of Projects of similar nature	Max. Marks	Experience of the region (No. of Projects in the region)	Max. Marks	Total Marks (4+6+8)
1	2	3	4	5	6	7	8	9