



सत्यमेव जयते

TRANSACTION ADVISORS FOR PPP PROJECTS: MANUAL FOR USE OF THE PANEL



**Infrastructure Finance Secretariat
Department of Economic Affairs
Ministry of Finance
Government of India
September, 2022**



भारत सरकार
GOVERNMENT OF INDIA

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September, 2022

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Secretary



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आज़ादी का
अमृत महोत्सव

भारत सरकार
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आर्थिक कार्य विभाग
Government of India
Ministry of Finance
Department of Economic Affairs

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FOREWORD

Infrastructure creates sustainable assets required by the growing needs of a developing nation. It also helps in generating large-scale employment opportunities. Accelerated infrastructure development is essential to the growth and sustenance of Indian economy.

The Government of India is promoting infrastructure development with many flagship programmes aimed at catalysing an exponential pace of holistic development. The growth trajectory of infrastructure development requires large-scale participation of the private sector, especially through the Public-Private Partnerships (PPP). PPPs are an efficient mechanism for ushering in private sector efficiencies in construction and management of public infrastructure. However, given the complexities of the PPP, the entire value chain of the PPP infrastructure development requires critical support and advice in financial, legal and technical domains for effective project structuring and timely implementation. There has been a demand from governments agencies for an enabling framework to eliminate delays in appointment of transaction advisors/consultants for preparing a shelf of bankable - viable projects.

I am glad that the Private Investment Unit of the Infrastructure Finance Secretariat in the Department of Economic Affairs, has empanelled Transaction Advisers (TAs) for the PPP Projects with a supporting Manual to ease the process of procuring specialised advisory/ consultancy services for the PPP projects. This will help in providing necessary support to the project sponsoring authorities, both in the Central and State Governments for creating a shelf of bankable - viable PPP projects for achieving the vision of modern infrastructure for the country.

: 2 :

I hope that the Central and State project sponsoring authorities find the empaneled TAs and the Manual, useful for quickly developing bankable and viable PPP projects. I would like to acknowledge the efforts of Shri B. Purushartha, Joint Secretary, Dr. Molishree, Deputy Secretary, Dr. Kartik Agrawal, Deputy Director and Ms. Aparajita Tripathi, Consultant, for bringing this initiative to fruition.


(Ajay Seth)

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संयुक्त सचिव
B Purushartha
Joint Secretary



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Foreword

The Hon'ble Prime Minister in his Independence Day Speech in 2019, gave a clarion call for robust infrastructure development. This ushered in a more focussed approach towards large scale future ready infrastructure development. To achieve this grand vision, several initiatives were launched including the NIP, NMP, PM Gati Shakti, etc. All these coordinated efforts hinge upon substantial participation of the private sector in infra-financing, construction, management and effective implementation and bringing in private efficiencies.

The Private Investment Unit, ISD Division of the Department of Economic Affairs, under the guidance of the Secretary, Economic Affairs, is in the process of upgrading the infrastructure ecosystem through a series of reforms catalysing regulatory and policy provisions for PPP projects. It is working on providing the enabling environment for PPP by creating appropriate mechanisms, guidelines, advisories and funding support like viability gap funding (VGF) and India Infrastructure Project Development Fund (IIPDF) to increase development and uptake of viable and bankable PPP projects.

PPP projects are complex transactions including adoption of measures to improve financial viability, global best practices, exploring innovative ways of financing, and achieving balanced risk allocation, etc. A key step in structuring quality PPP projects is to provide quality advisory/ consultancy services to the Project Sponsoring Authorities (PSAs). However, procurement of such services is a time consuming and difficult process often resulting into delays in onboarding of the appropriate TA or non-optimal structuring of PPP projects. To address these issues, the Department of Economic Affairs has notified a panel of pre-qualified Transaction Advisers (TAs) and developed a Manual for use of this panel. This will greatly simplify and expedite the process of procuring advisory/ consultancy services by the PSAs.

I am hopeful that this initiative of the DEA will help in creating an enabling environment for PPP mode of infrastructure project development in the country.


(Baldeo Purushartha)

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15-07-2022

FOREWORD

Under the guidance of Secretary, Economic Affairs, the Infrastructure Support and Development Division in the Department of Economic Affairs has been at the focal point of the country's evolving PPP ecosystem and is a key participant to the country's growth engine by continuously working on evolving the PPP policy landscape, schemes, programmes, developing Model Concession Agreements etc. To facilitate private engagement in infrastructure, the ISD Division provides an enabling set up, such as serving as the Secretariat for the Public Private Partnership Appraisal Committee (PPPAC), handhold implementing agencies in structuring PPP projects and ensuring appropriate project risk allocation. DEA is also the nodal agency for appraising the proposals relating to Scheme for Financial Support to PPPs in Infrastructure (VGF Scheme), India Infrastructure Project Development Fund (IIPDF), Guidelines for Monetization of Central Sector Core Assets etc.

With enhanced focus on infrastructure development, there has been a demand from Central and State Project Sponsoring Authorities and their agencies raised at various fora, for an enabling framework to eliminate delays in the appointment of transaction advisors/consultants for preparing a shelf of bankable projects. Further, with the proposed revamping of the IIPDF guidelines which provide for DEA to have its own panel of TAs, a need was felt to empanel TAs to support State Governments, Central Ministries / Departments / CPSUs & other Government organizations for effectively taking up the PPP projects. This also gains importance in the light of deficit in the NIP project financing which can be effectively taken up by the private sector through PPP Mode.

To provide this enabling framework, the Private Investment Unit in Infrastructure Support and Development Division, Department of Economic Affairs, Ministry of Finance, Government of India has empaneled 12 pre-qualified Transaction Advisors (TAs). The Manual for the use of this Panel is also developed to make the process of appointment of transaction advisors/consultants seamless and efficient. This panel of TAs and the Manual for use of the Panel would be a game changer for PPPs in the country and is sure to create an enabling environment for innovative, robust, affordable and extensive public infrastructure creation that will help in achieving accelerated and inclusive socio-economic development of India.



(Dr. Molishree)

Disclaimer

The panel of pre-qualified Transaction Advisors is neither exhaustive nor conclusive. Department of Economic Affairs, Ministry of Finance, Government of India reserves the right to review, modify, delete or add to the panel from time to time. The empanelment of Transaction Advisors by the Department of Economic Affairs, Ministry of Finance, Government of India is only an enabling provision through which the Ministries/Departments and other project sponsoring authorities can appoint Transaction Advisors on the basis of a Technical Presentation and Financial proposal, against a defined scope of work. Furthermore, appointment of Transaction Advisors from this panel or otherwise, may not be construed as approval for funding under Viability Gap Funding (VGF) Scheme or the India Infrastructure Project Development Fund (IIPDF) of the Government of India.

Department of Economic Affairs, Ministry of Finance, Government of India expressly disclaims any and all warranties, express or implied, with respect to the service or any materials and products provided by the transaction advisors. In no event shall Department of Economic Affairs, Ministry of Finance, Government of India be liable for any direct, indirect, incidental, punitive, or consequential damages of any kind whatsoever with respect to the service provided by the empaneled transaction advisors.

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Introduction

The Government of India intends to create an enabling environment for private investment in infrastructure. The Government has also launched a Scheme (VGF Scheme) for financial support to Public Private Partnerships (PPPs) in infrastructure projects which are economically justified but commercially unviable.

Implementation of this policy will require that the agencies concerned at central, State, and local government level have access to appropriate advisory support for the implementation of PPP transactions.

There has been a demand from State Governments and its agencies raised at various fora for an enabling framework to eliminate delays in the appointment of transaction advisors/consultants for preparing a shelf of bankable projects.

In response to this, the Department of Economic Affairs, Ministry of Finance, Government of India has empaneled 12 pre-qualified Transaction Advisors, hereinafter referred to as 'Panel'. A rigorous process was undertaken to shortlist these twelve firms constituting the Panel to provide Transaction Advisory services to various Project Sponsoring Authorities. The Panel has the following characteristics:

- This Panel is available to all Central Ministries, State Governments, Statutory Bodies, Public Sector Enterprises ("PSE") and other such undertakings within the purview of Ministries/ Departments of Government of India and State Governments who are undertaking or intending to undertake PPP transactions, hereinafter referred to as Project Sponsoring Authority or PSAs.
- Panel applicants have already been assessed as capable of providing transaction advisory services. Their subsequent appointment by the PSAs should be on the basis of a simpler and less time-consuming process, against a defined scope of work.
- Firms/ Consortia on the Panel will contract directly with the PSAs concerned for provision of transaction advisory services.

The Panel is intended to make the process of appointment of transaction advisors/consultant:

- **Effortless:** By Streamlining the tendering process for the engagement of transaction advisors for PPPs.
- **Efficient:** By enabling fast access to firms that have been pre-qualified against relevant criteria.
- **Effective:** By ensuring transparency and accountability through clear definition of the processes, role and responsibilities of the agencies and the private sector, leading to preparation of bankable PPP projects.

Use of Empaneling Transaction Advisor/consultant

All Central Ministries, State Governments, Statutory Bodies, Public Sector Enterprises ("PSE") and other such undertakings within the purview of ministries/ departments of Central and State Government(s) (hereinafter referred to as Project Sponsoring Authority or PSAs), may access the Panel for the purpose of procuring transaction advisors for PPP projects. A full listing of Panel members and their contact details is provided in Annexure 13.

The panel will be valid for 3 years which can be further extended for 2 years on satisfactory performance of the TA. During this period, the Department of Economic Affairs (DEA) may remove firms from the panel (if it is found that they have not demonstrated adequate capability of providing the required services in a professional manner) and/ or add new firms.

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Process for selection of transaction advisor consultants from the Panel by PSAs

The flowchart below provides a summary of the steps that PSAs need to take in appointing Transaction Advisor from the panel for their projects:

Steps	Action	Reference
1	Establish Project Requirements	
2	Define Objectives of the Assignment	Annexure 1 Clause 3.1
3	Develop Specific Terms of Reference (ToR) for the Assignment	Annexure 1 Clause 2.1
4	Define additional & appropriate eligibility criteria for bidders (if so required by the PSA)	Annexure 1 Clause 5
5	Define team composition, qualification and experience required for the project	Annexure 1 Clause 6
6	Publish RFP and seek Technical Presentation and Financial quotes from the Panel	Annexure 1 Clause 7
7	Evaluate proposals received from TA	Annexure 1 Clause 8
8	Select the Transaction Advisor	Annexure 2
9	Sign contract with successful TA	Annexure 3
10	Commencement of assignment	
11	Submit TA's performance feedback and Completion Certificate on the DEA portal	Annexures 8 & 9

These steps are detailed below:

Step 1 - Establish Project Requirements

- The PSA needs to prepare/generate a list of requirements (functional, technical, financial, etc.) in discussion with various stakeholders (officials, users, vendors, etc.) which will be the basis for defining the broad scope of services along with the objective and outcomes required under the proposed assignment.

Step 2 - Define Objectives of the Assignment

- The Panel has been developed to provide pre-qualified transaction advisors for PPP projects in infrastructure sector. The engagement of TA from this Panel is not limited to any size/sector of PPP project. The TAs have been empaneled on the basis of their capability to advise on projects of multiple sectors having large capital cost.
- The PSA needs to identify envisaged objectives and outcomes of the assignment. A generic objective is mentioned in Clause 3.1 of Annexure 1 and may be modified suitably as per requirement.

Step 3 - Develop Terms of Reference (ToR) for the assignment

- The panel is intended as a source of advisors to assist with implementation of a transaction.
- The terms of reference for the assignment should relate to the successful execution of a PPP transaction. Please refer Clause 2.1 of *Annexure 1*.
- The PSA needs to clearly define the Scope of Service to be undertaken by the selected TA. An indicative list of Scope of Service that could be considered in developing the terms of reference includes (not limited to) are provided in Clause 4 of *Annexure 1*.

Step 4 - Define eligibility criteria for selecting the TA from Panel

- The TAs have been empaneled on the basis of their ability to provide transaction services across multiple sectors (details of selection criteria are provided at *Annexure 14*). However, if the PSA wants to procure services of a TA who has ample experience in providing transaction services in a particular sector and particular types of projects or as appropriate for the size of the project, then the PSA may include additional requirements of concerned sector expertise, size of project, etc. as part of the eligibility conditions. Please refer Clause 5 of *Annexure 1*.
- If the PSA doesn't prescribe any additional qualification, then all empaneled Transaction Advisors shall be eligible to participate. However, in case of additional qualification, only those empaneled Transaction Advisors fulfilling the requirement shall be eligible to participate.

Step 5 - Identify Key Personnel required to execute the project

- The TAs have been empaneled on the basis of a standard team formulation (criteria of key personnel with qualification and experience) required for a typical PPP TA assignment. This has been provided in Clause 6 of *Annexure 1*.
- However, depending on the project requirements, the PSA may modify these requirements in terms of preferred sector expertise, professional experience, educational qualification, etc.
- If the PSA doesn't prescribe any additional requirements, then the standard team formulation (criteria of key personnel with qualification and experience) provided in Clause 6 of *Annexure 1* shall be applicable.

Step 6 - Publish RFP and Seek Technical Presentation and Financial quotes from the Panel

- Post defining all the required parameters of the RFP, the PSA shall seek Technical and Financial proposal from the Panel. The RFP should clearly define the scope of service to be undertaken by the transaction advisor, the key deliverables, the timelines, and the evaluation criteria. The RFP should also provide background on the project, how it is currently being managed, and the role of other advisors (wherever is relevant).
- The PSA needs to publish the RFP as per their own process. Since this will be a limited tender intended to use services of only Transaction Advisors empaneled by DEA, the PSA may retain Tender's title as "Request for Proposal for Engagement of DEA Empaneled Transaction Advisor for providing <details of services>".
- Additionally, the PSA also needs to upload the RFP on DEA portal, and provide link of respective e-procurement website. The TAs would need to express interest for the RFP as per PSA's due procurement process.
- The Technical and Financial Proposal shall contain a Technical Presentation for the assignment and the Financial Proposal in the prescribed format (**Annexure 5 & Annexure 6**) for that specific assignment.
- The Technical Presentation shall contain details of credentials, approach and methodology and proposed team composition for the assignment.
- The PSA, while evaluating the proposal should examine that:
 - a) The bidders' proposed credentials, approach and methodology and proposed team composition meets the requirements as set out in the RFP;
 - b) The panel member has confirmed to face no conflict of interest in undertaking the assignment. A conflict of interest will arise if the panel member, or its parent entity, is advising potential bidders for the PPP project, or if the panel member or its parent entity is considering a debt or equity involvement in the project or is required to rate the proposed PPP project. It is, therefore, recommended that the PSA appointing the transaction advisors should ensure that such a conflict of interest does not exist or arise.

Step 7 - Evaluate proposals from panel members

- For Technical and Financial evaluation, all proposal of the Transaction Advisors shall be opened and evaluated.
- PSA will decide the marks to be allocated to the Technical Presentation and the Team composition for the purpose of evaluation. This has been illustrated in Clause 7 and Clause 8 of **Annexure 1** with an indicative assignment of marks.
- The financial quote shall include two components as under:
 - a) Total Pre-feasibility study cost (wherever applicable)
 - b) Total end to end transaction advisory services cost (excluding pre-feasibility cost)

The Pre-feasibility study cost should ideally not be more than 20% of end-to-end transaction advisory fee quoted by the Transaction Advisor. However, this % (percentage) is subject to decision of the PSA based on the assignment proposed and included in the RFP.

Step 8 - Selection of successful panel member

- After the completion of evaluation process and the selection of the preferred panel member the PSAs must issue a letter of award/appointment with a contract of engagement to the TA. A draft

format for the letter of award format has been provided at **Annexure 2**

Step 9 - Sign a contract with the successful panel member

- PSAs using the Panel should note that they will be the party contracting with the TA. A model contract agreement has been provided at **Annexure 3**
- DEA has notified the Panel but will not be involved in any contracts between PSA and TA.
- The PSA will rely on the transaction advisor for managing the transaction up to the award of the PPP contract. It is of great importance that the contract clearly sets out:
 - a) The role and functions of the transaction advisor and of other parties, key deliverables, timelines, and accountabilities
 - b) The milestones on which the transaction advisor will be paid
 - c) The reporting requirements to ensure the PSA is well informed on progress on the PPP transaction, and on any issues arising; and
 - d) Probity requirements, including the need to actively monitor any possible conflicts of interest, and the need to maintain project confidentiality, supported by a Deed of Confidentiality.
- PSA needs to submit details of the successful bidder on DEA's portal.

Step 10 - Commencement of service

- After signature of the contract, the transaction advisor can start work. The PSA should ensure that a full and comprehensive briefing is provided to the transaction advisor, to assist an early and effective start on the assignment.
- The PSA should also ensure that all relevant parties, including project staff within the PSA itself, other institutions involved in the project, and other advisors working on the project are informed of the appointment of the transaction advisor.

Step 11 - Report performance of panel member to the DEA

- The Panel has been notified by DEA to assist PSAs in identifying and retaining transaction advisors. It is of utmost importance that DEA receives feedback on the performance of Panel members to ensure the ongoing quality, and the effectiveness of the Panel arrangement.
- PSAs should issue the completion certificate to the transaction advisor after completion of the assignment (draft format for completion certificate is provided at **Annexure 8**) and also upload the same at the DEA's portal.
- PSA should provide feedback on the performance of the TA on the DEA's portal in the format provided at **Annexure 9**.

Annexure 1:

General Terms of Reference (TOR)

1. General

1.1. Ensuring adequate and quality infrastructure is a pre-requisite for rapid and sustained economic growth. Public Private Partnerships (PPPs) are critical for meeting the infrastructure investment targets as they not only harness private capital in creation and maintenance of infrastructure but also introduce greater efficiencies in construction, operation, and maintenance, and enhance the standards of delivery of infrastructure services.

1.2. PPP is an ever-evolving process where relationship between the public and private sectors alters from time to time. The recent years have witnessed new PPP models of project implementation which help governments in meeting the ever-growing needs of quality infrastructure. However, there are a number of legal, social, economic, political and administrative issues that have a bearing on the success of a PPP. The prime responsibility to address these issues lies with the government. Private participation in infrastructure development requires governments to create an enabling eco- system involving support through proactive planning, policy formulation and regulatory measures

1.3. PSA wishes to on-board a transaction advisor who will carry out the entire bid process including preparation of transaction documents till onboarding of concessionaire.

1.4. The PSA, for the above purposes, seeks services of a Transaction Advisor to achieve the aforementioned objectives:

2. Terms of Reference

2.1. The Terms of Reference (the "TOR") and the scope of Transaction Advisory for <name of Project> are specified below¹:

<Insert TOR>

3. Objective

3.1. The objective of this Consultancy is to undertake Transactions advisory services for <name of project> in a manner which ensures:

- a) participation by the best available firms in the bidding process
- b) financing of the capital cost by the Concessionaire and other stakeholders (As applicable)
- c) optimizing the revenue potential of the Project
- d) any other objective as specified by PSA

¹Additionally, in case, Authority (DEA) wishes to seek the services of the Transaction Advisor for any study or PMU related component, they can suitably alter the TOR

4. Scope of Services

4.1. The scope of services shall include:

1. Undertaking a prefeasibility study to ascertain the financial & technical viability of the project. If the project is found feasible proceed as mentioned below.
2. Evaluation of the strategic objectives of the PSA in relation to the Project and advising on the commercials with reference to Applicable Laws;
3. Collection, compilation, and analysis of relevant financial data relating to all costs and revenues
4. Review cost estimates contained in the Feasibility Report
5. Prepare a reasonable estimation of the likely revenues
6. Assisting the Authority in identification of project risks and in allocation of the same in an efficient and economic manner
7. Identification and quantification of estimated financial impact of the Project on government resources
8. Development of various possible alternatives for revenue maximization, and preparation of Revenue Model for the Project
9. Advising on tax-related issues arising out of the Project structuring
10. Preparation of a consolidated list of approvals/consents/clearances required from Government Authorities; and
11. Assist in preparation of Bid documents including the relevant Schedules of the Concession Agreement.
12. Undertake the entire bid process including collecting and replying to bid- related queries by potential applicants and helping on-board the concessionaire.
13. Additionally, if required, undertake any related study, or constitute a PPP related Project Monitoring Unit²

In making its projections, recommendations and Reports, the Transaction Advisor shall identify the underlying assumptions and reach an agreement with the PSA in relation thereto. The Scope of Services specified in this Paragraph 3 are only indicative.

<Please insert the final scope of work for seeking financial & technical proposals from the empaneled transaction Advisors>

5. Eligibility³ Criteria for the Project

5.1. For consideration of proposal's evaluation, the Applicant must necessarily satisfy the following Eligibility Conditions.

5.2. To be eligible for evaluation of its Proposal, the Applicant shall fulfil the following Technical Criteria (domestic & international):

² Applicable only for Department of Economic Affairs, Govt of India

³ PSA will decide the technical eligibility criteria based on their previous expertise and specific project requirements (For eg: expertise in particular sector demonstrated by certain number of credentials, expertise of a certain skill demonstrated by project size etc). Applicants will submit responses as per Annexure 4. This will enable the PSA to filter the firms from the empaneled list for their specific project purpose.

S. No	Minimum Qualification Criteria ¹	Documentary Evidence to be Provided
A	<Condition 1 as desired by the PSA> (e.g. - turnover / specific functional expertise/ experience in particular geography)	<Relevant Documentation> Work Orders/ Contracts/ LoI/ LoA/ Completion Certificates/ Certificate signed by Statutory Auditor or any other relevant document
B	<Condition 2 as desired by the PSA> (e.g. - expertise in PPP transactions in a sector demonstrated by certain number of credentials)	<Relevant Documentation> Work Orders/ Contracts/ LoI/ LoA/ Completion Certificates/ Certificate signed by Statutory Auditor or any other relevant document
C	<Condition 2 as desired by the PSA> (e.g. - expertise in PPP in projects of a certain size demonstrated by certain number of credentials)	<Relevant Documentation> Work Orders/ Contracts/ LoI/ LoA/ Completion Certificates/ Certificate signed by Statutory Auditor or any other relevant document

5.3. Applicants will submit responses as per **Annexure 4**. This will enable the PSA to filter the firms from the empaneled list for their specific project purpose.

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

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

6. Key Personnel for the Project ('The Team')

6.1. The empaneled TAs shall undertake to make available for each Assignment the personnel (the "Key Personnel") meeting the specified requirements as proposed by the PSA throughout the tenure of such Assignment.

6.2. The team composition of a Transaction Advisory Team for any assignment proposed by the PSA, should be preferably as below. Particulars of the personnel should be reproduced in **Annexure 10** and **Annexure 11**.

Key Personnel	Educational Qualification	Professional Experience	Experience on Eligible Assignments
Team Leader	MBA/ CA/ CFA/MCA / BE / B. Arch. or equivalent	12 years	He should have led the team for transaction advisory of at least 5 (five) Eligible Assignments
Finance Expert	MBA/ CA/ CFA or equivalent	8 years	He should have worked as a Finance expert in at least 3 (three) Eligible Assignments. Experience of financial modelling.

⁴ Any number of eligibility conditions to be set by the PSA

Key Personnel	Educational Qualification	Professional Experience	Experience on Eligible Assignments
Sector/ Technical Expert	Post-graduate degree/diploma in relevant discipline	8 years	He should have worked as a sector expert in at least 3 (three) Eligible Assignments. (CV to be provided in Stage II depending upon the sector of the proposed project)
Civil Engineer	Degree in Civil Engineering	8 years	He should have worked on BOQ / Cost Estimates for at least 5 infrastructure projects
Legal Expert	Bachelor's Degree in Law	8 years	He should have worked as a legal expert in at least 3 (three) Eligible Assignments.
Consultant (Depending on size & complexity of project up to two consultants may be deployed)	MBA/CA/CFA or equivalent	5 years	He should have worked as member of a financial team in preparation of financial model and/or bid documents for at least 2 (two) Eligible Assignments.

7. Evaluation of Financial & Technical Proposal

7.1. PSA will determine whether the Financial & Technical Proposals are complete, unqualified, and unconditional. The costs indicated in the Financial Proposal shall be deemed as final and reflecting the cost of respective services. Omissions, if any, in costing any item shall not entitle the TA to be compensated and the liability to fulfil its obligations as per the TOR within the total quoted price shall be that of the TA.

7.2. For the Applicants that qualify the Eligibility Criteria, the Technical Score (TS) will consist of marks allocated to following two parts:

- a) Technical Presentation - Consisting of Credentials, Approach, and Methodology
- b) Team Personnel / Key Personnel - Marks allocated to individual CVs as decided by PSA

7.3. Maximum marks allocated to each of Technical PPT and Key Personnel for the purpose of evaluation are MT <insert marks for tech ppt> and MK <insert marks for key personnel>. Preferably, a maximum of 50 marks can be kept for each of the Technical PPT and Key Personnel criteria.

7.4. For Financial & Technical evaluation, the all-inclusive cost of services, of all short- listed TAss will be opened. The cost of services will be in two parts as under:

- a) Pre-feasibility study cost (all inclusive)
- b) End to end transaction advisory services (all-inclusive excluding pre- feasibility)

The Pre-feasibility study cost should ideally not be more than 20% of end-to-end transaction advisory fee quoted by the TA (clause b as defined above). <<However, this % (percentage) is subject to decision of the PSA based on the assignment proposed.>>

7.5. The empaneled TA will make a technical presentation on the parameters highlighted by PSA of the specific assignment. The presentation will be evaluated by a committee appointed by the PSA and provide a technical score (TechPPT). The Financial score shall be the financial bid submitted by the empaneled TA (SF) will be calculated as per the following scoring matrix:

8. An illustration of QCBS method

8.1. Suppose the last date/time for receipt of bids as per final RFP was September 10, 2021, at 11:00 am. A total of 5 bids were received by this date/time (any bid received after this date/time shall not be considered). Technical Bids covers of these seven bidders were opened and subjected to 1st stage examination of checking the fulfillment of minimum eligibility criteria by TEC/Sub Committee of TEC. Two bids did not fulfill these conditions. Hence, the remaining 3 bids were taken up for detailed technical evaluation, after checking various documents/details submitted by the bidders, awarded following marks to these bidders.

Technical Eligibility Criteria	(Relevant Credentials and Expertise of Firm as decided by PSA)
Technical Weightage & Financial Weightage (To be decided by Authority)	Tw & Fw
Total Technical Marks (Maximum = MT+MK)	
Marks to Technical Presentation (TechPPT -maximum of MT)	TechPPT
Marks to Key Personnel (KeyP - maximum of MK)	KeyP
Combined Technical Score Calculation (ST)	$TM = Pw * TechPPT + Kw * KeyP$ Where Pw and Kw are weightages assigned to Tech ppt and Key personnel respectively (as decided by PSA)
Financial Score (SF)	Fee quoted by Bidder arrived at by a relative low-cost formula explained illustration below
Total Evaluation: $S = ST \times Tw + SF \times Fw$	

- PSA decides Technical - Financial weightage as 70:30.
- PSA decides TechPPT- KeyP weightage as 60:40

This is only for illustration purpose only

Eligible Applicant A secures 40 marks (out of max 50 marks) in presentation and 30 marks (out of max 50 marks) for its key personnel. Total Technical Score (out of 50) for Bidder 1 would be: $40 * 0.6 + 30 * 0.4 = 36$. Similarly for Bidder 2 and Bidder 3. If the final scores are as follows:

Bidder Name	Marks allotted in the detailed Technical Evaluation (out of max 50)
B1	36
B2	49
B3	42

Also, the rate/ unit cost quoted by these three bidders in their financial bids is as follows:

Bidder Name	Fee Quoted by Bidders (Rs. Cr.)
B1	36
B2	49
B3	42

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:

- B1 - $1.2/1.2 \times 50 = 50.00$ points
- B2 - $1.2/1.9 \times 50 = 31.57$ points
- B3 - $1.2/2.1 \times 50 = 28.57$ points

In the combined evaluation, the combined technical and financial score would be as under:

- B1 - $36.00 \times 0.7 + 50.00 \times 0.3 = 40.2$
- B2 - $49.00 \times 0.7 + 31.57 \times 0.3 = 43.7$
- B3 - $42.00 \times 0.7 + 28.57 \times 0.3 = 37.9$

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

- B1 - 40.2 (H2)
- B2 - 43.7 (H1)
- B3 - 37.9 (H3)

Bidder B2 having the highest combined score of 43.7 would therefore be declared as winner.

Note: In case of tie, i.e., two or more bidders obtaining exactly the same marks, final selection will be made as per following criteria.

"Bidder who has quoted lower rate in the Financial bid shall be declared as winner"

9. Payment Schedule

Key Deliverable No.	Milestone/ Deliverable	Payment (As %age of Cost of Consultancy for PPP projects as quoted in the financial proposal)
A1	Submission of Inception Report	10%
A2	Submission of Feasibility Reprot	10%
A3	Submission of DPR	15%
A4	Floating of RfP	15%
A5	Completion of Bid evaluation stage and issue of LOA	25%
A6	Signing of Concession Agreement - Technical Close	25%

9.2. The above Payment Schedule is only indicative. Assignment specific payment schedule will be issued along with the work order for respective Assignment. The pre- feasibility cost will be paid upon submission of pre-feasibility report.

9.3. The schedule for completing the Deliverables for a particular Assignment shall be determined at the time of issue of work order for respective Assignment. However, the total time for completing the Assignment will in no case be more than 52 weeks from the date of issue of work-order, except if extended with mutual agreement.

10. Entire Duration of On-boarding Transaction Advisor

10.1. The Authority would endeavor to adhere to the following schedule:

S. No.	Event Description	Date
1	Issue of RFP	T
2	Last date for receiving queries/ clarifications	T + 3
3	Pre-Proposal Conference	T + 4
4	Authority response to queries	T + 5
5	Submission of Technical PPT + Financial Quote	T + 15
6	Invitation for Presentation	T + 17
7	Letter of Engagement (LOE)	By T+ 21

11. Pre- Proposal Conference and Communication

11.1. Applicants to send their requests to <insert email id> for receipt of the web-link for participation in the Pre-Proposal Conference.

11.2. All queries by prospective Applicants must be sent to the following email Id: <insert email id>

11.3. The official website of the PSA is: <insert website address> Applicants are advised to visit the Authority's website mentioned above to keep them updated, for any changes/modifications related to this RFP. All communications pertaining to the RFP should contain the following information, to be marked at the top in bold letters:

RFP No. xxxx /yy/2021

<Name of RFP>

12. Proposal Data Sheet

Name of Project	<insert name of project>
Name of Client	<insert name of SA>
Website for Proposal Submission	<insert website>
Email for correspondence with client	<insert email>
Pre-Bid Meeting	<insert date>
Proposal Due Date	<insert date>
Opening of Proposals	<insert date>

13. Other Terms

13.1. The Transaction Advisors will work closely with the Asset Owner and its other Advisors. A designated representative of the Asset Owner and the PSA will be responsible for the overall coordination. The representative will play a coordinating role in arranging required information, dissemination of the Transaction Advisor's outputs, facilitating discussions, and ensuring required reactions and responses to the Transaction Advisor.

13.2. Available data as may be required by the TA will be provided by the PSA/Asset Owner on request. The designated representative shall facilitate handing over of such information to the Transaction Advisor.

13.3. The Transaction Advisor will make presentations of its Deliverables to the PSA and Asset Owner for discussions as and when required.

14. Completion of Services

14.1. All the deliverables shall be compiled, classified and submitted by the TA to the PSA in soft form. The documents comprising the deliverables shall remain the property of the PSA and shall not be used by the TA for any purpose other than that intended under these Terms of Reference without the permission of the PSA. The Assignment shall stand completed on acceptance by the PSA of all the Deliverables, as mandated under the work-order for the Assignment. Unless completed earlier, the Assignment shall be deemed completed and finally accepted by the PSA and the final deliverable shall be deemed approved by the PSA as satisfactory upon expiry of 60 (sixty) days after receipt of the final deliverable unless the PSA, within such 60 (sixty) day period, gives written notice to the TA specifying in detail, the deficiencies in the services. The TA shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated.

Annexure 2:

Letter of award to successful transaction advisor

<<Letter Head of PSA>>

Subject: Appointment of Transaction Advisor for < Name of Project>

Reference: Your proposal against Tender < No.> dated <dd/mm/yyyy>

Sir/Madam,

1. Subsequent to the submission of your bid against the reference cited above and having been qualified in the selection of Transaction Advisor for the <Name of Project>, the approval of the competent authority is hereby conveyed through this LoA with project fee in Rs..... (<amount in words>) (inclusive of taxes)
2. The Letter of Award (LoA) is sent herewith in duplicate along with the copy of the Contract Agreement. You are requested to return one copy of the LoA duly accepted and signed by the Authorized signatory within 07 (seven) days of the issue of this LoA.
3. The Performance Security of Rs. (<Amount in words>) to be submitted to <Name of PSA> at <Address of PSA> within 07 days of the issue of this LoA
4. Furthermore, you shall execute the Contract Agreement confirming the acceptance to the Terms & Conditions of the RFP document.
5. It may be further noted that until a formal contract agreement is executed, this LoA will constitute a binding contract between <Name of TA> and <Name of PSA>
6. The scope of work, other terms and condition as covered in the tender document as well its subsequent amendments through corrigendum also form part of this LoA.

Your Faithfully,
<Signature of Officer>
<Name of Officer>
<Designation>
<Stamp & Seal>

LoA Accepted
<Signature of Authorised Signatory>
<Name of Authorised Signatory >
<Designation>
<Name of Firm & Seal>

Annexure 3:

Draft Agreement for provision of Transaction Services

AGREEMENT FOR PROVISION OF TRANSACTION SERVICES FOR PROJECT

This AGREEMENT (hereinafter called the "**Agreement**") is made on the day of the month of 2020, between, on the one hand, the [President of India acting through] (hereinafter called the "**Authority**" which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, (hereinafter called the "**Consultant**" which expression shall include their respective successors and permitted assigns).

WHEREAS

- (A) The Authority vide its Request for Proposal for appointment of Transaction Advisor (hereinafter called the "**Consultancy**") for the Project (hereinafter called the "**Project**");
- (B) the Consultant submitted its proposals for the aforesaid work, whereby the Consultant represented to the Authority that it had the required professional skills, and in the said proposals the Consultant also agreed to provide the Services to the Authority on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) the Authority, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the Consultant vide its Letter of Award dated..... (the "**LOA**"); and
- (D) in pursuance of the LOA, the parties have agreed to enter into this Agreement. NOW, THEREFORE, the parties hereto hereby agree as follows:

1. GENERAL

1.1. Definitions and Interpretation

1.1.1. The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

- a) "**Additional Costs**" shall have the meaning set forth in Clause 6.1.2;
- b) "**Agreement**" means this Agreement, together with all the Annexes;
- c) "**Agreement Value**" shall have the meaning set forth in Clause 6.1.2;
- d) "**Applicable Laws**" means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time;
- e) "**Confidential Information**" shall have the meaning set forth in Clause 3.3;
- f) "**Conflict of Interest**" shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;

- g) "**Dispute**" shall have the meaning set forth in Clause 9.2.1;
- h) "**Effective Date**" means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;
- i) "**Expatriate Personnel**" means such persons who at the time of being so hired had their domicile outside India;
- j) "**Government**" means the Government of India;
- k) "**INR**, means Indian Rupee;
- l) "**Member**", in case the Consultant consists of a consortium of more than one entity, means any of these entities, and "Members" means all of these entities;
- m) "**Party**" means the Authority or the Consultant, as the case may be, and Parties means both of them;
- n) "**Personnel**" means persons hired by the Consultant or by any Sub- Consultant as employees or retainers and assigned to the performance of the Services or any part thereof;
- o) "**Resident Personnel**" means such persons who at the time of being so hired had their domicile inside India;
- p) "**RFP**" means the Request for Proposal document in response to which the Consultant's proposal for providing Services was accepted;
- q) "**Services**" means the work to be performed by the Consultant pursuant to this Agreement, as described in the Terms of Reference hereto;
- r) "**Sub-Consultant**" means any entity to which the Consultant sub- contracts any part of the Services in accordance with the provisions of Clause 4.7; and
- s) "**Third Party**" means any person or entity other than the Government, the Authority, the Consultant or a Sub-Consultant.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

1.1.2. The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral part of this Agreement and in case of any contradiction between or among them the priority in which a document would prevail over another would be as laid down below beginning from the highest priority to the lowest priority:

- a) Agreement;
- b) **Annexes** of Agreement;
- c) RFP; and
- d) Letter of Award

1.2. Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the Authority and the Consultant. The Consultant shall, subject to this Agreement, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3. Rights and obligations

The mutual rights and obligations of the Authority and the Consultant shall be as set forth in the Agreement, in particular:

- a) the Consultant shall carry out the Services in accordance with the provisions of the Agreement; and
- b) the Authority shall make payments to the Consultant in accordance with the provisions of the Agreement.

1.4. Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in the State in which the Authority has its headquarters shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

1.5. Language

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

1.6. Table of contents and headings

The table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

1.7. Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- a) in the case of the Consultant, be given by e-mail and by letter delivered by hand to the address given and marked for attention of the Consultant's Representative set out below in Clause 1.10 or to such other person as the Consultant may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside the city specified in Sub-clause (b) below may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by e-mail to the number/address as the Consultant may from time to time specify by notice to the Authority;
- b) in the case of the Authority, be given by e-mail and by letter delivered by hand and be addressed to the Authority with a copy delivered to the Authority Representative set out below in Clause 1.10 or to such other person as the Authority may from time to time designate by notice to the Consultant; provided that if the Consultant does not have an office in the same city as the Authority's office, it may send such notice by e-mail and by registered acknowledgement due, air mail or by courier; and
- c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of email, it shall be deemed to have been delivered on the working days following the date of its delivery.

1.8. Location

- 1.8.1. The Services shall be performed at the offices of the Authority in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the Consultant.
- 1.8.2. The Authority may require the Financial Expert to spend the required man hours at the offices of the Authority and the Consultant agrees and undertakes to provide such services on a best effort basis and without any unreasonable delay.

1.9. Authority of Member-in-charge

In case the Consultant consists of a consortium of more than one entity, the Parties agree that the Lead Member shall act on behalf of the Members in exercising all the Consultant's rights and obligations towards the Authority under this Agreement, including without limitation the receiving of instructions and payments from the Authority.

1.10. Authorised Representatives

1.10.1. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Authority or the Consultant, as the case may be, may be taken or executed by the officials specified in this Clause 1.10.

1.10.2. The Authority may, from time to time, designate one of its officials as the Authority Representative. Unless otherwise notified, the Authority Representative shall be:

.....<Name>

.....<Designation> ,

.....<Office Address>

Tel:

Mobile:

E-mail:

The Consultant may designate one of its employees as Consultant's Representative. Unless otherwise notified, the Consultant's Representative shall be:

.....<Name>

.....<Designation> ,

.....<Office Address>

Tel:

Mobile:

E-mail:

1.11. Taxes and duties

Unless otherwise specified in the Agreement, the Consultant shall pay all such taxes, duties, fees, and other impositions as may be levied under the Applicable Laws and the Authority shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1. Effectiveness of Agreement

This Agreement shall come into force and effect on the date of this Agreement (the "Effective Date").

2.2. Commencement of Services

The Consultant shall commence the Services within a period of 7 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

2.3. Termination of Agreement for failure to commence Services

If the Consultant does not commence the Services within the period specified in Clause 2.2 above, the Authority may, by not less than 1 (one) weeks' notice to the Consultant, declare this Agreement to be null and void, and in the event of such a declaration, this Agreement shall stand terminated and the Consultant shall be deemed to have accepted such termination.

2.4. Expiry of Agreement

Unless terminated earlier pursuant to Clauses 2.3 or 2.9 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire upon the earlier of (i) expiry of a period of 60 (sixty) days after the delivery of the final Deliverable to the Authority; and (ii) the expiry of [1 (one) year] from the Effective Date. Upon Termination, the Authority shall make payments of all amounts due to the Consultant hereunder.

2.5. Entire Agreement

2.5.1. This Agreement and the **Annexes** together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Consultant arising out of the provisions of the RFP shall continue to subsist and shall be deemed to form part of this Agreement.

2.5.2. Without prejudice to the generality of the provisions of Clause 2.5.1 above, on matters not covered by this Agreement, the provisions of RFP shall apply.

2.6. Modification of Agreement

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clauses 4.2.3 and 6.1.3 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7. Force Majeure

2.7.1. Definition

a) For the purposes of this Agreement, "Force Majeure" means an event which is beyond

the reasonable control of a Party, 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 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 such Party's Sub-Consultant or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement, and (B) avoid or overcome in the carrying out of its obligations hereunder.
- c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2. No breach of Agreement

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement 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 Agreement.

2.7.3. Measures to be taken

- a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfil its obligations hereunder with a minimum of delay.
- 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 event not later than 14 (fourteen) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.7.4. Extension of time

Any period within which a Party shall, pursuant to this Agreement, 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.

2.7.5. Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6. Consultation

Not later than 30 (thirty) days after the Consultant has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Parties shall

consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8. Suspension of Agreement

The Authority may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Consultant to remedy such breach or failure within a period not exceeding 15 (fifteen) days after receipt by the Consultant of such notice of suspension.

2.9. Termination of Agreement

2.9.1. By the Authority

The Authority may, by not less than 15 (fifteen) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

- a) the Consultant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within 15 (fifteen) days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing;
- b) the Consultant becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- c) the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- d) the Consultant submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Consultant knows to be false;
- e) any document, information, data or statement submitted by the Consultant in its Proposals, based on which the Consultant was considered eligible or successful, is found to be false, incorrect or misleading;
- f) 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 60 (sixty) days; or
- g) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

2.9.2. By the Consultant

The Consultant may, by not less than 30 (thirty) days' written notice to the Authority, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:

- a) the Authority fails to pay any money due to the Consultant pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof within 45 (forty-five) days after receiving written notice from the Consultant that such payment is overdue;
- b) the Authority is in material breach of its obligations pursuant to this Agreement and

has not remedied the same within 45 (forty-five) days (or such longer period as the Consultant may have subsequently granted in writing) following the receipt by the Authority of the Consultant's notice specifying such breach;

- c) 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 60 (sixty) days; or the Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

2.9.3. Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 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, or which expressly survives such Termination; (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) the Consultant's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.5, as relate to the Consultant's Services provided under this Agreement, and (iv) any right or remedy which a Party may have under this Agreement or the Applicable Laws.

2.9.4. Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 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 materials furnished by the Authority, the Consultant shall proceed as provided respectively by Clauses 3.8 or 3.9 hereof.

2.9.5. Payment upon Termination

Upon termination of this Agreement pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Authority shall make the following payments to the Consultant (after offsetting against these payments any amount that may be due from the Consultant to the Authority):

- a) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- b) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and
- c) except in the case of termination pursuant to Sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement including the cost of the return travel of the Consultant's personnel.

2.9.6. Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement 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. Standards of Performance

The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful advisor to the Authority, and shall at all times support and safeguard the Authority's legitimate interests in any dealings with Sub-consultants or Third Parties.

3.1.2. Terms of Reference

The scope of Services to be performed by the Consultant is specified in the Terms of Reference (the "TOR") at **Annexure 1**. The Consultant shall provide the Deliverables specified therein in conformity with the time schedule stated therein.

3.1.3. Applicable Laws

The Consultant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Sub-Consultant, as well as the Personnel and agents of the Consultant and any Sub-Consultant, comply with the Applicable Laws.

3.2. Conflict of Interest

3.2.1. The Consultant shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Agreement.

3.2.2. Consultant and Affiliates not to be otherwise interested in the Project

The Consultant agrees that, during the term of this Agreement and after its termination, the Consultant or any Associate thereof, as well as any Sub-Consultant and any entity affiliated with such Sub-Consultant, shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services and any breach of this obligation shall amount to a Conflict of Interest; provided that the restriction herein shall not apply after a period of three years from the completion of this assignment or to consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services provided to the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services provided to the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the firm of the Consultant or a person who holds more than 5% (five per cent) of the subscribed and paid-up share capital of the Consultant, as the case may be, and any Associate thereof.

3.2.3. Prohibition of conflicting activities

Neither the Consultant nor its Sub-consultant nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

- a) during the term of this Agreement, any business or professional activities which would conflict with the activities assigned to them under this Agreement;
- b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or

- c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

3.2.4. Consultant not to benefit from commissions, discounts, etc.

The remuneration of the Consultant pursuant to Clause 6 hereof shall constitute the Consultant's sole remuneration in connection with this Agreement or the Services and the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-Consultant, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

- 3.2.5. The Consultant and its Personnel shall observe the highest standards of ethics and not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice, restrictive practice or anti-competitive practices (collectively the "**Prohibited Practices**"). Notwithstanding anything to the contrary contained in this Agreement, the Authority shall be entitled to terminate this Agreement forthwith by a communication in writing to the Consultant, without being liable in any manner whatsoever to the Consultant, if it determines that the Consultant has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the Authority shall forfeit and appropriate the Performance Security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time, cost and effort of the Authority, without prejudice to the Authority's any other rights or remedy hereunder or in law.

- 3.2.6. Without prejudice to the rights of the Authority under Clause 3.2.5 above and the other rights and remedies which the Authority may have under this Agreement, if the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Consultant shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.

- 3.2.7. For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:

- a) "**corrupt practice**" means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical advisor the Authority in relation to any matter concerning the Project;

- b) **"fraudulent practice"** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- c) **"coercive practice"** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the Authority under this Agreement;
- d) **"undesirable practice"** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- e) **"restrictive practice"** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.
- f) **"Anti-competitive practice"** mean any collusion, bid rigging or anti- competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, with or without the knowledge of the Authority, that may impair the transparency, fairness and the progress of the procurement process or to establish bid prices at artificial, non-competitive levels.
- g) **"Obstructive practice"** materially impede the Authority's investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/or by threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the Authority's rights of audit or access to information.

3.3. Confidentiality

The Consultant, its Sub-Consultants and the Personnel of either of them shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Authority to the Consultant, its Sub-Consultants and the Personnel; any information provided by or relating to the Authority, its technology, technical processes, business affairs or finances or any information relating to the Authority's employees, officers or other professionals or suppliers, customers, or contractors of the Authority; and any other information which the Consultant is under an obligation to keep confidential in relation to the Project, the Services or this Agreement ("**Confidential Information**"), without the prior written consent of the Authority.

Notwithstanding the aforesaid, the Consultant, its Sub-Consultants and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- a) was in the public domain prior to its delivery to the Consultant, its Sub- Consultants and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Consultant, its Sub- Consultants and the Personnel of either of them;
- b) was obtained from a third party with no known duty to maintain its confidentiality;
- c) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral

process or by any governmental instrumentalities, provided that for any such disclosure, the Consultant, its Sub-Consultants and the Personnel of either of them shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and

- d) is provided to the professional advisors, agents, auditors or representatives of the Consultant or its Sub-Consultants or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Consultant or its Sub-Consultants or Personnel of either of them, as the case may be, shall require their professional advisors, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

3.4. Liability of the Consultant

3.4.1. The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.

3.4.2. The Consultant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.

3.4.3. The Parties hereto agree that in case of negligence or willful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property, shall not be liable to the Authority:

- a) for any indirect or consequential loss or damage; and
- b) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.1.2 of this Agreement, or (b) the proceeds the Consultant may be entitled to receive from any insurance maintained by the Consultant to cover such a liability, whichever of (a) or (b) is higher.

3.4.4. This limitation of liability specified in Clause 3.4.3 shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services subject, however, to a limit equal to 3 (three) times the Agreement Value.

3.5. Accounting, inspection, and auditing

The Consultant shall:

- a) keep accurate and systematic accounts and records in respect of the Services provided under this Agreement, in accordance with internationally accepted accounting principles and standards such as Indian Accounting Standards, GAAP, etc and in such form and detail as will clearly identify all relevant time charges and cost, and the basis thereof (including the basis of the Consultant's costs and charges); and
- b) permit the Authority or its designated representative periodically, and up to one year from the expiration or termination of this Agreement, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Authority.

3.6. Consultant's actions requiring the Authority's prior approval

The Consultant shall obtain the Authority's prior approval in writing before taking any of the

following actions:

- a) Appointing such members of the professional personnel as are not listed in **Annexure 10**;
- b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-consultant and the terms and conditions of the subcontract shall have been approved in writing by the Authority prior to the execution of the subcontract, and (ii) that the Consultant shall remain fully liable for the performance of the Services by the Sub-Consultant and its Personnel pursuant to this Agreement; or
- c) any other action that is specified in this Agreement.

3.7. Reporting obligations

- 3.7.1. The Consultant shall submit to the Authority the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.
- 3.7.2. The Consultant shall electronically and by mail, submit fortnightly time reports of each of the Key Personnel, to the Authority. Such time reports shall be submitted on the 15th and the last day of each calendar month by end of the business day and shall include the number of hours expended on the Project by the Key Personnel on each working day of the fortnight covered by the time report. The time reports shall also include a brief description of work performed during that fortnight by each of the Key Personnel.

3.8. Documents prepared by the Consultant to be property of the Authority

- 3.8.1. All reports and other documents (collectively referred to as "**Consultancy Documents**") prepared by the Consultant (or by the Sub-Consultants or any Third Party) in performing the Services shall become and remain the property of the Authority, and all intellectual property rights in such Consultancy Documents shall vest with the Authority. Any Consultancy Document, of which the ownership or the intellectual property rights do not vest with the Authority under law, shall automatically stand assigned to the Authority as and when such Consultancy Document is created, and the Consultant agrees to execute all papers and to perform such other acts as the Authority may deem necessary to secure its rights herein assigned by the Consultant.
- 3.8.2. The Consultant shall, not later than termination or expiration of this Agreement, deliver all Consultancy Documents to the Authority, together with a detailed inventory thereof. The Consultant may retain a copy of such Consultancy Documents. The Consultant, its Sub-Consultants or a Third Party shall not use these Consultancy Documents for purposes unrelated to this Agreement without the prior written approval of the Authority.
- 3.8.3. The Consultant shall hold the Authority harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as "**Claims**") which may arise from or due to any unauthorised use of such Consultancy Documents, or due to any breach or failure on part of the Consultant or its Sub-Consultants or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the Authority.

3.9. Materials furnished by the Authority

Materials made available to the Consultant by the Authority shall be the property of the

Authority and shall be marked accordingly. Upon termination or expiration of this Agreement, the Consultant shall furnish forthwith to the Authority, an inventory of such materials and shall dispose of such materials in accordance with the instructions of the Authority.

3.10. Providing access to Project Office and Personnel

The Consultant shall ensure that the Authority, and officials of the Authority having authorisation from the Authority, are provided unrestricted access to the office of the Consultant and to all Personnel during office hours. The Authority's official, who has been authorised by the Authority in this behalf, shall have the right to inspect the Services in progress, interact with Personnel of the Consultant and verify the records relating to the Services for his satisfaction.

3.11. Accuracy of Documents

The Consultant shall be responsible for accuracy of the documents drafted and/ or vetted and data collected by it directly or procured from other agencies/authorities, estimates and all other details prepared by it as part of these services. Subject to the provisions of Clause 3.4, it shall indemnify the Authority against any inaccuracy in its work which might surface during implementation of the Project, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Consultant or arises out of its failure to conform to good industry practice. The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the documents including any re-survey / investigations.

4. CONSULTANT'S PERSONNEL AND SUB-CONSULTANTS

4.1. General

The Consultant shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

4.2. Deployment of Personnel

4.2.1. The designations, names, and other particulars of each of the Consultant's Key Personnel required in carrying out the Services are described in **Annexure 10** of this Agreement. The estimate of Personnel costs and man day rates are specified in **Annexure 7** of this Agreement.

4.2.2. Adjustments with respect to the estimated periods of engagement of Personnel set forth in the aforementioned **Annexure 10** may be made by the Consultant by written notice to the Authority, provided that (i) such adjustments shall not alter the originally estimated period of engagement of any individual by more than 30% (thirty per cent), and (ii) the aggregate of such adjustments shall not cause payments under the Agreement to exceed the Agreement Value set forth in Clause 6.1.2 of this Agreement by more than 25% (twenty five per cent) thereof. Any other adjustments shall only be made with the written approval of the Authority.

4.2.3. If additional work is required beyond the scope of the Services specified in the Terms of Reference, the estimated periods of engagement of Personnel, set forth in the Annexes of the Agreement may be increased by agreement in writing between the Authority and the Consultant, provided that any such increase shall not, except as otherwise agreed, cause payments under this Agreement to exceed the Agreement Value set forth in Clause 6.1.2.

4.3. Approval of Personnel

4.3.1. The Key Personnel listed in Annexure 10 of the Agreement are hereby approved by the

Authority. No other Key Personnel shall be engaged without prior approval of the Authority.

- 4.3.2. If the Consultant hereafter proposes to engage any person as Professional Personnel, it shall submit to the Authority its proposal along with a CV of such person in the form provided at Annexure-I (Form-1) of the RFP. The Authority may approve or reject such proposal within 14 (fourteen) days of receipt thereof. In case the proposal is rejected, the Consultant may propose an alternative person for the Authority's consideration. In the event the Authority does not reject a proposal within 14 (fourteen) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the Authority.

4.4. Substitution of Key Personnel

The Authority expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. The Authority will not consider any substitution of Key Personnel except under compelling circumstances beyond the control of the Consultant and the concerned Key Personnel. Such substitution shall be limited to not more than two Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Without prejudice to the foregoing, substitution of the Financial Expert shall be permitted only upon reduction of remuneration equal to 20% (twenty per cent) of the total remuneration specified for the Key Personnel who is proposed to be substituted.

4.5. Working hours, overtime, leave, etc.

The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in the Agreement, and the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is excluded from the man days of service set forth in **Annexure 10**. Any taking of leave by any Personnel for a period exceeding 7 days shall be subject to the prior approval of the Authority, and the Consultant shall ensure that any absence on leave will not delay the progress and quality of the Services.

4.6. Financial Expert and Project Manager

The person designated as the Financial Expert of the Consultant's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel. In addition, the Consultant shall designate a suitable person as Project Manager (the "**Project Manager**") who shall be responsible for day-to-day performance of the Services.

4.7. Sub-Consultants

Sub-Consultants listed in **Annexure 12** of this Agreement are hereby approved by the Authority. The Consultant may, with prior written approval of the Authority, engage additional Sub-Consultants or substitute an existing Sub-Consultant. The hiring of Personnel by the Sub-Consultants shall be subject to the same conditions as applicable to Personnel of the Consultant under this Clause 4.

5. OBLIGATIONS OF THE AUTHORITY

5.1. Assistance in clearances etc.

Unless otherwise specified in the Agreement, the Authority shall make best efforts to ensure that the Government shall:

- a) provide the Consultant, its Sub-Consultants and Personnel with work permits and such other documents as may be necessary to enable the Consultant, its Sub-Consultants or Personnel to perform the Services;
- b) facilitate prompt clearance through customs of any property required for the Services; and
- 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.

5.2. Access to land and property

The Authority warrants that the Consultant shall have, free of charge, unimpeded access to the site of the project in respect of which access is required for the performance of Services; provided that if such access shall not be made available to the Consultant as and when so required, the Parties shall agree on (i) the time extension, as may be appropriate, for the performance of Services, and (ii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause 6.1.3.

5.3. Change in Applicable Law

If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultant in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Agreement Value.

All service tax and other taxes other than income tax, as may be applicable from time to time, on the payment of the professional fees to the Consultant, shall be borne by the Authority.

5.4. Payment

In consideration of the Services performed by the Consultant under this Agreement, the Authority shall make to the Consultant such payments and in such manner as is provided in Clause 6 of this Agreement.

6. PAYMENT TO THE CONSULTANT

6.1. Cost estimates and Agreement Value

- 6.1.1. An abstract of the cost of the Services payable to the Consultant is set forth in **Annexure 6** of the Agreement.
- 6.1.2. Except as may be otherwise agreed under Clause 2.6 and subject to Clauses 4.2.2 and 6.1.3, the payments under this Agreement shall not exceed the agreement value specified herein (the "Agreement Value"). The Parties agree that the Agreement Value is (Rupees) , which does not include the **Additional Costs** specified in **Annex-5** (the "Additional Costs").

6.1.3. Notwithstanding anything to the contrary contained in Clause 6.1.2, if pursuant to the provisions of Clause 2.6, the Parties agree that additional payments shall be made to the Consultant in order to cover any additional expenditures not envisaged in the cost estimates referred to in Clause 6.1.1 above, the Agreement Value set forth in Clause 6.1.2 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. The Consultant shall be free to convert Rupees into any foreign currency as per Applicable Laws.

6.3. Mode of billing and payment

Billing and payments in respect of the Services shall be made as follows:

- a) The Consultant shall be paid for its services as per the Payment Schedule at **Annexure 1 (Clause 9)** of this Agreement, and Paragraphs <insert clause number> of the TOR, and the rates specified in **Annexure 7** of this Agreement, subject to the Consultant fulfilling the following conditions:
 - (i) No payment shall be due for the next stage till the Consultant completes to the satisfaction of the Authority the work pertaining to the preceding stage.
 - (ii) The Authority shall pay to the Consultant, only the undisputed amount.
 - (iii) The Authority shall cause the payment due to the Consultant to be made within 30 (thirty) days after the receipt by the Authority of duly completed bills with necessary particulars (the "Due Date"). Interest at the rate of 10% (ten per cent) per annum shall become payable by the Authority as from the Due Date on any amount due by, but not paid on or before, such Due Date.
 - (iv) The final payment under this Clause 6.3 shall be made only after the final Deliverable shall have been submitted by the Consultant and approved as satisfactory by the Authority. The Services shall be deemed completed and finally accepted by the Authority and the final Deliverable shall be deemed approved by the Authority as satisfactory upon expiry of 60 (sixty) days after receipt of the final Deliverable unless the Authority, within such 60 (sixty) day period, gives written notice to the Consultant specifying in detail, the deficiencies in the Services. The Consultant shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated. The Authority shall make the final payment upon acceptance or deemed acceptance of the final Deliverable by the Authority.
 - (v) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Consultant to the Authority within 30 (thirty) days after receipt by the Consultant of notice thereof. Any such claim by the Authority for reimbursement must be made within 1 (one) year after receipt by the Authority of a final report in accordance with Clause 6.3 (c). Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.
 - (vi) All payments under this Agreement shall be made to the account of the Consultant as may be notified to the Authority by the Consultant.

7. LIQUIDATED DAMAGES AND PENALTIES

7.1. Performance Security

- 7.1.1. For the purposes of this Agreement, performance security shall be deemed to be an amount equal to 10% (ten percent) of the Agreement Value (the "Performance Security"); provided, however, that the Consultant shall not be required to provide a Performance Security in the form of a bank guarantee or cash deposit.
- 7.1.2. Notwithstanding anything to the contrary contained in Clause 7.1.1, as and when payments become due to the Consultant for its Services, the Authority shall retain by way of Performance Security, 10% (ten percent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause
- 7.1.3. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of three months after the expiry of this Agreement pursuant to Clause 2.4 hereof. For the avoidance of doubt, the parties hereto expressly agree that in addition to appropriation of the amounts withheld hereunder, in the event of any default requiring the appropriation of further amounts comprising the Performance Security, the Authority may make deductions from any subsequent payments due and payable to the Financial Consultant hereunder, as if it is appropriating the Performance Security in accordance with the provisions of this Agreement.
- 7.1.4. The Consultant may, in lieu of retention of the amounts as referred to in Clause 7.1.2 above, furnish a Bank Guarantee substantially in the form specified at **Annexure 15** of this Agreement.

7.2. Liquidated Damages

7.2.1. Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by the Authority in a reasonable manner and recovered from the Consultant by way of deemed liquidated damages, subject to a maximum of the Agreement Value.

7.2.2. Liquidated Damages for delay

In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.2% (zero-point two percent) of the Agreement Value per day, subject to a maximum of 10% (ten percent) of the Agreement Value shall be imposed and shall be recovered by appropriation from the Performance Security or otherwise. However, in case of delay due to reasons beyond the control of the Consultant, suitable extension of time shall be granted.

7.2.3. Encashment and appropriation of Performance Security

The Authority shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the Consultant in the event of breach of this Agreement or for recovery of liquidated damages specified in this Clause 7.2.

7.3. Penalty for deficiency in Services

In addition to the liquidated damages not amounting to penalty, as specified in Clause 7.2, warning may be issued to the Consultant for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the Authority, other penal action including debarring for a specified period may also be initiated as per policy of the Authority.

8. FAIRNESS AND GOOD FAITH

8.1. Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realisation of the objectives of this Agreement.

8.2. Operation of the Agreement

The Parties recognise that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement 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 failure to agree on any action pursuant to this Clause 8.2 shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

9. SETTLEMENT OF DISPUTES

9.1. Amicable settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or the interpretation thereof.

9.2. Dispute resolution

9.2.1. Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

9.2.2. The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

9.3. Conciliation

In the event of any Dispute between the Parties, either Party may call upon <Designation>, <Ministry/ Department/ Authority> and the Managing Partner/ Chairman of the Board of Directors of the Consultant or a substitute thereof for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference

to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 9.4.

9.4. Arbitration

- 9.4.1. Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules"), or such other rules as may be mutually agreed by the Parties and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The place of such arbitration shall be the capital of the State where the Authority has its headquarters, and the language of arbitration proceedings shall be English.
- 9.4.2. There shall be [a sole arbitrator whose appointment] / [an Arbitral Tribunal of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected, and in the event of disagreement between the two arbitrators, the appointment]2 shall be made in accordance with the Rules.
- 9.4.3. The arbitrators shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the Consultant and the Authority agree and undertake to carry out such Award without delay.
- 9.4.4. The Consultant and the Authority agree that an Award may be enforced against the Consultant and/or the Authority, as the case may be, and their respective assets wherever situated.
- 9.4.5. This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

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

Signed, Sealed and Delivered

For and on behalf of
Consultant:

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1. _____

Signed, Sealed and Delivered

For and on behalf of
Authority

(Signature)

(Name)

(Designation)

(Address)

2. _____

Annexure 4:

Eligible Assignments of Applicant

<To be submitted on letterhead of responding firm>

(Date and Reference)

To,

.....

.....

<Name of Assignment>

1.	Name of Applicant:	
2.	Category for which Eligible Assignment submitted	Experience of undertaking PPP projects in <named sector>
3.	Name of the Project:	
4.	Type of Project	
5.	Project Specifications	
6.	Description of services performed by the Applicant firm:	
7.	Name of client and Address:	
8.	Name, telephone no. of client's representative:	
9.	Estimated capital cost of Project (in Rs crore or US\$ million):	
10.	Payment received by the Applicant as professional fees (in Rs. crore) ⁵ :	
11.	Start date of the services (month/ year):	
12.	Finish date of the services (month/ year):	
13.	Brief description of the Project:	

Notes:

1. Use separate sheet for each Eligible Assignment.

⁵In the event that the Applicant does not wish to disclose the payment received by it as professional fees for any particular assignment, it may state that it has received more than the amount specified in this statement.

Annexure 5:

Financial Proposal Letter

<Covering Letter (On Applicant's letter head)>

(Date and Reference)

To,

.....
.....
.....

Dear Sir,

Subject: Appointment of Consultant for Financial [and Transaction] Advisory Services for Project.

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

I/We agree that this offer shall remain valid for a period of 75 (seventy-five) days from the Proposal Due Date or such further period as may be mutually agreed upon.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

Annexure 6:

Financial Proposal

S.N.	Description	Amount in Words (INR)	Amount in Figures (INR)
1	Pre-Feasibility Cost		
2	End to End Transaction Advisory Cost		
3	Total Financial Quote		
	Total		

Note:

1. The financial evaluation shall be based on the Total Financial Bid (as at Sr. No. 3 of the table above)
2. All payments shall be made in Indian Rupees and shall be subject to applicable Indian laws, withholding taxes if any.

Signature, name, and designation of the Authorized Signatory Name of Firm:

Address:

Annexure 7:

Estimates of Personnel Cost

Key Personnel					
SN	Name of Personnel	Position	Man - Month Rate (Rs)	Time in Months	Total Amount (Rs)
1					
2					
3					
	Total				

Note:

1. All payments shall be made in Indian Rupees and shall be subject to applicable Indian laws, withholding taxes if any.

Signature, name, and designation of the Authorized Signatory Name of Firm:

Address:

Annexure 8:

Completion Certificate (To be uploaded on DEA's portal)

<<Letter Head of Project PSA>>

Date: DD/MM/YYYY

This is to inform that <Name of Transaction Advisor/Consultant> has assisted <Name of PSA> to provide < type of services> for <Name of project>. The assignment was for a period of <number of months> start w.e.f from <Start Date of Assignment>

S. No.	References	Project Details	
1	RFP Reference		
2	Project Title		
3	Location		
4	Scope of Work		
5	Fee (including taxes)		
6	Engagement Period	From	To
7	Current Status		

The scope of work assigned to the <Name of Transaction Advisor/Consultant> are as follows:

1.
2.
3.
4.
5.

S. No.	Milestones	Completion Remarks
1		
2		
3		
4		
5		

<Name of Transaction Advisor/Consultant> performance has been found to be satisfactory with respect to services provided in relation to the above listed scope under this assignment.

<Signature of Officer>
<Name of Officer>
<Designation>
<Stamp & Seal>

Note: The PSA may suitably modify the contents of provided under this format to reflect the milestone achieved under the assignment/project and the performance of the transaction advisor/consultant.

Annexure 9:

Feedback Form/Survey on Performance of Transaction Advisors on an Assignment (To be uploaded on DEA's portal)

<<Letter Head of PSA>>

Transaction Advisor Details	
Name of Organization	
Name	
Role	
Contact (Tele/E-mail/FAX)	

Engagement Details	
RFP Reference	<<Reference ID of the RFP>>
Client Name	<<Client name>>
Name of Customer	<<Insert client name as per the contract >>
Supplier	<<Name of the entity>>
Contract Title	<<Name of the project, as per contract >>
Total Project Outlay	<<Total cost of construction in case of construction projects>> <<Total cost of implementation in case of ICT implementation projects >> <<Not applicable in case unrelated to the assignment>>
Period of Engagement	From - <<Date>> To - <<Date>>
Description of Services	<<Scope of Work>>
Engagement Fee	<<Including GST>>
Engagement Partner	

Aspects of Engagement	Exceptional ¹	Satisfactory ²	Needs Improvement ³	Please provide Justification
	Indicate by (✓) as applicable			
Project Management				
(a) Approach to assignment				
(b) Responsive to client's needs (willingness to put in the effort required to complete the project)				
(c) Effectiveness to work with in-house team (i.e., teaming ability, timely sharing of key information, knowledge sharing etc.)				
(d) Adherence to deadlines				
Technical Skills				
(a) Requisite knowledge, understanding of business/ process and skills needed to effectively perform the engagement				
(b) Communication and reporting skills				
(c) Ability to identify the main issues during the engagement (i.e., analyze information, identify problem areas/ issues, identify alternative resolutions, document work accurately)				

Aspects of Engagement	Exceptional ¹	Satisfactory ²	Needs Improvement ³	Please provide Justification
	Indicate by (✓) as applicable			
Technical Skills				
(d) Responsiveness and approachability (response to constructive feedback, Willing to change, easy to approach)				
Deliverable				
(a) Quality of the work product/ deliverable,				
(b) Relevance of recommendations/ insights provided (Were they constructive, creative, accurate and actionable?)				

Overall Rating	Exceptional ¹	Satisfactory ²	Needs Improvement ³
(Please tick into the appropriate box)			

Additional inputs / comments

<Signature of Officer>

<Name of Officer>

<Designation>

<Stamp & Seal>

Note:

- (1) Exceptional category may be ascertained that a score of $\geq 80\%$ (from 100%) or a score of 4-5 (on a 5-point scale)
- (2) Satisfactory category may be ascertained that a score of 60 to 80% (from 100%) or a score of 2-3 (on a 5-point scale)
- (3) Needs Improvement category may be ascertained that a score of $>60\%$ (from 100%) or a score of 0-1 (on a 5-point scale)

Annexure 10:

Particulars of Key Personnel

S. No.	Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Eligible Assignments [§]
					Name of Firm	Employed Since	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Infrastructure/ PPP Expert						
2.	Real Estate Expert						
3.	Management Expert						
4.	Team Leader						
5.	Associate Consultant						

§Refer Annexure 4 Eligible Assignments of Key Personnel

Annexure 11:

Curriculum Vitae (CV) of Professional Personnel

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

Name of Project

Description of responsibilities

Certification:

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

(Signature and name of the Professional Personnel)

Place.....

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

Notes:

1. Use separate form for each Key Personnel and Professional Personnel.
2. In the case of Financial Expert, only those assignments shall be included where the Financial Expert worked as the Team Leader or the leader of the Financial Team in the relevant assignment.
3. Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorised Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.

Annexure 12

Proposal for Sub-Consultant(s)

1. Details of the Firm				
Firm's Name, Address and Telephone				
Name and Telephone No. of the Contact Person				
Fields of Expertise				
No. of Years in business in the above Fields				
2. Services that are proposed to be subcontracted:				
3. Person who will lead the Sub- Consultant Name: Designation: Telephone No: Email:				
4. Details of Firm's previous experience				
Name of Work	Name, address and telephone no. of Client	Total Value of Services Performed	Duration of Services	Date of Completion of Services
1.				
2.				
3.				

(Signature and name of the authorised signatory)

Note:

1. The Proposal for Sub-Consultant may be accompanied by the details pertaining to assignments
2. Use separate form for each Sub-Consultant.

Annexure 13:

List of Empaneled Transaction Advisors

F. No. 2/3/2021-PPP
Government of India
Ministry of Finance
Department of Economic Affairs
Private Investment Unit

NOTIFICATION

23rd September, 2022

Subject: Empanelled Transaction Advisors for Public Private Partnership Projects

The Department of Economic Affairs, Ministry of Finance, Government of India empanels the following firms as Transaction Advisors (TAs) for PPP Projects for a period of 3 years (extendable by 2 years) from the date of this notification.

Sl. No.	Name of Empanelled Firm	Address	Contact Person	Email ID & Contact No.
1.	Almondz Global Securities Ltd.	F-33/3, Okhla Industrial Area, Phase – II, New Delhi- 10020	Sh. Ashwini Ghai	ashwini.ghai@almondz.com 011-43500700
2.	CRISIL Limited	CRISIL House, Plot no.46, Sector -44, Gurgaon, Haryana – 122003	Sh. Akshay Purkayastha	akshay.Purkayastha@crsil.com (0124) 6722491
3.	Darashaw & Company Private Ltd.	1205-06 Regent Chambers, 208 Nariman Point, Mumbai 400 021	Sh. Ketan Mandani	consultancy@darashaw.com 9819466876
4.	Deloitte Touche Tohmatsu India LLP	7 th Floor, Building 10, Tower B DLF Cyber City Complex DLF City Phase-II Gurgaon – 122002, Haryana India	Sh. Kushal Kumar Singh	kksingh@deloitte.com 9811552899
5.	Ernst & Young LLP	Ernst & Young LLP	Sh. Abhaya Agarwal	abhaya.agarwal@in.ey.com 9871693342
6.	Feedback Infra (P) Ltd.	Feedback Infra, 311, 3 rd Floor, Vardhaman Plaza, Pocket 7. Plot No. 6 Sector 12	Shri Mohit Sinha	mohit.sinha@feedbackinfra.com 9810417398

Sl. No.	Name of Empanelled Firm	Address	Contact Person	Email ID & Contact No.
		Dwarka, New Delhi – 110078		
7.	Infrastructure Development Corporation (Karnataka) Ltd.	# 9/7, K.C.N.Bhavan, Yamunabai Road, Madhavnagar Extension, Off Race Course Road, Bangalore 560001, Karnataka	Sh. T Paul Koshy	Paul.koshy@ideck.in 9886339775
8.	KPMG Advisory Services Private Limited	KPMG Advisory Services Private Limited, Building No. 10, 4 th Floor, Tower B & C, DLF Cyber City, Phase II, Gurugram - 122002	Sh. Vivek Agarwal	Vivekagarwal@kpmg.com 9811705760
9.	Mazars Advisory LLP	Registered Address: 101 –103, Mercantile House, K G Marg, New Delhi –110 001 Correspondence Address: 3rdFloor,421, Udyog Vihar, Phase-IV, Gurgaon –122 016	Sh. Gul Basantani	gul.basantani@mazars.co.in 9810666478
10.	Pricewaterhouse Coopers Private Limited	Pricewaterhouse Coopers Private Limited, Building No. 10, 17thFloor, Tower C, DLF Cyber City, Phase II, Gurugram 122002	Sh. Shivanshu Chauhan	shivanshu.chauhan@pwc.com 9820134239
11.	RITES Ltd.	RITES BHAWAN, 1, Sector 29, Gurgaon, Haryana, India-122001	Sh. Anjeev Kr. Jain	Anjeev.jain@rites.com 9819458838
12.	Tandon Urban Solution Private Limited	701, Harbhaajan Building, CST Road, Kalina, Santacruz (East), Mumbai –400 098	Sh. Amit Kumar Rajhans	tandonandassociates@gmail.com +91 98676 87797

2. This Panel of TAs is available to all Project Sponsoring Authorities including Central, State, Local Bodies and their agencies, etc., undertaking PPP projects.
3. A detailed Standard Operating Procedure/Guide for utilising this TA Panel is available on www.pppinindia.com.
4. The DEA reserves the right to withdraw, amend or suspend this Notification without any prior intimation and recourse liability.
5. This notification shall come into force with immediate effect.



(Dr.Molishree)

Deputy Secretary to the Govt. of India

For information of all.

Annexure 14:

Empanelment Evaluation Criteria

A. Minimum Qualification Criteria

S. No	Minimum Qualification Criteria	Documentary Evidence to be Provided
A	Applicant may be a Registered Company/Firm of Individuals/ Association of Persons and as such, the eligible entity must be registered under the Companies Act 1956 or the Partnership Act 1932 or the Limited Liability Partnership Act 2008.	Copy of Certificate of Incorporation and copy of PAN card
B	The Applicant shall have, over the past 10 (Ten) years preceding the PDD, undertaken a minimum of 5 (Five) Eligible Assignments in PPP transaction advisory or any other Consulting assignment. These 5 assignments will be considered for evaluation in order of highest Total Project Cost (TPC).	<ol style="list-style-type: none"> 1. Work order/Contracts/ Lol/ LoA 2. Completion Certificates/ Client Letter/copy of duly signed concession agreement or any other documentary proof (Signed by Statutory Auditor/ Chartered Accountant) of successful transaction to be provided. 3. Certificate(s) from its Statutory Auditors for the fee received in respect of each of the Eligible Assignments specified in the Proposal to be provided. If Applicant does not have a statutory auditor requisite certificate(s) from firm of Chartered Accountants that ordinarily audits the annual accounts of the Applicant.
C	The Applicant shall have received a minimum of Rs. 10 crores (Rs. Ten crore) or US\$ 5 mn (USD Five million) per annum as professional fees during each of the 3 (three) financial years preceding the PDD. For the avoidance of doubt, professional fees hereunder refer to fees received by the Applicant for providing advisory or consultancy services to its clients.	<ol style="list-style-type: none"> 1. Certificate(s) from its Statutory Auditors stating its total revenues from professional fees during each of the 3 (three) financial years preceding the PDD in the format provided. 2. If Applicant does not have a statutory auditor requisite certificate(s) from firm of Chartered Accountants that ordinarily audits the annual accounts of the Applicant.
D	Other mandatory documents	<ol style="list-style-type: none"> 1 Declaration that the firm is not blacklisted by any Government agencies/ Department/ PSUs in India on the date of proposal submission 2 The Applicant should submit a Power of Attorney as per the format at Form -4 of Annexure-I; In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member to be provided.

B. Technical Criteria

Item Code	Criteria	Marks	Criteria								
1.	Financial Capacity	15	<p>Average annual turnover of the firm for last 3 financial years - 15 marks</p> <p>Turnover <u>10-50 Cr</u> - 8 Marks <u>50-100 Cr</u> - 10 Marks 100+ - 15 Marks</p> <p><i>Certificate from the Statutory Auditor to be provided</i></p>								
2.	Relevant Experience of Applicant	60	<p>a. No of PPP Projects: Maximum 20 marks shall be awarded for the number of eligible assignments undertaken by the applicant till RFP stage in the past 10 (Ten) years preceding the PDD. The marking will be as under:</p> <p>Each PPP project: 2 mark for each project (Maximum of 10 projects)</p> <p><u>Supporting Documents Required:</u></p> <ol style="list-style-type: none"> <u>Work order/Contracts/ Lol/ LoA</u> <u>Completion Certificates/Client Letter/ copy of published RFP or any documentary proof of completion of RFP stage (Signed by statutory auditor/ Chartered Accountant) to be provided.</u> <p>b. Number of successful PPP projects: Maximum of 20 marks will awarded for the number of successful projects completed by the transaction advisor in the past 10 (Ten) years preceding the PDD</p> <p>Each successful PPP transaction: 2 mark for each project (<i>Maximum of 10 projects</i>)</p> <p><u>Supporting Documents Required:</u></p> <ol style="list-style-type: none"> <u>Work order/Contracts/ Lol/ LoA</u> <u>Completion Certificates/Client Letter/ copy of duly signed concession agreement or any documentary proof of successful transaction for technical close (Signed by statutory auditor/ Chartered Accountant) to be provided.</u> <p>c. Size of successful PPP transactions undertaken: Top five (Size wise) successful transactions in the past 10 (Ten) years preceding the PDD will be considered and maximum 10 marks shall be awarded</p> <table border="0"> <thead> <tr> <th>For each project size</th> <th>Marks</th> </tr> </thead> <tbody> <tr> <td>Above 250 Cr</td> <td>2 mark for each project</td> </tr> <tr> <td>Above 100 Cr</td> <td>1 mark for each project</td> </tr> <tr> <td>Above 50 Cr</td> <td>0.5 mark for each project</td> </tr> </tbody> </table>	For each project size	Marks	Above 250 Cr	2 mark for each project	Above 100 Cr	1 mark for each project	Above 50 Cr	0.5 mark for each project
For each project size	Marks										
Above 250 Cr	2 mark for each project										
Above 100 Cr	1 mark for each project										
Above 50 Cr	0.5 mark for each project										

Item Code	Criteria	Marks	Criteria
			<p>(Maximum of 10 marks)</p> <p><u>Supporting Documents Required:</u></p> <ol style="list-style-type: none"> 1. <u>Work order/Contracts/ Lol/ LoA</u> 2. <u>Completion Certificates/Client Letter/ copy of duly signed concession agreement or any documentary proof of successful transaction for technical close (Signed by statutory auditor/Chartered Accountant) to be provided.</u> <p>d. No of sectors in which successful PPP transactions done by TA</p> <p>Maximum 10 marks shall be awarded for the number of infra sectors in which successful PPP transaction undertaken by Applicant in the past 10 (Ten) years preceding the PDD</p> <p>Each sector will get 2 marks with a maximum of 10 marks</p> <p><u>Supporting Documents Required:</u></p> <ol style="list-style-type: none"> 1. <u>Work order/Contracts/ Lol/ LoA</u> 2. <u>Completion Certificates/Client Letter/ copy of duly signed concession agreement or any documentary proof of successful transaction for technical close (Signed by statutory auditor/ Chartered Accountant) to be provided.</u> <p><u>Note: Guidance on Infrastructure sub-sectors can be sought from the Updated Harmonized Master List (HML) of Infrastructure Sub-sectors notified vide Gazette Notification of Department of Economic Affairs, Ministry of Finance, dated 26th April 2021. However, PPP in other sectors not included in HML shall also be considered.</u></p>
3.	Technical Presentation	25	<p>Applicants will have to make technical presentation to evaluation committee highlighting the following:</p> <ul style="list-style-type: none"> Firm's capabilities demonstrated in successful completion of PPP transactions Approach & Methodology Know-how of PPP landscape Experience of working in different infrastructure sectors for PPP (Global and Indian) Experience of working with multiple State Governments/Departments Team proposed
Total		100	

Annexure 15:

Bank Guarantee for Performance Security

(Refer Clause 7.1.3 of Annexure 3)

To

The President of India acting through <Insert Designation>,
<Name of PSA>

In consideration of.....acting on behalf of the President of India(hereinafter referred as the “Authority”, which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) awarding to, having its office at (hereinafter referred as the “Consultant” which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority's Agreement no. datedvalued at (Rupees), (hereinafter referred to as the “Agreement”) the assignment for consultancy services in respect of the Project and the Consultant having agreed to furnish a Bank Guarantee amounting to Rs..... (Rupees) to the Authority for performance of the said Agreement.

We, (hereinafter referred to as the “Bank”) at the request of the Consultant do hereby undertake to pay to the Authority an amount not exceeding

₹..... (Rupees) against any loss or damage caused to or suffered or would be caused to or suffered by the Authority by reason of any breach by the said Consultant of any of the terms or conditions contained in the said Agreement.

2. We, (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Authority stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the Authority by reason of breach by the said Consultant of any of the terms or conditions contained in the said Agreement or by reason of the Consultant's failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding(Rupees).

3. We, (indicate the name of Bank) undertake to pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Consultant shall have no claim against us for making such payment.

4. We, (indicate the name of Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be required for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Authority under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Authority certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Consultant and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before a period of one year from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

5. We, (indicate the name of Bank) further agree with the Authority that the Authority shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Consultant from time to time or to postpone for any time or from time to time any of the powers exercisable by the Authority against the said Consultant and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Consultant or for any forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Consultant or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so relieving us.

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Consultant(s).

7. We, (indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Authority in writing.

8. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to crore (Rupees crore) only. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 2 hereof, on or before [(indicate the date falling 365 days after the Bid Due Date specified in the RFP)].

Dated, the day of.....2020

For

(Name of Bank)

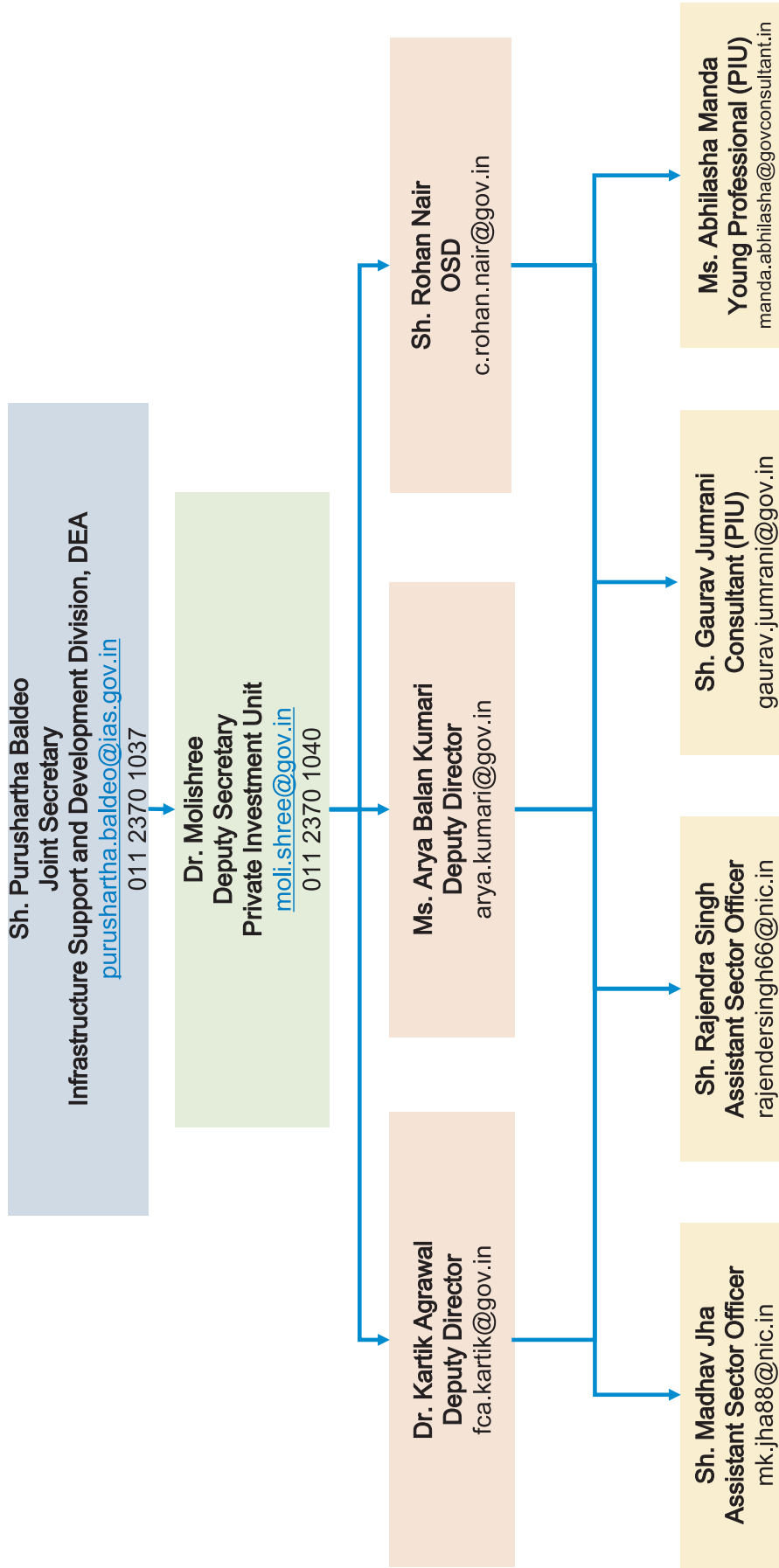
(Signature, name and designation of the authorised signatory)

Seal of the Bank:

NOTES:

- (i) The Bank Guarantee should contain the name, designation and code number of the officer(s) signing the Guarantee.
- (ii) The address, telephone no. and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

Organisation Structure - ISD Infrastructure Finance Secretariat



Address: ISD Division, Department of Economic Affairs, Ministry of Finance,
5th Floor, STC Building, Janpath, New Delhi, Delhi 110001



सत्यमेव जयते

**Private Investment Unit
Infrastructure Finance Secretariat
Department of Economic Affairs
Ministry of Finance
Government of India**

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