



# **GUIDANCE NOTES FOR SELECTION OF CONSULTING AGENCIES**

**Ministry of Electronics & Information Technology (MeitY)**

**2017**

*This document is advisory in nature and aim to sensitize the bid management teams on good practices and harmonize/standardize the RFP clauses and terms & conditions. This document is accompanied by a template document for preparation of RFP and sample contract agreements.*

*The documents are based on existing Central Government Guidelines, feedback from stakeholders and prevalent international practices. However it is possible that the State Government / Nodal Agencies may have their own specific procurement Guidelines which may or may not be consistent with the clauses of the RFP, Guidance notes or Contract Agreement.*

*It may be noted that these documents do not substitute or overrule any approvals currently required by the concerned Department/State Government Purchaser for finalization of the RFP. Accordingly it is advised that all necessary approvals are taken from appropriate authorities, as done before publishing of these model documents.*

## Glossary

1.	ADB	Asian Development Bank
2.	CVC	Central Vigilance Commission
3.	DFID	Department for International Development
4.	MEITY	Ministry of Electronics and Information Technology, Government of India
5.	EOI	Expression of Interest
6.	GFR	General Financial Rules
7.	GoI	Government of India
8.	ICT	Information and Communication Technology
9.	MMP	Mission Mode Project
10.	NeGP	National e-Governance Plan
11.	NICSI	National Informatics Centre Services Inc.
12.	O&M	Operations and Maintenance
13.	OP	Outright purchase
14.	OPE	Out-of-pocket expenses
15.	PPP	Public Private Partnerships
16.	RFE	Request for Empanelment
17.	RFP	Request for Proposal
18.	SOW	Scope of Work
19.	T&M	Time and Material
20.	TOR	Terms of Reference

## Terms and Legends used in this Document

Symbol / Terms	Meaning
< >	Text to be inserted by the user of the template
[ ]	Tips provided to the user of the template. These are to be deleted by the user from the final document being created
<< >>	Text to be filled in by the bidder in response to this document. This is not to be inputted / tinkered by the user
<b>Nodal Agency/Purchaser</b>	<p>The nodal agency which is responsible for executing the project and assists the Government Department /ministry in carrying out the tendering.</p> <p>In case the Government department itself decides to carry out the tendering and execute the project, then the term “Nodal Agency” should be replaced by the Department.</p>
<b>Department</b>	The Department is the ultimate “owner” of the project. The e-Governance is carried out within the domain of the department.
<b>(Optional)</b>	Certain clauses are optional to be put in the document and would depend on certain conditions. These may be included in the RFP, post establishing the relevance of the clause

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## Getting Started

### Background

Government Procurement has always been under tight budgets and with scanners for right spends. It is therefore imperative that any Government entity initiating a procurement process, clearly understands the monetary impact on the assigned/planned budget and hence should, as a conduct, adopt certain threshold values for various types of Consulting services procurements, as well as the common procurement methods mapped to them.

"Consulting Service" means any subject matter of procurement (which as distinguished from 'Non-Consultancy Services' involves primarily non-physical project-specific, intellectual and procedural processes where outcomes/ deliverables would vary from one consultant to another), other than goods or works, except those incidental or consequential to the service, and includes professional, intellectual, training and advisory services or any other service classified or declared as such by a procuring entity but does not include direct engagement of a retired Government servant<sup>1</sup>.

Note: These Services typically involve providing expert or strategic advice e.g., management consultants, policy consultants, communications consultants, Advisory and project related Consulting Services which include, feasibility studies, project management, engineering services, finance, accounting and taxation services, training and development etc.

The Ministries or Departments may hire external professionals, consultancy firms or consultants (referred to as consultant hereinafter) for a specific job, which is well defined in terms of content and time frame for its completion<sup>2</sup>.

Engagement of consultants may be resorted to in situations requiring high quality services for which the concerned Ministry/ Department does not have requisite expertise. Approval of the competent authority should be obtained before engaging consultant(s)<sup>3</sup>.

Where the estimated cost of the consulting service is up to Rupees twenty-five lakhs, preparation of a long list of potential consultants may be done on the basis of formal or informal enquiries from other Ministries or Departments or Organisations involved in similar activities, Chambers of Commerce & Industry, Association of consultancy firms etc.

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<sup>1</sup> Rule 177, GFR 2017

<sup>2</sup> Rule 178, GFR 2017

<sup>3</sup> Rule 180, GFR 2017

Where the estimated cost of the consulting services is above Rupees twenty-five lakhs, in addition to preparation of a long list of potential consultants, an enquiry for seeking 'Expression of Interest' from consultants should be published on Central Public Procurement Portal (CPPP) at [www.eprocure.gov.in](http://www.eprocure.gov.in) and on GeM. An organisation having its own website should also publish all its advertised tender enquiries on the website<sup>4</sup>.

### **How do you use this document?**

Based on the tendering options suggested in the table above, the procurement process has to be initiated. If the mode of procurement is EOI or RFP (limited tender or open tender) the procurement document has to be drafted.

To assist the user, a template of these documents has been provided along with these Guidance Notes. The procurement template (i.e. EOI or RFP) has to be customized with the help of these Guidance Notes to meet the specific requirements.

The Legal Agreements has been provided separately as Annexure I (for deliverables based Consulting assignments) and Annexure II (for Capacity Augmentation Consulting assignments).

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<sup>4</sup> Rule 183, GFR 2017

## 1 Section I: Guidance Notes for Expression of Interest (EOI)

### 1.1 Objective

The objective of issuance of EOI document is to shortlist a potential list of bidders who have the basic competency, capacity to provide the required e-Governance advisory support to the Government.

Also, through this EOI, the Government / Nodal Agency can explore the market to understand the capability / interest level of the competent bidders to execute the assignment.

An **Expression of Interest (EOI)** is also called Request for Information (ROI), document.

An EOI process can be considered successful when:

- There is a successful shortlist of at least **7 to 8 competent suppliers**
- The shortlisted suppliers have proven past experience and expertise in the required domain or function
- The entire suppliers short listing exercise has been concluded **within 5 weeks** from the date of issuance of the Advertise for EOI

### 1.2 Situations for Use / Context of Issuance

**An EOI should be ISSUED under the following typical circumstances:**

- Scope of work is not clear, hence, an EOI could help the Nodal Agency to define and refine the scope of work through discussions with potential Consultants
- To conduct a market assessment for possible advisory services and Consultants
- Multiple approaches are possible and hence require expertise in identifying the best approach
- Budget estimates are unclear (or flexible)
- For all consultancy contracts exceeding estimated cost<sup>5</sup> of Rs. 25 Lakhs

### 1.3 Procedure to Issue

#### 1.3.1 Market Assessment

Before inviting Bidders, the Nodal Agency should do the following:

- Assess the capability and maturity of the market by capturing details on the likely number of interested suppliers and solutions

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<sup>5</sup> In places where there are no estimates available, the same may be estimated by discussing with the experts in the Government or industry

- Try to identify around 8 potential interested consulting agencies for this EOI

This would ensure that the EOI being developed would generate a fair competition & the Government would get best economical deal.

### **1.3.2 Advertise / Invitation of Expression of Interest**

- a. It is mandatory for all Ministries / Departments of the Central Government, their attached and Subordinate Offices and Autonomous / Statutory Bodies to publish their tender enquiries, corrigenda thereon and details of bid awards on the Central Public Procurement Portal (CPPP), as per GFR 2017.
  - The advertisement should also be published in the website of the Government Department (the end procurer of the consulting service) or Purchaser.
  - Additionally the Government entity may also send an email to all relevant Consultants in the market, specifically the empaneled consultants carrying out various consulting assignments with the Government Department, Nodal Agency and Information Technology Department of State / Centre, as the case may be.
- b. The EOI document should include :
  - i. Reference of the CPPP, GeM and organization's website whereby consultants were invited to submit their EOI. The details should include
    - a. Time frame and timing for purchasing/obtaining the EOI
    - b. contact information of the Issuing agency with name of contact person
  - ii. the last date of submission of EOI
  - iii. the broad scope of work or service,
  - iv. inputs to be provided by the Ministry or Department,
  - v. eligibility and the pre-qualification criteria to be met by the consultant(s) and
  - vi. consultant's past experience requirement in similar work or service.
- c. Additionally the Government entity may also send an email to all relevant Consultants in the market, specifically the empaneled consultants carrying out various consulting assignments with the Government Department, Nodal Agency and Information Technology Department of State or Centre, as the case may be.
- d. The Nodal Agency should give adequate time for the response (typically around 3 weeks).

### **1.3.3 Introduction to the Project**

The introduction section should cover at least the following information:

- (i) Background and objective
- (ii) Geographical Coverage of the project

- (iii) Availability of the funding for the project
- (iv) Timelines for the project

#### 1.3.4 Instructions to the Bidders

The set of instructions should include the following:

- (i) Instructions regarding nature of job
- (ii) Pre-Bid Meeting
- (iii) Bidders Queries and responses
- (iv) Bid Submission format
- (v) Last date & place of submission;
- (vi) Any related instruction

If as a part of EOI process, a Corrigendum is issued then the EOI response last submission date for the Bidders may be revised and extended by at least a week.

#### 1.3.5 Broad Scope of Work

At an EOI Stage, the Nodal Agency may not have the requisite clarity on the Scope of Work (SOW). Hence the SOW may be provided at a high level. However SOW should have enough clarity to attract the right set of target bidders.

This should include:

- (i) Description of the project
- (ii) Various stakeholders which would get involved in the project with expected roles and responsibilities
- (iii) Broad scope of work (however it should be specific enough to target the right potential vendors (for e.g. if expertise is required in Identity Management, Biometric technologies, Analytics, Market Research, GIS, Mobile Technology etc., etc. then it should be mentioned in the EOI)
- (iv) Expected deliverables and outcomes of the assignment (optional)
- (v) Place of execution of the assignment.

This level of information will help the bidder to provide a quality response to the EOI & even provide suggestions on the future Scope of Work which could be used during the drafting of RFP document.

#### 1.3.6 Forward Looking

- EOI should act as a step towards heading into a formal Request for Proposal (RFP)

- Estimating what the project investments could be like (rough estimates) (there should be NO request for financial cost in the EOI)
- If financial understanding is very important and the project budget is limited or has been declared, it should be just requesting a response in the indicative form – “Yes, within budget” or “No, beyond the budget”
- Use vendor discussions to understand your risks as a procurer

**A typical EOI, as researched and developed from study of International and Indian procurement best practices, may have a structure as represented here:**

S. No.	Expression of Interest Sections / Clauses	Desirability
1.	Invitation for Expression of Interest	Mandatory
2.	Introduction to the Project	Mandatory
3.	Broad Scope of Work (with inputs to be provided by the Ministry or Department)	Mandatory
4.	Instruction to the Bidders	Mandatory
5.	Pre-Qualification (PQ) / Eligibility Criteria	Mandatory
6.	Bid Submission Forms	Recommended
7.	Compliance Sheet for Pre-Qualification	Recommended
8.	Templates	Recommended
9.	Request to Bidders to suggest Scope of Work and Approach & Methodology (A&M)	Optional
10.	Request for Bidder's Experience in "Similar" Projects – Learning on Issues, Challenges, Solution proposed, Client Recommendations	Optional
11.	Request for Bidder's Business Profile in terms of Research Work/Centers, Patents, Assets in the given project's domain	Optional

## 1.4 Defining Pre-Qualification (PQ) / Eligibility Criteria

During the discussion with various Government and Industry stakeholders, it emerged that evaluation criterion is to be carefully drafted. Discussions were held on the merit of each criterion and how does it help the Nodal Agency in getting the most suitable agency to execute the assignment. Accordingly several prevalent Technical evaluation criterion were rationalized (dropped or their weightages were reallocated). In case the criterion or the marks allocated in this model EOI requires change, the Nodal Agency should assure itself that the change does not lead to restriction in the competition.

The “litmus test” for drawing up the requirements for “Company Profile” below should be that Nodal officers should assure himself that at least 8 bidders would be able to qualify through the Pre-Qualification criteria.

The Eligibility / Pre-Qualification (PQ) criteria set out in any EOI document basically aims to invite proposals from only the genuine reputed consulting Agencies. The criteria should be set so as to encourage competition and quality responses/bidding.

The guidelines to keep in mind when establishing a set of Eligibility Criteria are:

- Ensure that the criteria/PQs or conditions to participate in the bidding process are flexible and practical; allowing international bidders to participate in the process
- PQs have direct and perceptible linkage with scope of work, project's financial worth and risk
- PQs are focused towards quality of advisory capacity and bidder competence

Hence, after significant deliberations with various Government and Industry Stakeholders, on eligibility criteria, the Pre-Qualification criterion has been recommended. It is suggested that these should be followed under normal circumstances to prevent the eligibility criteria from becoming restrictive in nature.

#### **1.4.1 Sales Turnover in Consulting**

It was observed that a typical EOI contains the requirements linked to Annual Reports, such as Sales Turnover, Turnover in the area of IT Consulting, Network etc.

It was observed that most of the balance sheets / annual reports of the companies do not categorize the revenues from e-Governance. The closest criterion which is commonly observed in the Annual Reports is "Consulting Revenues" or "IT Consulting Revenues". Depending upon the nature of consulting work, the Nodal Agency can choose either of the two areas. However, if the bidder is able to demonstrate work experience in other areas of e-Governance like Change Management, Business Process Re-engineering, Training etc., the same may be acceptable to the Nodal Agency.

The intention of putting this criterion is that the Bidding agency has a minimum size and experience in the area of e-Governance to deliver the project. The other criterions linked to overall Sales Turnover, network etc, should be avoided as this may result in restricting competition. Hence it is recommended that only one criterion linked to "Sales turnover in IT Consulting/Consulting" should be used.

As a thumb rule, one can keep the minimum sales turnover in Consulting / IT Consulting at Five (5) times the estimated value of the assignment being tendered.

#### **1.4.2 Project Experience: Number and Value of Projects**

The PQ for project experience required from the bidder with reference to the context of the solution to be delivered, as defined in the tender document, should aim to achieve the following:

- a) **One project** of similar nature costing not less than the amount equal to 80 – 100% of the estimated value of assignment to be awarded
- b) **Two projects** of similar nature costing not less than the amount equal to 50 – 60%% of the estimated value of assignment to be awarded
- c) **Three projects** of similar nature costing not less than the amount equal to 40-50% of the estimated value of assignment to be awarded

The following should also be ensured:

- *Definition of “similar” work should be clearly defined with references to domain, sector or industry and functional area of scope of work*
- *Also anything more specific than this requirement, may result in restricting competition and should be done when only for cases when there is significant justification for its requirement. However it is recommended that the Nodal Agency should assure itself that at least 8 potential bidders attending pre-bid conference would be in a position to pre-qualify*

### 1.4.3 Power of Attorney

Power of Attorney's (POA) of the listed companies are made with the approval of the Board of the Company. It may be noted that the Board's approval is a time consuming process and hence it is not possible for having customized POA's for every tender. Hence the POA of a listed company should be accepted in the format available with the bidding agency, as long as it authorizes the signatory to sign on the bid documents on behalf of the company.

### 1.4.4 Manpower Strength

In general, Consulting / IT Consulting Manpower requirements (numbers) should **NOT** be applicable to Consulting Services projects, as delivery is more about the quality of resources deployed and the team's domain knowledge.

However this requirement may be introduced as a pre-qualification requirement **ONLY** when the estimated requirement of Consulting / IT consulting manpower is more than 5 resources on full time/ near full time basis.

In such cases, the Consulting / IT Consulting Manpower requirements should not be more than the 5 times the estimated requirement of Consulting / IT Consulting manpower on full time/ near full time basis. For e.g. if the estimated requirement of Consulting/ IT Consulting manpower is 10 resources on full time/ near full time basis, then the responding Company must have on its rolls, consulting staff of at least 50 technically qualified personnel in the area of eGovernance, Program / Project Management, IT

infrastructure, IT security and IT procurement and who possess relevant degrees/credentials with prior experience in providing the above consultancy services.

#### 1.4.5 Quality Certifications

The requirement of any certification as a part of Pre-Qualification criterion in an EOI should not be generally encouraged. Wherever it is put as a PQ criterion, the Nodal Agency should ensure that it is inherently linked to the Scope of work. Further it should be clear how these certifications would affect the quality of the Deliverables and what checks and balances have been designed to ensure that such certifications would add value.

However in case of specific Scope of Work, the following Certifications may add value and may be put as a Pre-Qualification criterion:

- **ISO 9001 certification**

ISO 9000/9001 certification is a certification required for quality systems. It provides a set of generic requirements relating to the processes of development and production, and how they will be managed, reviewed and improved in order to achieve customer satisfaction. This is a basic hygiene check for a company bidding and should be a requirement in normal case

Hence this certification is relevant for projects needing industry accepted quality management standards for the processes and transactions involved in solution delivery

- **ISO 27001 certification**

ISO/IEC 27001 formally specifies a management system that is intended to bring information security under explicit management control. The security controls in operation typically address certain aspects of IT or data security, specifically, leaving non-IT information assets (such as paperwork and proprietary knowledge) less well protected on the whole. This should be asked for only for cases, where the scope of work specifically mentions security assessment and design of security system.

Hence this is relevant for projects requiring Information security standards, such as Network security, database/data security

It was also observed during this assignment that various certifications like CMMi are being put as Pre-Qualification criterion in the EOI document for projects which are not related to software development or its consulting. Hence the Nodal Agency should assure that any certification should add value to the tender and should not lead to limiting the competition.

### 1.4.6 Debarment

All Government entities should follow the following debarment rules, prescribed in GFR, 2017.

- (i) A bidder shall be debarred if he has been convicted of an offence—
  - i. under the Prevention of Corruption Act, 1988; or
  - ii. the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.
- (ii) A bidder debarred under sub-section (i) or any successor of the bidder shall not be eligible to participate in a procurement process of any procuring entity for a period not exceeding three years commencing from the date of debarment. Department of Commerce (DGS&D) will maintain such list which will also be displayed on the website of DGS&D as well as Central Public Procurement Portal.
- (iii) A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. The Ministry/Department will maintain such list which will also be displayed on their website.
- (iv) The bidder shall not be debarred unless such bidder has been given a reasonable opportunity to represent against such debarment.

### 1.4.7 Registered Legal Entity

Companies registered under Companies Act 1956 (or 2008) is one of the Pre-qualifications criterion in the Consulting tenders. This may limit the competition to a few Indian firms for assignments of specific size or may not generate response from firms which have a niche in a specific area.

Several of the government reforms in India / developing countries are directly led by foreign firms with local offices in respective countries. Hence the Nodal Agency should assess the requirement of the legal entity being registered under the Companies Acts.

It is suggested that the Nodal Agency should look at least start allowing partnership firms registered under Limited Liability Partnerships (registered under LLP Act, 2008) to participate in bid process for eGovernance projects in India.

### 1.4.8 Consortiums

**Consortiums, it should be noted, are mostly encouraged to participate in Government projects for the Capital, Sharing the risks, Skills and expertise, Resources, Maturity and the characteristics of the market, Facilitating participation of smaller vendors, facilitate the company to protect its core interests and Intellectual Property rights or trade secrets or copyrights**

However in Consulting Services these do not apply really well, as :

- Most of the Consulting skills required for providing e-Governance Consulting are commonly available with most of the bidders
- This could lead to potential issue of “name lending” by the vendors, in case this has not been addressed by having the same PQ criteria for each member of the Consortium

In case the project has a requirement in niche areas (like legal experts, or Bio Metric expert or Domain experts), the bidders may not have experts which can be deployed on the project. In such cases where the skill gap exists, the bidders may be encouraged to go in for *SUBCONTRACTING* as it could help bridge the competency gap.

It may also be noted that certain international funding institutions allow the consortiums in the Consulting bids to allow for local/country-specific representation. This also helps in capacity building of consulting industry in the domain/geography of that particular country.

However the Nodal agency should evaluate whether to allow the consortium or disallow. The Nodal Agency should evaluate the value add which a consortium can bring in which a sub-contracting cannot bring in. Further it should evaluate the benefit of having single point of ownerships or it has the capacity to manage multiple points of ownerships.

In case the Nodal Agency is not clear on this stage, it is suggested that it should be clarified in the EOI document. The Nodal Agency can also clarify whether the participants can form consortium, in case it is allowed subsequently amongst the bidders at the EOI stage.

#### **1.4.9 Conflict of Interest**

It is suggested that at the EOI stage, Conflict of Interest clause should not be a Pre-Qualification criterion because the scope of work and its outcomes are not clear and certain.

However if there is an absolute clarity that the consulting engagement emerging out of this EOI would lead to “Conflict of Interest” as defined in Section 2.4.10 of this Guidance Notes, the “Conflict of Interest” clause may be incorporated in the PQ requirements.

#### **1.4.10 Additional PQ Criterion**

In case it is expected that more than 8 bidders would be able to qualify the basic eligibility criterion, the additional requirement may be added to restrict this list to the best 8 contenders. The additional clauses may be added ONLY when more than 8 bidders are expected to bid. In case there are only 8 or less bids, these requirements may be relaxed.

The following additional PQ criteria suggested are:

- Suggested Scope of Work and Approach & Methodology (A&M)
- Request for Bidder's Experience in "Similar" Projects – Learning on Issues, Challenges, Solution proposed, Client Recommendations
- Request for Bidder's Business Profile in terms of Research Work/Centers, Patents, Assets in the given project's domain

Please refer Section 1.6, Additional Eligibility Criterion in Model EOI Document.

On the basis of responses received from the interested parties in the EOI stage, consultants meeting the requirements should be short listed for further consideration. The number of short listed consultants should not be less than three<sup>6</sup>.

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<sup>6</sup> Rule 184, GFR 2017

## 2 Section II: Guidance Notes for Request for Proposal (RFP)

### 2.1 Objective

A **Request for Proposal (RFP)**, also at times known as Request for Tender (RFT), is issued at a stage in a procurement process, where an invitation is presented to the potential bidders, to submit a proposal on a specific service. The RFP process brings structure to the procurement decision and is meant to allow the risks and benefits to be identified clearly upfront, so that the bidders can factor in while responding to the invitation.

The RFP is aimed towards selecting the most competent bidder with the economically advantageous price. The RFP directly addresses Government's need and intent to procure.

### 2.2 Situations for Use / Context of Issuance

**This RFP for Consulting Assignment (Deliverable Based) should be ISSUED under the following typical circumstances:**

- Scope of work and deliverables are standard, reasonably well known and/or can be clearly specified
- Typically involves time bound delivery
- Budget is known, approved OR availability of budget is assured
- Need to procure the most economical tender, through open competitive bidding - generate competition by ensuring at least with 3 to 5 bidders
- If all the above is applicable and estimated value of the assignment is less than Rs. 25 lakhs then the Nodal Agency can directly release the RFP instead of releasing the EOI and then RFP. This RFP may consist of Technical evaluation criteria and/or Pre qualification criteria with financial details.

**This RFP for Consulting Assignment (capacity Augmentation) should be ISSUED under the following typical circumstances:**

- The Government intends to hire technical manpower for a defined period of time to provide support to existing officials through payment on man-month basis
- The effort estimation for the Scope of work and deliverables is difficult to estimate
- The Client / Nodal Agency is having the technical knowhow to direct the resources hired under this RFP for getting the desired output
- There is an identified technical qualification and experience of the resources desired
- Budget is known, approved OR availability of budget is assured
- Need to procure the most economical tender, through open competitive bidding - generate competition by ensuring at least with 3 to 5 bidders

- If all the above is applicable and estimated value of the assignment is less than Rs. 25 lakhs then the Nodal Agency can directly release the RFP instead of releasing the EOI and then this RFP. This RFP may consist of Technical evaluation criteria and/or Pre qualification criteria with financial details.

**An RFP should not be published if:**

- Scope of work and deliverables are not known and clearly understood by the Nodal agency
- There's lack of a known budget (or there is no commitment of funds)
- There is only one vendor which has the requisite skills to deliver the project
- When already a rate empanelment has been done by the Line Ministry/State Government responsible for executing the project (In this case the empanelled agencies should be contacted directly and evaluated on the basis of a presentation & profiles of resources proposed to be deployed in the engagement).

## 2.3 Procedure to Issue

### 2.3.1 Market Assessment

Before inviting Bidders, it is recommended that the Nodal Agency should:

- Assess the capability and maturity of the market by capturing details on the likely number of interested suppliers and solutions
- Try to identify around 8 potential interested consulting agencies for this RFP – this would ensure that eventually 3-5 would bid for the tender. In case the value of the engagement is more than INR 25 lakhs, the shortlisted bidders will be eligible for the RFP.

This would ensure that the RFP being developed would generate a fair competition & the Government would get best economical deal.

### 2.3.2 Advertise / Invitation for submitting proposal

- a. It is mandatory for all Ministries / Departments of the Central Government, their attached and Subordinate Offices and Autonomous / Statutory Bodies to publish their tender enquiries, corrigenda thereon and details of bid awards on the Central Public Procurement Portal (CPPP) and GeM, as per GFR 2017.
  - The advertisement should also be published in the website of the Government Department (the end procurer of the consulting service) or Purchaser.
  - Additionally the Government entity may also send an email to all shortlisted consultants carrying out various consulting assignments with the Government Department, Nodal Agency and Information Technology Department of State / Centre, as the case may be.
- b. The EOI document should include :
  - vii. Reference of the CPPP, GeM and organization's website whereby consultants were invited to submit their EOI. The details should include
    - a. Time frame and timing for purchasing/obtaining the EOI
    - b. contact information of the Issuing agency with name of contact person
  - viii. the last date of submission of EOI

- ix. the broad scope of work or service,
  - x. inputs to be provided by the Ministry or Department,
  - xi. eligibility and the pre-qualification criteria to be met by the consultant(s) and
  - xii. Consultant's past experience requirement in similar work or service.
- c. Additionally the Government entity may also send an email to all relevant Consultants in the market, specifically the empaneled consultants carrying out various consulting assignments with the Government Department, Nodal Agency and Information Technology Department of the State or Centre, as the case may be.
- d. The Nodal Agency should give adequate time for the response (typically around 3 weeks).

### **2.3.3 Background Information**

The RFP document should contain the following information, at the minimum:

#### **2.3.3.1 Project Details**

The Nodal Agency should mention the genesis of the project and what is the objective which the project is trying to achieve. The Nodal Agency should also clearly mention what are the dependencies of the project, such as:

- Availability/provision of certain information/infrastructure or people that could affect the deliverables or timelines
- Funds approval and its availability for project
- Buy in requirements from other Stakeholders (define the stakeholder & area of buy in required)
- Sign offs required at relevant stages from stakeholders

#### **2.3.3.2 Stakeholder Involvement Details**

The Stakeholder(s) and their involvement details should also be provided:

- Designated Stakeholders who would be driving the project and those who would be impacted by its outcomes
- Definition of stages and levels of Stakeholder dependent deliverable approvals and the involvement of Stakeholders at various levels of sign offs and final payments
- Designated Stakeholders for interim QA and review of deliverables
- Provide a detailed matrix table of Roles and responsibilities for all stakeholders
- Designated stakeholders involved in Change requests

The above would help ensure that the Consultant coming on board would be clear on its role and responsibilities for delivering the service/solution and would also know what level of stakeholder buy in would be required.

### 2.3.4 Typical RFP Structure

A typical RFP, as researched and developed from study of International and Indian procurement best practices, would have a structure as represented here:

S. No.	Request For Proposal Sections / Clauses	Desirability <sup>7</sup>
1.	Fact Sheet	Mandatory
2.	Invitation for Request for Proposal (RFP)	Mandatory
3.	Background Information & letter of Invitation	Mandatory
4.	Instructions to Bidders / Information to Consultants regarding the procedure for submission of proposal.	Mandatory
5.	Pre-Qualifications (PQ) / Eligibility Criteria in case the same has not been ascertained through Enquiry for Expression of Interest with Standard formats for technical and financial proposal	Mandatory
6.	Evaluation Methodology / Bid evaluation criteria and selection procedure.	Mandatory
7.	Scope of Work / Terms of Reference (TOR)	Mandatory
8.	Deliverables	Mandatory
9.	Timelines	Mandatory
10.	Payment Schedules	Mandatory
11.	Commercial Bid	Mandatory
12.	Legal Terms & Contract Conditions / Proposed contract terms	Mandatory
13.	Skills Required / List of key positions	Recommended
14.	Outcomes of Scope of Work	Recommended
15.	Exit Criteria	Recommended
16.	Deliverable Approval Mechanism/Process	Recommended
17.	Change Request Mechanism	Recommended
18.	Funds Available for the Project	Recommended
19.	Project Extension	Optional
20.	Success Fee	Optional

### 2.3.5 Instruction to the Bidders

#### 2.3.5.1 Bid Submission Extension due to Corrigendum Issuance

<sup>7</sup> Mandatory : Necessarily should be put in the RFP Document ;  
 Optional : Should be put depending on the situation  
 Desirable : As a best practice should be included

If the RFP has a Corrigendum issued, then the RFP response submission date for the Bidders should be revised and extended to at least 2 weeks (14 days).

### 2.3.5.2 Handling Deviations

The bidders should be allowed the flexibility to provide deviations to the RFP terms and conditions. It may be noted that once the deviations are provided, the bidder would not be allowed to withdraw the deviations submitted. The tender Evaluation Committee would evaluate each of the deviations proposed by the bidder and classify them as “**Material Deviation**” or “**Non-Material Deviation**”. In case of Material Deviations, the Committee may decide to monetize their value, which has to be added to the price bid submitted by the bidder. The bidders would be informed on the Committee’s decision on the deviation, prior to the announcement of technical scores.

### 2.3.5.3 Negotiations with Successful Bidder

**Central Vigilance Commission  
Office Order No.68/10/05**

**The relevant extracts of the Order are provided below**

1. “Following the deliberations in the above mentioned Workshop, the following issues are clarified with reference to para 2.4 of Circular No.8(1)(h)/98(1) dated 18<sup>th</sup> November, 1998 on negotiation with L-1, which reflect the broad consensus arrived at in the workshop.
  - a. There should not be any negotiations. Negotiations if at all shall be an exception and only in the case of proprietary items or in the case of items with limited source of supply. Negotiations shall be held with L-1 only. **Counter offers tantamount to negotiations and should be treated at par with negotiation.**
  - b. Negotiations can be recommended in exceptional circumstances only after due application of mind and recording valid, logical reasons justifying negotiations. In case of inability to obtain the desired results by way of reduction. In rates and negotiations prove infructuous, satisfactory explanations are required to be recorded by the Committee who recommended the negotiations. The Committee shall be responsible for lack of application of mind in case its negotiations have only unnecessarily delayed the award of work/contract.
2. Further, it has been observed by the Commission that at times the Competent Authority takes unduly long time to exercise the power of accepting the tender or negotiate or retender. **Accordingly, the model time frame for according such approval to completion of the entire process of Award of tender should not exceed one month from the date of submission of recommendations. In case the file has to be approved at the next higher level a maximum of 15 days may be added for clearance at each level. The overall time frame should be within the validity period of the tender/contract.**
3. In case of L-1 backing out there should be re-tendering as per extant instructions”

The <Name of the Nodal Agency> shall reserve the right to negotiate with the bidder(s) whose proposal has been ranked best value bid on the basis of Technical and Commercial Evaluation to the proposed Project, as per the guidance provided by CVC (please see the box below).

**Central Vigilance Commission: Office Order No.68/10/05**

**The Relevant Extracts of the Order are:**

(i) As post tender negotiations could often be source of corruption, it is directed that there should be no post-tender negotiations with L-1, except in certain exceptional situations. Such exceptional situations would include, procurement of proprietary items, items with limited sources of supply and items where there is suspicion of a cartel formation. The justification and details of such negotiations should be duly recorded and documented without any loss of time.

(ii) In cases where a decision is taken to go for re-tendering due to the unreasonableness of the quoted rates, but the requirements are urgent and a retender for the entire requirement would delay the availability of the item, thus jeopardizing the essential operations, maintenance and safety, negotiations would be permitted with L-1 bidder(s) for the supply of a bare minimum quantity. The balance quantity should, however, be procured expeditiously through a re-tender, following the normal tendering process.

(iii) Negotiations should not be allowed to be misused as a tool for bargaining with L-1 within dubious intentions or lead to delays in decision-making. Convincing reasons must be recorded by the authority recommending negotiations. Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated so that the time taken for according requisite approvals for the entire process of award of tenders does not exceed one month from the date of submission of recommendations. In cases where the proposal is to be approved at higher levels, a maximum of 15 days should be assigned for clearance at each level. In no case should the overall timeframe exceed the validity period of the tender and it should be ensured that tenders are invariably finalized within their validity period.

(iv) As regards the splitting of quantities, some organizations have expressed apprehension that pre-disclosing the distribution of quantities in the bid document may not be feasible, as the capacity of the L-1 firm may not be known in advance. It may be stated that if, after due processing, it is discovered that the quantity to be ordered is far more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities, then the quantity being finally ordered should be distributed among the other bidders in a manner that is fair, transparent and equitable. It is essentially in cases where the organizations decide in advance to have more than one source of supply (due to critical or vital nature of the item) that the Commission insists on pre-disclosing the ratio of splitting the supply in the tender itself. This must be followed scrupulously.

(v) Counter-offers to L-1, in order to arrive at an acceptable price, shall amount to negotiations. However, any counter-offer thereafter to L-2, L-3, etc., (at the rates accepted by L-1) in case of splitting of quantities, as pre-disclosed in the tender, shall not be deemed to be a negotiation.

2. It is reiterated that in case L-1 backs out, there should be a re-tender.

#### **2.3.5.4 Earnest Money Deposit**

The primary objective of submission of earnest money deposit is to establish the earnestness of the bidder so that he does not withdraw, impair or modify the offer within the validity of the bid. It also helps in restricting if not eliminating 'speculative', 'frivolous' or 'wait and see' bids. Since any relaxation regarding submission of earnest money deposit has financial implications besides giving encouragement to the bidders to submit frivolous bids as indicated above; the terms & conditions should clearly stipulate that the offers without earnest money deposit would be considered as unresponsive and rejected. The EMD amount should be within 2-5% of the estimated<sup>8</sup> cost of the bids, under ordinary

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<sup>8</sup> In places where there are no estimates available, the same may be estimated by discussing with the experts in the Government or industry

circumstances. The option should be provided to the bidder to submit the EMD in the form of Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee from any of the commercial banks.

It may be noted that EMD should not be asked for when the RFP is circulated amongst the Empaneled list of Consultancy agencies.

**EXCERPTS FROM GENERAL FINANCIAL RULES' 2017**

**Rule 170 Bid Security**

*(i) To safeguard against a bidder's withdrawing or altering its bid during the bid validity period in the case of advertised or limited tender enquiry, Bid Security (also known as Earnest Money) is to be obtained from the bidders except Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) or are registered with the Central Purchase Organisation or the concerned Ministry or Department. The bidders should be asked to furnish bid security along with their bids. Amount of bid security should ordinarily range between two percent to five percent of the estimated value of the goods to be procured. The amount of bid security should be determined accordingly by the Ministry or Department and indicated in the bidding documents. The bid security may be accepted in the form of Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee from any of the Commercial Banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects. The bid security is normally to remain valid for a period of forty-five days beyond the final bid validity period.*

*(ii) Bid securities of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity and latest on or before the 30th day after the award of the contract.*

*(iii) In place of a Bid security, the Ministries/ Departments may require Bidders to sign a Bid securing declaration accepting that if they withdraw or modify their Bids during the period of validity, or if they are awarded the contract and they fail to sign the contract, or to submit a performance security before the deadline defined in the request for bids document, they will be suspended for the period of time specified in the request for bids document from being eligible to submit Bids for contracts with the entity that invited the Bids.*

**Rule 171 Performance Security**

*To ensure due performance of the contract, Performance Security is to be obtained from the successful bidder awarded the contract. Unlike contracts of Works and Plants, in case of contracts for goods, the need for the Performance Security depends on the market conditions and commercial practice for the particular kind of goods. Performance Security should be for an amount of five to ten per cent. of the value of the contract as specified in the bid documents. Performance Security may be furnished in the form of an Account Payee Demand Draft, Fixed Deposit Receipt from a Commercial bank, Bank Guarantee from a Commercial bank or online payment in an acceptable form safeguarding the purchaser's interest in all respects.*

*(i) Performance Security should remain valid for a period of sixty days beyond the date of completion of all contractual obligations of the supplier including warranty obligations.*

*(ii) Bid security should be refunded to the successful bidder on receipt of Performance Security*

## 2.4 Defining Pre-Qualification (PQ) Criteria

This is applicable only for those cases which are less than INR 25 lakhs where no EOI has been published. The Eligibility / Pre-Qualification (PQ) criteria set out in an RFP document aims to shortlist proposals from only the genuine reputed consulting Agencies. The criteria should be set so as to encourage competition and quality responses/bidding.

The guidelines to keep in mind when establishing a set of Eligibility Criteria are:

- Ensure that the criteria/PQs or conditions to participate in the bidding process are flexible and practical; allowing international bidders to participate in the process
- PQs have direct and perceptible linkage with scope of work, project's financial worth and risk
- PQs are focused towards quality of advisory capacity and bidder competence

Hence, after significant deliberations with various Government and Industry Stakeholders, on eligibility criteria, the following advisory (in the sub-sections below) has been prepared. It is suggested that these should be followed under normal circumstances to prevent the eligibility criteria from becoming restrictive in nature.

It may be noted that the Pre-qualification criterion is not required for cases where the Consultancy agencies have been shortlisted on the basis of Expression of Interest.

### 2.4.1 Sales Turnover in Consulting (or IT Consulting)

It was observed that a typical Pre-Qualification contains the requirements linked to Annual Reports, such as Sales Turnover, Turnover in the area of IT Consulting, Network etc.

It was observed that most of the balance sheets / annual reports of the companies do not categorise the revenues from e-Governance. The closest criterion which is commonly observed in the Annual Reports is "Consulting Revenues" or "IT Consulting Revenues". Depending upon the nature of consulting work, the Nodal Agency can choose either of the two areas. However, if the bidder is able to demonstrate work experience in other areas of e-Governance like Change Management, Business Process Re-engineering, Training etc., the same may be accepted by the Nodal Agency.

The intention of putting this criterion is that the Bidding agency has a minimum size and experience in the area of e-Governance to deliver the project. The other criterions linked to overall Sales Turnover, network etc, should be avoided as this may result in restricting competition. Hence it is recommended that only one criterion linked to "Sales turnover in IT Consulting/Consulting" should be used.

As a thumb rule, one can keep the minimum sales turnover in Consulting / IT Consulting at Five (5) times the estimated value of the assignment being tendered.

#### 2.4.2 Project Experience: Number and Value of Projects

The PQ for project experience required from the bidder with reference to the context of the solution to be delivered, as defined in the tender document, should aim to achieve the following:

- d) **One project** of similar nature costing not less than the amount equal to 80 – 100% of the estimated value of assignment to be awarded
- e) **Two projects** of similar nature costing not less than the amount equal to 50 – 60%% of the estimated value of assignment to be awarded
- f) **Three projects** of similar nature costing not less than the amount equal to 40-50% of the estimated value of assignment to be awarded

The following should also be ensured:

- *Definition of “similar” work should be clearly defined with references to domain, sector or industry and functional area of scope of work*
- *Also anything more specific than this requirement, may result in restricting competition and should be done when only for cases when there is significant justification for its requirement. However, it is recommended that the Nodal Agency should assure itself that at least 8 potential bidders attending pre-bid conference would be in a position to pre-qualify*

#### 2.4.3 Power of Attorney

Power of Attorney's (POA) of the listed companies are made with the approval of the Board of the company. It may be noted that the Board's approval is a time consuming process and hence it is not possible for having customized POA's for every tender. Hence the POA of a listed company should be accepted in the format available with the bidding agency, as long as it authorizes the signatory to sign on the bid documents on behalf of the company.

#### 2.4.4 Manpower Strength

In general, Consulting /IT Consulting Manpower requirements (numbers) should **NOT** be applicable to Consulting Services projects, as delivery is more about the quality of resources deployed and the team's domain knowledge.

However this requirement may be introduced as a pre-qualification requirement ONLY when the estimated requirement of Consulting /IT Consulting manpower is more than 5 resources on full time/ near full time basis.

In such cases, the Consulting / IT Consulting Manpower requirements should not be more than the 5 times the estimated requirement of Consulting/ IT Consulting manpower on full time/ near full time basis. For e.g. if the estimated requirement of Consulting /IT Consulting manpower is 10 resources on full time/ near full time basis, then the responding Company must have on its rolls, consulting staff of at least 50 technically qualified personnel in the area of eGovernance, Program / Project Management, IT infrastructure, IT security and IT procurement and who possess relevant degrees/credentials with prior experience in providing the above consultancy services.

#### 2.4.5 Quality Certifications

The requirement of any certification as a part of Pre-Qualification criterion in an EOI should not be generally encouraged. Wherever it is put as a PQ criterion, the Nodal Agency should ensure that it is inherently linked to the Scope of work. Further it should be clear how these certifications would affect the quality of the Deliverables and what checks and balances have been designed to ensure that such certifications would add value.

However in case of specific Scope of Work, the following Certifications may add value and may be put as a Pre-Qualification criterion:

- **ISO 9001 certification**

ISO 9000/9001 certification is a certification required for quality systems. It provides a set of generic requirements relating to the processes of development and production, and how they will be managed, reviewed and improved in order achieve customer satisfaction. This is a basic hygiene check for a company bidding and should be a requirement in normal case

Hence this certification is relevant for projects needing industry accepted quality management standards for the processes and transactions involved in solution delivery

- **ISO 27001 certification**

ISO/IEC 27001 formally specifies a management system that is intended to bring information security under explicit management control. The security controls in operation typically address certain aspects of IT or data security, specifically, leaving non-IT information assets (such as paperwork and proprietary knowledge) less well protected on the whole. This should be asked for only for cases, where the scope of work specifically mentions security assessment and design of security system.

Hence this is relevant for projects requiring Information security standards, such as Network security, database/data security

It was also observed during this assignment that various certifications like CMMi are being put as Pre-Qualification criterion in the EOI document for projects which are not related to software development

or its consulting. Hence the Nodal Agency should assure that any certification should add value to the tender and should not lead to limiting the competition.

#### 2.4.6 Debarment from bidding

All Government entities should follow the following debarment rules, prescribed in GFR, 2017.

- (i) A bidder shall be debarred if he has been convicted of an offence—
  - i. under the Prevention of Corruption Act, 1988; or
  - ii. the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.
- (ii) A bidder debarred under sub-section (i) or any successor of the bidder shall not be eligible to participate in a procurement process of any procuring entity for a period not exceeding three years commencing from the date of debarment. Department of Commerce (DGS&D) will maintain such list which will also be displayed on the website of DGS&D as well as Central Public Procurement Portal.
- (iii) A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. The Ministry/Department will maintain such list which will also be displayed on their website.
- (iv) The bidder shall not be debarred unless such bidder has been given a reasonable opportunity to represent against such debarment.

#### 2.4.7 Registered Legal Entity

Companies registered under companies Act 1956 (or 2008) is one of the Pre-qualifications criterion in the Consulting tenders. This may limit the competition to a few Indian firms for assignments of specific size or may not generate response from firms which have a niche in a specific area.

Several of the government reforms in India / developing countries are directly led by foreign firms with local offices in respective countries. Hence the Nodal Agency should assess the requirement of the legal entity being registered under the Companies Acts.

It is suggested that the Nodal Agency should may start allowing partnership firms registered under Limited Liability Partnerships (registered under LLP Act, 2008) to participate in bid process for eGovernance projects in India.

#### 2.4.8 Consortiums

**Consortiums, it should be noted, are mostly encouraged to participate in Government projects for the Capital, Sharing the risks, Skills and expertise, Resources, Maturity and the characteristics of the market, Facilitating participation of smaller vendors, facilitate the company to protect its core interests and Intellectual Property rights or trade secrets or copyrights**

However in Consulting Services these do not apply really well, as:

- Most of the Consulting skills required for providing e-Governance Consulting are commonly available with most of the bidders
- This could lead to potential issue of “name lending” by the vendors, in case this has not been addressed by having the same PQ criteria for each member of the Consortium

In case the project has a requirement in niche areas (like legal experts, or Bio Metric expert or Domain experts), the bidders may not have experts which can be deployed on the project. In such cases where the skill gap exists, the bidders may be encouraged to go in for *SUBCONTRACTING* as it could help bridge the competency gap.

It may also be noted that certain international funding institutions allow the consortiums in the Consulting bids to allow for local/country-specific representation. This also helps in capacity building of consulting industry in the domain/geography of that particular country.

However the Nodal agency should evaluate whether to allow the consortium or disallow. The Nodal Agency should evaluate the value add which a consortium can bring in which a sub-contracting cannot bring in. Further it should evaluate the benefit of having single point of ownerships or it has the capacity to manage multiple points of ownerships.

#### 2.4.9 Additional PQ Criterion

In case it is expected that more than 8 bidders would be able to qualify the basic eligibility criterion, the additional requirement may be added to restrict this list to the best 8 contenders. The additional clauses may be added ONLY when more than 8 bidders are expected to bid. In case there are only 8 or less bids, these requirements may be relaxed.

The following additional PQ criteria suggested are:

- Suggested Scope of Work and Approach & Methodology (A&M)
- Request for Bidder’s Experience in “Similar” Projects – Learning on Issues, Challenges, Solution proposed, Client Recommendations
- Request for Bidder’s Business Profile in terms of Research Work/Centers, Patents, Assets in the given project’s domain

Please refer Section 2.4.1, Additional Eligibility Criterion in Model RFP Document for Consulting Assignment (Deliverable Based).

## 2.4.10 Conflict of Interest

### 2.4.10.1 For a Consultant

Conflict of Interest would exist if:

- There are existing contracts of the bidder with the concerned Government entity/department
- There is clear and certain possibility that the services executed / delivered by the bidder as part of the scope of work would lead to outcomes wherein the bidder can have vested business interests / benefits

The following Guidance Notes further explain and illustrate the provisions of conflict of interest for Consulting Assignments for e-Governance projects.

- a. Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
- b. Conflict of interest may arise between the Nodal Agency and a consultant or between consultants and present or future SI Vendors/contractors. Some of the situations that would involve conflict of interest are identified below:
  - i. **Nodal Agency and consultants:**
    - (i) Potential consultant should not be privy to information from the Nodal Agency/Government Department which is not available to others.
    - (ii) Potential consultant should not have defined the project when earlier working for the Nodal Agency or as a part of the current engagement.
    - (iii) Potential consultant should not have recently worked for the Nodal Agency overseeing the project in a role which is even perceived as “influential role” for drafting of SOW and evaluation criterion.
    - (iv) No situation should arise where the Consultant engaged by the Nodal Agency is reviewing the deliverables, status reports, monitoring, assessing, auditing, coordinating the work done by itself as a part of engagement with some other Government Department / Agency.

**ii. Consultants and Implementation Agency**

- (i) No consultant should have an ownership interest or a continuing business interest or an on-going relationship with a potential contractor save and except relationships restricted to project-specific and short-term assignments.
  - (ii) No consultant should be involved in owning or operating entities resulting from the project.
  - (iii) No consultant should bid for works arising from the project
- a. One of the normal ways to identify conflicts of interest is through self-declaration by bidders / Consultants. (It is expected that wherever a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Nodal Agency, for which the Nodal Agency should seek clarification). All conflicts must be declared as and when the Consultant becomes aware of them.
- b. Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Nodal Agency.
- c. Another form of conflict of interest called “scope-creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Nodal Agency but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.
- d. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Nodal Agency at the earliest. Officials of the Nodal Agency involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

**The following CVC Guidelines exist when considering and/or exercising Conflict of Interest Clause:**

1. **Conflict of Interest** – The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting or other activities that conflict with the Government entity/department under the contract.

The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm's consulting services in accordance with following requirements:

- The consultants shall provide professional, objective, and impartial advice and at all times hold the Government entity/department's interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other Government entity/departments, or that may place them in a position of being unable to carry out the assignment in the best interest of the Government entity/department. Without limitation on the generality of the foregoing consultants, consultants shall not be hired under the circumstances set forth below:
  - i. **Conflict between consulting activities and procurement of goods, works or non-consulting services (i.e. services other than consulting services covered by these Guidelines)** – A firm that has been engaged by the Government entity/department to provide good, works, or non-consulting services for a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be disqualified from subsequently providing goods, works, or services (other than consulting services covered by these guidelines) resulting from or directly related to the consulting services for such preparation or implementation. This provision does not apply to the various firms (consultants, contractors, or suppliers) which together are performing the Contractor's obligations under a turnkey or design and build contract.
  - ii. **Conflict among consulting assignments** – Neither consultants (including their personnel and sub-consultants), nor any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be hired for any assignment that, by its nature, may be in conflict with another assignment
  - iii. **Relationship with Government entity/department's Staff** – Consultants (including their experts and other personnel, and sub-personnel) that have a close business or family relationship with a professional staff of the Government entity/department (or of the project implementing agency) who are directly or indirectly involved in any part of:
    - (i) The preparation of the TOR for the assignment
    - (ii) The selection process for the contract
    - (iii) The supervision of such contract may not awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Government entity/department throughout the selection process and the execution of the contract
  - iv. A Consultant shall submit only one proposal, either individually or as a joint venture partner in

another proposal. If a consultant, including a joint venture partner, submits or participates in more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a consulting firm to participate as a sub-consultant, or an individual to participate as a team member, in more than one proposal when circumstances justify and if permitted by the RFP.

- **Unfair Competitive Advantage** – Fairness and transparency in the selection process require that consultants or their affiliates convincing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Government entity/department shall make available all the short listed consultants, together with the RFPs, all information that would in that respect give a consultant a competitive advantage.

2. **Professional Liability** – The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the Government entity/department will be governed by the applicable law, the contract need not deal with this matter. The client (purchaser) may, however, prescribe other liabilities depending on the requirement in each case without any restriction on the Consultant's liability as per the applicable law.

Further it may be appreciated that at times the Nodal Agency/Department may engage the services of a Consulting Agencies as a capacity augmentation (i.e. man-month basis), without a firm scope of work. It is suggested that in these situations, the Nodal Agency should establish impartially whether the knowledge acquired by the person deputed by the Consulting Agency has acquired knowledge which would give an unfair advantage to the Consulting Agency. In such cases, the Nodal Agency can either share the same knowledge to all the participants OR disallow the consulting agency to bid.

To avoid the situation, clarity should be provided to the Consulting agency during the RFP stages itself through which the Consulting agency was selected.

#### ***2.4.10.2 For the Nodal Agency & Tender Evaluation Committee***

A conflict of interest or the appearance of a conflict of interest may occur if member(s) of the Evaluation team are directly or indirectly involved with an organization that has submitted a proposal for evaluation.

Prior to reviewing any proposals, member(s) of the Evaluation team must inform the Nodal Agency of any potential conflicts of interest or the appearance thereof. If members of the Evaluation team become aware of any potential conflict of interest as they review a proposal, they must immediately notify the Proposal Evaluation Committee chairman.

Member(s) of the Evaluation team may withdraw as an RFP evaluator if they find themselves in a way that could create the appearance of bias or unfair advantage with or on behalf of any competitive bidder, potential bidder, agent, subcontractor, or other business entity, whether through direct

association with contractor representatives, indirect associations, through recreational activities or otherwise.

It is suggested that the members of Proposal Committee should sign a self declaration. A sample Self-Declaration Proforma, for this case, can be of the following form:

“I have read the RFP document and understand my obligations as explained in the document.

I declare that myself or any of my family members are part of the organizations which have bid for the proposal.

I further understand that I must advise the Nodal Agency if such a situation currently exists or arises during my term of service as a Proposal evaluator.

I further understand that I must sign and deliver this statement to the Nodal Agency prior to participating in the evaluation process.

Date:

RFP#:

Evaluator Signature:

Evaluator Name (Printed)”

**Examples of potentially biasing affiliations or relationships are listed below:**

1. Member(s) of the Evaluation team’s solicitation, acceptance, or agreement to accept from anyone any benefit, pecuniary or otherwise, as consideration for your decision or recommendation as it pertains to your evaluation of any proposal.
2. Member(s) of the Evaluation team’s affiliation with a bidding company or institution. For example, a conflict may exist when they or their immediate family members :
  - a. are employed by or are being considered for employment with the company or institution submitting any bid or hold a consulting, advisory, or other similar position with said company or institution;
  - b. hold any current membership on a committee, board, or similar position with the company or institution;
  - c. hold ownership of the company or institution, securities, or other evidences of debt;
  - d. are currently a student or employee in the department or school submitting a proposal, such as the case.

## 2.5 Designing the 2<sup>nd</sup> Stage Evaluation Process

The Evaluation phase covers the procurement process from close of offers to the selection of the preferred supplier and the selection of the successful bidder. The key components of an Evaluation process could also be illustrated as:

- Evaluation model
- Rating Scale
- Panel decision making process
- Evaluation criteria
- Due diligence requirements

This outcome is achieved by carefully considering each offer on an equal basis, against the evaluation criteria. In providing a broad framework for the selection of the best value-for-money supplier, the following have been covered. The Evaluation Process (depending on whether a one- or two-stage procurement method is used) will generally follow the following steps:

- Evaluation team members complete conflict-of-interest declarations
- Evaluation team members are briefed on the evaluation process and receive training if necessary.
- Copies of the suppliers' offers, scoring scale and evaluation forms are distributed to each evaluation team member.

**Note:** *If a two-envelope method is being used (i.e. price has been requested in separate, sealed envelopes) only the non-price parts of the offers are distributed to the evaluation team members, with the price envelopes remaining unopened and securely stored*

- Evaluation team members complete individual assessments of the suppliers' offers. This ensures each evaluation team member has adequately reviewed the offers prior to the team evaluation meeting and that no single team member is able to exert inappropriate influence on the outcome by being better prepared.

**Note:** *In some simple evaluations, such as the evaluation of quotes using the LPC method, it may not be necessary for the evaluation team members to complete individual evaluations. In these cases the evaluation team will just meet and complete a team evaluation*

- The evaluation team members meet and complete a "team" evaluation. Team scores may be reached by a number of methods, with averaging the individual scores and reaching a team consensus score being the two most common. Of the two, the consensus scoring method is the most frequently used, as it allows a score to be agreed based on consideration of all the evaluation team members' opinions and observations. The averaging method does ensure a persuasive or dominant individual is not able to exercise undue influence. However, it also means an individual's scores that, based on reconsideration of the supplier response in light of

Rule 187 Proposals should ordinarily be asked for from consultants in 'Two bid' system with technical and financial bids sealed separately. The bidder should put these two sealed envelopes in a bigger envelop duly sealed and submit the same to the Ministry or Department by the specified date and time at the specified place. On receipt, the technical proposals should be opened first by the Ministry or Department at the specified date, time and place.

Rule 188: Late Bids. Late bids i.e. bids received after the specified date and time of receipt should not be considered receipt, the technical proposals should be opened first by the Ministry or Department at the specified date, time and place.

other team members' comments would have been higher or lower, still form part of the calculation for a final score

- If price has been requested in separate, sealed envelopes, these envelopes are opened after the team scoring of the non-price criteria and a ranking agreed by the evaluation team. The ranking method will be determined by the evaluation model used. For example:
  - lowest-priced conforming (LPC) offer is automatically is the most responsive bidder
  - highest-scoring bidder based on an QCBS assessment is the most responsive bidder
- As a matter of “Good Practice” the presentation should be avoided OR undue weightage should not be given to the presentation. The key reason being that the presentations are quite often delinked from the proposal submitted and hence may not be contractually binding on the bidder. However the bidders may be invited to come and discuss the areas requiring clarifications in the bids OR they can be asked to present the documents in the form submitted to the Nodal Agency highlighting all the evaluation areas. In this manner the evaluation committee can review the evaluation done by one member / support team. However this may require a higher time to be budgeted for such discussions. It may be noted that the bidders should not be allowed to change any documents (for e.g. new project citation and work order cannot be taken into cognizance at this stage). However any document substantiating the clarifications asked by the evaluation team, may be provided.
- Reference-checking or further due diligence is carried out if the bidder is not well known to the nodal agency. The purpose of the reference-checking is to verify the assessed level of performance, capability or expertise and to satisfy the agency generally that the supplier is likely to deliver what it has offered. Further due diligence, such as financial viability checks, is generally only conducted where the procurement is high risk, high profile or high value

A rightfully defined and objective technical evaluation criteria & methodology ensures that the most competent bidder offering the right quality solution/service and price is selected - the **Most Responsive Bidder– best solution and not just best price**.

### 2.5.1 Designing Technical Evaluation

As a part of the design for Technical evaluation, the Nodal Agency has to make decisions/choices on the following, but not limited to:

- Evaluation model: lowest price/weighted attribute etc.
- Develop Rating Scale to guide evaluation panel scoring
- Determine panel decision making process: mathematical average/panel moderation
- Identify the information required from suppliers: supplier details/response to requirements/pricing/format etc.
- Identify any required additional steps: interview/presentation/site visit(s) etc.

- Identify any optional additional steps: reserve the right to interview/presentation/site visit etc.
- The need for Government department, Ministry due diligence requirements (if any).

### 2.5.1.1 Technical Evaluation Models and Methods

**Technical Evaluation Methods** define the process that would be adopted to select the most competent and bidder with the best value solution offering. There are various evaluation methods proposed.

#### ▪ Quality Cum Cost Based Selection

QCBS uses a competitive process among firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost, as a factor of selection, is to be used judiciously. The relative weight to be given to the quality and cost will be determined for each case, depending on the nature of the assignment.

The weight associated with Quality i.e. Technical Proposal may be as high as 80% and that associated correspondingly with cost i.e. Financial Proposal may be 20%. This method is the preferred method for many of the consultancy assignments relating to works to be undertaken for World Bank and Asian Development Bank aided projects. However the most common & effective QCBS which may be used in 70:30 & 80:20 (Technical Score weightage : Financial Score Weightage)

Rule 192, GFR 2017: QCBS may be used for Procurement of consultancy services where quality of consultancy is of prime concern.

- (i) In QCBS initially the quality of technical proposals is scored as per criteria announced in the RFP. Only those responsive proposals that have achieved at least minimum specified qualifying score in quality of technical proposal are considered further.
- (ii) (ii) After opening and scoring, the Financial proposals of responsive technically qualified bidders, a final combined score is arrived at by giving predefined relative weight ages for the score of quality of the technical proposal and the score of financial proposal.
- (iii) (iii) The RFP shall specify the minimum qualifying score for the quality of technical proposal and also the relative weight ages to be given to the quality and cost (determined for each case depending on the relative importance of quality vis-a-vis cost aspects in the assignment, e.g. 70:30, 60:40, 50:50 etc). The proposal with the highest weighted combined score (quality and cost) shall be selected.
- (iv) (iv) The weight age of the technical parameters i.e. non- financial parameters in no case should exceed 80 percent.

### ▪ **Least Cost Selection(LCS)**

This method will be used when the assignment is simple and can be precisely defined, and when the budget is fixed. The RFP should indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. TOR should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks.

In this case, the Nodal Agency should be cautious about the risk that bidders who have not understood the scope of work OR may be targeting to get the work order without having the technical competence to execute the project. This risk can be mitigated by having a rigorous evaluation of the technical bid and fixing a high score as minimum qualification for opening of financial bid.

#### Rule 193 Least Cost System (LCS).

LCS is appropriate for assignments of a standard or routine nature (such as audits and engineering design of non-complex works) where well established methodologies, practices and standards exist. Unlike QCBS, there is no weight age for Technical score in the final evaluation and the responsive technically qualified proposal with the lowest evaluated cost shall be selected.

**Minimum Qualifying Score** in Technical Evaluation for moving to the subsequent stage of opening of Financial Bid is suggested as follows:

- **<75%>** of the total maximum score in case of L1 (lowest price bid) based selection, because in a lowest cost bid the risk of any vendor bidding frivolously without understanding the scope of work or having the strengths to deliver it is high, so Evaluation committee is responsible to ensure that the proposal has a high degree of Quality in the Technical Proposal
- **<60 %>** of the total maximum score in case of QCBS, as it is possible for the bidder to propose a less effort Approach and Methodology, which may be priced lower. This is valid possibility as it is expected that the bidder may get lesser marks in technical evaluation, but may score high in financial scores. Also this provides a better leverage to differentiate Quality amongst the bidders.

### ▪ **Single Source Selection**

Rule 194 Single Source Selection/Consultancy by nomination. The selection by direct negotiation /nomination, on the lines of Single Tender mode of procurement of goods, is considered appropriate only under exceptional circumstance such as:

- (i) tasks that represent a natural continuation of previous work carried out by the firm;

- (ii) in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance; and
- (iii) situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise.
- (iv) Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Ministry or Department. Full justification for single source selection should be recorded in the file and approval of the competent authority obtained before resorting to such single-source selection.
- (v) It shall ensure fairness and equity, and shall have a procedure in place to ensure that the prices are reasonable and consistent with market rates for tasks of a similar nature; and the required consultancy services are not split into smaller sized procurement.

### **2.5.1.2 Technical Evaluation Criteria**

**Technical Evaluation Criteria** are the bid response parameters on which the evaluation is carried out to arrive at a final (technical) score for each qualified agency.

Hence, the Technical Evaluation Criteria **SHOULD**:

- Be as objective as possible, breaking the scoring down to individual identifiable components
- Have direct and perceptible linkage to nature and scope of work
- Provide weights / maximum marks for each Technical evaluation criterion; weights should be as per their importance to the project or project's outcomes and must be disclosed in the tender document.
- Perform evaluation on the basis of the following characteristics of a solution:
  - Quality
  - Technical merit
  - Running Costs
  - Cost Effectiveness
  - Delivery date/delivery period/period of completion
- Have scoring for each component of the solution rather than an overall score for the solution
- Include negative scoring incase vendor's solution does not use Industry tools and standards

It is advised that the evaluations should be done with the maximum score of 1000 marks, so that appropriate resolution could be provided to the criterions having less marks / sub-criterions.

Bidders, whose bids are responsive, based on minimum qualification criteria / documents as in Pre-Qualification Criteria and score at least minimum marks specified in the RFP would be considered technically qualified. Price Bids of such technically qualified bidders alone shall further be opened.

## 2.5.2 Bid Evaluation Process

The evaluation of the proposals should be carried out in three stages:

- Pre-Qualification / Eligibility evaluation
- Technical (bid) evaluation
- Commercial bid evaluation

### **STAGE 1: PRE-QUALIFICATION EVALUATION**

#### **Step 1: Basic Data**

Before starting the actual evaluation it is necessary to collect all the key information pertaining to the bidding so that it is readily available and the evaluation process is kept in proper perspective.

#### **Step 2: Record of Bid Opening**

All bids received prior to the deadline fixed for submissions shall be opened at the time, date and place specified in the bidding documents. All bidders that have submitted bids and their representatives shall be permitted to be present at the opening of bids, and all those present at the bid opening shall be required to sign the attendance sheet.

A Record of Bid Opening, identifying all the bids received, alternative bids if any, and the presence or absence of the requisite EMD, read out at the public opening of bids, should be formally prepared.

The record of the bid opening should be signed by all members of the bid opening committee or persons responsible for bid opening. It is also recommended that all bidders present sign the record of the bid opening in order to ensure that the data has been read out and recorded correctly.

#### **Step 3: Preliminary Examination for Completeness of Bids**

The purpose of this step is to examine whether the bids received were complete as required by the bidding documents before further detailed evaluation. The areas to be covered by the examination are (i) whether required Bid securities have been furnished or not; (ii) whether bid documents have been properly signed or not; (iii) whether a power of attorney for the authorized person has been submitted or not; (iv) whether documents establishing the eligibility of bidders and goods have been furnished or not; (v) whether Technical Bid & Financial Bids in separate sealed envelope documents required to assess the post qualification of a bidder with respect to its financial and technical capability to undertake the contract have been provided or not; and (vii) whether bids are generally in order for further evaluation.

#### **Step 4: Pre-qualification /Eligibility evaluation**

Based on the pre-qualification criterion mentioned in the RFP document, the documents / proofs submitted by the bidder should be verified to establish the eligibility of the Bidder. The subsequent

process for evaluation of the bids would be carried out only if the bidder qualifies through the pre-qualification requirement.

## **STAGE 2: TECHNICAL BID EVALUATION**

The scrutiny of bids for substantial responsiveness to the provisions of the bidding documents is one of the most important aspects of the evaluation of bids. A bid is considered substantially responsive if it does not contain any "material Deviations" from the bidding documents or conditions which cannot be determined reasonably in terms of monetary value for financial adjustment. A material deviation is one which (a) has an effect on the validity of the bid; or (b) has been specified in the bidding documents as grounds for rejection of the bid; or (c) is a deviation from the commercial terms or the technical specifications in the bidding documents.

In case of material deviation, the committee may decide to "monetize" the value of the deviations, which will be added to the price bid submitted by the bidder OR declare the bid as non-responsive.

The bidders would be informed in writing on the committee's decision on the deviation, prior to the announcement of technical scores. The bidders would not be allowed to withdraw the deviations at this stage. No correspondence in this matter will be entertained.

In case of non-material deviations, the deviations would form a part of the proposal & contract.

### **Step 1: Preparation of Table of Bidders with technical evaluation details.**

The information contained in the Record of Bid Opening needs to be supplemented with the actual bid evaluation and comparison of technical evaluation criterion. Therefore, it will be necessary to prepare the Table of Bidders and technical evaluation criterion setting out details such as Nature of work related turnover, relevant experience, approach & methodology, work plan etc. for detailed comparison.

### **Step 2: Substantial Responsiveness to Technical Requirements.**

All bids must be checked for substantial responsiveness to the technical requirements of the bidding documents. Example of nonconformance to technical requirements, which are justifiable grounds for rejection of a bid are as follows:

(a) failure to bid for the required scope of work (e.g., for the entire SOW or a complete schedule) as instructed in the bidding documents and where failure to do so has been indicated as unacceptable;

(b) failure to meet major technical requirements (e.g., offering completely different types of solution from the types specified).

### **Step 3: Preparation of Table of Substantive Responsiveness of Bids**

In order to ensure that a thorough check of the substantive responsiveness of all bids is carried out, a Table of Substantive Responsiveness to Technical evaluation criterion should be prepared. The tables should list all major conditions for Technical evaluation criterion which the bidders must meet for their

bids to be considered substantially responsive. The responsiveness of each bid received should then be checked against this list and its conformance or partial conformance, or nonconformance to each item should be entered in the tables. Bids which fail to conform to any of the major conditions should normally be considered nonresponsive and should be rejected.

In the process of evaluation, bidders may be requested to provide clarifications of their bids where such clarifications are deemed necessary. Bidders are not permitted, however, to change the substance or price of their bids. The records of all clarifications sought and received must be kept by the Nodal Agency responsible for bid evaluation.

#### **Step 4: Detailed Evaluation.**

The next step is to scrutinize the selected bids systematically in order to compare and evaluate the bids on a common basis. The appropriate way to present the evaluation is in the form of tables, so as to record and compare the salient features of all bids to be evaluated in detail for technical requirements.

The Table of Technical Requirements should set out the technical evaluation criterion and their performance characteristics. Every bid being evaluated should then be scrutinized in detail and its salient features entered into the table against the listed items of the bidding documents. Any substantial advantage /disadvantage / highlight from the technical requirements of the bidding documents should be listed and it should be determined whether a financial adjustment to the bid is necessary or the bid should be rejected as non-complying.

The Nodal Agency may wish to correspond with the bidders for clarifications of their bids. Almost invariably the Nodal Agency will require meetings/presentations separately with all eligible bidders who are selected for detailed evaluation, in order to clarify their bids. Details of approach & Methodology, scheduling and resourcing are usually the principal subjects of such bid clarification meetings. Since the information provided by bidders in such meetings often forms the basis of the conclusions of the Nodal Agency, the minutes of the meetings should be recorded and these minutes should be attached to the evaluation report for the use of the Tender evaluation Committee in reviewing the findings of the Nodal Agency.

The bidders should be evaluated on the basis of the above table prepared against the marks allocated to each of the technical evaluation criterion. The evaluator must be cautious to apply the same yardstick of evaluation for each of the bidders. Post evaluation, the bidders who meet the minimum qualifying marks in the technical evaluation, are eligible for opening of the financial bid.

#### **STAGE 3: COMMERCIAL BID EVALUATION**

Evaluators of technical proposals should not have access to the commercial bids until the technical evaluation is concluded. The envelope containing the financial proposal is not opened till the technical evaluation is complete.

**Step 1: Preparation of Table of Bidders and Bid Prices.**

The financial bids should be opened in front of the bidders who have secured the minimum marks in the technical evaluation.

Firstly, the bids should be examined for arithmetical errors and the errors, if any, should be corrected as specified in the bidding documents. The bidders must accept the corrections of arithmetical errors in accordance with the bidding documents. If a bidder refuses to accept the corrections of errors calculated in accordance with the provisions of the bidding documents, its bid shall be rejected and its EMD shall be forfeited.

**Step 2: Substantial Responsiveness to Commercial Terms and Conditions.**

All bids must be checked for substantial responsiveness to the commercial terms and conditions of the bidding documents. Examples of nonconformance to commercial terms and discussed below:

- (a) Failure to sign the Commercial Bid Form and Price Schedules by the authorized person or persons;
- (b) conditional bids, i.e., conditions in a bid which limit the bidder's responsibility to accept an award (e.g. acceptance of the award is subject to government's approval for availability of critical material available in the market, or a bid submitted with a price escalation condition when a fixed price bid is specified, or qualifications to the Conditions of Contract);
- (c) inability to accept the price adjustment formulae of the bidding documents;

**STAGE 4: DETERMINATION OF MOST RESPONSIVE BID**

After going through the above three stages, the most responsive bid shall be determined in accordance with the provisions of the bidding documents.

**2.5.3 Rejection of Bids which are Outliers**

It has been seen that certain bidders bid frivolously low to be competitive and get the contract. However these bidders may not be having necessary competence to execute the project. Rejection of all Bids is justified when<sup>9</sup>

- a. effective competition is lacking.
- b. all Bids and Proposals are not substantially responsive to the requirements of the Procurement Documents.
- c. the Bids'/Proposals' prices are substantially higher than the updated cost estimate or available budget; or
- d. none of the technical Proposals meets the minimum technical qualifying score.

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<sup>9</sup> Rule 173 (iii) xix, GFR 2017

Lack of competition shall not be determined solely on the basis of the number of Bidders. Even when only one Bid is submitted, the process may be considered valid provided following conditions are satisfied<sup>10</sup>:

- a. the procurement was satisfactorily advertised and sufficient time was given for submission of bids.
- b. the qualification criteria were not unduly restrictive; and
- c. prices are reasonable in comparison to market values

When a limited or open tender results in only one effective offer, it shall be treated as a single tender contract<sup>11</sup>.

Bidding Documents should include a clause that “if a firm quotes NIL charges/consideration, the bid shall be treated as unresponsive and will not be considered”<sup>12</sup>.

#### **2.5.4 Evaluation Team**

The composition of the evaluation team depends on the size and complexity of the particular procurement, however as a general rule the evaluation team includes:

- a sourcing/procurement specialist, who in addition to any other role ensures the evaluation process is managed in a fair, robust and defensible manner, understands the rules of the evaluation and ensures they are followed
- commercial/financial expertise
- appropriate technical expertise required for E-Governance, Consulting and IT projects

In most small to medium-size procurements, a team of three or four is adequate, however in particularly large or complex procurements there may be separate teams for the different components of the evaluation e.g. telecommunications, security, commercial.

#### **2.5.5 Bidder Debriefing Post Score Announcement**

Bidder debriefing is considered an important part of the evaluation process, as this provides suppliers with the opportunity to receive feedback on their offers and gain an understanding of where they can improve their offers to better meet the needs of the agency in future. It is a good practice for debrief to be provided to a supplier where one is requested.

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<sup>10</sup> Rule 173 (iii) xx, GFR 2017

<sup>11</sup> Rule 173 (iii) xxi, GFR 2017

<sup>12</sup> Rule 173 (i) h, GFR 2017

### 2.5.6 Risks in Evaluation Phase

Generic risks identified by agencies relating to the evaluation phase of the procurement life cycle include:

- failure to plan the evaluation as part of the procurement planning phase, which may result in an evaluation process that is not aligned to the RFP document – and which results in an evaluation process that does not identify the best value-for money offer
- failure to brief and train the evaluation team adequately in the evaluation rules and process, which may lead to an evaluation process that does not identify the best value-for-money offer:
  - breaches of the evaluation rules, which result in an adverse public profile, embarrassment to the agency and/or formal complaints from the bidders
  - failure to confirm the availability of evaluation team members as part of the planning process, which may lead to delays and slippage in the evaluation
  - failure to ensure all evaluation team members complete conflict-of interest declarations, which may lead to: -delays once a conflict of interest has been identified while a replacement person is found -a need to repeat the tender or evaluation process if the conflict of interest is not identified until after the evaluation process
  - embarrassment to the agency if a conflict of interest comes to light after the procurement is completed, and possible

## 2.6 Scope of Work

Scope of Work (SOW) is the most of important component of any tendering process. It is for this that the whole bidding process is entered – to execute the scope of work and deliver outcomes that the Government strives for.

Scope of work directly affects:

- Time to deliver the project
- Cost of delivering the project
- Intended business outcome for the Government
- Delivery of Citizen benefits/services

### 2.6.1 Scoping Process

Scope of the work should be defined in such a manner that the activities to be carried out and the deliverables are unambiguous.

Defining the Scope of Work for Consulting Services is a bit different as the *products, solutions and outcomes* are knowledge based. The quantification of knowledge items to be developed and delivered is one part, but the primary aim should be to ensure that what these knowledge items should contain.

Some key guiding principles for drafting scope of work in Consulting services are:

- “Detailed” specification of requirements is extremely critical – please ensure even standard assumptions on scope of work are laid down and described
- Make sure the specifications are endorsed by key stakeholders
- Identify mandatory and non-mandatory requirements in scope of work
- It should clearly provide the outcomes expected from solution/service delivery
- The scope of work should mention what the outcome is based upon – time or material?
- A check should be made that the final specification of requirements:
  - addresses the targeted outcomes and business objectives
  - meets the agreed stakeholder needs
  - covers whole-of-life of the contract deliverables
- The objective, structure and expected set of contents of each knowledge item/deliverable should be laid down, in as much detail as possible, rendering the best level of clarity to it
- The coverage of services needed in the form of activities like client visits, geographies to be studied, stakeholder meetings / interviews / workshops to be conducted, must be detailed out to avoid delivery compromises

In general, the Consulting Services for E-Governance contain the following Scope of work :

<b>Conceptualization</b>	<b>Design and Development</b>
<ul style="list-style-type: none"> <li>• Core Service Level Definition</li> <li>• Pre-Feasibility</li> <li>• Base lining and M&amp;E Framework</li> <li>• Detailed Project Report</li> </ul>	<ul style="list-style-type: none"> <li>• Solution Design</li> <li>• Business Process Reengineering (BPR)</li> <li>• Change and Capacity Building</li> <li>• Implementation Planning</li> <li>• Functional Requirement</li> </ul>
<b>Implementation</b>	<b>Post Implementation</b>
<ul style="list-style-type: none"> <li>• User Acceptance</li> <li>• Benefit Realization</li> <li>• Knowledge Transfer</li> <li>• Certification</li> </ul>	<ul style="list-style-type: none"> <li>• SLA Monitoring</li> <li>• Contract Management</li> <li>• Knowledge and Exit Management</li> <li>• Impact Assessment</li> </ul>



### 2.6.2 Key Validating Questions for Scoping

The following questions may help in developing the specifications of requirements:

- **Why** are we doing this?
- **What** results do we need to achieve?
- **How** will the services be delivered?
- **How well** – what quality and standards apply?
- **How much** – what business/process reports, knowledge pieces, insight, research output are required?
- **Where** will the services be delivered?
- **When** will the services be delivered – term of contract?
- **Who** will be involved in the delivery: supplier / contract manager etc.?

Characteristic	Explanation
<b>Complete</b>	The specification of requirements is contained in one document with no missing information. If the nature of the procurement requires more than one document, the documents must be clearly structured and linked with no repetition or overlap.
<b>Unambiguous</b>	Each requirement is concisely stated without recourse to technical jargon, acronyms (unless defined elsewhere in the document). It expresses objective facts, not subjective opinions. Vague language is avoided. Negative statements and compound statements are discouraged.
<b>Consistent</b>	Each requirement is consistent with all others and any external documents that are referenced.
<b>Current</b>	Each requirement is current and can, in some cases, be future focused to meet planned or predicted future needs.
<b>Feasible</b>	Each requirement can be implemented within the constraints of the project including the budget.
<b>Traceable</b>	Each requirement can be traced back to a stated public policy / business / stakeholder need and is authoritatively documented.
<b>Verifiable</b>	The implementation of the requirement can be determined through one of four possible methods: inspection, demonstration, test or analysis.

## The Rights

Don't forget to test your specification of requirements against the following **Rights**:

- Right quality
- Right place
- Right time
- Right price

### 2.6.3 Templates for Different Types of Scope of Work

Different templates for Scope of work for various e-Governance projects are provided in this section. The user has to contextualize and make necessary changes in these documents before using it in the RFP document.

#### 2.6.3.1 Template for Preparation of Detailed Project Report (DPR)

**a. Visioning:** It will be essential to draw up a vision by involving all key stakeholders. Identification of key departments in consultation with project sponsors and chalking out their level of involvement would be a pre-requisite at this stage. Current functional constraints in achieving efficiencies, similar initiatives in other States and best practices from industry should be enumerated to the stakeholder group with active facilitation for drawing up the vision statement.

**b. Establishment of Scope & Strategy:** Consultant is expected to draw up a strategy for deployment of the solution. The consultant is required to evaluate the merits and risks of a pilot deployment followed by statewide roll-out after consolidation of pilot learning. The pilot should cover

the complete functionalities of the <concerned department/function>. The study of the department shall include functionalities at all levels starting from head quarters, generally located at <Location of HQ> and covering field offices situated in two other districts. All related sub-modules <exemplify> should be included as may be decided by the Project sponsors. The pilot project schedules with all key tasks and dependencies, factoring in realistic time requirements based on the effort that needs to be expended, roles and responsibilities of various user departments should be defined by the consultant.

**c. Analysis of Business Processes:** Given the specific nature of this engagement, it would be necessary to study the business process both at <provide levels at which analysis has to take place> and their interactions. Improvements resulting from introduction of ICT should be duly recognized to draw up a set of new processes. The draft operational procedure would need to be defined as a result of this exercise. This exercise should span the entire scope of operations, even if phased/partial implementation is envisaged.

The new work approach should clearly identify the role and involvement of various stakeholder agencies/departments <provide details> needed for effective execution of work at the back office. Any changes resulting from the revision of existing processes and introduction of new processes should be clearly articulated and a formal concurrence obtained from the concerned Department(s).

**d. Assessment of Current Status of IT:** Critical evaluation of existing applications and IT infrastructure and the gaps in supporting the future vision should be assessed. Given this requirement, it would be necessary to involve Departments where such applications are in reasonable use. In case multiple applications are in use, a comprehensive criteria for qualifying such applications would need to be defined along with a functional gap assessment so that the same could be considered for re-engineering select software application(s), especially where investments have already been made by the state in getting these developed through NIC or a third party vendor.

**e. Study of Comparable other state solutions:** The motive is here to bring in the learning's from other states which have already undertaken such initiatives. This may include visit to those states (may be two states) to study their approach, key learning/success factors etc.

**f. Electronic Forms & Data Standards:** Consistent with the proposed method of operation, all forms should be changed and optimized for electronic use, where applicable. In addition a strategy for data interchange across departments would need to be evolved, so that there is no need for any repeated manual data entry. All forms will be standardized for the state and no separate forms for the department are envisaged at this stage. This would signify that the data formats and standards for interchange are defined.

**g. Enabling Provisions:** The <relevant procedures, Circulars, rules, guidelines, Orders, Acts etc>, should be examined. Specific recommendations to be made by the consultant to ensure that the new process could be adopted without any problems. The same to be planned and initiated within the pilot / project deadlines.

**h. Formulation of Requirements:** The department will provide the base set of process and high level requirements. Based on the proposed set of processes and high level requirements, a comprehensive set of functional and non-functional requirements should be documented. Such

requirements should be holistic, end-to-end and cover macro and micro level functions including MIS, data archival and analysis that would be necessary both at operational level and policy decisions.

**i. Solution Architecture:** Based on the revised process structure, consultant should create an open-ended architecture for back office functions that can be adopted uniformly across all the Departments in the State. The architecture, while addressing the needs of <Department concerned> in totality, should allow for easy evolution to allow interfacing of other functions, since both these modules generally impact all other areas.

During Solution architecting feasibility of usage of ERP or other off the shelf Products as a whole or as base shall also be undertaken. The solution architecture should not be biased towards any technology/platform. It is very much possible that some of the other departments are already using an IT solution <the names of such applications and broad features of the software should be provided>. The proposed architecture shall have provision of integration of such systems to the proposed Solution. Examination and adoption of some best practices to the extent possible is also envisaged to be part of this sub-phase.

**j. Data Migration Plan and Strategy:** There needs to be critical mass of data to enable operational effectiveness of the new solution. This may involve transfer of data both from current system that are in electronic form as well as paper documents. Additional effort may be required to map existing data items to possible new codifications schemes/structures that could be introduced as part of the new processes. The guidelines related to the migration of data, estimation of data volumes; formats/standards to be adopted for data elements (including digitization of documents, if applicable), data/document retention period and approach to be adopted in respect of data migration need be laid down by the consultant. Specifically, consultant would need to provide mechanisms on co-existence of paper and electronic records including digital authentication mechanisms where necessary (depending on the approach that has been proposed).

For any data entry work, the consultant should conduct a time and motion study for data entry and quality check for sample records. This would help the consultants, department and the potential bidders in estimation of the time and effort.

**k. Mode of Operation:** Alternative methods of deployment, if feasible, should be analyzed so as to determine the most optimal method of operation. Identification of offices for Pilot roll-out of shall be made.

There could be multiple approaches for deployment, like a centralized deployment which are used by all functions. The consulting agency is required to evaluate the various deployment approaches and recommend the best suited one for the state. The finalization of the mode of operations would determine on aspects such as ease of maintenance and further expansion of functionality, managing changes and the overall costs of ownership arising out of such factors. Since some of the self service functions will not be accessible to those without knowledge or access to the digital infrastructure, suitable arrangements will need to be proposed by the Consultant to facilitate inclusion. Security issues and access rights should be specifically included.

**l. Estimation of Project Cost:** An estimate of the pilot project cost and rollout cost and the model for cost allocation to various functions/department should be computed by the Consultant. These costs

should be categorized into capital and operational expenditure over a five year operations period based on approximate market values. Cost items should be clearly segregated into cost of common components and Department specific items and include all support costs such as data migration, costs associated with certification, etc. Cash flow projections based on the estimated cost shall form part of this exercise.

In case of significant deviations of these costs from the budget available, the consultants would suggest the most pragmatic manner of taking up of this project. This could be based on the following:

- a) Whether there is a feasibility of State Department funding the incremental costs
- b) Whether there is a possibility of increasing the citizen charges to meet the deficit, in which case
- c) Whether there is a possibility of reduction of the costs/hardware by relooking at the solution proposed

**m. Consolidation of inputs from various targeted activities for the e-Governance and preparation of DPR.** The components of the DPR Documents should be consistent with the outcomes of the “Mission Mode Project” should be available at the concerned Ministry website).

The consultant should facilitate the Department in obtaining Central Assistance in accordance with the *Guidelines for operational Model for Implementation of State MMPs issued by the Ministry of Electronics and Information Technology, Government of India* (available at <http://www.meity.gov.in/content/templates-guidelines> ).

### **2.6.3.2 Assistance in Carrying out Business Process Re-engineering (BPR)**

#### **As -Is Assessment**

- a. Field-level study in the department for a sample offices
- b. Interaction with employees/officials and understanding the key issues faced currently in various roles/functions to be covered under the initiative
- c. Facilitate stakeholder consultation (to be organized by the Department) to obtain feedback on pain areas, areas for improvement, roles and responsibilities etc.
- d. Analysis of data collected during field study and stakeholder consultation.
- e. Defining project vision, objectives, expected outcomes
- f. Listing of the different services offered by the department, Assessment of the current level of performance of these services (in case it is manual, random sample should be taken for estimation of the current service levels)
- g. Compilation of the ICT infrastructure in terms of networks, hardware, application etc. at various office locations, which are to be covered under this initiative

- h. Identification of the processes behind the services, assessment of the bottlenecks in the processes, assessment of the performance of the processes
- i. Mapping of the Work flow (not IT enabled workflow) and the administrative processes for the services to be covered
- j. Study the Internal and external interfaces of the Department/Ministry E.g. – internal interfaces will include interactions with other departments, between other offices, between the different hierarchies of the government at center, state and district; external interfaces etc.
- k. Assessment of the organization structures and the Roles and responsibilities as related to delivering the services to the stake holders.
- l. Assessment of the current capacities in terms of the skills of the employees to deliver the services
- m. Assessment of the statutory requirements, provisions, legal framework, policies, rules and norms
- n. Assessment of the needs of policy makers for effective Interventions in the departments

#### **Deliverable**

- 1. The needs and expectations of stakeholders
- 2. Current state of systems, processes, and ICT infrastructure
- 3. The services & service levels
- 4. The performance of the different processes
- 5. The performance problems and the root cause analysis
- 6. The impact of the processes on the overall performance of the Employment Exchanges
- 7. The possibilities of automation / IT enablement and the candidate technologies

#### **National & International Best Practice Study**

As a part of the assignment, the consultant is required to study the best practices from strategy, process, people & technology perspective and prepare the report with recommendations to add value in the initiatives envisaged under the project. As a part of the assignment, the consultant shall undertake the following key activities:

- a. Study the practices of the private initiatives relevant for the services provided by the Department.
- b. Study the IT initiatives in same department in advanced States / Nations (cover at least 2 national / International)

The Best practices report shall contain those practices which have the potential of being incorporated in the proposed project.

### **Deliverable**

1. The processes and practices of comparable nature
2. The ideas which can be adopted
3. The solution options / possibilities
4. Possible targets for process performance / service levels

### **To-be Processes**

As part of scope of work under this section, the consultant is required to list all the processes of the prioritized services and arrive at the most impacting and feasible (core & common) processes. The consultant is required to re-engineer these processes.

The size and nature of the process reengineering efforts must be balanced with the degree of feasibility of implementation of the outcome of such efforts. In addition to this, a required balance must be maintained between the efforts in the areas of process reengineering, technology and change management. However, if required, the consultant may recommend Organization redesign (restructure) to implement the outcome of BPR exercise.

The Process Redesign activity will take inputs from the As-is report, the benchmarking survey and the lessons learnt from the implementation of other eGovernance. Each process flow shall clearly identify the input, process, output, and control elements together with the success/ failure criteria for that particular process/ service. As a part of "Process Redesign", Consultant is required to undertake the following key tasks:

- i. Designing the process maps & process metrics
- ii. Designing the service levels
- iii. Designing the work flow
- iv. Reengineering customer interface
- v. Designing optimum organization structure
- vi. Recommending rules & procedures
- vii. Reengineering application forms
- viii. Designing interfaces with external entities and systems

The study by the Consultant in the area of BPR should be aligned with the spirit of rules and regulations framed by GOI & State governments.

### **Deliverable**

1. As-is Report
2. Best practices report
3. The Business Process Re-engineering (BPR) Report

### ***2.6.3.3 Development of Technical Requirements and Solution Design***

It should be expected that the consultants design the Technical Solution on at least 2-3 different stacks covering various suite of products. This exercise should be done prior to the publishing of the SI RFP. The SI bidders should be provided to choose any of the options for their bids.

This should be based on the exact requirements identified during this phase. It should be kept in mind that the end solution proposed by the SI Bidders is the responsibility of the consultants and hence it should not be left to any interpretation of the bidders. Hence the consultants should provide enough details in each of the areas of the Scope of work, which helps the bidders in right estimation of current and future demands. The information which has to be provided by the Consultant should conform to RFO information standards as provided in the relevant section of the SI RFP Model Document.

**a. Software Development:** The Functional Requirement specification & Software requirements and Use case Analysis should be provided to estimate the effort. Sufficient details for each module and sub-module must be provided, so that there is no duplication of effort by the SI at a subsequent stage. These details can be categorized as mandatory and desirable.

**b. Hardware Requirement:** The Consultant should carry out an exercise to identify the hardware present in each of the office locations. The objective is to identify the existing hardware which can be leveraged for the project. During this exercise, the specifications of the hardware should also be captured, so that the compatibility and end-of-life for the hardware can be forecasted and the correct estimation of the hardware can be made.

**c. Data Centre Hardware, software and database:** The consultant should identify the hardware and licenses availability with the State Data Centre / (existing data centre of the department) and plan the solution in a manner that the existing assets are optimally utilized. Hence the Consultants should prepare a gap assessment for the hardware /licensed software/database requirements and specified for various stacks.

**d. Data Digitization:** The Consultants should identify the data which can be a) ported from the existing systems and b) records which needs to be scanned and digitally kept and c) data entry.

- a. Data ported from the existing system: The Consultant should study the quality of the data existing in the current application. Secondly the technical feasibility of migration of the data needs to be carried
- b. Records which needs to be scanned : The Consultants should identify the records which needs to be scanned, catalogued digitally for reference purposes
- c. Data Entry: The consultant need to identify the records/files and the period for which the data entry has to be done. The consultant should also carry out a “time and motion study” for data entry of the existing records selected randomly. This can be done on \*.rtf and \*.docx file for understanding the effort involved in data entry. The consultant should also discuss and finalize the commitment of the resources to carry out the data quality check, post data entry.
- e. **Site Preparation:** The site preparation requirement should be assessed by the Consultant and it should include amongst other things specifications for earthing and power back-up requirements. Consultants should carry out the cost-benefit analysis of procuring items like modular furniture, flooring, roof etc. by the SI versus procuring it separately.
- f. **Training:** The consultant should identify the training needs assessment of the users of the system. The consultant should recommend appropriate trainings for the various training groups. An assessment of the number of trainees and the training course for each one of them should be provided.
- g. **Networking:** The Consultant should carry out a technical feasibility study of the establishing/extending the SWAN network to the offices. The hardware and service requirements at each of the location for connecting to the SWAN / any other network should be identified and provisioned in the Bill of Material. The existing contracts of the network services provider should be studied and gaps in hardware / responsibility should be identified and recommended

The solution proposed by the consultant should adhere to the industry acceptable RFP information standards. [Please refer the relevant section of SI RFP for details on acceptable RFP information standards]

**Deliverables:**

- 1. 2-3 solution stacks as options for the bidders
- 2. Bill of material
- 3. Detailed Scope of work for the SI Vendor

**2.6.3.4 Assistance in Bid Process Management (Including RFP Preparation)**

The nodal agency and the consultant should ensure the alignment of the RFP, as per the template provided for Selection of Implementation agencies under this engagement. **It is suggested**

**empathetically that the information standards regarding the Scope of work of the SI should be as per Section 2.7 of Guidance Note (Model RFP for Implementation Agencies).**

- a. Preparation of RFP Document: Consolidation of inputs and Preparation of RFP Documents. The components of the RFP Documents should be consistent with the outcomes of issues finalized in DPR. Consultant should facilitate the Department in obtaining necessary approvals to initiate the Bid process and engage a project implementation partner. This should be done as per the MeitY (GoI) Guidelines and Model RFP template.
- b. Selection and scoring criteria: Determination of qualification criteria, method of selection and scoring patterns for the prospective project implementation partner.
- c. Preparation of Contract: A draft contract agreement for the prospective project implementation partner should be prepared by the consultant and the same is to be vetted with the Department and with the Legal Department of the State Government, if necessary. This draft contract will form part of the RFP Document.
- d. Bid Management Support: Facilitation / support for release of tender, pre-bid meeting, proposal evaluation and finalization of implementation partner as part of the bid management. Consultant should work in tandem with the Department and the various committees that have been set up for this purpose.
- e. Contracting: Facilitation for contract finalization with the selected implementation partner.

**Deliverables:**

1. RFP Document
2. Draft Contract
3. Tender Completion report

***2.6.3.5 Project Management and Change Management Support***

**Key Tasks:**

- a. Implementation and Pilot Rollout: Facilitate the implementation and pilot rollout activities as per the plan defined including the data migration task. As envisaged the pilot scope should also be provided.
- b. Incorporation of Pilot Learning and State wide rollout: The consulting agency shall consolidate the learning's of the pilot phase and propose the course correction to be performed by the Implementing agency. It shall also ensure that such corrections are made before the state-wide roll-out.
- c. Steady State Operations: It is essential to achieve steady state operation within an optimal timeframe and also facilitate the establishment of Help Desk that would be needed to address

various technical problems encountered by the Departmental users as well as external stakeholders.

**d.** Establish Measurement Framework: Consultant shall arrive at a complete understanding with the Implementation Partner on the interpretation and approach to the measurement of the SLA at the initial stage itself.

**e.** Monitor Performance: Consultant shall ensure measurement of the SLAs as per the agreed model and shall, at all times, ensure the reliability and accuracy of such measurements. Consultant shall ensure that the measurements are formally recorded in support of the award of incentives and/ or penalties to the Implementation Partner.

**f.** Recommend Payments: Based on these measurements and conclusions drawn thereon, the Consultant shall recommend to the Department the payments to be made to the Implementation Partner.

**g.** Corrective Measures: In case the performance parameters are not found to be conforming to the required levels, the Consultant shall proactively inform the Implementation Partner and suggest appropriate corrective measures and ensure that these are implemented.

**h.** Escalation: Escalate project issues to the Implementation Partner and/or the Department to monitor resolution thereof in a timely and conducive manner.

**i.** Change Management: Facilitate change management processes limited to items covered within the scope of the solution including validation to changes that may be implemented. In addition, oversee the version control of software and its controlled deployment in the production environment.

**j.** Oversight: Monitor Implementation partner's engagement/ agreement/ contract with other third parties as may be reasonably required to meet with Performance obligations and SLA requirements.

**k.** Asset Control: Facilitate transfer of IT and software assets to the Department as may be specified in the agreement with the Implementation Partner.

**l.** Audits, Assessments and Surveys: Assist in annual audits and user surveys as may be reasonably aligned with the objectives of the Service Delivery needs of the Department. Also ensure that periodic assessments are done to ensure compliance to standards and guidelines, Security Requirements, Capacity Management and such other planned tasks.

**m.** Exception Management: Assist the Department to manage exceptional and contingency situations.

**Deliverables:**

1. Provide Project Monitoring Functions consistent with the requirements;
2. Periodic Reports on routine / exceptional matters and Review Meetings.

**2.6.3.6 User Acceptance Testing (UAT) Management**

**User Acceptance Testing**

a. The Acceptance Testing would be carried out in order to ensure that the application put in place by the Implementation Agency (IA) / System Integrator (SI) meets requirements, standards,

specifications and performance as spelt out in the RFP and fulfill the functional requirements of the department. The Consultant shall prepare the acceptance test plan.

b. The SI would be responsible for preparing detailed test cases for UAT and Functional Compliance Test. The Consultant shall verify these test cases and ensure that they cover all aspects of the application requirement. In case it identifies any shortcomings, it should immediately be brought to the notice of the SI and the department.

c. The Consultant shall use test cases to test and report functional, technical and operational compliance of the application. It shall execute the test cases to test and report whether the IT infrastructure and system software procured and set-up by the SI meets the standards and performance metrics as set out in the RFP for the IA/SI.

d. The Consultant should report whether the IT infrastructure (at Data Centre, DR, SWAN) and system software complies with applicable standards, best practices, requirements and specification of the RFP for SI to meet the project and service objectives. The Consultant shall review the business continuity/ disaster recovery plans of the SI under typical user loads of volume and mix (involving 50% switchover to DR site and contingency plans). As part of the IT infrastructure acceptance, the Consultant will also scrutinize configuration of implemented infrastructure against Bill of Material and certify compliance. It should be noted that while the primary responsibility of providing tools for testing rests with the SI and it is the responsibility of the Consultant to ensure that this should be a part of the RFP.

e. As part of this acceptance process, the Consultant shall also test the accurateness and usability of the SLA monitoring tools deployed by the SI. The objective of this exercise would be to verify whether the tools deployed provide an accurate, correct, measurable and verifiable estimation of the system performance, as per the Service Level Requirements listed in the RFP.

### **Performance Testing**

f. The SI will propose guidelines and standards, as per best known International standards that will be followed for the testing of the performance in relation to compliance with SLA metrics and compliance with all the technical and functional requirements of the RFP and the related agreement. These documents shall be reviewed by the Consultant and in case of any modification required the same shall be proposed by the Consultant.

g. The SI shall develop exhaustive test cases to test aspects of the application like security, infrastructure, etc for compliance with the RFP including test cases for performance and load testing. The Consultant shall verify these test cases and ensure that they cover all aspects of the application. In case if it identifies any shortcomings, it shall immediately bring the same to the notice of the SI and the department.

h. The Consultant shall use the test cases to test and report whether the application/system performs optimally as per the Technology and Performance SLA criteria stated in the RFP. While the SI would be responsible for providing tools required to perform this audit yet in case the Consultant finds such tools to be insufficient in meeting its objectives it would be required to bring in

customized tools from its own inventory. The tools which have been proposed by bidder in the technical criterion shall be used while performing this audit.

### **Security Audit**

- a. The consultant (or Third Party Assessor-TPA) should propose guidelines and standards, as per the requirements set out in the RFP and known International standards that will be followed for testing the Security features of the application.
- b. The Consultant would be responsible for preparing a detailed audit plan consisting of test cases for performing Security & Implementation audit. These test cases shall be prepared in conjunction with the SI and shall cover all aspects of the system security.
- c. The test cases shall ensure that all loopholes within the system are identified. The test cases shall cover all security related requirements suggested in the RFP as well as the prevailing best global standards.
- d. The TPA shall execute the test cases to test and report whether the IT system complies with the security requirements stated in the "RFP for Implementation and Maintenance of Project" and that the application is safe and secure for handling 'live' transactions. Only when the security audit report is received detailing the security readiness of the hardware infrastructure, the Project Director will allow 'live' transactions to begin through the IT system. The security audit should include activities of Penetration testing, vulnerability assessment of critical systems, application security and assessment.
- e. While the primary responsibility of providing tools for testing rests with the SI, in case the TPA finds such tools to be insufficient for meeting its objectives then it may use those proposed by it in its Technical Proposal. The Department shall not provide any tools required for the audit.

### **Deliverables**

1. Publishing guidelines and standards for design, development, test and acceptance of the IT system; including its hardware, software, security, performance, etc. The report will be prepared in conjunction with the SI.
2. Monthly reports on compliance to guidelines and standards specified previously and actions required / taken to ensure compliance.
3. Publishing of detailed test cases for performing security and penetrative audit of the system.
4. Report on enhancements required over test cases drafted by SI.
5. Review Report on security implementation and security readiness of the hardware infrastructure.
6. Individual Final Audit reports on defects and deficiencies (if any found), including actions to ensure compliance for the following:
  - a. Functional, Technical and Operational Compliance;
  - b. Performance and SLA compliance Audit of IT system;
  - c. IT infrastructure and system software compliance audit of the IT system;
  - d. Security audit of the IT system

The Consultant and the Department may agree on any additional reports or deliverables which may be required for delivering services under this RFP. Such reports or deliverables would be based upon the factual assessment done by both the parties and have to be listed out as part of the agreement signed. Any additional reports during the course of the contract will be mutually agreed by both the Consultant and Department.

### **2.6.3.7 Third Party Assessments**

Consultant (or specifically the Third Party Assessor – TPA) is required to provide dedicated manpower for various periodic audit activities, monitoring of SLA parameters as per the Agreement and provide suitable manpower for functional and security audit of the software.

**a.** Third Party Audit shall include monitoring the performance SI with a view to ensure desired Quality of Service (QoS) as defined in the SLA, signed between Department and SI. These Guidelines define the broad areas of work, which TPA shall perform for a period <insert period> from the date of issue of Work Order/LOI. However, the agreement can be extended for a further period of one year on the same terms and conditions.

**b.** To understand the Project, TPA would be required to

- i. Study the contract signed between the <Nodal Agency>and the SI
- ii. Study the software, network architecture & design and the services envisaged.
- iii. Review communication process among the stakeholders.
- iv. Create frameworks and procedures for audit
- v. Study the functionalities of the IT Systems installed in the Department and identify gaps, if any, required for TPA scope of work. The additional module/tool including hardware/software required for the same will be procured by <Nodal Agency> and TPA would assist the state with the procurement process for the same.
- vi. Review of the escalation mechanisms being followed to resolve any issues between <Nodal Agency>and SI related to the project.
- vii. TPA would also conduct audit of the process, plan and results of the System implemented by SI. TPA shall verify availability of all the defined services as per the contract signed between <Nodal Agency> and SI.

**c. Inventory**

- i. TPA audit would include verification of completeness of bill of material for each location.
- ii. TPA audit would include review that all hardware and software items have been installed at the sites as per the contract.
- iii. TPA audit would include maintenance of an inventory register to have office location wise equipment list, including hardware and software. TPA audit would also include updating inventory register in event of any changes in the inventory.

- iv. Inventory Audit is to be performed annually and the relevant changes in the year of the audit shall be recorded. Inventory Details shall be provided by the SI and TPA shall maintain a record at its end, which shall be updated by TPA based on information provided by the SI. Also, the verification will be done through tools and through site visits.
- v. These exercises would include review of documentation, physical verification of 20% locations every year.

**d. SLA Monitoring Audit**

SLA monitoring would include audit of the performance of SI including the components provided by Department. TPA would carry out the following tasks:

- a. TPA audit would include preparation of templates for reports to be submitted by SI vendor to Department and report to be submitted by the TPA to Department. TPA shall also tabulate measurable parameters as defined in the respective SLA's.
  - b. TPA would proactively convey to the stakeholders any concerns based on the information generated using the reports.
- e. TPA would provide **quarterly certification of work** carried out by SI and perform penalty computation for each bill, as per the SLA and payment conditions mentioned in the agreement between SI and Department (on Monthly basis).
- f. TPA would also undertake **proactive monitoring of the links** provided by the bandwidth service provider.
- g. TPA audit would also include **site inspection** to verify those parameters of the SLA which cannot be monitored using Software Tools. These site visits would be done for at least 5% of the sites per quarter.
- h. Usage Audit** : TPA would appraise <Nodal Agency> about the health of the Software Application, Hardware and Network through reports indicating the utilization, scalability requirements as per the current and envisaged State level applications etc.
- i. Security Audit
  - ii. TPA would perform security audit of complete system as per standard Industry Norms and submit recommendations to <Nodal Agency> indicating the risk elements in the system.
  - iii. TPA would perform the penetration testing and vulnerability testing on the system.
  - iv. TPA would review the rules and policies for network components such as firewall, IDS etc.
  - v. TPA would review the network security policy of the system and suggest recommendations if any.
  - vi. TPA would review the policy of granting access to the application.
  - vii. TPA would conduct the Security Audit yearly.
  - viii. TPA would review the mechanism of obtaining data on user satisfaction, feedback on quality of service & post analysis of the same, and would submit a report with recommendations to <Nodal Agency>. This task would be done on a yearly basis.

**i. Exit Process Support**

This role is envisaged with the objective of ensuring preparedness of <Nodal Agency> at all the time for any eventuality resulting in termination of contract. TPA audit includes support/ advice in the event of exit of the BOOT operator. The Agency would:

- i. Review the exit process as per the contract.
- ii. Advise the <Nodal Agency> on documentation, process and procedures necessary for taking over the system from the SI.
- iii. Provide advisory support during the transition period from the current SI to the new operator.
- iv. Conduct audit readiness of the State for such an eventuality on a Yearly basis

**2.6.4 Deliverables**

The specification of requirements will lead to the identification of a deliverable or set of deliverables. A deliverable is something that must be provided under the contract. It is a tangible/real output. One, or several, deliverables may result in an outcome. Examples of deliverables include: a report, a training session, a strategic plan etc.

Contract deliverables can be tied to milestones. A milestone is a measurement of progress toward an outcome. For a typical review project, milestones might be the completion of review and delivery of a draft report, then revision of draft report and delivery of the final report.

Where a contract adopts a milestone approach payment to the supplier can be tied to the successful completion of each milestone. This allows for implementation to be tracked and monitored against budget.

Deliverables form the most critical outcome of a project. When specifying the deliverables, the following should be borne in mind:

- Government must be clear on what it is expecting from the vendor and from the project, and differentiate between the two
- The deliverables of two or more vendors involved in different phases of a project must also be clearly laid out and differentiated
- The deliverables must clearly specify whether they would be time & material based or outcome/performance measure based
- Time & material based services are those where scope of work is not clear at the beginning to both the Government client and the Consulting vendor/consultant. In this situation, to move things forward, working on a time and material basis the consultant can start to scope and plan the assignment and be paid on a 'pay as you go' basis
- The deliverable for PMU Consulting services should be man-months/hours of commitment on the project and not based on project performance/outcomes

- It should also be clearly specified whether the deliverable for a Consultant is its report OR SI vendor's delivery outcome(s); it cannot be both
- If two deliverables are dependent on each other or have dependent activities, then their delivery timelines should accommodate for that and be set accordingly

## 2.7 Payment Terms and Schedules

Payment terms and schedule help define the mechanism of paying the vendor for the successful delivery of services and products during the project.

For Payment terms and schedule, the Government should practice the following:

- Ensure payment value reflects the actual effort to be put by the Consultant
- Payments must be linked to only one form of delivery – service (manpower availability) or solution outcome, not both
- Payment milestones must be clearly defined and (if possible) linked to a deliverable
- Payment for time & material based services should have just time period (man-months/hours) as measure for approving payments
- All payments for the delivered services, as mandated in the tender document, should be made to vendor within the stipulated time. Please ensure fund approvals and required stakeholder sign offs on this planned and executed in time
- Include provision for some incentive (or success fee) to the Consultant for the defined positive outcome of the project
- No penalty on payments, that have not been specified on the contract, should be levied
- Engage in Price discovery for all the discrete services, software and hardware for effective administering the contract during the project
- Payments terms should clearly indicate what are Out of Pocket Expenses (OPEs), by detailing the following:
  - Will be borne/reimbursed by Government or Vendor
  - Frequency and/or number of out of (base) location travel
  - Domestic or international travel
  - Number of persons required to travel
  - Suggested mode of travel
  - Boarding and lodging expenses
  - Daily allowances for people travelling
  - Capping percent of the project value on the OPE
- Changes in Government taxes should not be imposed on the vendor by making payment adjustments. The net revenue for the Consultant should remain the same as was factored in during the financial estimation of the project

The typical deliverables have been provided along with the Scope of Work in the previous Sections of 2.6 and 2.6.4.

### 2.7.1 Timelines

Timelines are dependent on the Scope of work. The timelines should be decided on the practicality in achieving them. Further the timelines should be mentioned for approval of the deliverables – currently they are not budgeted separately.

Once the timelines for approval are budgeted it would help the Nodal Agency to plan for subsequent activities more proactively. This will also help the consulting agency to plan for their resources.

### 2.7.2 Success Fee

Most of the Government tenders have penalty clauses / liquidated damages as a clause in the agreement. But it has been observed that rarely any project has been completed in time.

The penalty clauses are rarely invoked, as it becomes very difficult to establish that the delay happened only due to the fault of the Consultant. Hence it may be worthwhile to consider rewarding the Consultant for timely completion of the project. This clause should be used cautiously and at places where the Consultant's role is to mobilize and work with several stakeholders and get the necessary inputs / approvals etc. Further it should also be ensured that there is a monetary benefit for the Government in achieving the project before the planned timelines. Further it should also be ensured that there is a monetary benefit for the Government in achieving the project before the planned timelines, before including this clause.

The Nodal Agency may require to take appropriate approvals before inclusion of this clause in the RFP.

This clause is recommended to be introduced for initial period of 2 years and then basis the improvement in the completion rate, this clause may be revised accordingly. On achieving the eligibility for Success Fee, the SI Vendor would inform the <Nodal Agency> and on confirmation made by the <Nodal Agency> in writing, will submit the invoice for the Success fee.

## 2.8 Dispute Resolution / Arbitration process

The objective of any contract's dispute resolution mechanism is generally to achieve a workable business solution between the contracting Parties, before resorting to formal procedures, such as arbitration or litigation. The Nodal Agency and Bidders should attempt to resolve issues prior to getting caught in legal issues.

There are various steps of informal dispute avoidance and resolution procedures. These may be considered for including in the contract agreement.

However for consulting projects, resolving a dispute through a mechanism in contract agreement is not practical given the basic nature of relationship between the Consultant and the client. Hence these measures have not been recommended in the Model Contract Agreement. However, the user is free to consider these as a part of the Contract Agreement.

### **2.8.1 STEP 1: Internal Escalation**

The Parties should attempt to resolve disputes between themselves. If an issue cannot be settled under a more formal structure for the Parties to attempt to resolve their differences.

The major difference between this provision and the Project Management Procedure is that the Project Management Group is in place and holding periodic progress meetings as a forum in the project for avoiding disputes throughout the Contract Period, whereas the people involved in the internal escalation procedure may be brought in to the project to decide a pre-existing issue between the Parties ("Dispute").

The internal escalation procedure works by escalating the Dispute through various levels within the Nodal Agency, and corresponding levels within the Vendor's organization, starting with the Parties' Representatives, then the project team leader and the Vendor's counterpart, then a member of the Nodal Agency's Executive Board (or equivalent) and a director of the Vendor. The intention behind this internal escalation Clause is that if the Dispute cannot be resolved at a lower level, a more senior person will be able to take a strategic view.

The success of such internal escalation can work only when both the parties are represented by people who can take decisions including those of Financial in nature. This may be a challenge for a Nodal Agency to take financial decision in such a meeting, hence such meetings should involve pre-work, from both the parties which should involve the following :

1. Understanding the key reason for the dispute and the responsibility. The potential reasons should be attributable to the Vendor OR Nodal Agency OR both depending on the understanding of the information provided in the RFP document, Proposal and subsequent instruction/ decision.
2. The commitments made by the Nodal Agency either in the RFP document or in project meetings earlier
3. The commitments and assumptions made by the vendor in their proposal
4. Establishing the deviations made by either of the parties from
  - a. the written commitments made by the Vendor or the Nodal Agency in meetings or letters

- b. the assumptions in the Approach & methodology, Solution, Work Plan of the Vendor & Nodal Agency
  - c. Comparing with other similar projects (if relevant)
  - d. any previous communication made by either of the party on the identified deviations and the reasons thereof
  - e. any unforeseen
5. Based on the above, the potential resolution should be classified as either Financial OR Non-Financial
6. In case the potential resolution involves financial consideration, the financial impact of such a deviation for either of the party should be computed on the basis of Commercial Proposal or industry standards.

Based on the above, both parties should attempt as a resolution.

If internal escalation does not resolve the Dispute, the Parties can either agree to mediation (see below) or proceed directly to Adjudication/Expert Determination or Arbitration.

The Parties must arbitrate the Dispute if it relates to Changes and Change in Law, Security, Compensation on Termination, unless they agree to resolve the Dispute using Adjudication/Expert Determination.

Arbitration is not used for other types of Dispute as it is generally a more complex, costly and lengthy process than Adjudication/Expert Determination and its additional features are not needed for these other types of Dispute which will be decided by Adjudication/Expert Determination if they are not resolved by internal escalation or mediation.

### **2.8.2 STEP 2: Mediation**

If the Parties cannot reach agreement using the internal escalation provisions within 20 Business Days of any internal escalation meeting, the next step may be for the dispute to be referred to mediation. Mediation is, however, not a binding step in the Dispute Resolution Procedure and can only be undertaken on a consensual basis.

Mediation is a process whereby an independent mediator seeks to facilitate a settlement, but he will not make a decision. Instead, the mediator hears the Parties' arguments and tries to make sure they consider their commercial interests and deal with what is necessary to achieve a settlement. As mediation is (in effect) a form of subtle diplomacy, the co-operation of the Parties to the process is necessary – a mediator cannot compel either Vendor or the Nodal Agency to do anything they do not wish to do.

If mediation fails, or the Parties do not agree to mediate, the next step to resolve the Dispute is either Adjudication/Expert Determination or Arbitration, depending on the nature of the Dispute.

### 2.8.3 STEP 3: Adjudication/ Expert Determination

Adjudication/Expert Determination is similar to arbitration in that a single person decides the Dispute, but the procedures are less complex than for arbitration and the costs of deciding the Dispute are therefore likely to be lower.

Adjudication/Expert Determination is contractual adjudication, which differs from the statutory adjudication imposed on the Contractor by the Housing

Expert determination is a procedure in which a dispute or a difference between the parties is submitted, by agreement of the parties, to one [or more] experts who make a determination on the matter referred to it [them]. The determination is binding, unless the parties agreed otherwise.

Notable features of expert determination are:

- i. **Expert determination is consensual:** Expert determination can only take place if both parties have agreed to it. In the case of future disputes/differences arising under a contract, the parties insert an expert determination clause in the relevant contract. An existing dispute/difference can be referred to expert determination by means of a submission agreement between the parties. In contrast to mediation, a party cannot unilaterally withdraw from expert determination.
- ii. **The parties choose the expert(s) with relevant expertise:** The parties can select an expert together. If the parties have not agreed on the person of the expert or on a different procedure for appointing the expert, the expert will be appointed by the Center after consultation with the parties. The Center has access to experts with specialized knowledge relevant to intellectual property issues in a broad range of technical and business areas. This allows the Center to propose and appoint the appropriate experts for the matter referred to.
- iii. **Expert determination is neutral and flexible:** In addition to their selection of an expert with appropriate qualifications, the parties are able to choose such important elements as the language of the expert determination or the place of any meeting.
- iv. **Expert determination is a confidential procedure:** Subject to specifically defined exceptions, the confidentiality of the existence of the expert determination, any disclosures made during that procedure, and the resulting determination.

- v. **The determination of an expert is binding, unless the parties agree otherwise:** In principle, the determination of an expert is binding and as such it has contractual effect between the parties. Alternatively, by party agreement, the determination may have effect as a recommendation to the parties.
- vi. **Expert determination is a flexible procedure:** Expert determination can operate on a more informal and expeditious manner than broader processes such as arbitration. Expert determination may be used on a stand-alone basis or in connection with an arbitration, mediation or court case.

#### 2.8.4 STEP 4: Arbitration

The provisions of the Arbitration and Conciliation Act, 1996 will be applicable and the award made there under shall be final and binding upon the parties hereto, subject to legal remedies available under the law. Such differences shall be deemed to be a submission to arbitration under the Indian Arbitration and Conciliation Act, 1996, or of any modifications, Rules or re-enactments thereof.



# **MODEL RFP TEMPLATES FOR SELECTION OF CONSULTING AGENCIES**

**Ministry of Electronics & Information Technology**

**2017**

*This document is advisory in nature and aim to sensitize the bid management teams on good practices and harmonize/standardize the RFP clauses and terms & conditions.*

*The model documents comprise of RFP, Guidance Notes and Proposed Contract Terms are based on existing Central Government Guidelines, feedback from stakeholders and prevalent international practices. However it is possible that the State Government / Nodal Agencies may have their own specific procurement Guidelines which may or may not be consistent with the clauses of the RFP, Guidance notes or Proposed Contract Terms.*

*It may be noted that the Model documents do not substitute or overrule any approvals currently required by the concerned Department/State Government Nodal Agency for finalization of the RFP. Accordingly it is advised that all necessary approvals are taken from appropriate authorities, as done before publishing of these model documents.*

## Glossary

1	BOO	Build Own Operate
2	BOOT	Build Own Operate Transfer
3	CVC	Central Vigilance Commission
4	DFID	Department for International Development
5	MEITY	Ministry of Electronics and Information Technology, Government of India
6	EMD	Earnest Money Deposit (Bid Security)
7	EOI	Expression of Interest
8	GFR	General Financial Rules, 2017
9	GoI	Government of India
10	ICT	Information and Communication Technology
11	MMP	Mission Mode Project
12	NeGP	National e-Governance Plan
13	NICSI	National Informatics Centre Services Inc.
14	O&M	Operations and Maintenance
15	OP	Outright purchase
16	OPE	Out-of-pocket expenses
17	PBG	Performance bank Guarantee
18	PPP	Public Private Partnerships
19	RFE	Request for Empanelment
19	RFP	Request for Proposal
20	SOW	Scope of Work
21	T&M	Time and Material



## Terms and Legends used in this document

Symbol / Terms	Meaning
< >	Text to be inserted by the user of the template
[ ]	Tips provided to the user of the template. These are to be deleted by the user from the final document being created
<< >>	Text to be filled in by the bidder in response to the EOI/RFP published on the basis of these templates. This is not to be inputted / tinkered by the user
<b>Nodal Agency</b>	The nodal agency which is responsible for executing the project and assists the Government Department /ministry in carrying out the tendering. In case the Government department itself decides to carry out the tendering and execute the project, then the term “Nodal Agency” should be replaced by the Department.
<b>Department</b>	The Department is the ultimate “owner” of the project. The e-Governance is carried out within the domain of the department.
<b>(Optional)</b>	Certain clauses are optional to be put in the document and would depend on certain conditions. These may be included in the RFP, post establishing the relevance of the clause.

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## Key Highlights / Changes introduced

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<b>1 Eligibility and Technical Evaluation</b>	<ul style="list-style-type: none"><li>– Rationalized the criteria in the Eligibility / Prequalification and the Technical evaluation (eliminated restrictive criteria)</li></ul>
<b>2 Promote Transparency of Information</b>	<ul style="list-style-type: none"><li>– Introduced RFP Information Standards for the Scope of Work defined in the RFP for SI</li></ul>
<b>3 Focus on Outcomes</b>	<ul style="list-style-type: none"><li>– Sharing of Project Budget information in the RFP</li><li>– Payment Schedule linked to the outcomes</li><li>– Introduction of "Success Fee"</li></ul>
<b>4 Updated some of the Key Clauses</b>	<ul style="list-style-type: none"><li>– Updated mechanism for Dispute resolution</li><li>– Segregation of "input/capacity augmentation RFPs" and "Output/Deliverables based RFPs"</li><li>– Clarified/detailed the Conflict of interest</li></ul>

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Model RFP Templates for Consulting Agencies

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## Structure of Template of EOI Document

### When do we need EOI

*[GFR, 2017 Rule 183*

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

*(ii) Where the estimated cost of the consulting services is above Rupees twenty-five lakhs, in addition to(i) above, an enquiry for seeking 'Expression of Interest ' from consultants should be published on Central Public Procurement Portal (CPPP) at [www.eprocure.gov.in](http://www.eprocure.gov.in) and on GeM.*

*An organisation having its own website should also publish all its advertised tender enquiries on the website. Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs to be provided by the Ministry or Department, eligibility and the pre-qualification criteria to be met by the consultant(s) and consultant's past experience in similar work or service. The consultants may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry. Adequate time should be allowed for getting responses from interested consultants.*

*GFR 2017, Rule 184*

*Short listing of consultants. On the basis of responses received from the interested parties as per Rule 183 above, consultants meeting the requirements should be short listed for further consideration. The number of short listed consultants should not be less than three.*

*]*

An **Expression of Interest (EOI)**, (also called Request for Information) is the channel for short listing bidders for a particular consulting assignment in a 2 stage tendering process. The shortlisted bidders in the EOI process (first stage) compete through Technical and Financial bids (second stage).

The objective of issuance of EOI document is to shortlist a potential list of consulting Agencies / bidders who have the basic competency and capacity to provide the required e-Governance advisory support to the Government. Also, through this EOI, the Government / Nodal Agency can explore the market to understand the capability / interest level of the competent bidders to execute the assignment

As mentioned above, for all consultancy contracts exceeding estimated cost of Rs. 25 Lakhs, an Invitation to Expression of Interest should be made. On the basis of responses received from the interested parties during the EOI exercise, consultants meeting the requirements should be short listed for further consideration.

## What are the typical contents of an EOI

The following needs to be provided in a typical Request for EOI document.

S.	Document Structure	Desirability	Reference	
1	A letter of invitation / Invitation for Expression of Interest	Mandatory	[Refer Section 1.2]	
2	Introduction to Projects	Mandatory	[Refer Section 1.3]	
3	Terms of Reference (TOR)/ Broad Scope of work	Mandatory	[Refer Section 1.4]	
4	Information to Consultants regarding the procedure for submission of proposal/.Instruction to Bidders	Mandatory	[Refer Section 1.5]	
5	Eligibility and pre-qualification criteria	<b>Minimum Criteria</b>	Mandatory	[Refer Section 1.6]
6		<b>* Additional Criteria</b>	Optional	[Refer Section 1.6]
7	Standard formats / Bid Submission Forms	Mandatory	[Refer Appendix I]	
8	Compliance Sheet for Pre-Qualification	Recommended	[Refer Appendix I Form]	
9	Templates	NA	[Refer Appendix II]	

*[Rule 183 (ii): "...Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs to be provided by the Ministry or Department, eligibility and the pre-qualification criteria to be met by the consultant(s) and consultant's past experience in similar work or service. The consultants may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry. Adequate time should be allowed for getting responses from interested consultants"]*

# <Name of the proposed Consulting Engagement>

<File reference No.>

## 1.0

### *[Template Document for Expression of Interest for Consulting Engagement]*

S. No.	Particular	Details
1.	Start date of issuance / sale of EOI document	< Date >
2.	Last date for Submission of Queries	< Date >
3.	Pre-Bid Conference	< Date >
4.	Issue of Corrigendum	< Date >
5.	Last date for issuance / sale of EOI Document	< Date >
6.	Last date and time for EOI Submission	< Date >

## **MODEL DOCUMENTS FOR PROCUREMENT OF CONSULTING SERVICES**

### **1 Model EOI Document**

#### **1.1 Advertisement for Expression of Interest**

*[Put reference to the details of the advertisement published on Central Public Procurement Portal (CPPP) at [www.eprocure.gov.in](http://www.eprocure.gov.in) and on GeM. An organisation having its own website should also publish all its advertised tender enquiries on the website It may be noted that the advertisement in newspaper is not a mandatory requirement as per the GFR 2017. Please refer Section 1.3.2 of Guidance Notes on publishing EOI for the Consulting Services. Also refer Section 3: Template A of Guidance Note for a template of the advertisement for Request for EOIs].*

#### **1.2 Invitation for Expression of Interest**

The <Nodal Agency> invites EOIs from reputed Consulting Agencies (hereafter referred as 'Agencies') to execute the e-Governance Project called <Name of the project> initiated by the <Nodal Agency>.

The project information and the broad scope of work are detailed below in section 1.3 & 1.4. It may be noted that this information is indicative only. The actual Scope of work will be available in the Request for Proposal (RFP) document which will be issued shortly, to the eligible/short-listed bidder selected through this EOI.

*[Please refer Section 1.3.2 of Guidance Notes for Consulting Services]*

#### **1.3 Introduction to the Project**

*[The Introduction of the project should provide the needs & objectives of the Project. Please refer Section 1.3.3 of Guidance Notes for Consulting Services for providing necessary information under this section]*

#### **1.4 Broad Scope of Work**

*[Please refer Section 1.3.5 of Guidance Notes for Consulting Services]*

---

#### **1.5 Instructions to the Bidders**

*[Please refer Section 1.3.4 of Guidance Notes for Consulting Services]*

### **1.5.1 Completeness of Response**

- a. Bidders are advised to study all instructions, forms, requirements and other information in the EOI documents carefully. Submission of the bid shall be deemed to have been done after careful study and examination of the EOI document with full understanding of its implications.
- b. The response to this EOI should be full and complete in all respects. Failure to furnish all information required by the EOI documents or submission of a proposal not substantially responsive to this document will be at the Bidder's risk and may result in rejection of its Proposal.

### **1.5.2 EOI Proposal Preparation Costs & related issues**

- a. The bidder is responsible for all costs incurred in connection with participation in this process, including, but not limited to, costs incurred in conduct of informative and other diligence activities, participation in meetings/discussions/presentations, preparation of proposal, in providing any additional information required by <Nodal Agency> to facilitate the evaluation process.
- b. <Nodal Agency> will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- c. This EOI does not commit <Nodal Agency> to award a contract or to engage in negotiations. Further, no reimbursable cost may be incurred in anticipation of award or for preparing this EOI.
- d. All materials submitted by the bidder will become the property of <Nodal Agency> and may be returned completely at its sole discretion.

### **1.5.3 Pre-Bid Meeting**

- a. <Nodal Agency> shall hold a pre-bid meeting with the prospective bidders on <Date & time> at <Address of the Venue>
- b. The Bidders will have to ensure that their queries for Pre-Bid meeting should reach to <Name, Address, Fax and email id of the Nodal Officer> by post, facsimile or email on or before <Date & time>
- c. All queries to be raised in the pre-bid meeting will relate to the EOI alone and no queries related to detailed analysis of Scope of work, payment terms

and mode of selection will be entertained. These issues will be amply clarified at the RFP stage.

#### 1.5.4 Responses to Pre-Bid Queries and Issue of Corrigendum

- a. The Nodal Officer notified by the <Nodal Agency> will endeavor to provide timely response to all queries. However, <Nodal Agency> makes no representation or warranty as to the completeness or accuracy of any response made in good faith, nor does <Nodal Agency> undertake to answer all the queries that have been posed by the bidders.
- b. At any time prior to the last date for receipt of bids, <Nodal Agency> may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the EOI Document by a corrigendum.
- c. The Corrigendum (if any) & clarifications to the queries from all bidders will be posted on the <website addresses of CPPP, Gem and organization website> and emailed to all participants of the pre-bid conference.
- d. Any such corrigendum shall be deemed to be incorporated into this EOI.
- e. In order to provide prospective Bidders reasonable time for taking the corrigendum into account, < Nodal Agency> may, at its discretion, extend the last date for the receipt of EOI Proposals.

#### 1.5.5 Right to Terminate the Process

- a. <Nodal Agency> may terminate the EOI process at any time and without assigning any reason. <Nodal Agency> makes no commitments, express or implied, that this process will result in a business transaction with anyone.
- b. This EOI does not constitute an offer by <Nodal Agency>. The bidder's participation in this process may result in short listing the bidders.

#### 1.5.6 Submission of Responses

*[GFR, 2017 (Rule 160) E-Procurement:*

*(i) It is mandatory for Ministries/ Departments to receive all bids through e-procurement portals in respect of all procurements.*

*(ii) Ministries/ Departments which do not have a large volume of procurement or carry out procurements required only for day-to-day running of offices and also have not initiated e-procurement through any other solution provided so far, may use e-procurement solution developed by NIC (GePNIC). Other Ministries/*

*Departments may either use e-procurement solution developed by NIC or engage any other service provider following due process.*

*(iii) These instructions will not apply to procurements made by Ministries / Departments through DGS&D Rate Contracts.*

*(iv) In individual case where national security and strategic considerations demands confidentiality, Ministries/ Departments may exempt such cases from e-procurement after seeking approval of concerned Secretary and with concurrence of Financial Advisers.*

*(v) In case of tenders floated by Indian Missions Abroad, Competent Authority to decide the tender, may exempt such case from e - procurement.*

Accordingly, Ministries / Departments should receive all bids through e-procurement portals in respect of all procurements. However, when not possible, other appropriate methods of bid submission may be used, with proper approvals and reasons in writing. Relevant options have been provided below, which needs to be customized.]

**<Option 1: In case of Online Submission on e-Procurement portal>**

Bidders should submit their responses to an EOI as per the procedure specified in the e-Procurement portal (specify URL) being used for this purpose. Generally, the items to be uploaded on the portal would be as under:

- EOI/Tender Fee
- Pre-qualification response
- Additional certifications/documents Eg. Power of Attorney, CA certificates on turnover, etc.

However, each of the above documents must be uploaded in the format specified for this purpose and as per the specified folder structure in the e-Procurement portal.

The bidder must ensure that the bid is digitally signed by the Authorized Signatory of the bidding firm and has been duly submitted (freezed) within the submission timelines. The <Purchasing Department> will in no case be responsible if the bid is not submitted online within the specified timelines.

All the pages of the Proposal document must be sequentially numbered and must contain the list of contents with page numbers. Any deficiency in the documentation may result in the rejection of the Bidder's Proposal.

**OR**

**<Option 2: In case of physical submission of bids at office of Purchasing Dept.>**

- a. The bids shall be submitted in a single sealed envelope and superscripted <"Name of the Assignment"> and <File reference No.>. This envelope should contain two hard copies of EOI proposal marked as "First Copy" and "Second Copy" and one soft copy in the form of a non-rewriteable CD. CD media must be duly signed using a Permanent pen Marker and should bear the name of the bidder.

- i. Bids shall consist of supporting proofs and documents as defined in the Pre-qualification section
  - ii. Bidder shall submit all the required documents as mentioned in the annexure including various templates (Form 1 to Form 3). It should be ensured that various formats mentioned in this EOI should be adhered to and no changes in the format should be done.
- b. Envelope should indicate clearly the name, address, telephone number, Email ID and fax number of the bidder
  - c. Each copy of the EOI should be a complete document and should be bound as a volume. The document should be page numbered, must contain the list of contents with page numbers and shall be initialed by the Authorized Representative of the bidder.
  - d. Different copies must be bound separately.
  - e. Bidder must ensure that the information furnished by him / her in respective CDs is identical to that submitted by him in the original paper bid document. In case of any discrepancy observed by the <Nodal Agency> in the contents of the CDs and original paper bid documents, the information furnished on original paper bid document will prevail over the soft copy.
  - f. EOI document submitted by the bidder should be concise and contain only relevant information as required.

#### 1.5.7 Bid Submission Format

The entire proposal shall be strictly as per the format specified in this Invitation for Expression of Interest and any deviation may result in the rejection of the EOI proposal.

#### 1.5.8 Venue and Deadline for Submission

##### <Option 1: In case of Online Submission on e-Procurement portal>

In case of e-Procurement, the response to EOIs must be submitted on the eProcurement portal (specify URL) by the date and time specified for the EOI. Any proposal submitted on the portal after the above deadline will not be accepted and hence shall be automatically rejected. Purchaser shall not be responsible for any delay in the submission of the documents.

**OR**

##### <Option 2: In case of physical submission of bids at office of Purchasing Dept.>

- a. Proposals must be received at the address specified below latest by: < Date & time > <Address>
- b. Any proposal received by the <Nodal Agency> after the above deadline shall be rejected and returned unopened to the Bidder.

- c. The bids submitted by telex/telegram/fax/e-mail <sup>etc.</sup> shall not be considered. No correspondence will be entertained on this matter.
- d. <Nodal Agency> shall not be responsible for any postal delay or non-receipt/ non-delivery of the documents. No further correspondence on the subject will be entertained.
- e. <Nodal Agency> reserves the right to modify and amend any of the above stipulated condition /criterion depending upon project priorities vis-à-vis urgent commitments.

### 1.5.9 Short listing Criteria

- a. <Nodal Agency> will shortlist bidders who meet the Pre-Qualification criteria mentioned in this Invitation to Expression of interest.
- b. Any attempt by a Bidder to influence the bid evaluation process may result in the rejection of its EOI Proposal.

### 1.5.10 Evaluation Process

- a. <Nodal Agency> will constitute a Consultancy Evaluation Committee to evaluate the responses of the bidders
- b. The Consultancy Evaluation Committee constituted by the <Nodal Agency> shall evaluate the responses to the EOI and all supporting documents & documentary evidence. Inability to submit requisite supporting documents or documentary evidence, may lead to rejection of the EOI Proposal.
- c. Each of the responses shall be evaluated to validate compliance of the bidders according to the Pre-Qualification criteria, Forms and the supporting documents specified in this document.
- d. The decision of the Consultancy Evaluation Committee in the evaluation of responses to the Expression of Interest shall be final. No correspondence will be entertained outside the evaluation process of the Committee.
- e. The Consultancy Evaluation Committee may ask for presentation / meetings with the bidders to evaluate its suitability for the Consulting assignment
- f. The Consultancy Evaluation Committee reserves the right to reject any or all proposals

### 1.5.11 Consortiums

*[The Nodal agency should evaluate whether to allow the consortiums. The Nodal Agency should consider the value add which a consortium can bring in, which a sub-contractor cannot bring in and accordingly mention it in this section.]*

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*While evaluating, It should consider the benefit of having single point of ownership versus a direct control on the implementation agency responsible for the scope of work. Please refer Section 1.4.8 of Guidance Notes for Consulting Services for guidance on allowing Consortiums]*

## 1.6 Pre-Qualification criteria

*[Please refer Section 1.4 of Guidance Notes for Consulting Services for guidance on the Eligibility Criterion before finalization of each different criterion]*

S. No.	Basic Requirement	Specific Requirements	Documents Required
1	Sales Turnover in Consulting (or IT Consulting, depending on the nature of work)	<p>Annual Sales Turnover <b>generated from services related to Consulting (or IT Consulting)</b> during each of the last three financial years (as per the last published Balance sheets), should be at least Rs. &lt;value&gt;.</p> <p>This turnover <b>should be on account of Consulting (or IT consulting) only and should not comprise of sales revenues</b> related to supply of hardware/IT infrastructure, software development and their associated maintenance services, implementation of packaged software etc.</p> <p><i>[Please refer Section 1.4.1 of Guidance Notes for Consulting Services for guidance on the PQ requirements of Sales Turnover in IT Consulting]</i></p>	<p>Extracts from the audited Balance sheet and Profit &amp; Loss; OR</p> <p>Certificate from the statutory auditor</p>
2	Technical Capability	<p>Consultant must have <b>successfully completed at least the following numbers of consulting engagement</b> of value specified herein :</p> <p><i>One project of similar nature not less than the amount &lt;value equal to 80% of estimated cost&gt;; OR</i></p> <p><i>Two projects of similar nature not less than the amount equal &lt;value equal to 60% of estimated cost&gt;; OR</i></p> <p><i>Three projects of similar nature not less than the amount equal &lt;value equal to 40% of estimated cost&gt;</i></p> <p>&lt;Provide the definition of "similar nature" to bring in the relevance factor required for this project&gt; .</p> <p><i>[Please refer Section 1.4.2 of Guidance Notes for Consulting Services for guidance on the PQ requirements of Technical Capability]</i></p>	<p>Completion Certificates from the client; OR</p> <p>Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR</p> <p>Work Order + Phase Completion Certificate from the client</p>

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3	Certifications	[Please refer Section 1.4.5 of Guidance Notes for Consulting Services for guidance on the PQ requirements of certifications]	Copy of the Certification
4	Consortiums	[Please refer Section 1.4.8 of Guidance Notes for Consulting Services for guidance on allowing Consortiums]	
5	Debarment	<p>[It may be noted that as per GFR 2017, Rule 151</p> <ol style="list-style-type: none"> <li>1. DGS&amp;D is to maintain the list of debarred bidders who have been convicted of an offence under               <ol style="list-style-type: none"> <li>(a) the Prevention of Corruption Act, 1988; or</li> <li>(b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.</li> </ol> </li> <li>2. A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a</li> </ol>	<p>A Self Certified letter that the bidder (or any of its successor) is not in the active debarred list</p> <ol style="list-style-type: none"> <li>1 Published by DGS&amp;D or Central Public Procurement Portal; or</li> <li>2 Procuring Ministry / Department</li> </ol>
Optional			
6	Legal Entity	<p>Should be Company registered under Companies Act, 1956 or a partnership firm registered under LLP Act, 2008</p> <p>Registered with the Service Tax Authorities</p> <p>Should have been operating for the last three years.</p> <p><i>[Please refer Section 1.4.7 of Guidance Notes for Consulting Services for guidance on the PQ requirements on Registered Legal entity]</i></p>	<p>Copy of Certificate of Incorporation; and</p> <p>Copy of Service Tax Registration Certificate</p>
7	Manpower Strength	<i>[Please refer Section 1.4.4 of Guidance Notes for Consulting Services for guidance on the PQ requirements on Manpower Strengths]</i>	Self Certification by the authorized signatory

**Additional Pre-Qualification Criterion**

*[The endeavor of the EOI is to have serious bidders, who can help the Nodal agencies in conceptualization of scope of work & other areas of the RFP for procurement of consulting services. However in **case it is expected that more than 8 bidders would be able to qualify the basic eligibility criterion, the additional requirement may be added to restrict this list to the best 8 contenders.** The additional clauses may be added **ONLY** when more than 8 bidders are expected to bid.*

Basic Requirement	Specific Requirement	Marks Allocated	Evaluation Criteria
<b>Understanding of bidders</b>	Suggested Scope of Work and Approach & Methodology (A&M)	20	Minimum of 15 marks based on Qualitative Assessment of suggested Scope of work, based on 1) Relevance to the envisaged project 2) Comprehensiveness
	Bidder's Experience in "Similar" Projects (for which Work Order / Completion Certificates are being provided)	60	Minimum of 45 marks based on Qualitative Assessment on 1) Learning on Issues 2) Challenges 3) Solution proposed 4) Client Recommendations
	Bidder's Competence	20	Minimum of 15 marks based on Qualitative Assessment on 1) Previous work 2) Research Work/Centers of Excellence 3) Patents 4) Assets in the given project's domain

**Other Documents and Certificates**

1. Power of Attorney in the name of the Authorized Signatory

*[Please refer Section 1.4.3 of Guidance Notes for Consulting Services for guidance on Power of Attorney]*

## Appendix I: Bid Submission forms

The bidders are expected to respond to the EOI using the forms given in this section and all documents supporting Pre-Qualification / EOI Criteria.

Proposal / Pre-Qualification Bid shall comprise of following forms:

Form 1: Covering Letter with Correspondence Details.

<Location, Date>

<Name of the Nodal Officer>

<Address of the Nodal Agency>

Dear Sir,

We, the undersigned, offer to provide the consulting services for <Name of the Assignment>. Our correspondence details with regard to this Eoi are:

No.	Information	Details
1	Name of the Contact Person	<Insert Name of Contact>
2	Address of the Contact Person	<Insert Address>
3	Name, designation and contact, address of the person to whom, all references shall be made, regarding this EOI.	<Insert details of Contact>
4	Telephone number of the Contact Person.	<Insert Phone No.>
5	Mobile number of the Contact Person	<Insert Mobile No.>
6	Fax number of the Contact Person	<Insert Fax No.>
7	Email ID of the Contact Person	<Insert Email.>
8	Corporate website URL.	<Insert Website URL.>

We are hereby submitting our Expression of Interest in both printed format (2 copies) and as a soft copy in a CD. We understand you are not bound to accept any Proposal you receive.

We fully understand and agree to comply that on verification, if any of the information provided here is found to be misleading the short listing process or unduly favours our company in the short listing process, we are liable to be dismissed from the EOI selection process or termination of the contract during the project.

We agree to abide by the conditions set forth in this EOI.

We hereby declare that our proposal submitted in response to this EOI is made in good faith and the information contained is true and correct to the best of our knowledge and belief.

Sincerely,

<Applicant's Name with seal>

Name: <<Insert  
Name of Contact>>

Title: <<Insert Name  
of Contact>>

Signature: <<Insert  
Signature>>

**Form 2: Details of the Applicant's Operations and Consulting Business**

<b>Sl No.</b>	<b>Information Sought</b>	<b>Details to be Furnished</b>
<b>A</b>	Name and address of the bidding Company	
<b>B</b>	Incorporation status of the firm (public limited / private limited, etc.)	
<b>C</b>	Year of Establishment	
<b>D</b>	Date of registration	
<b>E</b>	ROC Reference No.	
<b>F</b>	Details of company registration	
<b>G</b>	Details of registration with appropriate authorities for service tax	
<b>H</b>	Name, Address, email, Phone nos. and Mobile Number of Contact Person	

**Form 3: Compliance Sheet for Pre-Qualification Criteria**

	Basic Requirement	Documents Required	Provided	Reference & Page Number
1	Sales Turnover in Consulting (or IT Consulting)	Extracts from the audited Balance sheet and Profit & Loss; OR  Certificate from the statutory auditor	Yes / No	
2	Technical Capability	Completion Certificates from the client; OR  Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR  Work Order + Phase Completion Certificate from the client	Yes / No	
3	Certifications	Copy of the Certification	Yes / No	
4	Power of Attorney	Copy of Power of Attorney in the name of the Authorized signatory	Yes / No	
5	Debarment	A self certified letter	Yes/No	
	<b>Optional</b>			
6	Legal Entity	Copy of Certificate of Incorporation; and  Copy of Service Tax Registration Certificate	Yes / No	
7	Manpower Strength	Self Certification by the authorized signatory	Yes / No	

*[In case additional PQ criteria are required (as mentioned in section 1.6, then please add them to this list)]*

## Structure of RFP Document (Deliverable based Assignment) When do we need this RFP?

An RFP is used for procurement under the following typical circumstances:

- Scope of work and deliverables are standard, reasonably well known and/or can be clearly specified
- Typically involves time bound delivery
- Budget is known, approved OR availability of budget is assured
- Need to procure the most economical tender, through open competitive bidding - generate competition by ensuring at least with 3 to 5 bidders
- If all the above is applicable and estimated value of the assignment is less than Rs. 25 lakhs then the Nodal Agency can directly release this RFP instead of releasing the EOI and then RFP. This RFP may consist of Technical evaluation criteria and/or Pre qualification criteria with financial details.

### How do you use it?

This model RFP has been prepared for Nodal Agency/ Nodal Officer to engage consultants for providing consulting services in the area of Information Technology for the conditions mentioned above. This model RFP should be used as a template for creation of RFP. The user of this template should refer to the guidance notes wherever referred in this document.

A proposed contract terms has been provided separately in Annexure I.

### What are typical contents of this RFP?

S.No.	Document Structure	Desirability	Reference
1.	Fact Sheet	Mandatory	<i>[Refer Section 2.1]</i>
2.	Letter of invitation and Background Information	Mandatory	<i>[Refer Section 2.2]</i>
3.	Information to Consultants regarding the procedure for submission of proposal/Instruction to Bidders	Mandatory	<i>[Refer Section 2.3]</i>

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4.	Eligibility / Pre- Qualification criteria	Mandatory	<i>[Refer Section 2.4.1]</i>
5.	Bid evaluation criteria / Criteria for Technical Evaluation	Mandatory	<i>[Refer Section 2.4.2]</i>
6.	Terms of Reference / Scope of Work	Mandatory	<i>[Refer Section 2.8]</i>
7.	Deliverables & Timelines	Mandatory	<i>[Refer Section 2.9]</i>
8.	Payment Schedule	Mandatory	<i>[Refer Section 2.10]</i>
9.	Commercial Bid Format	Mandatory	<i>[Refer Appendix 2]</i>
10.	Checklist for Submission	Recommended	<i>[Refer Appendix 1, Form 1 &amp; 3]</i>

## <Name of the proposed Consulting Engagement>

<File reference No.>

### 2.0

#### ***[Template Document for Request for Proposal for Consulting Engagement (Deliverable based)]***

S. No.	Particular	Details
1.	Start date of issuance / sale of RFP document	< Date >
2.	Last date for Submission of Queries	< Date >
3.	Pre-Bid Conference	< Date >
4.	Issue of Corrigendum	< Date >
5.	Last date for issuance / sale of RFP Document	< Date >
6.	Last date and time for RFP Submission	< Date >
7.	Date and time of opening of Pre-Qualification bids	< Date >
8.	Date and time for opening of Technical bids	< Date >
9.	Date and time for opening of Commercial bids	< Date >

## 2 Model RFP Document for Consulting Assignment (Deliverable Based)

### 2.1 Fact Sheet

*[The bidders should be provided with this **Fact Sheet** comprising of important factual data of the RFP.]*

Clause Reference	Topic
<Section 2.4.4>	The method of selection is: <Method of selection> <i>[For guidance on method of selection please refer Section 2.5 of Guidance Notes for Consulting Services]</i>
<Section 2.3.4.2>	RFP can be Downloaded from <website address> and <a href="http://www.eprocure.gov.in">www.eprocure.gov.in</a> . Bidders are required to submit the tender cost in the form of a demand draft (details mentioned in above para) along with the Proposal. [OR] Collected from the following address on or before <indicate date, time> : <Name> <Designation> <Address> <Phone Nos.> <Fax Nos.> <email id> by paying the document Fee of Rs. <Amount> by Demand Draft in favour of <Bank Account Name> and payable at <Location / City> from any commercial bank.]
<Section 2.3.4.3>	EMD of Rs. ( <i>amount</i> ) in the form of Demand Draft OR Bankers Cheque OR bank guarantee OR and electronic Bank Guarantee under Structured Financial Messaging System (SFMS).
<Section 2.10>	Procurement is for services linked to DELIVERABLE <Deliverable based>
<Section 2.10>	The assignment is phased: Yes___ No___ <i>[If yes, indicate the phasing]</i>

Clause Reference	Topic
<Section 2.3.3>	<p>A pre-Bid meeting will be held on &lt; indicate date, time, and venue&gt;                      The name, address, and telephone numbers of the Nodal Officer is:                      &lt;Name&gt;                      &lt;Designation&gt;                      &lt;Address&gt;                      &lt;Phone Nos.&gt;                      &lt;Fax Nos.&gt;                      &lt;email id&gt;                      All the queries should be received on or before &lt;indicate date, time&gt;, either through post, fax or email.</p>
<Section 2.13>	<p>The Nodal Agency/Department envisages any downstream work: Yes__ No_</p>
<Section 2.3.5.2>	<p>Proposals should be submitted in the following language(s): &lt;Insert language&gt;</p>
	<p>Shortlisted firm/entity may associate with other shortlisted firm [relevant only in the case where EOI process has been completed previously]:                      Yes ___ No _____</p>
	<p>The estimated number of professional staff-months required for the assignment is: &lt;insert the estimated man months&gt;                      [Or :                      In the case of Fixed-Budget Selection, the Financial Proposal shall not exceed the available budget of: &lt;insert the available budget&gt;]</p>
<Section 2.11>	<p>Taxes: &lt;As applicable&gt;</p>
<Section 2.3.7.2>	<p>Proposals must remain valid &lt;days&gt; [Normally between 60 and 90 days] after the submission date, i.e., until: &lt;insert the date&gt;</p>
<Section 2.3.4.4>	<p>&lt;Option 1: In case of online submission&gt;                      Bidders must upload and submit on the eProcurement portal &lt;URL&gt; all the items (documents), as per the folder structure specified on the eProcurement portal.</p> <p>&lt;Option 2: In case of physical submission&gt;                      Bidders must submit                      An original and &lt;one&gt; additional copies of each proposal along with</p> <ul style="list-style-type: none"> <li>• &lt;one&gt; copy of non-editable CD for Prequalification &amp; Technical Proposal</li> <li>• One original copy of the Commercial Proposal</li> </ul>
<Section 2.3.5.3>	<p>The proposal submission address is:                      &lt;Name&gt;                      &lt;Designation&gt;                      &lt;Address&gt;                      &lt;Phone Nos.&gt;                      &lt;Fax Nos.&gt;</p>

Clause Reference	Topic
<Section 2.3.5.3>	<p>Proposals must be submitted no later than the following date and time: &lt;insert the date and time&gt;</p> <p>&lt;In case of online submission&gt;: Proposals submitted after &lt;insert the date and time&gt; will not be accepted by the eProcurement portal</p>

## 2.2 Letter of invitation and Background Information

*[Please refer Section 2.3.4 of Guidance Notes for Consulting Services for guidance on provisioning background information.]*

### 2.2.1 Letter of invitation

- a) <Nodal Agency> invites responses (“Proposals”) to this Request for Proposals (“RFP”) from Consulting agencies (“Bidders”) for the provision of the e-Governance consulting services as described in <Section 2.9> of this RFP, “Scope of Work” (“the Services”). <Nodal Agency> is the Nodal Agency for this public procurement.
- b) Any contract that may result from this public procurement competition will be issued for a term of <insert relevant period> (“the Term”).
- c) The <Nodal Agency> reserves the right to extend the Term for a period or periods of up to <insert relevant period> with a maximum of <insert relevant period> such extension or extensions on the same terms and conditions.
- d) Proposals must be received not later than time, date and venue mentioned in the Fact Sheet.  
Proposals that are received after the deadline WILL NOT be considered in this procurement process.

### 2.2.2 Project Background

*[The “Project Background” should give project details around*

- *Need for the solution/service*
- *Solution components/service area*

- *Expected outcome of the solution/service]*

### 2.2.3 Key Information

*[The Introduction section should lay down:*

- *Prime Objective of the project*
- *When was the program initiated/sanctioned*
- *Background about the Government program / initiative to address the challenges, issues faced;*  
*etc*
- *Project Dependencies*
- *Stakeholder Details*
- *Funds and sponsors for program - The estimated number of professional staff-months required for the assignment OR the sanctioned budget*
- *Any downstream work expected from this assignment and any potential "Conflict of Interest" situation emerging from that*
- *The inputs /facilities which would be provided to the successful bidder on award of this contract]*

### 2.2.4 About the Department

*[The "About" section contains the organizational profile of the Government entity/Department which is the end buyer and implementer of the procured solution. The section should explain facts and figures about the Government entity in terms of its*

- *Vision and organizational objectives*
- *Manpower strength*
- *Comprising divisions / directorates etc.*
- *Organization structure*
- *Activities of the Department*
- *Geographical spread and operating locations]*

## 2.3 Instructions to the Bidders

### 2.3.1 General

- a) While every effort has been made to provide comprehensive and accurate background information and requirements and specifications, Bidders must form their own conclusions

about the consultancy support required. Bidders and recipients of this RFP may wish to consult their own legal advisers in relation to this RFP.

- b) All information supplied by Bidders may be treated as contractually binding on the Bidders, on successful award of the assignment by the <Nodal Agency> on the basis of this RFP
- c) No commitment of any kind, contractual or otherwise shall exist unless and until a formal written contract has been executed by or on behalf of the <Nodal Agency>. Any notification of preferred bidder status by the <Nodal Agency> shall not give rise to any enforceable rights by the Bidder. The <Nodal Agency> may cancel this public procurement at any time prior to a formal written contract being executed by or on behalf of the <Nodal Agency>.
- d) This RFP supersedes and replaces any previous public documentation & communications, and Bidders should place no reliance on such communications.

### **2.3.2 Compliant Proposals / Completeness of Response**

- a) Bidders are advised to study all instructions, forms, requirements, appendices and other information in the RFP documents carefully. Submission of the bid / proposal shall be deemed to have been done after careful study and examination of the RFP document with full understanding of its implications.
- b) Failure to comply with the requirements of this paragraph may render the Proposal non-compliant and the Proposal may be rejected. Bidders must:
  - i. Comply with all requirements as set out within this RFP.
  - ii. Submit the forms as specified in this RFP and respond to each element in the order as set out in this RFP
  - iii. Include all supporting documentations specified in this RFP

### **2.3.3 Pre-Bid Meeting & Clarifications**

#### **2.3.3.1 Bidders Queries**

- a. <Nodal Agency> shall hold a pre-bid meeting with the prospective bidders on <Date & time> at  
<Address of the Venue>
- b. The Bidders will have to ensure that their queries for Pre-Bid meeting should reach to <Name, Address, Fax and email id of the Nodal Officer> by post, facsimile or email on or before  
<Date & time>
- c. The queries should necessarily be submitted in the following format:

S. No.	RFP Document Reference(s) (Section & Page Number(s))	Content of RFP requiring Clarification(s)	Points of Clarification
1.			
2.			
3.			
4.			
5.			
6.			

- d. <Nodal Agency> shall not be responsible for ensuring that the bidders' queries have been received by them. Any requests for clarifications post the indicated date and time may not be entertained by the Nodal Agency.

**2.3.3.2 Responses to Pre-Bid Queries and Issue of Corrigendum**

- a. The Nodal Officer notified by the <Nodal Agency> will endeavor to provide timely response to all queries. However, <Nodal Agency> makes no representation or warranty as to the completeness or accuracy of any response made in good faith, nor does <Nodal Agency> undertake to answer all the queries that have been posed by the bidders.
- b. At any time prior to the last date for receipt of bids, <Nodal Agency> may, for any reason,  
whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the RFP Document by a corrigendum.
- c. The Corrigendum (if any) & clarifications to the queries from all bidders will be posted on the

<website address of CPPP, GeM and organization website> and emailed to all participants of the pre-bid conference. d. Any such corrigendum shall be deemed to be incorporated into this RFP.

- e. In order to provide prospective Bidders reasonable time for taking the corrigendum into account, <Nodal Agency> may, at its discretion, extend the last date for the receipt of Proposals.

### **2.3.4 Key Requirements of the Bid**

#### **2.3.4.1 Right to Terminate the Process**

- a. <Nodal Agency> may terminate the RFP process at any time and without assigning any reason.  
<Nodal Agency> makes no commitments, express or implied, that this process will result in a business transaction with anyone.
- b. This RFP does not constitute an offer by <Nodal Agency>. The bidder's participation in this process may result <Nodal Agency> selecting the bidder to engage towards execution of the contract.

#### **2.3.4.2 RFP Document Fees**

- a. The RFP documents have been made available to be downloaded without any fee from the website <Website address and www.eprocure.gov.in >.
- b. the demand draft of RFP document fees (if any, as mentioned in the Fact Sheet) should be submitted along with the bidder's proposal. Proposals received without or with inadequate RFP Document fees shall be rejected.

#### **2.3.4.3 Earnest Money Deposit (EMD)**

*[To safeguard against a bidder's withdrawing or altering its bid during the bid validity period in the case of advertised or limited tender enquiry, Bid Security (also known as Earnest Money) is to be obtained from the bidders except Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) or are registered with the Central Purchase Organisation or the concerned Ministry or Department.]*

- a. Bidders shall submit, along with their Proposals, an EMD of Rs. <Amount figure and words> only, in the form of a demand draft OR Bankers Cheque OR bank guarantee OR and electronic Bank Guarantee under Structured Financial Messaging System (SFMS). The payment transfer related information is as follows :
  - i. EMD BG in the format specified in Appendix I: Form 3 issued by a commercial bank in favour of <Beneficiary Account details>. The EMD BG

should remain valid for a period of 45 days beyond the final tender validity period.

- ii. Demand Draft/Banker cheque : Payable at <Location/city>
  - iii. Electronic Bank Guarantee under Structured Financial Messaging System (SFMS) : < details>
- b. EMD of all unsuccessful bidders would be refunded by <Nodal Agency> within <Time Period> of the bidder being notified as being unsuccessful. The EMD, for the amount mentioned above, of successful bidder would be returned upon submission of Performance Bank Guarantee as per the format provided in Appendix 3.
- c. The EMD amount is interest free and will be refundable to the unsuccessful bidders without any accrued interest on it.
- d. The bid / proposal submitted without EMD, mentioned above, will be summarily rejected. e. The EMD may be forfeited:
- If a bidder withdraws its bid during the period of bid validity.
  - In case of a successful bidder, if the bidder fails to sign the contract in accordance with this RFP.

#### **2.3.4.4 Submission of Proposals**

*[GFR, 2017 (Rule 160) E-Procurement:*

*(i) It is mandatory for Ministries/ Departments to receive all bids through e-procurement portals in respect of all procurements.*

*(ii) Ministries/ Departments which do not have a large volume of procurement or carry out procurements required only for day-to-day running of offices and also have not initiated e-procurement through any other solution provided so far, may use e-procurement solution developed by NIC (GePNIC). Other Ministries/ Departments may either use e-procurement solution developed by NIC or engage any other service provider following due process.*

*(iii) These instructions will not apply to procurements made by Ministries / Departments through DGS&D Rate Contracts.*

*(iv) In individual case where national security and strategic considerations demands confidentiality, Ministries/ Departments may exempt such cases from e-procurement after seeking approval of concerned Secretary and with concurrence of Financial Advisers.*

*(v) In case of tenders floated by Indian Missions Abroad, Competent Authority to decide the tender, may exempt such case from e - procurement.*

Accordingly, Ministries / Departments should receive all bids through e-procurement portals in respect of all procurements. However, when not possible, other appropriate methods of bid submission may be used, with proper approvals and reasons in writing. Relevant options have been provided below, which needs to be customized.]

<Option 1: In case of Online Submission on e-Procurement portal>

Bidders should submit their responses as per the procedure specified in the e-Procurement portal (specify URL) being used for this purpose. Generally, the items to be uploaded on the portal would include all the related documents mentioned in this Model RFP, such as:

- Tender Fee
- EMD
- Pre-qualification response
- Technical Proposal
- Financial proposal
- Additional certifications/documents Eg. Power of Attorney, CA certificates on turnover, etc.

However, each of the above documents must be uploaded in the format specified for this purpose and as per the specified folder structure in the e-Procurement portal.

The bidder must ensure that the bid is digitally signed by the Authorized Signatory of the bidding firm and has been duly submitted (freezed) within the submission timelines. The <User Department> will in no case be responsible if the bid is not submitted online within the specified timelines.

All the pages of the Proposal document must be sequentially numbered and must contain the list of contents with page numbers. Any deficiency in the documentation may result in the rejection of the Bidder's Proposal.

**OR**

**<Option 2: In case of physical submission of bids at office of Purchasing Dept.>**

- a. The bidders should submit their responses as per the format given in this RFP in the following manner
  - Response to Pre-Qualification Criterion : (1 Original + <1 > Copies +<1>CD) in first envelope
  - Technical Proposal - (1 Original + <1> Copies +<1>CD) in second envelope
  - Commercial Proposal - (1 Original) in third envelope
- b. The Response to Pre-Qualification criterion, Technical Proposal and Commercial Proposal (As mentioned in previous paragraph) should be covered in separate sealed envelopes super- scribing "Pre-Qualification Proposal", "Technical Proposal" and "Commercial Proposal" respectively. Each copy of each bid should also be marked as "Original" OR "Copy" as the case may be.
- c. Please Note that Prices should not be indicated in the Pre-Qualification Proposal or Technical

Proposal but should only be indicated in the Commercial Proposal.

- d. The three envelopes containing copies of Pre-qualification Proposal, Technical Proposal and Commercial Proposal should be put in another single sealed envelope clearly marked "Response to RFP for <Name of the assignment> - < RFP Reference Number> and the wordings "DO NOT OPEN BEFORE <Date and Time>".
- e. The outer envelope thus prepared should also indicate clearly the name, address, telephone number, E-mail ID and fax number of the bidder to enable the Bid to be returned unopened in case it is declared "Late".
- f. All the pages of the proposal must be sequentially numbered and must contain the list of contents with page numbers. Any deficiency in the documentation may result in the rejection of the Bid.
- g. The original proposal/bid shall be prepared in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the bidder itself. Any such corrections must be initialed by the person (or persons) who sign(s) the proposals.
- h. All pages of the bid including the duplicate copies, shall be initialed and stamped by the person or persons who sign the bid.
- i. In case of any discrepancy observed by <Nodal Agency> in the contents of the submitted original paper bid documents with respective copies, the information furnished on original paper bid document will prevail over others.
- j. Bidder must ensure that the information furnished by him in respective CDs is identical to that submitted by him in the original paper bid document. In case of any discrepancy observed by <Nodal Agency> in the contents of the CDs and original paper bid documents, the information furnished on original paper bid document will prevail over the soft copy.

#### ***2.3.4.5 Authentication of Bids***

A Proposal should be accompanied by a power-of-attorney in the name of the signatory of the Proposal. A copy of the same should be uploaded under the relevant section/folder on the eProcurement portal. Furthermore, the bid must also be submitted online after being digitally signed by an authorized representative of the bidding entity.

### **2.3.5 Preparation and submission of Proposal**

#### ***2.3.5.1 Proposal Preparation Costs***

The bidder shall be responsible for all costs incurred in connection with participation in the RFP process, including, but not limited to, costs incurred in conduct of informative and other diligence activities participation in meetings/discussions/presentations,

preparation of proposal, in providing any additional information required by <Nodal Agency> to facilitate the evaluation process, and in negotiating a definitive contract or all such activities related to the bid process. <Nodal Agency> will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

#### **2.3.5.2 Language**

The Proposal should be filled by the bidders in English language only. If any supporting documents submitted are in any language other than English, translation of the same in English language is to be duly attested by the Bidders. For purposes of interpretation of the documents, the English translation shall govern.

#### **2.3.5.3 Venue & Deadline for Submission of proposals**

##### **<Option 1: In case of Online Submission on e-Procurement portal>**

In case of e-Procurement, the response to RFPs must be submitted on the eProcurement portal (specify URL) by the date and time specified for the RFP. Any proposal submitted on the portal after the above deadline will not be accepted and hence shall be automatically rejected. Purchaser shall not be responsible for any delay in the submission of the documents.

**OR**

##### **<Option 2: In case of physical submission of bids at office of Purchasing Dept.>**

Proposals, in its complete form in all respects as specified in the RFP, must be submitted to <Nodal Agency> at the address specified below:

<b>Addressed To</b>	<Name of Person/Designation to be
<b>Name</b>	<Nodal Agency>
<b>Address</b>	<Address>
<b>Telephone</b>	<Telephone No.>
<b>Fax Nos.</b>	<Fax No.>
<b>Email ids</b>	<email id>
<b>Last Date &amp; Time of</b>	<Date> before <Time>

#### **2.3.5.4 Late Bids**

##### **<Option 1: In case of Online Submission on e-Procurement portal>**

Bids submitted after the due date will not be accepted by the eProcurement system (*mention URL*) and hence will automatically be rejected. The Purchaser shall not be responsible for any delay in the online submission of the proposal.

**<Option 2: In case of physical submission of bids at office of Purchasing Dept.>**

- a. Bids received after the due date and the specified time (including the extended period if any) for any reason whatsoever, shall not be entertained and shall be returned unopened.
- b. The bids submitted by telex/telegram/ fax/e-mail etc. shall not be considered. No correspondence will be entertained on this matter.
- c. <Nodal Agency> shall not be responsible for any postal delay or non-receipt/ non-delivery of the documents. No further correspondence on the subject will be entertained.
- d.<Nodal Agency> reserves the right to modify and amend any of the above-stipulated condition/criterion depending upon project priorities vis-à-vis urgent commitments.

**2.3.6 Deviations**

The bidder may provide deviation to the contents of the RFP document. It may be noted that once the deviation are provided, the bidder would not be allowed that to withdraw the deviation submitted.

The Consultancy Evaluation Committee would evaluate and classify them as “material deviation” or “non material deviation”. In case of any material deviations, the Committee would be entitled to reject the bid.

**2.3.7 Evaluation process / Selection procedure**

- a. <Nodal Agency> will constitute a Consultancy Evaluation Committee to evaluate the responses of the bidders
- b. The Consultancy Evaluation Committee constituted by the <Nodal Agency> shall evaluate the responses to the RFP and all supporting documents / documentary evidence. Inability to submit requisite supporting documents / documentary evidence, may lead to rejection.
- c. The decision of the Consultancy Evaluation Committee in the evaluation of responses to the RFP shall be final. No correspondence will be entertained outside the process of evaluation with the Committee.

- d. The Consultancy Evaluation Committee may ask for meetings with the Bidders to seek clarifications on their proposals<sup>4</sup>
- e. The Consultancy Evaluation Committee reserves the right to reject any or all proposals on the basis of any deviations.
- f. Each of the responses shall be evaluated as per the criteria and requirements specified in this RFP.

#### ***2.3.7.1 Tender Opening***

The Proposals submitted up to <Time> on <Date> will be opened at <Time> on <Date Time> by <Nodal officer> or any other officer authorized by <Nodal Agency>, in the presence of such of those Bidders or their representatives who may be present at the time of opening.

The representatives of the bidders should be advised to carry the identity card or a letter of authority from the tendering firms to identify their bonafide for attending the opening of the proposal.

#### ***2.3.7.2 Tender Validity***

The offer submitted by the Bidders should be valid for minimum period of <90> days from the date of submission of Tender.

#### ***2.3.7.3 Tender Evaluation***

- a. Initial Bid scrutiny will be held and incomplete details as given below will be treated as non-responsive. If Proposals;
  - Are not submitted in as specified in the RFP document
  - Received without the Letter of Authorization (Power of Attorney)
  - Are found with suppression of details
  - With incomplete information, subjective, conditional offers and partial offers submitted
  - Submitted without the documents requested in the checklist

- Have non-compliance of any of the clauses stipulated in the RFP
  - With lesser validity period
- b. All responsive Bids will be considered for further processing as below.  
< Nodal Agency> will prepare a list of responsive bidders, who comply with all the Terms and Conditions of the Tender. All eligible bids will be considered for further evaluation by a Committee according to the Evaluation process define in this RFP document. The decision of the Committee will be final in this regard.

*[Please refer Section 2.3.3 of Guidance Notes for Consulting Services for guidance on Instruction to the Bidders]*

#### **2.3.8 Consortiums**

*[The Nodal agency should evaluate whether to allow the consortiums. The Nodal Agency should consider the value add which a consortium can bring in, which a sub-contractor cannot bring in and accordingly mention it in this section.*

*While evaluating, it should consider the benefit of having single point of ownership versus a direct control on the implementation agency responsible for the scope of work. Please refer Section 1.4.8 of Guidance Notes for Consulting Services for guidance on allowing Consortiums]*

## 2.4 Criteria for Evaluation

### 2.4.1 Pre-Qualification Criteria

*[Please refer Section 2.4 of Guidance Notes for Consulting Services for guidance on the Eligibility Criteria before finalization of the criterion]*

S. No.	Basic Requirement	Specific Requirements	Documents Required
1	Sales Turnover in Consulting (or IT Consulting, depending on the nature of work)	<p>Annual Sales Turnover <b>generated from services related to Consulting (or IT Consulting)</b> during each of the last three financial years (as per the last published Balance sheets), should be at least Rs. &lt;value&gt;.</p> <p>This turnover <b>should be on account of Consulting (or IT Consulting) only and should not comprise of sales revenues</b> related to supply of hardware/IT infrastructure and their associated maintenance services, implementation of packaged software etc.</p> <p><i>[Please refer Section 2.4.1 of Guidance Notes for Consulting Services for guidance on the PQ requirements of Sales Turnover in IT Consulting]</i></p>	<p>Extracts from the audited Balance sheet and Profit &amp; Loss; OR</p> <p>Certificate from the statutory auditor</p>
2	Technical Capability	<p>Consultant must have <b>successfully completed in the last 5 years at least the following numbers of consulting engagement</b> of value specified herein :</p> <p><i>One project of similar nature not less than the amount &lt;value equal to 80% of estimated cost&gt;; OR</i></p> <p><i>Two projects of similar nature not less than the amount equal &lt;value equal to 60% of estimated cost&gt;; OR</i></p> <p><i>Three projects of similar nature not less than the amount equal &lt;value equal to 40% of estimated cost&gt;</i></p> <p>&lt;Provide the definition of “similar nature” to bring in the relevance factor required for this project&gt; .</p> <p><i>[Please refer Section 2.4.2 of Guidance Notes for Consulting Services for guidance on the PQ requirements of Technical Capability]</i></p>	<p>Completion Certificates from the client; OR</p> <p>Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR</p> <p>Work Order + Phase Completion Certificate from the client</p>
3	Certifications	<p><i>[Please refer Section 2.4.5 of Guidance Notes for Consulting Services for guidance on the PQ requirements of certifications]</i></p>	Copy of the Certification
4	Consortiums	Bidder should be an individual organization. Consortiums are not allowed.	

S. No.	Basic Requirement	Specific Requirements	Documents Required
5	Debarment	<p>[</p> <p><i>It may be noted that as per GFR 2017, Rule 151</i></p> <ol style="list-style-type: none"> <li>1. <i>DGS&amp;D is to maintain the list of debarred bidders who have been convicted of an offence (a) under the Prevention of Corruption Act, 1988; or (b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.</i></li> <li>2. <i>A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity</i></li> </ol> <p>]</p>	<p>A Self Certified letter that the bidder (or any of its successor) is not in the active debarred list</p> <ol style="list-style-type: none"> <li>1. Published by DGS&amp;D or Central Public Procurement Portal; or</li> <li>2. Procuring Ministry / Department</li> </ol>
<b>Optional</b>			
6	Legal Entity	<p>Should be Company registered under Companies Act, 1956 or a partnership firm registered under LLP Act, 2008</p> <p>Registered with the Service Tax Authorities</p> <p>Should have been operating for the last three years.</p> <p><i>[Please refer Section 2.4.7 of Guidance Notes for Consulting Services for guidance on the PQ requirements on Registered Legal entity]</i></p>	<p>Copy of Certificate of Incorporation; and</p> <p>Copy of Service Tax Registration Certificate</p>
7	Manpower Strength	<p><i>[Please refer Section 2.4.4 of Guidance Notes for Consulting Services for guidance on the PQ requirements on Manpower Strengths]</i></p>	<p>Self Certification by the authorized signatory</p>

*[It may be noted that the Pre-qualification criteria should not be put for cases while short-listing of bidders has already been carried out through Expression of interest. In case, where EOI has not been carried out, a Pre-Qualification criterion may be kept.*

*Moreover, the pre-qualification criterion should not be mandated where the RFP document is to be shared with the empanelled list]*

### 2.4.2 Technical Qualification Criteria

Bidders who meet the pre-qualifications/eligibility requirements would be considered as qualified to move to the next stage of Technical and Financial evaluations

*[During the discussion with various stakeholders, it emerged that evaluation criterion is to be carefully designed. Discussions were held on the merit of each criterion and how does it help the Nodal Agency in getting the most suitable agency to execute the assignment. Accordingly several prevalent Technical evaluation criterion were rationalized (dropped or change in the weightage of marks allocated).*

*In case the Nodal Agency seeks to introduce new evaluation criterion or re-allocate the marks, the Nodal Agency should assure itself that the change does not lead to restriction in the competition.*

*The "litmus test" for drawing up the requirements for "Company profile" below should be that Nodal officer should assure himself that at least 8 bidders would be able to score minimum qualifying marks.]*

#### Technical Evaluation Criterion

S. No	Criteria	Requirements	Max Marks	Supporting Documents
	<b>COMPANY PROFILE</b>		<b>20</b>	
1.	Average turnover from services related to IT Consulting (i.e. revenue should be on account of IT consulting other than related to supply of hardware/IT infrastructure and their associated maintenance services, packaged software etc. in last 3 years (Turnover in Rs Crores)	Equal to more than X1 : 10 marks Between X1 & X2 (including) : 6 marks Between X3 & X2: 3 marks Less than X3 : 0 marks  <i>[1. Please replace the values x1, x2 and x3 with actual values.                      2. It may be noted that X1&gt;X2&gt;X3]</i>	10	Extracts from the audited Balance sheet and Profit & Loss; OR Certificate from the statutory auditor

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S. No	Criteria	Requirements	Max Marks	Supporting Documents
2.	Full-time professional staff engaged in consulting services (Number of Staff)	<p>Equal to more than X1: 5 marks</p> <p>Between X2 &amp; X1: 3 marks</p> <p>Between X3 &amp; X2: 1 marks</p> <p>Less than X3 : 0 marks</p> <p><i>[1. Please replace the values x1, x2 and x3 with actual numbers. 2. It may be noted that X1&gt;X2&gt;X3]</i></p>	5	A self certification from authorized signatory
3.	Geographical Presence of the Consulting organization	<p><i>[Needs to be designed as per the requirements of the project</i></p> <p><i>For a project to be carried out in one State, full marks can be given if the bidder has an office in the State (client specific / project specific offices should not be taken into account)</i></p> <p><i>For a project to be carried out at the Centre, marks may be awarded as follows :</i></p> <p><i>&gt;6 offices: 5 marks</i></p> <p><i>3-6 offices : 3 marks</i></p> <p><i>2-3 offices: 1 mark (client specific / project specific offices should not be taken into account)]</i></p>	5	A self certification from authorized signatory
	<b>RELEVANT PAST EXPERIENCE</b>		<b>20</b>	

S. No	Criteria	Requirements	Max Marks	Supporting Documents
4.	<p>Experience relevant to this engagement as listed below to be demonstrated in a maximum of &lt;Nos.&gt; engagements that have either been completed or an ongoing project where a similar deliverable or milestone has been successfully achieved. The work order should have been issued within the last 5 years, as on &lt;date&gt;.</p> <p>&lt;Provide the definition of "similar" to bring in the relevance factor required for this project&gt; .</p>	<p>Equal to or more than 5 projects : 20 marks                      4 Projects : 16 marks                      3 Projects : 12 marks                      2 Projects : 8 marks</p> <p>Less than 2 projects : 0 marks</p>	20	<p>Completion Certificates from the client; OR</p> <p>Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR</p> <p>Work Order + Phase Completion Certificate (for ongoing projects) from the client</p>
	<b>APPROACH &amp; METHODOLOGY</b>		<b>20</b>	
5.	<p>Approach and Methodology to perform the work in this assignment :</p> <ol style="list-style-type: none"> <li>1) Understanding of the objectives of the assignment: The extent to which the consultant's approach and work plan respond to the objectives indicated in the RFP</li> <li>2) Completeness and responsiveness: The extent to which the proposal responds exhaustively to all the requirements of all the Scope of Work</li> </ol>		5	A note
6.	Demonstration of understanding of the Department's requirements	<p>Assessment to be based on :</p> <ul style="list-style-type: none"> <li>- Learnings</li> <li>- Challenges likely to be encountered</li> <li>- Mitigation proposed</li> <li>- Client references</li> </ul>	10	A note

S. No	Criteria	Requirements	Max Marks	Supporting Documents
7.	Project work break down structure	Assessment to be based on : <ul style="list-style-type: none"> <li>- Overall Timelines</li> <li>- Resource assignments (relevance to the task assigned)</li> <li>- Dependencies</li> </ul>	5	A note
	<b>RESOURCE PROFILE</b>		<b>40</b>	
8.	<p>Resume of all consultants proposed for the assignment</p> <p>&lt;Provide the roles against which the CVs have to be provided by the bidders to bring in the relevance factor required for this project</p> <p>Also Provide the definition of "similar" to bring in the relevance factor required for this project&gt;</p>	<p>[List of key position whose CV and experience would be evaluated needs to be provided</p> <p><i>Marks to be awarded on the basis of the relevant experience of the proposed Staff.</i></p> <p><i>At a consultant level (3-5 years of consulting experience) staff: Full marks, if the staff has experience in &lt;3&gt; or more assignments of similar nature.</i></p> <p><i>At a Manager level (5-12 years of consulting experience) staff: Full marks, if the staff has experience in &lt;6&gt; or more assignments of similar nature.</i></p> <p><i>At a Partner/Director level (more than 12 years of consulting experience) staff: Full marks, if the staff has experience in &lt;10&gt; or more assignments of similar nature.]</i></p>	40	CVs
	<b>TOOLS &amp; ASSETS</b>	Case to case basis		
9.	Tools and Assets which could be leveraged for the assignment <i>[for e.g. PMU Tool, Load testing etc., depending on the relevance to the Scope of work]</i>		As per requirement	Note with appropriate supporting documents

*[For further understanding on Evaluation of bids and the mechanisms suggested therewith, Please refer Section 2.5 of Guidance Notes for Consulting Services.]*

Bidders, whose bids are responsive, based on minimum qualification criteria as in Pre-Qualification Criteria and score at least <minimum marks to obtain for technically

qualifying> from the technical evaluation criteria would be considered technically qualified.

### 2.4.3 Commercial Bid Evaluation

- a. The Financial Bids of technically qualified bidders will be opened on the prescribed date in the presence of bidder representatives.
- b. If a firm quotes NIL charges / consideration, the bid shall be treated as unresponsive and will not be considered.
- c. The bidder with lowest qualifying financial bid (L1) will be awarded 100% score (amongst the bidders which did not get disqualified on the basis of point b above). Financial Scores for other than L1 bidders will be evaluated using the following formula:

Financial Score of a Bidder (Fn) =

{(Commercial Bid of L1/Commercial Bid of the Bidder) X 100}% (Adjusted to two decimal places)

[OR, in case of a Lowest Cost Based Selection Bid, the para c should be replaced by the following:

The consultant, who has submitted the lowest Commercial bid, shall be selected as the L1 and shall be called for further process leading to the award of the assignment]

- d. Only fixed price financial bids indicating total price for all the deliverables and services specified in this bid document will be considered.
- e. The bid price will include all taxes and levies and shall be in Indian Rupees.
- f. Any conditional bid would be rejected
- g. Errors & Rectification: Arithmetical errors will be rectified on the following basis: "If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail".

*[Please refer Section 2.5.2 of Guidance Notes for Consulting Services]*

### 2.4.4 Combined and Final Evaluation

*[Please refer Section 2.5.2 of Guidance Notes for Consulting Services]*

- a. The technical and financial scores secured by each bidder will be added using weightage of

<70%> and <30%> respectively to compute a Composite Bid Score. *[The weightage of technical and financial scores should be customized by the Nodal Agency]*

- b. The bidder securing the highest Composite Bid Score will be adjudicated as the most responsive

Bidder for award of the Project. The overall score will be calculated as follows:-  $B_n = 0.70 * T_n + 0.30 * F_n$

*[In case of 70% weightage to the technical score]*

Where

$B_n$  = overall score of bidder

$T_n$  = Technical score of the bidder (out of maximum of 100 marks)  $F_n$  = Normalized financial score of the bidder

- c. In the event the bid composite bid scores are 'tied', the bidder securing the highest technical

score will be adjudicated as the Best Value Bidder for award of the Project.

***[GFR 2017, Rule 192, Quality and Cost Based Selection (QCBS):***

*QCBS may be used for Procurement of consultancy services where quality of consultancy is of prime concern.*

*(i) In QCBS initially the quality of technical proposals is scored as per criteria announced in the RFP. Only those responsive proposals that have achieved at least minimum specified qualifying score in quality of technical proposal are considered further.*

*(ii) After opening and scoring, the financial proposals of responsive technically qualified bidders, a final combined score is arrived at by giving predefined relative weight ages for the score of quality of the technical proposal and the score of financial proposal.*

*(iii) The RFP shall specify the minimum qualifying score for the quality of technical proposal and also the relative weight ages to be given to the quality and cost (determined for each case depending on the relative importance of quality vis-a-vis cost aspects in the assignment, e.g. 70:30, 60:40, 50:50 etc). The proposal with the highest weighted combined score (quality and cost) shall be selected.*

*(iv) The weight age of the technical parameters i.e. non- financial parameters in no case should exceed 80 percent.*

***GFR Rule 193***

*Least Cost System (LCS). LCS is appropriate for assignments of a standard or routine nature (such as audits and engineering design of non-complex works) where well*

*established methodologies, practices and standards exist. Unlike QCBS, there is no weight age for Technical score in the final evaluation and the responsive technically qualified proposal with the lowest evaluated cost shall be selected.*  
]

## 2.5 Appointment of Consultant

### 2.5.1 Award Criteria

<Nodal Agency> will award the Contract to the successful bidder whose proposal has been determined to be substantially responsive and has been determined as the most responsive bids as per the process outlined above.

### 2.5.2 Right to Accept Any Proposal and To Reject Any or All Proposal(s)

<Nodal Agency> reserves the right to accept or reject any proposal, and to annul the tendering process / Public procurement process and reject all proposals at any time prior to award of contract, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for <Nodal Agency> action.

### 2.5.3 Notification of Award

Prior to the expiration of the validity period, <Nodal Agency> will notify the successful bidder in writing or by fax or email, that its proposal has been accepted. In case the tendering process / public procurement process has not been completed within the stipulated period, <Nodal Agency>, may like to request the bidders to extend the validity period of the bid.

The notification of award will constitute the formation of the contract. Upon the successful bidder's furnishing of Performance Bank Guarantee, <Nodal Agency> will notify each unsuccessful bidder and return their EMD.

### 2.5.4 Performance Guarantee

The <Nodal Agency> will require the selected bidder to provide a Performance Bank Guarantee, within

<15> days from the Notification of award, for a value equivalent to <10%> of the total cost of ownership. The Performance Guarantee should be valid for a period of <months>. The Performance Guarantee shall be kept valid till completion of the project and Warranty period. The Performance Guarantee shall contain a claim period of three months from the last date of validity. The selected bidder shall be responsible for extending the validity date and claim period of the Performance Guarantee as and

when it is due on account of non-completion of the project and Warranty period. In case the selected bidder fails to submit performance guarantee within the time stipulated, the <Nodal Agency> at its discretion may cancel the order placed on the selected bidder without giving any notice.

<Nodal Agency> shall invoke the performance guarantee in case the selected Vendor fails to discharge their contractual obligations during the period or <Nodal Agency> incurs any loss due to Vendor's negligence in carrying out the project implementation as per the agreed terms & conditions.

### **2.5.5 Signing of Contract**

Post submission of Performance Guarantee by the successful bidder, <Nodal Agency> shall enter into a contract, incorporating all clauses, pre-bid clarifications and the proposal of the bidder between <Nodal Agency> and the successful bidder. Proposed Contract terms are provided as a separate document as a template.

### **2.5.6 Failure to Agree with the Terms and Conditions of the RFP**

Failure of the successful bidder to agree with the Proposed Contract terms and Terms & Conditions of the RFP shall constitute sufficient grounds for the annulment of the award, in which event <Nodal Agency> may award the contract to the next best value bidder or call for new proposals from the interested bidders.

In such a case, the <nodal agency> shall invoke the PBG of the most responsive bidder.

## **2.6 Fraud and Corrupt Practices**

- a. The Applicants/Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the <Nodal Agency> shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices") in the Selection Process. In such an event, the <Nodal Agency> shall, without prejudice to its any other rights or remedies, forfeit and appropriate the EMD or PBG, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the <Nodal Agency> for, inter alia, time, cost and effort of the <Nodal Agency>, in

regard to the RFP, including consideration and evaluation of such Applicant's Proposal.

- b. Without prejudice to the rights of the <Nodal Agency> under Clause above and the rights and remedies which the <Nodal Agency> may have under the LOI or the Contract, if an Applicant or Consultant, as the case may be, is found by the <Nodal Agency> to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOI or the execution of the Contract, such Applicant or Consultant shall not be eligible to participate in any tender or RFP issued by the <Nodal Agency> during a period of <period> from the date such Applicant or Consultant, as the case may be, is found by the <Nodal Agency> to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- c. For the purposes of this Section, the following terms shall have the meaning hereinafter respectively assigned to them:
  - i. "corrupt practice" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the <Nodal Agency> who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOI or has dealt with matters concerning the Contract or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the <Nodal Agency>, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Contract, as the case may be, any person in respect of any matter relating to the Project or the Award or the Contract, who at any time has been or is a legal, financial or technical consultant/ adviser of the <Nodal Agency> in relation to any matter concerning the Project;

- ii. “fraudulent practice” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- iii. “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;
- iv. “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by <Nodal Agency> 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
- v. “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.

## 2.7 Conflict of Interest

- a. An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “**Conflict of Interest**”). Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the <Nodal Agency> shall forfeit and appropriate the EMD, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the <Nodal Agency> for, *inter alia*, the time, cost and effort of the <Nodal Agency> including consideration of such Applicant’s Proposal, without prejudice to any other right or remedy that may be available to the <Nodal Agency> hereunder or otherwise.
- b. The <Nodal Agency> requires that the Consultant provides professional, objective, and impartial advice and at all times hold the <Nodal Agency>’s interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the <Nodal Agency>.
- c. *[Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in Section 2.4.10 of Guidance Note for Consulting*

- Services].* Without limiting the generality of the above, an Applicant shall be deemed to have a Conflict of Interest affecting the Selection Process, if:
- i. the Bidder, or Associates (or any constituent thereof) and any other Bidder, or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest;
  - ii. such Bidder or its Associate receives or has received any direct or indirect subsidy or grant from any other Bidder or its Associate; or
  - iii. such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Proposal of either or each of the other Bidder; or
  - iv. there is a conflict among this and other consulting assignments of the Bidder (including its personnel and other members, if any) and any subsidiaries or entities controlled by such Bidder or having common controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the <Nodal Agency> for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or
  - v. A firm hired to provide consulting services for the preparation or implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project;
- d. An Bidder eventually appointed to provide Consultancy for this Project shall be disqualified from subsequently providing goods or services related to the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 12 months from the completion of this assignment; provided further that this restriction shall not apply to consultancy services performed for the <Nodal Agency> in continuation of this Consultancy or to any subsequent consultancy/ advisory services performed for the <Nodal Agency> where the conflict of interest situation does not arise.
- e. In the event that the Consultant, its Associates or affiliates are auditors or financial advisers to any of the Bidders (for System Integration or any other activity) for the Project, they shall make a disclosure to the <Nodal Agency> as soon as any potential conflict comes to their notice but in no case later than 7 (seven) days from the receipt of such proposals and any breach of this obligation of disclosure shall be construed as Conflict of Interest. The <Nodal Agency> shall, upon being notified by the Consultant under this Clause, decide whether it wishes to terminate this Consultancy or otherwise, and convey its decision to the Consultant within a period not exceeding 15 (fifteen) days.

## 2.8 Terms of Reference / Scope of Work

*[Rule 185, GFR 2017 :*

*The TOR should include*

*(i) Precise statement of objectives.*

*(ii) Outline of the tasks to be carried out.*

*(iii) Schedule for completion of tasks.*

*(iv) The support or inputs to be provided by the Ministry or Department to facilitate the consultancy.*

*(v) The final outputs that will be required of the Consultant.]*

In this Section, Scope of work is detailed out as follows:

<Insert scope of work>

*[The scope of work can be drafted as per the requirement of the project. For ready reference a few sample "Scope of work" for common elements in e-Governance Consultancy are provided in Section 2.6 of Guidance Notes for Consulting Services]*

## 2.9 Deliverables & Timelines

*[Please refer Sections 2.6.4 and 2.7.1 of Guidance Notes for Consulting Services]*

*[The Deliverables would be inherently linked to the Scope of work defined for the project. Please refer Section 2.6.4 of Guidance Notes for Consulting Services for finalizing the deliverables. However for illustrative purposes, the Milestones of a typical consultancy assignment & timelines for end-to-end Consultancy support is provided here as an illustration :*

	<b>Phase</b>	<b>Milestone</b>	<b>Timelines</b>
1	<i>Phase I</i>	<i>As-Is Status report</i>  <i>Exit Criterion : This phase would end with the approval of the As-is Status report.</i>	<i>4 weeks</i>

2	Phase II	<ul style="list-style-type: none"> <li>- To-Be Processes maps &amp; reports</li> <li>- Functional Requirement Specification (FRS) report</li> <li>- Best Practices report</li> <li>- Legal changes requirement report</li> <li>- Change Management Plan Report</li> <li>- Project Management Monitoring Report</li> <li>- Draft RFP Document</li> <li>- Detailed Project Report (DPR) (comprising of project budget and financial sustainability)</li> </ul> <p>Exit Criterion : This phase would end with the approval of the reports &amp; RFP.</p>	12 weeks
3	Phase III	<ul style="list-style-type: none"> <li>- Bid Process Management</li> </ul> <p>Exit Criterion : This phase would end with the selection of the Most responsive bids from the RFPs submitted by Bidder</p>	10 weeks
4	Phase IV	<p>Periodic relevant Project Reviews, Statuses and Audit reports as per approved Project Management, Monitoring And Evaluation Plan in phase-III</p> <p>Exit Criterion: This phase would end with the project “go-live”, as declared by the Nodal Agency, either by written communication or in any official media release.</p>	55 weeks
5	Phase V	<p>User Acceptance Test (UAT)</p> <p>Exit Criterion : This phase would end with successful UAT and submission of the Acceptance Report</p>	16 weeks
6	Phase VI	<p>Project Appraisal and Future Roadmap Report</p> <p>Exit Criterion : This phase would end with the submission of the reports.</p>	4 weeks

In case of approval of a particular phase, all previous approvals would be deemed to be granted. ]

Reports that are part of the assignment must be written in the following language(s):  
 <Insert language>  
**<Procedure proposed to be followed for midterm review of the progress of the work and review of the final draft report>**

## 2.10 Payment Schedule

*[The Payment Schedule would be inherently linked to the Scope of work defined for the project. Please refer Section 2.7 of Guidance Notes for Consulting Services for finalizing*

*the Payment Schedule. However for illustrative purposes, the Payment Schedule of a typical consultancy assignment for end-to-end Consultancy support is provided here as an illustration.*

<b>S. No.</b>	<b>Phase</b>	<b>Billable Fee (as % of Contract Value) (illustrative)</b>
1	Phase I	10%
2	Phase II	15%
3	Phase III	20%
4	Phase IV	50%
5	Phase V	10%

**Payment Terms & Conditions**

- a. The taxes would be paid as extra at the prevalent rates.
- b. Out-of-pocket expenses would be payable at actuals. However the same should not exceed 15% of the amount at each phase.
- c. The out-of-pocket expenses would be reimbursed on providing the certified statement of expenses by the Consulting agency. If required, the agency may be asked to substantiate this statement in case of any audit requirements

*[Optional :*

*Success Fee: In case the consultants, manage to complete the project in time, a success fee may be provisioned. The success fee would be payable on completion of UAT as per the timelines. However it needs to be evaluated from case to case basis and ascertained that the Government benefits from the early completion of the project. Based on the benefit, the Government may provision for a success fee with an upper cap]*

**2.11 Support to be provided by <Nodal Agency>**

The Nodal Agency/ Department will provide the following support, post the award of the contract to the successful bidder:

*[Customize, as per the situation*

1. *Provide understanding of As-is processes*
2. *Provide the information on current IT infrastructure already available*
3. *The aspirations / expectation of the system which is planned to be procured*
4. *Any technical infrastructure support]*

## 2.12 Change Request

The following would constitute a Change request

- a. Any work which has not been specifically mentioned in the scope of work
- b. Any changes in the deliverables post approval by the client
- c. Bid Process Management in case of re-tendering is to be done for reasons for which the consultants are not responsible
- d. Any delay in the project timelines beyond the calendar time mentioned in the tender document for which Bidder is not directly responsible

*[In such a case, the additional effort estimated by the bidder and its costs would be discussed and finalized in discussions with the Bidder. The basis of this cost would be the commercial bid OR the most relevant rate empanelment of the Consultant with any Central / State Government]*

## 2.13 Downstream work

*[If the Nodal Agency/Department envisages the need for continuity for downstream work then provide the Terms of Reference the scope, nature, and timing of future work]*

*[Also indicate, whether the downstream work would constitute "Conflict of Interest".]*

## **Appendix I: Pre-Qualification & Technical Bid Templates**

The bidders are expected to respond to the RFP using the forms given in this section and all documents supporting Pre-Qualification / Technical Evaluation Criteria.

Pre-Qualification Bid & Technical Proposal shall comprise of following forms:

### **Forms to be used in Pre-Qualification Proposal**

Form 1: Compliance Sheet for Pre-qualification Proposal

Form 2: Particulars of the Bidders

Form 3: Bank Guarantee for Earnest Money Deposit (EMD)

### **Forms to be used in Technical Proposal**

Form 4: Compliance Sheet for Technical Proposal

Form 5: Letter of Proposal

Form 6: Proposed Approach & Methodology

Form 7: Proposed Work Schedule & Project Plan

Form 8: Deviations

Form 9: Team Composition and their Availability

Form 10: Curriculum Vitae (CV) of Key Personnel

Form 11: Deployment of Personnel

## Form 1: Compliance Sheet for Pre-qualification Proposal

(The pre-qualification proposal should comprise of the following basic requirements. The documents mentioned in this compliance sheet along with this form, needs to be a part of the Pre-Qualification proposal)

	Basic Requirement	Required	Provided	Reference & Page Number
1.	Document Fee	Demand Draft	Yes / No	
2	Power of Attorney	Copy of Power of Attorney in the name of the Authorized signatory	Yes / No	
3	Particulars of the Bidders	As per Form 2	Yes / No	
4	Earnest Money Deposit	Demand Draft / Bank Guarantee/Banker's Cheque	Yes / No	
5	Sales Turnover in IT Consulting	Extracts from the audited Balance sheet and Profit & Loss; OR  Certificate from the statutory auditor	Yes / No	
6	Technical Capability	Completion Certificates from the client; OR  Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR  Work Order + Phase Completion Certificate from the client	Yes / No	
7	Certifications	<i>[As relevant]</i>	Yes / No	
8	Consortiums	No Consortiums	Confirmation that the bidder is bidding as a single entity	
9	Debarment	A self certified letter	Yes / No	
	<b>Optional</b>			
10	Legal Entity	Copy of Certificate of Incorporation; and  Copy of Service Tax Registration Certificate	Yes / No	
11	Manpower Strength	Self Certification by the authorized signatory	Yes / No	

## Form 2: Particulars of the Bidders

Sl No.	Information Sought	Details to be Furnished
<b>A</b>	Name and address of the bidding Company	
<b>B</b>	Incorporation status of the firm (public limited / private limited, etc.)	
<b>C</b>	Year of Establishment	
<b>D</b>	Date of registration	
<b>E</b>	ROC Reference No.	
<b>F</b>	Details of company registration	
<b>G</b>	Details of registration with appropriate authorities for service tax	
<b>H</b>	Name, Address, email, Phone nos. and Mobile Number of Contact Person	

### Form 3: Bank Guarantee for Earnest Money Deposit (EMD)

<Location, Date>

To,  
<Name>  
<Designation>  
<Address>  
<Phone Nos.>  
<Fax Nos.>  
<email id>

Whereas <<name of the bidder>> (hereinafter called 'the Bidder') has submitted the bid for Submission of RFP # <<RFP Number>> dated <<insert date>> for <<name of the assignment>> (hereinafter called "the Bid") to <<Nodal Agency>>

Know all Men by these presents that we << >> having our office at <<Address>> (hereinafter called "the Bank") are bound unto the <<Nodal Agency>> (hereinafter called "the Purchaser") in the sum of Rs. <<Amount in figures>> (Rupees <<Amount in words>> only) for which payment well and truly to be made to the said Purchaser, the Bank binds itself, its successors and assigns by these presents. Sealed with the Common Seal of the said Bank this <<insert date>>

The conditions of this obligation are:

1. If the Bidder having its bid withdrawn during the period of bid validity specified by the Bidder on the Bid Form; or
2. If the Bidder, having been notified of the acceptance of its bid by the Purchaser during the period of validity of bid
  - (a) Withdraws his participation from the bid during the period of validity of bid document; or
  - (b) Fails or refuses to participate for failure to respond in the subsequent Tender process after having been short listed;

We undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by it is due to it owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to <<insert date>> and including <<extra time over and above mandated in the RFP>> from the last date of submission and any demand in respect thereof should reach the Bank not later than the above date.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN:

- I. Our liability under this Bank Guarantee shall not exceed Rs. <<Amount in figures>> (Rupees <<Amount in words>> only)
- II. This Bank Guarantee shall be valid upto <<insert date>>)
- III. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this Bank Guarantee that we receive a valid written claim or demand for payment under this Bank Guarantee on or before <<insert date>>) failing which our liability under the guarantee will automatically cease.

(Authorized Signatory of the Bank)

Seal:

Date:

## Form 4: Compliance Sheet for Technical Proposal

(The Technical proposal should comprise of the following basic requirements. The documents mentioned in this compliance sheet along with this form, needs to be a part of the Technical proposal)

	Specific Requirements	Documents Required	Compliance	Reference & Page Number
1.	Covering Letter for Technical Proposal	As per Form 5		
2.	Average turnover from services related to IT Consulting (i.e. revenue should be on account of IT consulting other than related to supply of hardware/IT infrastructure and their associated maintenance services, packaged software etc. in last 3 years (Turnover in Rs Crores)	Extracts from the audited Balance sheet and Profit & Loss; OR Certificate from the statutory auditor	Yes / No	
3.	Full-time professional staff engaged in consulting services (Number of Staff)	A self certification from authorized signatory	Yes / No	
4.	Experience relevant to this engagement as listed below to be demonstrated in a maximum of <Nos.> engagements that have either been completed or an ongoing project where a similar deliverable or milestone has been successfully achieved. <Provide the definition of "similar" to bring in the relevance factor required for this project> .	Completion Certificates from the client; OR  Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR  Work Order + Phase Completion Certificate (for ongoing projects) from the client		
5.	Approach & Methodology, Understanding and work Plan (As per the requirements specified in Technical evaluation)	A note (as per Form 6 & 7)	Yes / No	
6.	Deviations (if any)	Form 8	Yes / No	
7.	Team Composition (As per requirement specified in Technical evaluation)	CV for key positions & a Note (Form 9, 10 and 11)	Yes / No	
8.	Tools and Assets As per requirement specified in Technical evaluation)	A note and demonstration of the Tool/Assets	Yes / No	

All the Bidders are requested to mention the document reference number and Page number for each criteria.

## Form 5: Letter of Proposal

<Location, Date>

To:

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

**Subject:** Submission of the Technical bid for <provide name of the consulting assignment>

Dear Sir/Madam,

We, the undersigned, offer to provide Consultancy Services to the <Nodal Agency> on <provide name of the consulting engagement> with your Request for Proposal dated <insert date> and our Proposal. We are hereby submitting our Proposal, which includes this Technical bid and the Financial bid sealed in a separate envelope.

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

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Fact Sheet.

We agree to abide by all the terms and conditions of the RFP document. We would hold the terms of our bid valid for <90> days as stipulated in the RFP document.

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

Yours sincerely,

Authorized Signature (*In full and initials*): \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

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

## Form 6: Proposed Approach & Methodology

Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present Approach and Methodology divided into the following sections:

- a) Understanding of the project
- b) Potential initiatives given the priorities
- c) Technical Approach and Methodology

### Technical Approach and Methodology.

You should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output.

You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

## Form 7: Proposed Work Schedule & Project Plan

In this section you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Purchaser), and delivery dates of the reports.

The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports to be delivered as final output, should be included here.

The above should be substantiated with the project plan, as per the following template. The project plan should be consistent with the Work Schedule.

No.	Activity <sup>1</sup>	Dependency	Calendar Months												
			1	2	3	4	5	6	7	8	9	10	11	12	n
1															
2															
3															
4															
5															
N															

- 1 Indicate all main activities of the assignment, including delivery of reports (e.g.: inception, interim, and final reports), and other benchmarks such as Purchaser approvals. For phased assignments indicate activities, delivery of reports, and benchmarks separately for each phase.
- 2 Duration of activities shall be indicated in the form of a bar chart.
- 3 All activities should meet the 8/80 criteria i.e. should at least take 8 hours and a maximum of 80 hours.

## Form 8: Deviations

**This section should contain any assumption on areas which have not been provided in the RFP OR any changes to the existing provisions of the RFP**

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

*<<Suggest and justify here any modifications or improvement to the Scope of Work you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal>>*

### **B – Any other areas**

## Form 9: Team Composition and their Availability

Organization and Staffing. In this chapter you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical staff.

### Form 9.1: Team composition and Key Tasks

Name of Staff with Qualification and Experience	Area of Expertise	Position Assigned	Task Assigned	Time Committed for the Engagement

### Form 9.2: Information on Team Involvement in other Engagements

Name of Staff with Qualification and Experience	Current Assignments where the Resource CV had been presented in the proposal	End Date of the Assignment (as estimated on the date of submission of this bid)	% Time Commitment
Name of the Resource			

(Any information withheld / misrepresented, would establish the <Nodal Agency> would establish the veracity and if found true may lead to rejection of the bid OR cancellation of the contract)

## Form 10: Curriculum Vitae (CV) of Key Personnel

---

1. **Proposed Position** [*only one candidate shall be nominated for each position Expert*]: \_\_\_\_\_
2. **Name of Firm** [*Insert name of firm proposing the staff*]: \_\_\_\_\_
3. **Name of Staff** [*Insert full name*]: \_\_\_\_\_
4. **Date of Birth:** \_\_\_\_\_ **Nationality:** \_\_\_\_\_
5. **Education** [*Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment*]: \_\_\_\_\_
6. **Total No. of years of experience:** \_\_\_\_\_
7. **Total No. of years with the firm:** \_\_\_\_\_
8. **Areas of expertise and no. of years of experience in this area (as required for the Profile - mandatory):** \_\_\_\_\_  
\_\_\_\_\_
9. **Certifications and Trainings attended:** \_\_\_\_\_  
\_\_\_\_\_
10. **Details of Involvement in Projects** (*only if involved in the same*): \_\_\_\_\_  
\_\_\_\_\_
11. **Languages** [*For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing*]:
12. **Membership of Professional Associations:**
13. **Employment Record** [*Starting with present position and last 2 firms, list in reverse order, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.*]:

From (Year):

To (Year):

Purchaser: \_\_\_\_\_

Positions held: \_\_\_\_\_

<p><b>14. Detailed Tasks Assigned</b></p> <p style="color: red; text-align: center;"><i>[List all tasks to be performed under this assignment]</i></p>	<p><b>15. Relevant Work Undertaken that Best Illustrates the experience as required for the Role (provide maximum of 6 citations of 10 lines each)</b></p> <p><i>(Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 14 and as required for the role as listed in 'List of the key professional positions whose CV and experience would be evaluated')</i></p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Purchaser: _____</p> <p>Main project features: _____</p> <p>Positions held: _____</p> <p>Value of Project (approximate value or range value): _____</p> <p>Activities performed: _____</p>
--	---

**16. Certification:**

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

\_\_\_\_\_  
*(Signature of staff member or authorized representative of the staff)* Date: \_\_\_\_\_  
*Day/Month/Year*

Full name of Authorized Representative: \_\_\_\_\_

### Form 11: Deployment of Personnel

No	Name of Staff	Deliverables Involved	Staff input in Months (in the form of a bar chart) <sup>2</sup>													Total Staff man-Months Proposed
			1	2	3	4	5	6	7	8	9	10	11	12	n	
1																
2																
3																
N																
												Total				

1. Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category
2. Months are counted from the start of the assignment.



Full time input



Part time input

## **Appendix II : Commercial Proposal Templates**

The bidders are expected to respond to the RFP using the forms given in this section for Commercial Proposal.

Form 1: Covering Letter

Form 2: Commercial Bid Template

## Form 1: Covering Letter

<Location, Date>

To:

<Name>

<Designation>

<Address>

<Phone Nos.>, <Fax Nos.>

<email id>

**Subject:** Submission of the Financial bid for <provide name of the consulting assignment>

Dear Sir/Madam,

We, the undersigned, offer to provide the consulting services for <<*Title of consulting services*>> in accordance with your Request for Proposal dated [Date] and our Proposal - Technical and Financial Proposals. Our attached Financial Proposal is for the sum of <<*Amount in words and figures*>>. This amount is inclusive of OPEs, Miscellaneous expenses & Service taxes.

I understand that the payment would be made on the basis of actual Service tax rate prevalent during the time of payment.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e., <<*Date*>>

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

Yours sincerely,

Authorized Signature:

Name and Title of Signatory:

Name of Firm:

Address:

## Form 2: Commercial Bid Template

### Form 2A : Summary of Costs

S. No.	Costs	Currency (Indian National Rupees)	Amount(s)
1	Total Amount of Financial Proposal (A)		
2	Out of Pocket Expenses (B)		
3	Miscellaneous Expenses (C)		
4	Service Tax (Applicable rate * (A+B+C))		
	<b>Total (A+B)</b>		

### Form 2B: Breakdown of Price per Activity<sup>7</sup>

S. No.	Costs	Currency (Indian National Rupees)	Amount(s)
1	Phase I		
2	Phase II		
3	Phase III		
4	Phase IV		
5	...		
6			
7			
	<b>Total (Should be equal to "A" in Form 2 A)</b>		

---

<sup>7</sup> Please note that these costs do not affect the payment Schedule. These costs are required primarily to establish the costs of any rework or penalties, in case required at any subsequent stage

**Form 2C: Breakdown of Remuneration (man month rate)<sup>8</sup>**

S. No.	Names	Position	Deliverables Involved	Unit Cost (per man month rate)	Total Manmonth required / Total Remuneration	Amount
1						
2						
3						
4						
5						
6						
7						
<b>Total (Should be equal to "A" in Form 2 A)</b>						

**Form 2D: Estimate of Out of Pocket Expenses**

S. No.	Description	Unit	Quantity	Unit Price In INR	Amount
1					
2					
3					
...					
<b>Total (Should be equal to "B" in Form 2 A)</b>					

---

<sup>8</sup> Please note that these costs do not affect the payment Schedule. These costs are required primarily to establish the costs of change requests

## Form 2E: Miscellaneous Expenses

S. No.	Description	Unit	Quantity	Unit Price	Amount
1	Software/project management tool				
2	< Any others, please specify>				
3					
...					
<b>Total (Should be equal to "C" in Form 2 A)</b>					

## Appendix III: Performance Bank Guarantee

<Location, Date>

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

Whereas, <<name of the supplier and address>> (hereinafter called "the applicant/supplier") has undertaken, in pursuance of contract no. <<insert contract no.>> dated. <<insert date>> to provide consulting services for <<name of the assignment>> to <<Nodal Agency>> (hereinafter called "the beneficiary")

And whereas it has been stipulated by in the said contract that the applicant/supplier shall furnish you with a bank guarantee by a recognized bank for the sum specified therein as security for compliance with its obligations in accordance with the contract;

And whereas we, <<**Name of the Bank**>> a banking company incorporated and having its head /registered office at <<address of the registered office>> and having one of its office at <<address of the local office>> have agreed to give the supplier such a bank guarantee.

Now, therefore, we hereby affirm that we are guarantors and responsible to you, on behalf of the supplier, upto a total of **Rs. <<Insert Value>> (Rupees <<insert value in words>> only)** and we undertake to pay you, upon your first written demand declaring the supplier to be in default under the contract and without cavil or argument, any sum or sums within the limits of Rs. <<Insert Value>> (Rupees <<insert value in words>> only) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the applicant/supplier before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the contract to be performed there under or of any of the contract documents which may be made between you and the applicant/supplier shall in any way release us from any liability under this guarantee and we hereby waive notice of any such change, addition or modification.

This Guarantee shall be valid until <<Insert Date>>.

Notwithstanding anything contained herein:

- I. Our liability under this bank guarantee shall not exceed **Rs <<Insert Value>> (Rupees <<insert value in words>> only)**.
- II. This bank guarantee shall be valid up to <<insert expiry date>>.
- III. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this bank guarantee that we receive a valid written claim or demand for payment under this bank guarantee on or before <<insert expiry date>> failing which our liability under the guarantee will automatically cease.

## Templates

### A: Proposed Contract Terms for Deliverable based engagement

Please refer [Annexure I](#) of this document for the draft Contract Terms.

## Structure of RFP Document for Consulting Assignment (Capacity Augmentation)

### When do we need this RFP?

An RFP is used for procurement under the following typical circumstances:

- The Government intends to hire technical manpower for a defined period of time to provide support to existing officials through payment on man-month basis
- Scope of work and deliverables are not known clearly to estimate the effort
- The Client / Nodal Agency is having the technical knowhow to direct the resources hired under this RFP for getting the desired output
- There is an identified technical qualification and experience of the resources desired
- Budget is known, approved OR availability of budget is assured
- Need to procure the most economical tender, through open competitive bidding - generate competition by ensuring at least with 3 bidders
- If all the above is applicable and estimated value of the assignment is less than Rs. 25 lakhs then the Nodal Agency can directly release this RFP instead of releasing the EOI and then this RFP. This RFP may consist of Technical evaluation criteria and/or Pre qualification criteria with financial details.

### How do you use it?

This model RFP has been prepared for Nodal Agency/ Nodal Officer to engage consultants for providing consulting services in the area of Information Technology for the situations mentioned above. This model RFP should be used as a template for creation of RFP. The user of this template should refer to the guidance notes wherever referred in this document. The Proposed Contract terms has been provided separately in Annexure II.

### What are typical contents of this RFP?

S. No.	Document Structure	Desirability	Reference
1.	Fact Sheet	Mandatory	[Refer Section 3.1]
2.	Letter of invitation and Background Information	Mandatory	[Refer Section 3.2]
3.	Information to Consultants regarding the procedure for submission of proposal/ Instruction to Bidder	Mandatory	[Refer Section 3.3]
4.	Eligibility / Pre- Qualification criteria	Mandatory	[Refer Section 3.4.1]
5.	Bid evaluation criteria /Criteria for Technical Evaluation	Mandatory	[Refer Section 3.4.2]
6.	Terms of Reference / Scope of Work	Mandatory	[Refer Section 3.8, 3.9 & 3.10]
7.	Terms of Payment	Mandatory	[Refer Section 3.4]
8.	Checklist for Submission	Mandatory	[Refer Appendix 1 Form 1 & 4]

# <Name of the proposed Consulting Engagement>

<File reference No.>

## 3.0

### ***Template Document for Request for Proposal for Consulting Assignment (Capacity Augmentation)***

S. No.	Particular	Details
1.	Start date of issuance / sale of RFP document	< Date >
2.	Last date for Submission of Queries	< Date >
3.	Pre-Bid Conference	< Date >
4.	Issue of Corrigendum	< Date >
5.	Last date for issuance / sale of RFP Document	< Date >
6.	Last date and time for RFP Submission	< Date >
7.	Date and time of opening of Pre-Qualification bids	< Date >
8.	Date and time for opening of Technical bids	< Date >
9.	Date and time for opening of Commercial bids	< Date >

### 3 Model RFP Document for Capacity Augmentation

#### 3.1 Fact Sheet

*[The bidders should be provided with this **Fact Sheet** comprising of important factual data of the RFP.]*

Clause Reference	Topic
<Section 3.4.4>	<p>The method of selection is: &lt;Method of selection&gt;  <i>[For guidance on method of selection please refer Section 2.5 of Guidance Notes for Consulting Services]</i></p>
<Section 3.3.4.2>	<p>RFP can be            Collected from the following address on or before&lt; indicate date, time&gt;            :            &lt;Name&gt;            &lt;Designation&gt;            &lt;Address&gt;            &lt;Phone Nos.&gt;            &lt;Fax Nos.&gt;            &lt;email id&gt;            by paying the document Fee of Rs. &lt;Amount&gt; by Demand Draft in favour of &lt;Bank Account Name&gt; and payable at &lt;Location / City&gt; from any of the scheduled commercial bank</p> <p>OR            Downloaded from &lt;website address and <a href="http://www.eprocure.gov.in">www.eprocure.gov.in</a> &gt;. However in this case, the Bidders are required to submit the tender cost in the form of a demand draft (details mentioned in above para) along with the Proposal.</p>
<Section 3.3.4.3>	<p>EMD of Rs. (<i>amount</i>) in the form of Demand Draft OR Bankers Cheque OR bank guarantee OR and electronic Bank Guarantee under Structured Financial Messaging System (SFMS).</p>
<Section 3.8>	<p>Procurement is for services linked to Capacity Augmentation, i.e. Time and Material Basis</p>
<Section 3.3.3>	<p>A pre-Bid meeting will be held on &lt; indicate date, time, and venue&gt;            The name(s), address(es), and telephone numbers of the Nodal Officer is:            &lt;Name&gt;</p>

Clause Reference	Topic
	<Designation> <Address> <Phone Nos.> <Fax Nos.> <email id> All the clarifications should be received on or before <indicate date, time>, either through post or email as mentioned will be considered.
<Section 2.3.5.2>	Proposals should be submitted in the following language(s): <Insert language>
<Section 3.8>	(i) Shortlisted firm/entity may associate with other shortlisted firm: No  (ii) The following professional would be required on full time basis for <insert the calendar months>  <Insert the name of the Positions>
<Section 3.14>	The Nodal Agency/Department envisages the possibility for extension of the period: Yes ___ No ___ <If yes, then indicate the maximum outer limit of extension>
<Section 3.12>	Taxes: <As applicable>
<Section 3.3.7.2>	Proposals must remain valid <days> <i>[Normally between 60 and 90 days]</i> after the submission date, i.e., until: <insert the date>
<Section 3.3.4.4>	<p><b>&lt;Option 1: In case of online submission&gt;</b>                      Bidders must upload and submit on the eProcurement portal &lt;URL&gt; all the items (documents), as per the folder structure specified on the eProcurement portal. <i>Each of the above documents must be uploaded in the format specified for this purpose.</i></p> <p><b>&lt;Option 2: In case of physical submission&gt;</b>                      Bidders must submit</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> An original and &lt;one&gt; additional copies of each proposal along with &lt;one&gt; copy of non-editable CD for Prequalification &amp; Technical Proposal</li> <li><input type="checkbox"/> One original copy of the Commercial Proposal</li> </ul>
<Section 3.3.5.3>	The proposal submission address is: <Name> <Designation> <Address> <Phone Nos.> <Fax Nos.>

Model RFP Templates for Consulting Agencies

<p>&lt;Section 3.3.5.3&gt;</p>	<p><b>&lt;Option 1: In case of online submission&gt;</b> Proposals submitted after <b>&lt;insert the date and time&gt;</b> will not be accepted by the eProcurement portal.</p> <p><b>&lt;Option 2: In case of physical submission&gt;</b> Proposals must be submitted no later than the following date and time: &lt;insert the date and time&gt;</p>
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## 3.2 Letter of Invitation and Background Information

*[Please refer Section 2.3.3 of Guidance Notes for Consulting Services for guidance on provisioning background information.]*

### 3.2.1 Letter of Invitation

- a) <Nodal Agency> invites responses (“Proposals”) to this Request for Proposals (“RFP”) from Consulting agencies (“Bidders”) for the provision of the e-Governance consulting services as described in <Section 2.9> of this RFP, “Scope of Work” (“the Services”). <Nodal Agency> is the <Nodal Agency> for this public procurement competition (“the <Nodal Agency>”).
- b) Any contract that may result from this public procurement competition will be issued for a term of <insert relevant period> (“the Term”).
- c) The <Nodal Agency> reserves the right to extend the Term for a period or periods of up to <insert relevant period> with a maximum of <insert relevant period> such extension or extensions on the same terms and conditions.
- d) Proposals must be received not later than time, date and venue mentioned in the Fact Sheet. Proposals that are received late WILL NOT be considered in this public procurement competition.

### 3.2.2 Project Background

*[The “Project Background” should give project details around*

- Need for the Capacity Augmentation*
- Expected outcome of the Capacity Augmentation*
- Skills desired for the successful outcome]*

### 3.2.3 Key Information

*[The Introduction section should lay down:*

- Prime Objective of the project*
- When was the program initiated/sanctioned*
- Background about the Government program / initiative to address the challenges, issues faced; etc.*
- Funds and sponsors for program - The estimated number of professional staff-months required for the assignment OR the sanctioned budget*
- Any downstream work expected from this assignment and any potential “Conflict of Interest”*

*situation emerging from that*

- *The inputs /facilities which would be provided to the successful bidder on award of this contract]*

*[It may be noted that the criticality of this section reduces, as compared to the Deliverable based assignment, as the risk of delivery rests with the Nodal Agency]*

### **3.2.4 About the Department**

*[The "About" section contains the organizational profile of the Government entity/Department which is the end buyer and implementer of the procured solution.*

*The section should explain facts and figures about that Government entity in terms of its*

- *Vision and organizational objectives*
- *Manpower strength*
- *Comprising divisions/directorates etc.*
- *Organization structure*
- *Activities of the Department*
- *Geographical spread and operating locations]*

*[It may be noted that the criticality of this section reduces, as compared to the Deliverable based assignment, as the risk of wrong effort estimation linked to the department size, rests with the Nodal Agency]*

## **3.3 Instructions to the Bidders**

### **3.3.1 General**

- a) While every effort has been made to provide comprehensive and accurate background information and requirements and specifications, Bidders must form their own conclusions about the consultancy support required. Bidders and recipients of this RFP may wish to consult their own legal advisers in relation to this or the subject matter thereof.
- b) All information supplied by Bidders may be treated as contractually binding on the Bidders, on successful award of the assignment by the <Nodal Agency> on the basis of this RF

- c) No commitment of any kind, contractual or otherwise shall exist unless and until a formal written contract has been executed by or on behalf of the <Nodal Agency>. Any notification of preferred bidder status by the <Nodal Agency> shall not give rise to any enforceable rights by the Bidder. The <Nodal Agency> may cancel this public procurement at any time prior to a formal written contract being executed by or on behalf of the <Nodal Agency>.
- d) This RFP supersedes and replaces any previous public documentation & communications, and Bidders should place no reliance on such communications.

### **3.3.2 Compliant Proposals / Completeness of Response**

- a) Bidders are advised to study all instructions, forms, requirements, appendices and other information in the RFP documents carefully. Submission of the bid shall be deemed to have been done after careful study and examination of the RFP document with full understanding of its implications.
- b) Failure to comply with the requirements of this paragraph may render the Proposal non-compliant and the Proposal may be rejected. Bidders must:
  - i. Comply with all requirements as set out within this RFP.
  - ii. Submit the forms as specified in this RFP and respond to each element in the order as set out in this RFP
  - iii. Include all supporting documentations specified in this RFP

### **3.3.3 Pre-Bid Meeting & Clarifications**

#### **3.3.3.1 Bidders Queries**

- a. <Nodal Agency> shall hold a pre-bid meeting with the prospective bidders on <Date & time> at <Address of the Venue>
- b. The Bidders will have to ensure that their queries for Pre-Bid meeting should reach to <Name, Address, Fax and email id of the Nodal Officer> by post, facsimile or email on or before <Date & time>
- c. The queries should necessarily be submitted in the following format:

S. No.	RFP Document Reference(s) (Section & Page Number(s))	Content of RFP requiring Clarification(s)	Points of Clarification
1.			
2.			
3.			
4.			
5.			
6.			

- d. <Nodal Agency> shall not be responsible for ensuring that the bidders' queries have been received by them. Any requests for clarifications post the indicated date and time may not be entertained by the Nodal Agency.

### 3.3.3.2 Responses to Pre-Bid Queries and Issue of Corrigendum

- a. The Nodal Officer notified by the <Nodal Agency> will endeavor to provide timely response to all queries. However, <Nodal Agency> makes no representation or warranty as to the completeness or accuracy of any response made in good faith, nor does <Nodal Agency> undertake to answer all the queries that have been posed by the bidders.
- b. At any time prior to the last date for receipt of bids, <Nodal Agency> may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the RFP Document by a corrigendum.
- c. The Corrigendum (if any) & clarifications to the queries from all bidders will be posted on the <website address of CPPP, GeM and organization website > and emailed to all participants of the pre-bid conference.
- d. Any such corrigendum shall be deemed to be incorporated into this RFP.
- e. In order to provide prospective Bidders reasonable time for taking the corrigendum into account, < Nodal Agency> may, at its discretion, extend the last date for the receipt of Proposals.

## 3.3.4 Key Requirements of the Bid

### 3.3.4.1 Right to Terminate the Process

- a. <Nodal Agency> may terminate the RFP process at any time and without assigning any reason. <Nodal Agency> makes no commitments, express or implied, that this process will result in a business transaction with anyone.

- b. This RFP does not constitute an offer by <Nodal Agency>. The bidder's participation in this process may result <Nodal Agency> selecting the bidder to engage towards execution of the contract.

#### **3.3.4.2 RFP Document Fees**

- a. The RFP documents have been made available to be downloaded without any fee from the website <Website address and www.eprocure.gov.in >.
- b. the demand draft of RFP document fees (if any, as mentioned in the Fact Sheet) should be submitted along with the bidder's proposal. Proposals received without or with inadequate RFP Document fees shall be rejected.

#### **3.3.4.3 Earnest Money Deposit (EMD)**

*[To safeguard against a bidder's withdrawing or altering its bid during the bid validity period in the case of advertised or limited tender enquiry, Bid Security (also known as Earnest Money) is to be obtained from the bidders except Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) or are registered with the Central Purchase Organisation or the concerned Ministry or Department.]*

- a. Bidders shall submit, along with their Proposals, an EMD of Rs. <Amount figure and words> only, in the form of a demand draft OR Bankers Cheque OR bank guarantee OR and electronic Bank Guarantee under Structured Financial Messaging System (SFMS). The payment transfer related information is as follows:
  - i. EMD BG in the format specified in Appendix I: Form 3 issued by a commercial bank in favour of <Beneficiary Account details>. The EMD BG should remain valid for a period of 45 days beyond the final tender validity period.
  - ii. Demand Draft/Banker cheque : Payable at <Location/city>
  - iii. Electronic Bank Guarantee under Structured Financial Messaging System (SFMS) : < details>
- b. EMD of all unsuccessful bidders would be refunded by <Nodal Agency> within <Time Period> of the bidder being notified as being unsuccessful. The EMD, for the amount mentioned above, of successful bidder would be returned upon submission of Performance Bank Guarantee as per the format provided in Appendix III.
- c. The EMD amount is interest free and will be refundable to the unsuccessful bidders without any accrued interest on it.
- d. The bid / proposal submitted without EMD, mentioned above, will be summarily rejected.
- e. The EMD may be forfeited:

- If a bidder withdraws its bid during the period of bid validity.
- In case of a successful bidder, if the bidder fails to sign the contract in accordance with this RFP.

#### **3.3.4.4 Submission of Proposals**

*[GFR, 2017 (Rule 160) E-Procurement:*

*(i) It is mandatory for Ministries/ Departments to receive all bids through e-procurement portals in respect of all procurements.*

*(ii) Ministries/ Departments which do not have a large volume of procurement or carry out procurements required only for day-to-day running of offices and also have not initiated e-procurement through any other solution provided so far, may use e-procurement solution developed by NIC (GePNIC). Other Ministries/ Departments may either use e-procurement solution developed by NIC or engage any other service provider following due process.*

*(iii) These instructions will not apply to procurements made by Ministries / Departments through DGS&D Rate Contracts.*

*(iv) In individual case where national security and strategic considerations demands confidentiality, Ministries/ Departments may exempt such cases from e-procurement after seeking approval of concerned Secretary and with concurrence of Financial Advisers.*

*(v) In case of tenders floated by Indian Missions Abroad, Competent Authority to decide the tender, may exempt such case from e - procurement.*

Accordingly, Ministries / Departments should receive all bids through e-procurement portals in respect of all procurements. However, when not possible, other appropriate methods of bid submission may be used, with proper approvals and reasons in writing. Relevant options have been provided below, which needs to be customized.]

#### **<Option 1: In case of Online Submission on e-Procurement portal>**

Bidders should submit their responses as per the procedure specified in the e-Procurement portal (*specify URL*) being used for this purpose. *Generally, the items to be uploaded on the portal would include all the related documents mentioned in this Model RFP, such as:*

- Tender Fee
- EMD
- Pre-qualification response
- Technical Proposal
- Financial proposal
- Additional certifications/documents Eg. Power of Attorney, CA certificates on turnover, etc.

*However, each of the above documents must be uploaded in the format specified for this purpose and as per the specified folder structure in the e-Procurement portal.*

*The bidder must ensure that the bid is digitally signed by the Authorized Signatory of the bidding firm and has been duly submitted (freed) within the submission timelines. The <User Department> will in no case be responsible if the bid is not submitted online within the specified timelines.*

All the pages of the Proposal document must be sequentially numbered and must contain the list of contents with page numbers. Any deficiency in the documentation may result in the rejection of the Bidder's Proposal.

OR

**<Option 2: In case of physical submission of bids at office of Purchasing Dept.>**

- a. The bidders should submit their responses as per the format given in this RFP in the following manner
  - Response to Pre-Qualification Criterion : (1 Original + <1 > Copies +<1>CD) in first envelope
  - Technical Proposal - (1 Original + <1> Copies +<1>CD) in second envelope
  - Commercial Proposal - (1 Original) in third envelope
- b. The Response to Pre-Qualification criterion, Technical Proposal and Commercial Proposal (As mentioned in previous paragraph) should be covered in separate sealed envelopes superscribing "Pre-Qualification Proposal", "Technical Proposal" and "Commercial Proposal" respectively. Each copy of each bid should also be marked as "Original" OR "Copy" as the case may be.
- c. Please Note that Prices should not be indicated in the Pre-Qualification Proposal or Technical Proposal but should only be indicated in the Commercial Proposal.
- d. The three envelopes containing copies of Pre-qualification Proposal, Technical Proposal and Commercial Proposal should be put in another single sealed envelope clearly marked "Response to RFP for <Name of the assignment> - < RFP Reference Number> and the wordings "DO NOT OPEN BEFORE <Date and Time>".
- e. The outer envelope thus prepared should also indicate clearly the name, address, telephone number, E-mail ID and fax number of the bidder to enable the Bid to be returned unopened in case it is declared "Late".
- f. All the pages of the proposal must be sequentially numbered and must contain the list of contents with page numbers. Any deficiency in the documentation may result in the rejection of the Bid.
- g. The original proposal/bid shall be prepared in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the bidder itself. Any such corrections must be initialed by the person (or persons) who sign(s) the proposals.
- h. All pages of the bid including the duplicate copies, shall be initialed and stamped by the person or persons who sign the bid.
- i. In case of any discrepancy observed by <Nodal Agency> in the contents of the submitted original paper bid documents with respective copies, the information furnished on original paper bid document will prevail over others.
- j. Bidder must ensure that the information furnished by him in respective CDs is identical to that submitted by him in the original paper bid document. In case of any discrepancy observed by <Nodal Agency> in the contents of the CDs and original paper bid documents, the information

furnished on original paper bid document will prevail over the soft copy.

### **3.3.4.5 Authentication of Bids**

A Proposal should be accompanied by a power-of-attorney in the name of the signatory of the Proposal. A copy of the same should be uploaded under the relevant section/folder on the eProcurement portal. Furthermore, the bid must also be submitted online after being digitally signed by an authorized representative of the bidding entity.

### **3.3.5 Preparation and submission of Proposal**

#### **3.3.5.1 Proposal Preparation Costs**

The bidder shall be responsible for all costs incurred in connection with participation in the RFP process, including, but not limited to, costs incurred in conduct of informative and other diligence activities, participation in meetings/discussions/presentations, preparation of proposal, in providing any additional information required by <Nodal Agency> to facilitate the evaluation process, and in negotiating a definitive contract or all such activities related to the bid process.

<Nodal Agency> will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

#### **3.3.5.2 Language**

The tender should be filled by the Bidder in English language only. If any supporting documents submitted are in any language other than English, translation of the same in English language is to be duly attested by the Bidders. For purposes of interpretation of the tender, the English translation shall govern.

#### **3.3.5.3 Venue & Deadline for Submission of proposals**

##### **<Option 1: In case of Online Submission on e-Procurement portal>**

In case of e-Procurement, the response to RFPs must be submitted on the eProcurement portal (specify URL) by the date and time specified for the RFP. Any proposal submitted on the portal after the above deadline will not be accepted and hence shall be automatically rejected. Purchaser shall not be responsible for any delay in the submission of the documents.

**OR**

##### **<Option 2: In case of physical submission of bids at office of Purchasing Dept.>**

Proposals, in its complete form in all respects as specified in the RFP, must be submitted to <Nodal Agency> at the address specified below:

<b>Addressed To</b>	<Name of Person/Designation to be addressed to>
<b>Name</b>	<Nodal Agency>
<b>Address</b>	<Address>
<b>Telephone</b>	<Telephone No.>
<b>Fax Nos.</b>	<Fax No.>
<b>Email ids</b>	<email id>
<b>Last Date &amp; Time of Submission</b>	<Date> before <Time>

#### 3.3.5.4 Late Bids

- a. Bids received after the due date and the specified time (including the extended period if any) for any reason whatsoever, shall not be entertained and shall be returned unopened.
- b. The bids submitted by telex/telegram/ fax/e-mail etc. shall not be considered. No correspondence will be entertained on this matter.
- c. <Nodal Agency> shall not be responsible for any postal delay or non-receipt/ non-delivery of the documents. No further correspondence on the subject will be entertained.
- d. <Nodal Agency> reserves the right to modify and amend any of the above-stipulated condition/criterion depending upon project priorities vis-à-vis urgent commitments.

#### 3.3.6 Evaluation process / Selection procedure

- a. <Nodal Agency> will constitute a Consultancy Evaluation Committee to evaluate the responses of the bidders
- b. The Consultancy Evaluation Committee constituted by the <Nodal Agency> shall evaluate the responses to the RFP and all supporting documents / documentary evidence. Inability to submit requisite supporting documents / documentary evidence, may lead to rejection.
- c. The decision of the Consultancy Evaluation Committee in the evaluation of responses to the RFP shall be final. No correspondence will be entertained outside the process of evaluation with the Committee.
- d. The Consultancy Evaluation Committee may ask for meetings with the Bidders to seek clarifications on their proposals<sup>9</sup>
- e. The Consultancy Evaluation Committee reserves the right to reject any or all proposals on the basis of any deviations.
- f. Each of the responses shall be evaluated as per the criteria and requirements specified in this RFP.

### **3.3.6.1 Tender Opening**

The tenders submitted up to <Time> on <Date> will be opened at <Time> on <Date Time> by <Nodal officer> or any other officer authorized by <Nodal Agency>, in the presence of such of those Bidders or their representatives who may be present at the time of opening.

The representatives of the bidders should be advised to carry the identity card or a letter of authority from the tendering firms to identify their bonafide for attending the opening of the proposal.

### **3.3.6.2 Tender Validity**

The offer submitted by the Bidders should be valid for minimum period of <90> days from the date of submission of Tender.

### **3.3.6.3 Tender Evaluation**

- I. Initial Bid scrutiny will be held and incomplete details as given below will be treated as non-responsive. If Proposals;
  - Are not submitted in as specified in the RFP document
  - Received without the Letter of Authorization (Power of Attorney)
  - Are found with suppression of details
  - With incomplete information, subjective, conditional offers and partial offers submitted
  - Submitted without the documents requested in the checklist
  - Have non-compliance of any of the clauses stipulated in the Tender
  - With lesser validity period
  
- II. All responsive Bids will be considered for further processing as below.  
< Nodal Agency> will prepare a list of responsive bidders, who comply with all the Terms and Conditions of the Tender. All eligible bids will be considered for further evaluation by a Committee according to the Evaluation process define in this RFP document. The decision of the Committee will be final in this regard.

### **3.3.7 Consortiums**

*[The Nodal agency should evaluate whether to allow the consortiums. The Nodal Agency should consider the value add which a consortium can bring in, which a sub-contractor cannot bring in and accordingly mention it in this section.*

*While evaluating, it should consider the benefit of having single point of ownership versus a direct control on the implementation agency responsible for the scope of work. Please refer Section 1.4.8 of Guidance Notes for Consulting Services for guidance on allowing Consortiums]*

## 3.4 Criteria for Evaluation

### 3.4.1 Pre-Qualification Criteria

*[Please refer Section 2.4 of Guidance Notes for Consulting Services for guidance on the Eligibility Criteria before finalization of the criterion]*

S. No.	Basic Requirement	Specific Requirements	Documents Required
1	Sales Turnover in Consulting (or IT Consulting, depending on nature of work)	<p>Annual Sales Turnover <b>generated from services related to Consulting (or IT Consulting)</b> during each of the last three financial years (as per the last published Balance sheets), should be at least Rs. &lt;value&gt;.</p> <p>This turnover <b>should be on account of Consulting (or IT Consulting) only and should not comprise of sales revenues</b> related to supply of hardware/IT infrastructure and their associated maintenance services, implementation of packaged software etc.</p> <p><i>[Please refer Section 2.4.1 of Guidance Notes for Consulting Services for guidance on the PQ requirements of Sales Turnover in IT Consulting]</i></p>	<p>Extracts from the audited Balance sheet and Profit &amp; Loss; OR</p> <p>Certificate from the statutory auditor</p>
2	Technical Capability	<p>Consultant must have <b>successfully completed at least the following numbers of consulting engagement</b> of value specified herein :</p> <p><i>One project of similar nature not less than the amount &lt;value equal to 80% of estimated cost&gt;; OR</i></p> <p><i>Two projects of similar nature not less than the amount equal &lt;value equal to 60% of estimated cost&gt;; OR</i></p> <p><i>Three projects of similar nature not less than the amount equal &lt;value equal to 40% of estimated cost&gt;</i></p> <p>&lt;Provide the definition of "similar nature" to bring in the relevance factor required for this project&gt; .</p> <p><i>[Please refer Section 2.4.2 of Guidance Notes for Consulting Services for guidance on the PQ requirements of Technical Capability]</i></p>	<p>Completion Certificates from the client; OR</p> <p>Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR</p> <p>Work Order + Phase Completion Certificate from the client</p>
3	Certifications	<p><i>[Please refer Section 2.4.5 of Guidance Notes for Consulting Services for guidance on the PQ requirements of certifications]</i></p>	Copy of the Certification
4	Consortiums	<p>Bidder should be an individual organization. Consortiums are not allowed.</p> <p><i>[Please refer Section 2.4.8 of Guidance Notes for Consulting Services for guidance on the PQ requirements of Consortiums]</i></p>	
<b>Optional</b>			
5	Legal Entity	<p>Should be Company registered under Companies Act, 1956 or a partnership firm registered under LLP Act, 2008</p> <p>Registered with the Service Tax Authorities</p>	<p>Copy of Certificate of Incorporation; and</p> <p>Copy of Service Tax Registration Certificate</p>

S. No.	Basic Requirement	Specific Requirements	Documents Required
		Should have been operating for the last three years. <i>[Please refer Section 2.4.7 of Guidance Notes for Consulting Services for guidance on the PQ requirements on Registered Legal entity]</i>	
6	Manpower Strength	<i>[Please refer Section 2.4.4 of Guidance Notes for Consulting Services for guidance on the PQ requirements on Manpower Strengths]</i>	Self-Certification by the authorized signatory
7	Debarment	<i>[Please refer Section 2.4.6 of Guidance Notes for Consulting Services for guidance on the PQ requirements on Debarment]</i>	A self-certified letter

*[It may be noted that the Pre-qualification criteria should not be put for cases while short-listing of bidders has already been carried out through Expression of interest. In case, where EOI has not been carried out, a Pre-Qualification criterion may be kept.]*

*Moreover, the pre-qualification criterion should not be mandated where the RFP document is to be shared with the empanelled list]*

### 3.4.2 Technical Qualification Criterion

Bidders who meet the pre-qualifications/eligibility requirements would be considered as qualified to move to the next stage of Technical and Financial evaluations

*[During the discussion with various stakeholders, it emerged that evaluation criterion is to be carefully designed. Discussions were held on the merit of each criterion and how does it help the Nodal Agency in getting the most suitable agency to execute the assignment. Accordingly several prevalent Technical evaluation criterion were rationalized (dropped or change in the weightage of marks allocated).*

*In case the Nodal Agency seeks to introduce new evaluation criterion or re-allocate the marks, the Nodal Agency should assure itself that the change does not lead to restriction in the competition.*

*The “litmus test” for drawing up the requirements for “Company profile” below should be that Nodal officer should assure himself that at least 8 bidders would be able to score minimum qualifying marks]*

**Technical Evaluation Criterion**

S. No	Criteria	Requirements	Max Marks	Supporting Documents
	<b>COMPANY PROFILE</b>		<b>10</b>	
1.	Full-time professional staff engaged in consulting services (Number of Staff)	Equal to more than X1: 10 marks  Between X2 & X1: 6 marks  Between X3 & X2: 2 marks  Less than X3 : 0 marks  <i>[1. Please replace the values x1, x2 and x3 with actual numbers. 2. It may be noted that X1&gt;X2&gt;X3]</i>	10	A self certification from authorized signatory
	<b>RELEVANT PAST EXPERIENCE</b>		<b>10</b>	
2.	Experience relevant to this engagement as listed below to be demonstrated in a maximum of <Nos.> engagements that have either been completed or an ongoing project similar skills were put to use.  <Provide the definition of “similar” to bring in the relevance factor required for this project> .	Equal to or more than 5 projects : 10 marks 4 Projects : 8 marks 3 Projects : 6 marks 2 Projects : 4 marks  Less than 2 projects : 0 marks	10	Completion Certificates from the client; OR  Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR  Work Order + Phase Completion Certificate (for ongoing projects) from the client
	<b>RESOURCE PROFILE</b>		<b>80</b>	
3.	Resume of all consultants proposed for the assignment  <Provide the roles against which the CVs have to be provided by the bidders to bring in the relevance factor required for this project  Also Provide the definition of “similar” to bring in the relevance factor required for this project>	<i>[CV and experience would be evaluated needs to be provided                       Marks to be awarded on the basis of the relevant experience of the proposed Staff.                       At a consultant level (3-5 years of consulting experience) staff: Full marks, if the staff has experience in &lt;3&gt; or more assignments of</i>	80	CVs

S. No	Criteria	Requirements	Max Marks	Supporting Documents
		<p><i>similar nature.</i></p> <p><i>At a Senior Consultant level (5-12 years of consulting experience) staff: Full marks, if the staff has experience in &lt;6&gt; or more assignments of similar nature.</i></p> <p><i>At a Principal Consultant level (more than 12 years of consulting experience) staff: Full marks, if the staff has experience in &lt;10&gt; or more assignments of similar nature.]</i></p>		
	<b>TOOLS &amp; ASSETS</b>	Case to case basis		
4.	Tools and Assets which could be leveraged for the assignment [for e.g. PMU Tool, Load testing etc., depending on the relevance to the Scope of work]		As per requirement	

The criterion for evaluation of CVs would be as follows:

S. No.	Resource Requirement	Nos. Reqd.	Criterion	Evaluation Structure	Maximum Marks
1	<b>Principal Consultant with expertise in &lt;Specify a role&gt;</b> <b>[Generally it is one of the following :</b> <ul style="list-style-type: none"> <li>• Infrastructure expert</li> <li>• Solution Architect</li> <li>• Software Design</li> <li>• Systems Management</li> <li>• Project Management</li> <li>• e-Governance generalist</li> <li>• Change Management</li> <li>• Financial Expert]</li> </ul>	<Nos.>	Total Experience	>= 12 Years experience <20%> >= 9 and < 12 Years experience <10%>	<20% of the marks allocated for PM>
			Experience of <requirement mentioned in the previous column>	> =8 Years experience <20%> >= 6 and < 8 Years experience - <10%>  Qualitative assessment of the experience <30%>	<50% of the marks allocated for PM >
			Education Qualification	MBA <sup>10</sup> : – From List A Institutes- <10%> – From List B Institutes- <8%> – All other Institutes- <5%> BE/BTech/MCA: – From List A Institutes- <10%> – From List B Institutes- <8%> – All other Institutes- <5%>	<20% of the marks allocated for PM >
			Interview (Personal)	Face to face interview or Video Conferencing	<10% of the marks allocated for PM >
2	<b>Senior Consultant with expertise in &lt;Specify a role&gt;</b> <b>[Generally it is one</b>		Total Experience	>= 9 Years experience <20%> >= 6 and < 9 Years experience <10%>	<20% of the marks allocated for SC >

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S. No.	Resource Requirement	Nos. Reqd.	Criterion	Evaluation Structure	Maximum Marks
	<b>of the following :</b> <ul style="list-style-type: none"> <li>• <i>Infrastructure expert</i></li> <li>• <i>Solution Architect</i></li> <li>• <i>Software Design</i></li> <li>• <i>Systems Management</i></li> <li>• <i>Project Management</i></li> <li>• <i>e-Governance generalist</i></li> <li>• <i>Change Management</i></li> <li>• <i>Financial Expert]</i></li> </ul>	<Nos.>	Experience of <requirement mentioned in the previous column>	> =5 Years experience <20%> >= 3 and < 5 Years experience - <10%>  Qualitative assessment of the experience <20%>	<40% of the marks allocated for SC >
Education Qualification			MBA: – From List A Institutes- <15%> – From List B Institutes- <10%> – All other Institutes- <6%> BE/BTech/MCA: – From List A Institutes- <15%> – From List B Institutes- <10%> – All other Institutes- <6%>	<30% of the marks allocated for SC >	
			Interview (Personal)	Face to face interview or Video Conferencing	<10% of the marks allocated for SC >
3	<b>Consultant with expertise in &lt;Specify a role&gt;</b> <b>[Generally it is one of the following :</b> <ul style="list-style-type: none"> <li>• <i>Infrastructure expert</i></li> <li>• <i>Solution Architect</i></li> <li>• <i>Software Design</i></li> <li>• <i>Systems Management</i></li> <li>• <i>Project Management</i></li> <li>• <i>e-Governance generalist</i></li> </ul>	<Nos.>	Total Experience	>= 6 Years experience <20%> >= 4 and < 6 Years experience <10%>	<20% of the marks allocated for C >

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S. No.	Resource Requirement	Nos. Reqd.	Criterion	Evaluation Structure	Maximum Marks
	<ul style="list-style-type: none"> <li>• <i>Change Management Financial Expert]</i></li> </ul>		Experience of <requirement mentioned in the previous column>	> =3 Years experience <30%> >= 2 and < 3 Years experience - <15%>  Qualitative assessment of the experience <20%>	<30% of the marks allocated for C >
			Education Qualification	MBA: <ul style="list-style-type: none"> <li>– From List A Institutes- &lt;20%&gt;</li> <li>– From List B Institutes- &lt;15%&gt;</li> <li>– All other Institutes- &lt;10%&gt;</li> </ul> BE/BTech/MCA: <ul style="list-style-type: none"> <li>– From List A Institutes- &lt;20%&gt;</li> <li>– From List B Institutes- &lt;15%&gt;</li> <li>– All other Institutes- &lt;10%&gt;</li> </ul>	<40% of the marks allocated for C >
			Interview (Personal)	Face to face interview or Video Conferencing	<10% of the marks allocated for C >

<sup>10</sup> Latest Survey published by any prominent magazines covering rankings of Business Schools and Engineering Colleges should be referred to categorize A & B category institutes

*[For further understanding on Evaluation of bids and the mechanisms suggested therewith, Please refer Section 2.5 of Guidance Notes for Consulting Services]*

Bidders, whose bids are responsive, based on minimum qualification criteria as in Pre-Qualification Criteria and score at least <minimum marks to obtain for technically qualifying> from the technical evaluation criteria would be considered technically qualified.

### 3.4.3 Commercial Bid Evaluation

- a. The Financial Bids of technically qualified bidders will be opened on the prescribed date in the presence of bidder representatives.
- b. If a firm quotes NIL charges / consideration, the bid shall be treated as unresponsive and will not be considered.
- c. The bidder with lowest qualifying financial bid (L1) will be awarded 100% score (amongst the bidders which did not get disqualified on the basis of point b above). Financial Scores for other than L1 bidders will be evaluated using the following formula:  
Financial Score of a Bidder (Fn) =  
$$\{(Commercial\ Bid\ of\ L1 / Commercial\ Bid\ of\ the\ Bidder) \times 100\} \% \text{ (Adjusted to two decimal places)}$$

*[OR, in case of a Lowest Cost Based Selection Bid, the para c should be replaced by the following:  
The consultant, who has submitted the lowest Commercial bid, shall be selected as the L1 and shall be called for further process leading to the award of the assignment]*

- d. Only fixed price financial bids indicating total price for all the deliverables and services specified in this bid document will be considered.
- e. The bid price will include all taxes and levies and shall be in Indian Rupees.
- f. Any conditional bid would be rejected
- g. Errors & Rectification: Arithmetical errors will be rectified on the following basis: "If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail".

*[Please refer Section 2.5.2 of Guidance Notes for Consulting Services]*

### 3.4.4 Combined and Final Evaluation

*[This section will not be required if it is a Lowest Cost Based Selection]*

*[Please refer Section 2.5.2 of Guidance Notes for Consulting Services]*

- a. The technical and financial scores secured by each bidder will be added using weightage of <70%> and <30%> respectively to compute a Composite Bid Score. *[The weightage of technical and financial scores should be customized by the Nodal Agency]*
- b. The bidder securing the highest Composite Bid Score will be adjudicated as the most responsive Bidder for award of the Project. The overall score will be calculated as follows:-  
$$B_n = 0.70 * T_n + 0.30 * F_n$$
*[In case of 70% weightage to the technical score]*  
Where  
B<sub>n</sub> = overall score of bidder  
T<sub>n</sub> = Technical score of the bidder (out of maximum of 100 marks)  
F<sub>n</sub> = Normalized financial score of the bidder
- c. In the event the bid composite bid scores are 'tied', the bidder securing the highest technical score will be adjudicated as the Best Value Bidder for award of the Project.

***[GFR 2017, Rule 192, Quality and Cost Based Selection (QCBS):***

*QCBS may be used for Procurement of consultancy services where quality of consultancy is of prime concern.*

*(v) In QCBS initially the quality of technical proposals is scored as per criteria announced in the RFP. Only those responsive proposals that have achieved at least minimum specified qualifying score in quality of technical proposal are considered further.*

*(vi) After opening and scoring, the financial proposals of responsive technically qualified bidders, a final combined score is arrived at by giving predefined relative weight ages for the score of quality of the technical proposal and the score of financial proposal.*

*(vii) The RFP shall specify the minimum qualifying score for the quality of technical proposal and also the relative weight ages to be given to the quality and cost (determined for each case depending on the relative importance of quality vis-a-vis cost aspects in the assignment, e.g. 70:30, 60:40, 50:50 etc). The proposal with the highest weighted combined score (quality and cost) shall be selected.*

*(viii) The weight age of the technical parameters i.e. non- financial parameters in no case should exceed 80 percent.*

***GFR Rule 193***

*Least Cost System (LCS). LCS is appropriate for assignments of a standard or routine nature (such as audits and engineering design of non-complex works) where well established methodologies, practices and standards exist. Unlike QCBS, there is no weight age for Technical score in the final evaluation and the responsive technically qualified proposal with the lowest evaluated cost shall be selected.*

*]*

## **3.5 Appointment of Consultant**

### **3.5.1 Award Criteria**

<Nodal Agency> will award the Contract to the successful bidder whose proposal has been determined to be substantially responsive and has been determined as the most responsive bids as per the process outlined above.

### **3.5.2 Right to Accept Any Proposal and To Reject Any or All Proposal(s)**

<Nodal Agency> reserves the right to accept or reject any proposal, and to annul the tendering process / Public procurement process and reject all proposals at any time prior to award of contract, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for <Nodal Agency> action.

### **3.5.3 Notification of Award**

Prior to the expiration of the validity period, <Nodal Agency> will notify the successful bidder in writing or by fax or email, that its proposal has been accepted. In case the tendering process / public procurement process has not been completed within the stipulated period, <Nodal Agency>, may like to request the bidders to extend the validity period of the bid.

The notification of award will constitute the formation of the contract. Upon the successful bidder's furnishing of Performance Bank Guarantee, <Nodal Agency> will notify each unsuccessful bidder and return their EMD.

### **3.5.4 Contract Finalization and Award**

The <Nodal Agency> shall reserve the right to negotiate with the bidder(s) whose proposal has been ranked best value bid on the basis of Technical and Commercial Evaluation to the proposed Project, as per the guidance provided by CVC.

### **3.5.5 Performance Guarantee**

The <Nodal Agency> will require the selected bidder to provide a Performance Bank Guarantee, within <15> days from the Notification of award, for a value equivalent to <10%> of the total cost of ownership. The Performance Guarantee should be valid for a period of <months>. The Performance Guarantee shall be kept valid till completion of the project and Warranty period. The Performance Guarantee shall contain a claim period of three months from the last date of validity. The selected bidder shall be responsible for extending the validity date and claim period of the Performance Guarantee as and when it is due on account of non-completion of the project and Warranty period. In

case the selected bidder fails to submit performance guarantee within the time stipulated, the <Nodal Agency> at its discretion may cancel the order placed on the selected bidder without giving any notice. <Nodal Agency> shall invoke the performance guarantee in case the selected Vendor fails to discharge their contractual obligations during the period or <Nodal Agency> incurs any loss due to Vendor's negligence in carrying out the project implementation as per the agreed terms & conditions.

### 3.5.6 Signing of Contract

Post submission of Performance Guarantee by the successful bidder, <Nodal Agency> shall enter into a contract, incorporating all clauses, pre-bid clarifications and the proposal of the bidder between <Nodal Agency> and the successful bidder. Proposed Contract terms are provided as a separate document as a template as Annexure II.

### 3.5.7 Failure to agree with the Terms and Conditions of the RFP

Failure of the successful bidder to agree with the Proposed Contract terms and Terms & Conditions of the RFP shall constitute sufficient grounds for the annulment of the award, in which event <Nodal Agency> may award the contract to the next best value bidder or call for new proposals from the interested bidders.

In such a case, the <nodal agency> shall invoke the PBG of the most responsive bidder.

## 3.6 Fraud and Corrupt Practices

- a. The Applicants/Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the <Nodal Agency> shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices") in the Selection Process. In such an event, the <Nodal Agency> shall, without prejudice to its any other rights or remedies, forfeit and appropriate the EMD or PBG, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the <Nodal Agency> for, inter alia, time, cost and effort of the <Nodal Agency>, in regard to the RFP, including consideration and evaluation of such Applicant's Proposal.
- b. Without prejudice to the rights of the <Nodal Agency> under Clause above and the rights and remedies which the <Nodal Agency> may have under the LOI or the Contract, if an Applicant or Consultant, as the case may be, is found by the <Nodal Agency> to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the

issue of the LOI or the execution of the contract, such Applicant or Consultant shall not be eligible to participate in any tender or RFP issued by the <Nodal Agency> during a period of <period> from the date such Applicant or Consultant, as the case may be, is found by the <Nodal Agency> to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.

- c. For the purposes of this Section, the following terms shall have the meaning hereinafter respectively assigned to them:
- i. "corrupt practice" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the <Nodal Agency> who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOI or has dealt with matters concerning the contract or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the <Nodal Agency>, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Contract, as the case may be, any person in respect of any matter relating to the Project or the Award or the Contract, who at any time has been or is a legal, financial or technical consultant/ adviser of the <Nodal Agency> in relation to any matter concerning the Project;
  - ii. "fraudulent practice" means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
  - iii. "coercive practice" means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person's participation or action in the Selection Process;
  - iv. "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by <Nodal Agency> 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

- v. “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.

### 3.7 Conflict of Interest

- a. An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “**Conflict of Interest**”)<sup>11</sup>. Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the <Nodal Agency> shall forfeit and appropriate the EMD, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the <Nodal Agency> for, *inter alia*, the time, cost and effort of the <Nodal Agency> including consideration of such Applicant’s Proposal, without prejudice to any other right or remedy that may be available to the <Nodal Agency> hereunder or otherwise.
- b. The <Nodal Agency> requires that the Consultant provides professional, objective, and impartial advice and at all times hold the <Nodal Agency>’s interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the <Nodal Agency>.
- c. *[Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in Section 2.4.10 of Guidance Note for Consulting Services]*. Without limiting the generality of the above, an Applicant shall be deemed to have a Conflict of Interest affecting the Selection Process, if:
  - i. the Bidder, or Associates (or any constituent thereof) and any other Bidder, or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest;
  - ii. such Bidder or its Associate receives or has received any direct or indirect subsidy or grant from any other Bidder or its Associate; or
  - iii. such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each others’ information about, or to influence the Proposal of either or each of the other Bidder; or
  - iv. there is a conflict among this and other consulting assignments of the Bidder (including its personnel and other members, if any) and any subsidiaries or entities controlled by such Bidder or having common controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the <Nodal Agency> for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or
  - v. A firm hired to provide consulting services for the preparation or implementation of a project, and its Members or Associates, will be disqualified from subsequently providing

goods or works or services related to the same project;

d. A Bidder eventually appointed to provide Consultancy for this Project shall be disqualified from subsequently providing goods or services related to the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 12 months from the completion of this assignment; provided further that this restriction shall not apply to consultancy services performed for the <Nodal Agency> in continuation of this Consultancy or to any subsequent consultancy/ advisory services performed for the <Nodal Agency> where the conflict of interest situation does not arise.

e. In the event that the Consultant, its Associates or affiliates are auditors or financial advisers to any of the Bidders (for System Integration or any other activity) for the Project, they shall make a disclosure to the <Nodal Agency> as soon as any potential conflict comes to their notice but in no case later than 7 (seven) days from the receipt of such proposals and any breach of this obligation of disclosure shall be construed as Conflict of Interest. The <Nodal Agency> shall, upon being notified by the Consultant under this Clause, decide whether it wishes to terminate this Consultancy or otherwise, and convey its decision to the Consultant within a period not exceeding 15 (fifteen) days.

### 3.8 Scope of Work

*[It may be noted that the Scope work does not have much relevance for the Capacity Augmentation type of project. It may be noted that for such types of engagement, it the*

*responsibility of the Nodal Agency to task out the work to the engaged resources. Hence the scope of work is limited to the provisioning of manpower]*

	Level	Nos.	Full time/Part time	Specialization	Duration
1	Project Manager				
2	Senior Consultant				
3	Consultant				

*[For each of the positions, choose one of the following specialization as required for the assignment:*

- *Infrastructure expert*

- *Solution Architect*
- *Software Design*
- *Systems Management*
- *Project Management*
- *e-Governance generalist*
- *Change Management*
- *Financial Expert]*

## 3.9 Penalty

### 3.9.1 Penalty for exit/replacement

- a. Replacement of resources shall generally not be allowed. The replacement of resource by bidder will be allowed (with penalty) only in case, the resource leaves the organization by submitting resignation with the present employer.
- b. In case of failure to meet the standards of the purchaser, (which includes efficiency, cooperation, discipline and performance) bidder may be asked to replace the resource without any penalty for replacement/exit.
- c. The replaced resource will be accepted by the <Nodal Agency> only if he scores the same or more on the evaluation criterion mentioned in this RFP and is found suitable to the satisfaction of the purchaser. The outgoing resource should complete the knowledge transfer with the replaced resource as per the satisfaction of the <Nodal Agency>. The bidding firm shall be allowed 15 days to replace the resource.
- d. The payment for replaced resources will be made as per the man month rates quoted/agreed by the bidder. However if the replaced resource obtains less marks in evaluation, payment will be made proportionately.
- e. The penalty per resource would be imposed in case of exit/replacement of resource from the project within below mentioned period starting from the date of deployment of respective resource:

*[A step-down penalty should be kept for exit/replacement, for e.g.*

*1. Within 6 Months : <Amount>Rs. 1, 50,000 (Rupees One Lac Fifty Thousand)*

*2. From 6 months to 1 Year- Rs. 1,00,000 (Rupees One Lac)*

*3. From 1 Year to 18 Months- Rs. 50,000 (Rupees Fifty Thousand)*

*4. After 18 Months to 2 Year- Rs. 25,000 (Rupees Twenty Five Thousand)*

*A penalty of Rs. 5 Lakhs per resource will be levied if a resource who has not resigned and is removed from the project by the bidder]*

- f. After expiry of 15 calendar days of exit, a penalty of Rs. 3000 per working day per resource will also be imposed till suitable replacement is not being provided by the bidder.

- g. However <Nodal Agency> is free to relieve any resource (apart from minimum committed numbers) at any time (beyond minimum committed period) during contract period without any penalty by serving 15 days advance notice.

### 3.9.2 Penalty for absence

- a. In the case of absence (apart from allowed leaves) of a resource during project period, no payment will be made for the days a resource is absent (Per day payment will be calculated by dividing man month rate by number of working days in that month). In addition a penalty of Rs <Amount> per working day per resource will be levied on such absence.
- b. Fraction of a day in reckoning period in supplies shall be eliminated if it is less than half a day.
- c. Penalty would be deducted from the applicable payments

### 3.10 Leave Policy

The objective of this policy is to ensure that employees are able to balance work and professional life without compromising work continuity and discipline.

- a. The Resources should be stationed in <Location> for the entire project period. The Resource has to follow the working hours, working days and Holidays of <Nodal Agency>
- b. Resource shall get prior approval of purchaser before leaving <Location>
- c. Leave entitlement and computation will be effective from date of start of project.
- d. An employee can avail maximum 18 leaves per year on pro-rata basis.
- e. Leave cannot be claimed as an employee's right. Except in case of emergencies, all leave will be granted subject to organization's requirements. A situation will be considered an emergency on a case-by-case basis and will be decided by the Nodal Officer.

### 3.11 Forfeiture of Performance Bank Guarantee

Forfeiture of Security Deposit: Security amount in full or part may be forfeited in the following cases:

- a. When the terms and conditions of contract is breached/infringed.
- b. When contract is being terminated due to non-performance of the Successful Bidder.
- c. Notice of reasonable time will be given in case of forfeiture of security deposit. The decision of the Nodal Officer in this regard shall be final.

### 3.12 Terms of Payment

- a. The payment will be made on the Time and Material basis and will be as per the Time Sheet format of each Personnel as agreed upon by the <Nodal Agency> and the Selected Bidder at the time of signing the Contract.
- b. The payment will be made on monthly basis as per actual deployment of resources after receipt of the bill on the basis of attendance of the resources deployed.

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- c. The Selected bidder shall satisfactorily perform work as specified under the Tender to the <Nodal Agency>. The requisite payment will be released by the Purchaser upon receipt of the invoice which would be verified from the attendance records within 2 weeks of receipt of the invoice.
- d. The payment towards expenditure incurred on travelling shall be reimbursed as per the provisions of travelling rules of <Nodal Agency> For the purpose, the Project Manager and consultants will be treated in the category <> of the pay band of <> of the <Nodal Agency> for the purposes of travel entitlements. These expenses would be paid directly by the Agency on production of bills.
- e. The taxes would be paid as extra at the prevalent rates.

### 3.13 Support to be provided by <Nodal Agency>

The Nodal Agency/ Department will provide the following support, post the award of the contract to the successful bidder:

*[Customize, as per the situation*

1. *Office Space*
2. *Secretarial Support*
3. *Any IT infrastructure support*

### 3.14 Downstream work

*[If the Nodal Agency/Department envisages the need for continuity for downstream work then provide the Terms of Reference the scope, nature, and timing of future work]*

*[Also indicate, whether the downstream work would constitute "Conflict of Interest". Please refer Section 2.4.10 of Guidance Notes for Consulting Services, for help in defining the clause on "Conflict of Interest"]*

## **Appendix I: Pre-Qualification & Technical Bid Templates**

The bidders are expected to respond to the RFP using the forms given in this section and all documents supporting Pre-Qualification / Technical Evaluation Criteria.

Pre-Qualification Bid & Technical Proposal shall comprise of following forms:

### **Forms to be used in Pre-Qualification Proposal**

Form 1: Compliance Sheet for Pre-qualification Proposal

Form 2: Particulars of the Bidders

Form 3: Bank Guarantee for Earnest Money Deposit (EMD)

### **Forms to be used in Technical Proposal**

Form 4: Compliance Sheet for Technical Proposal

Form 5: Letter of Proposal

Form 6: Curriculum Vitae (CV) of Key Personnel

**Form 1: Compliance Sheet for Pre-qualification Proposal**

(The pre-qualification proposal should comprise of the following basic requirements. The documents mentioned in this compliance sheet along with this form, needs to be a part of the Pre-Qualification proposal)

	Basic Requirement	Required	Provided	Reference & Page Number
1.	Document Fee	Demand Draft	Yes / No	
2	Power of Attorney	Copy of Power of Attorney in the name of the Authorized signatory	Yes / No	
3	Particulars of the Bidders	As per Form 2	Yes / No	
4	Earnest Money Deposit	Demand Draft / Bank Guarantee/Banker's Cheque/SFMS	Yes / No	
5	Sales Turnover in Consulting (or IT Consulting)	Extracts from the audited Balance sheet and Profit & Loss; OR Certificate from the statutory auditor	Yes / No	
6	Technical Capability	Completion Certificates from the client; OR  Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR  Work Order + Phase Completion Certificate from the client	Yes / No	
7	Certifications	<i>[As relevant]</i>	Yes / No	
8	Consortiums	No Consortiums	Confirmation that the bidder is bidding as a single entity	
	<b>Optional</b>			
9	Legal Entity	Copy of Certificate of Incorporation; and  Copy of Service Tax Registration Certificate	Yes / No	
10	Manpower Strength	Self Certification by the authorized signatory	Yes / No	
11	Debarment	A self certified letter	Yes / No	

**Form 2: Particulars of the Bidders**

SI No.	Information Sought	Details to be Furnished
<b>A</b>	Name and address of the bidding Company	
<b>B</b>	Incorporation status of the firm (public limited / private limited, etc.)	
<b>C</b>	Year of Establishment	
<b>D</b>	Date of registration	
<b>E</b>	ROC Reference No.	
<b>F</b>	Details of company registration	
<b>G</b>	Details of registration with appropriate authorities for service tax	
<b>H</b>	Name, Address, email, Phone nos. and Mobile Number of Contact Person	

### Form 3: Bank Guarantee for Earnest Money Deposit (EMD)

To,

<Name>  
<Designation>  
<Address>  
<Phone Nos.>  
<Fax Nos.>  
<email id>

Whereas <<**name of the bidder**>> (hereinafter called 'the Bidder') has submitted the bid for Submission of RFP # <<**RFP Number**>> dated <<**insert date**>> for <<**name of the assignment**>> (hereinafter called "the Bid") to <<**Nodal Agency**>>

KNOW ALL MEN by these presents that WE << >> having our office at <<Address>> (hereinafter called "the Bank") are bound unto the <<**Nodal Agency**>> (hereinafter called "the Purchaser") in the sum of Rs. <<**Amount in figures**>> (**Rupees <<Amount in words>> only**) for which payment well and truly to be made to the said Purchaser, the Bank binds itself, its successors and assigns by these presents. Sealed with the Common Seal of the said Bank this <<**insert date**>>

THE CONDITIONS of this obligation are:

3. If the Bidder having its bid withdrawn during the period of bid validity specified by the Bidder on the Bid Form; or
4. If the Bidder, having been notified of the acceptance of its bid by the Purchaser during the period of validity of bid
  - (a) Withdraws his participation from the bid during the period of validity of bid document; or
  - (b) Fails or refuses to participate for failure to respond in the subsequent Tender process after having been short listed;

We undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by it is due to it owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

***This guarantee will remain in force up to <<insert date>> and including <<extra time over and above mandated in the RFP>> from the last date of submission and any demand in respect thereof should reach the Bank not later than the above date.***

**NOTWITHSTANDING ANYTHING CONTAINED HEREIN:**

- IV. Our liability under this Bank Guarantee shall not exceed Rs. <<Amount in figures>> (Rupees <<Amount in words>> only)
- V. This Bank Guarantee shall be valid upto <<insert date>>)
- VI. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this Bank Guarantee that we receive a valid written claim or demand for payment under this Bank Guarantee on or before <<insert date>>) failing which our liability under the guarantee will automatically cease.

(Authorized Signatory of the Bank)

Seal:

Date:

**Form 4: Compliance Sheet for Technical Proposal**

(The pre-qualification proposal should comprise of the following basic requirements. The documents mentioned in this compliance sheet along with this form, needs to be a part of the Pre-Qualification proposal)

	Specific Requirements	Documents Required	Compliance	Reference & Page Number
1.	Covering Letter for Technical Proposal	As per Form 5		
2.	Full-time professional staff engaged in consulting services (Number of Staff)	A self certification from authorized signatory	Yes / No	
3.	Experience relevant to this engagement as listed below to be demonstrated in a maximum of <Nos.> engagements that have either been completed or an ongoing project where a similar deliverable or milestone has been successfully achieved.  <Provide the definition of "similar" to bring in the relevance factor required for this project> .	Completion Certificates from the client; OR  Work Order + Self Certificate of Completion (Certified by the Statutory Auditor); OR  Work Order + Phase Completion Certificate (for ongoing projects) from the client	Yes / No	
4.	Proposed CVs (As per requirement specified in Technical evaluation)	CV & a Note (Form 6)	Yes / No	
5.	Tools and Assets As per requirement specified in Technical evaluation)	A note and demonstration of the Tool/Assets	Yes / No	

All the Bidders are requested to mention the document reference number and Page number for each criteria.

**Form 5: Letter of Proposal**

To:

<Location, Date>

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

**Subject:** Submission of the Technical bid for <provide name of the consulting assignment>

Dear Sir/Madam,

We, the undersigned, offer to provide Consultancy Services to the <Nodal Agency> on <provide name of the consulting engagement> with your Request for Proposal dated <insert date> and our Proposal. We are hereby submitting our Proposal, which includes this Technical bid and the Financial bid sealed in a separate envelope.

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

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Fact Sheet.

We agree to abide by all the terms and conditions of the RFP document. We would hold the terms of our bid valid for <90> days as stipulated in the RFP document.

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

Yours sincerely,

Authorized Signature (*In full and initials*): \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

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

### Form 6: Curriculum Vitae (CV) of Key Personnel

---

1. **Proposed Position** [*only one candidate shall be nominated for each position Expert*]: \_\_\_\_\_
2. **Name of Firm** [*Insert name of firm proposing the staff*]: \_\_\_\_\_
3. **Name of Staff** [*Insert full name*]: \_\_\_\_\_
4. **Date of Birth:** \_\_\_\_\_ **Nationality:** \_\_\_\_\_
5. **Education** [*Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment*]: \_\_\_\_\_
6. **Total No. of years of experience:** \_\_\_\_\_
7. **Total No. of years with the firm:** \_\_\_\_\_
8. **Areas of expertise and no. of years of experience in this area (as required for the Profile - mandatory):** \_\_\_\_\_  
\_\_\_\_\_
9. **Certifications and Trainings attended:** \_\_\_\_\_  
\_\_\_\_\_
10. **Details of Involvement in Projects** [*only if involved in the same*]: \_\_\_\_\_  
\_\_\_\_\_
11. **Languages** [*For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing*]:
12. **Membership of Professional Associations:**
13. **Employment Record** [*Starting with present position and last 2 firms, list in reverse order, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.*]:

From (Year):

To (Year):

Purchaser:

Positions held: \_\_\_\_\_

<p><b>14. Detailed Tasks Assigned</b></p> <p><i>[List all tasks to be performed under this assignment]</i></p>	<p><b>15. Relevant Work Undertaken that Best Illustrates the experience as required for the Role (provide maximum of 6 citations of 10 lines each)</b></p> <p><i>(Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 14 and as required for the role as listed in 'List of the key professional positions whose CV and experience would be evaluated')</i></p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Purchaser: _____</p> <p>Main project features: _____</p> <p>Positions held: _____</p> <p>Value of Project (approximate value or range value): _____</p> <p>Activities performed: _____</p>
--	---

**16. Certification:**

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

\_\_\_\_\_  
*(Signature of staff member or authorized representative of the staff)* Date: \_\_\_\_\_  
Day/Month/Year

Full name of Authorized Representative: \_\_\_\_\_

## **Appendix II: Commercial Proposal Templates**

The bidders are expected to respond to the RFP using the forms given in this section for Commercial Proposal.

## Form 1: Covering Letter

To:

<Location, Date>

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

**Subject:** Submission of the Financial bid for <provide name of the consulting assignment>

Dear Sir/Madam,

We, the undersigned, offer to provide the consulting services for <*Title of Capacity Augmentation consulting services*> in accordance with your Request for Proposal dated <<Date>> and our Proposal (Technical and Financial Proposals). Our attached Financial Proposal is for the sum of <<Amount in words and figures>>. This amount is exclusive of the local taxes.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e., <<Date>>.

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

We remain,

Yours sincerely,

Authorized Signature:

Name and Title of Signatory:

Name of Firm:

Address:

**Form 2: Financial Proposal**

**SUMMARY OF COSTS**

Costs	Currency (Indian National Rupees)	Amount(s)
Total Amount of Financial Proposal		_____
		-

**BREAKDOWN OF REMUNERATION PER ACTIVITY**

S.N o.	Names	Position	Nos. (A)	Monthly Rates in INR (B) <sup>13</sup>	Period (C)	Amount (INR) A X B X C
1.	<<Name>>	<Nos.>	<Nos.>	<<Rates>>	<tenure>	_____
2.	<<Name>>	<Nos.>	<Nos.>	<<Rates>>	<tenure>	
3.	<<Name>>	<Nos.>	<Nos.>	<<Rates>>	<tenure>	
						-

---

<sup>13</sup> Excluding taxes

**This page has been intentionally left blank.**

## Appendix III: Performance Bank Guarantee

<Name>  
<Designation>  
<Address>  
<Phone Nos.>  
<Fax Nos.>  
<email id>

Whereas, <<name of the supplier and address>> (hereinafter called "the applicant/supplier") has undertaken, in pursuance of contract no. <<insert contract no.>> dated. <<insert date>> to provide consulting services for <<name of the assignment>> to <<Nodal Agency>> (hereinafter called "the beneficiary")

And whereas it has been stipulated by in the said contract that the applicant/supplier shall furnish you with a bank guarantee by a recognized bank for the sum specified therein as security for compliance with its obligations in accordance with the contract;

And whereas we, <<**Name of the Bank**>> a banking company incorporated and having its head /registered office at <<address of the registered office>> and having one of its office at <<address of the local office>> have agreed to give the supplier such a bank guarantee.

Now, therefore, we hereby affirm that we are guarantors and responsible to you, on behalf of the supplier, upto a total of **Rs. <<Insert Value>> (Rupees <<insert value in words>> only)** and we undertake to pay you, upon your first written demand declaring the supplier to be in default under the contract and without cavil or argument, any sum or sums within the limits of Rs. <<Insert Value>> (Rupees <<insert value in words>> only) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the applicant/supplier before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the contract to be performed there under or of any of the contract documents which may be made between you and the

applicant / supplier shall in any way release us from any liability under this guarantee and we hereby waive notice of any such change, addition or modification.

This Guarantee shall be valid until <<Insert Date>>.

Notwithstanding anything contained herein:

- I. Our liability under this bank guarantee shall not exceed **Rs <<Insert Value>> (Rupees <<insert value in words>> only)**.
- II. This bank guarantee shall be valid up to <<insert expiry date>>.
- III. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this bank guarantee that we receive a valid written claim or demand for payment under this bank guarantee on or before <<insert expiry date>> failing which our liability under the guarantee will automatically cease.

## Templates

### A : Proposed Contract terms for Capacity Augmentation / Time & material engagement

Please refer **Annexure II** providing along with this document for the template.

**This page has been intentionally left blank.**

## <Name of the proposed Consulting Engagement>

<File reference No.>

### 4.0

#### ***[Template Document for Request for Proposal for Empanelment]***

S. No.	Particular	Details
1.	Start date of issuance / sale of RFP document	< Date >
2.	Last date for Submission of Queries	< Date >
3.	Pre-Bid Conference	< Date >
4.	Issue of Corrigendum	< Date >
5.	Last date for issuance / sale of RFP Document	< Date >
6.	Last date and time for RFP Submission	< Date >
7.	Date and time of opening of Pre-Qualification bids	< Date >
8.	Date and time for opening of Technical bids	< Date >
9.	Date and time for opening of Commercial bids	< Date >

## 4 Model RFP Document Request for Empanelment

Quite often there is a need felt to carry out an empanelment of Consulting Agencies to accelerate the process of procurement. Empanelment of consultants helps in a “mass selection process” by following a due process.

This is an apt procurement process where Department / Nodal Agency can pre-empt the requirement of a Consultants to be deployed by various other Government Departments, its Agencies or State Governments (as a part of Mission Mode Projects).

It needs to be appreciated that the empanelment can be of various types of empanelment which can be carried out depending on the predictability of effort required.

### 4.1 Various Types of Empanelment Processes

The Type of empanelment, relevance and key features of Empanelment are as follows:

	Type of Empanelment	Relevance	Key features of the RFP
1	Empanelment without any financials	In situations where there is low clarity on the nature of work, specific competence and effort. Post empanelment, the user departments use this list of empanelled consultants to carry out a limited tender.	<ul style="list-style-type: none"> <li>– Is similar to the RFP for EOI document</li> <li>– This is more like a Registration of a Consultant</li> <li>– The Contract is to executed subsequently once the results of the limited tender has been finalized</li> </ul>
2	Rate Empanelment	In situations where there is no clarity on the effort required. However clarity exists in the nature of competence and the nature of work to be carried out by the Consultants. Post empanelment, the user departments can engage the consultants for capacity augmentation directly by evaluating the CVs proposed by the Consultants for deployment on their project.	<ul style="list-style-type: none"> <li>– Is similar to the RFP for Capacity Augmentation, except                             <ul style="list-style-type: none"> <li>o Commercial Bid evaluation</li> <li>o Combined and Final evaluation</li> </ul> </li> <li>– The Contract is similar to the template provided for Capacity Augmentation and is signed by the user Department/Agency (and not by the Nodal Agency which has carried out the</li> </ul>

	Type of Empanelment	Relevance	Key features of the RFP
			empanelment process)
3	Fixed Price Empanelment for a Program/ Scheme	In situations where there is significant clarity on the nature of work, specific competence and effort required to execute the project	<ul style="list-style-type: none"> <li>– Is similar to the RFP for Capacity Augmentation, except                             <ul style="list-style-type: none"> <li>o Commercial Bid evaluation</li> <li>o Combined and Final evaluation</li> </ul> </li> <li>– The Contract is similar to the template provided for Deliverables based assignments and is signed by the user Department/Agency (and not by the Nodal Agency which has carried out the empanelment process)</li> </ul>

## 4.2 Specific Clauses for Rate Empanelment RFP

### 4.2.1 Empanelment Guarantee

Within 7 days of the selected firms being intimated about their empanelment they are to submit an Empanelment Guarantee for Rs <Amount> lakhs in the form of unconditional, unequivocal and irrevocable Empanelment Bank Guarantee (BG) from any Scheduled Commercial Bank and valid for <Period> years from the date of empanelment and any applicable extension periods as may be mutually accepted.

*[This is over and above the Performance Bank Guarantee, which would be signed separately with the user Department]*

### 4.2.2 Period of Empanelment

The empanelment would be for an initial period of <Period> year, which may be extended by another year on the same terms.

### 4.2.3 Commercial Bid Evaluation

Only the Commercial bids of those bidders who qualify the technical evaluation stage will be opened. All other Commercial bids will be returned un-opened. The Commercial Bids (as per the formats provided in

Model RFP Document for Capacity Augmentation (Time & Material), Appendix 2: Forms 1 & 2) of the technically qualified bidders will be evaluated as per the evaluation criteria mentioned in this document.

Of the financial bids opened, the bidder with the lowest financial quote in each category shall be considered as L1. All the other technically qualified bidders will have to match their financials with the lowest rate (L1) for empanelment. It shall be obligatory on the part of the empanelled bidders to match the lowest rate (L1) in each category.

#### 4.2.4 Final Evaluation

Out of the top <eight> technically successful bidders, agreeing to match the lowest rates (L1) in each category shall be empanelled for that particular category. The Government Department / States may award the consulting contract to any of the empanelled consulting Companies at the rates equal to lowest rate.

Also, each selected consultant may be engaged as a Consultant for a maximum of <Nos.> of **Department [or State]**

### 4.3 Specific Clauses for Fixed Price Empanelment for a Program/Scheme

#### 4.3.1 Empanelment Guarantee

*[This is over and above the Performance Bank Guarantee]*

Within 7 days of the selected firms being intimated about their empanelment they are to submit an Empanelment Guarantee for Rs <Amount> lakhs in the form of unconditional, unequivocal and irrevocable Empanelment Bank Guarantee (BG) from any Scheduled Indian Bank and valid for <Period> years from the date of empanelment and any applicable extension periods as may be mutually accepted. The Bank Guarantee submitted as EMD will be discharged after the receipt of this Empanelment Guarantee from the firm selected for empanelment.

#### 4.3.2 Period of Empanelment

The empanelment would be for an initial period of <Period> year, which may be extended by another year on the same terms.

#### 4.3.3 Commercial Bid Evaluation

Only the Commercial bids of those bidders who qualify the technical evaluation stage will be opened. All other Commercial bids will be returned un-opened. The Commercial Bids (as per the formats provided in Model RFP Document for Consulting Assignment (Deliverable Based), Appendix 2: Forms 1 & 2) of the technically qualified bidders will be evaluated as per the evaluation criteria mentioned in this document.

Of the financial bids opened, the bidder with the lowest financial quote in each category shall be considered as L1. All the other technically qualified bidders will have to match their financials with the lowest rate (L1) for empanelment. It shall be obligatory on the part of the empanelled bidders to match the lowest rate (L1) in each category.

#### 4.3.4 Final Evaluation

Out of the top <eight> technically successful bidders, agreeing to match the lowest rates (L1) in each category shall be empanelled for that particular category. The Government Department / States may award the consulting contract to any of the empanelled consulting Companies at the Price equal to lowest rate.

Also, each selected consultant may be engaged as a Consultant for a **maximum of <Nos.> of Department [or State]**

*[In case, this empanelment is being carried out for a Program/Scheme which involves States, it is advisable to categorize the States on the basis of complexity / Size / remoteness and peg the price as a percentage of the largest State. For e.g. If the category A States are the largest, the price for category B States the fee will be 90% and for category C States the fee will be 80% of the fee fixed for Category A States. The Commercial Bid would be on the basis of Category A State*

All the technically qualified agencies agreeing to match the aforementioned prices shall be empanelled. The States/UTs shall award the consulting contract to any of the empanelled consulting firms at the "Value" and for the "Scope of Work" as finalized under this RFP process with <Nodal Agency> prescribing an upper limit on no. of states/UTs that may be assisted by an empanelled consultant.

Each selected consultant may be empanelled for a minimum of <Nos.> states and a maximum of <Nos.> States subject to the consultant meeting all the selection criteria as stipulated earlier in this document.

## **ANNEXURE I**

# Agreement Template for a Deliverable based Consulting Assignment

## CONSULTING SERVICES AGREEMENT

**THIS Consulting Service Agreement (“Agreement” or “Contract”)** is made on this the <\*\*\*> day of <\*\*\*> 20... at <\*\*\*>, India.

### BETWEEN

----- having its office at -----  
----- India hereinafter referred to as ‘**Govt. Agency**’ or ‘**Nodal Agency**’ or ‘-----  
----’, which expression shall, unless the context otherwise requires, include its permitted successors and assigns);

### AND

<\*\*\*>, a Company incorporated under the *Companies Act, 1956*, having its registered office at <\*\*\*> (hereinafter referred to as ‘**Consultant**’ or ‘**Service Provider**’ which expression shall, unless the context otherwise requires, include its permitted successors and assigns).

Each of the parties mentioned above are collectively referred to as the ‘**Parties**’ and individually as a ‘**Party**’.

### WHEREAS:

1. <Nodal Agency>is desirous to implement the project of e-Governance for <Insert the type of project>.
2. In furtherance of the same, <Nodal Agency>undertook the selection of a suitable consultant through a competitive bidding process to assist in ----- and in this regard issued Request for Proposal (RFP) dated <\*\*\*> .
3. The successful bidder has been selected as the Consultant on the basis of the bid response set out as Schedule 9 of this Agreement, to advise on -----.

**NOW THEREFORE**, in consideration of the mutual covenants, promises, assurances, representations and provisions set forth herein, the Parties hereto agree as follows:

#### **1. Definitions and Interpretation**

##### **1.1 Definitions**

In this Contract, except where the contrary intention is expressed, the following definitions are used:

Agreed Terms	clauses 1 to 30 of the Agreement which set out terms and conditions agreed by the parties.
Auxiliary Material	any Material, other than Contract Material, which is made available by a party for the purpose of this Contract, on or following the Commencement Date, and includes: Third Party Material; any modifications that may be required under clause ii; error corrections or translations to that Material; or derivatives of that Material where such derivative work cannot be used without infringing the Intellectual Property Rights in the underlying Material.
Business Day	for receiving a notice under clause a.a.i.29, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is received; and for all other purposes, any day that is not a Saturday or Sunday or a national public holiday throughout India promulgated in the official gazette.
Business Hours	from 10.00am to 6.00pm on a Business Day at the place where the Services are to be provided, unless specified otherwise in item 5 of the Contract Details.
Change Order	the form set out in Schedule 6.
Commencement Date	the date on which this Contract commences, as specified in item 6 of the Contract Details.
Confidential Information	information that is by its nature confidential; and is designated by a party as confidential and is described in Schedule 4 of this Contract; or a party knows or ought to know is confidential, but does not include: information which is or becomes public knowledge other than by breach of the Contract or any other confidentiality obligation.
Contract	this agreement between the <Nodal Agency>and the Consultant, as amended from time to time in accordance with clause 0, and includes its schedules and any attachments.
Contract Details	the details set out in Schedule 1.
Contract Material	any Material created by the Consultant on or following the Commencement Date, for the purpose of or as a result of performing its obligations under this Contract and includes any modifications that

	may be required under clause ii.
Contract Period	the Initial Contract Period plus any extension in accordance with clause 0.
Consultant	the party specified in item 2 of the Contract Details and includes its subcontractors and Personnel.
Consultant Representative	the person identified in item 4 of the Contract Details.
Companies Act	the Companies Act 1956.
Client	the party specified in item 1 of the Contract Details.
Client Data	all data and information relating to the Client, and its operations, facilities, customers, Personnel, assets and programs (including personal information) in whatever form that information may exist and whether entered into, stored in, generated by or processed through software or equipment by or on behalf of the Client.
Client Material	any Auxiliary Material provided to the Consultant by the Client, including the Material (if any) specified in item 16 of the Contract Details.
Client Representative	the person identified in item 3 of the Contract Details.
Deliverable	any Contract Material or other item to be supplied by the Consultant under this Contract.
Documentation	the documentation to be provided by the Consultant under clause 7.
Harmful Code	any virus, disabling or malicious device or code, worm, Trojan, time bomb or other harmful or destructive code, but does not include any software lock or other technical mechanism that is included to manage the proper use of any software.
Initial Contract Period	the period of time for which this Contract is intended to continue, as specified in item 7 of the Contract Details.
Intellectual Property Rights	all intellectual property rights, including but not limited to, the following rights: patents, copyright, rights in circuit layouts, designs, trade marks (including goodwill in those marks) and domain names; any application or right to apply for registration of any of the rights referred to in paragraph (a); and all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in India or elsewhere, whether or not such rights are registered or capable of being registered.
Law	any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in India, whether made by

	Central Government or the State, Union Territory.
Losses	liabilities, expenses, losses, damages and costs (including but not limited to legal costs on a full indemnity basis, whether incurred by or awarded against a party).
Material	any software, firmware, documented methodology or process, documentation or other material in whatever form, including without limitation any reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.
Milestone	any fixed date to be met by the Consultant in performing any of its obligations under this Contract, as specified in the Statement of Work.
Moral Rights	the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, as defined in the Copyright Act.
Nominated Agency	an Agency, listed in item 10 of the Contract Details, which may require the provision of Services under this Contract.
Notice	a notice, demand, consent, approval or communication issued under this Contract.
Performance Criteria	the requirements set out in the Statement of Work for each Service and Deliverable.
Personnel	in relation to a party, any natural person who is an employee, officer, agent or professional adviser of that party or, in the case of the Consultant, of a subcontractor.
Project Directors	Project Directors appointed by each Party are authorized personnel who provide the interface between the executive management of the respective Parties.
Schedules	the schedules to this Contract.
Service Charges	the charges payable to the Consultant in accordance with Schedule 3.
Services	the consultancy services to be provided by the Consultant, as specified in the Statement of Work and includes the supply of the Deliverables.
Specified Personnel	the Consultant's subcontractors and Personnel specified in item 15 of the Contract Details.
Statement of Work	the details of the Services to be performed under this Contract, as set out in Schedule 2.

Third Party Material	Auxiliary Material in which a third party holds Intellectual Property Rights.
Warranted Materials	the Auxiliary Material provided by the Consultant, the Deliverables and Contract Material

## 1.2 Interpretation

In this Contract, except where the contrary intention is expressed:

- a) the singular includes the plural and vice versa, and a gender includes other genders;
- b) another grammatical form of a defined word or expression has a corresponding meaning;
- c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Contract, and a reference to this Contract includes any schedule or annexure;
- d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- e) a reference to rupee or Indian rupees to the Indian currency;
- f) a reference to time is to the time in the place where the obligation is to be performed;
- g) a reference to a party is to a party to this Contract, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assignees and substitutes;
- h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- i) if the Consultant is a trustee, the Consultant enters the Contract personally and in its capacity as trustee and warrants that it has the power to perform its obligations under this Contract;
- j) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- k) a word or expression defined in the Companies Act has the meaning given to it in the Companies Act;
- l) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- m) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- n) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- o) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Contract or any part of it;

- p) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- q) headings are for ease of reference only and do not affect interpretation.

### 1.3 Completion of Schedules

To the extent that the parties have not completed items in a Schedule, unless otherwise stated in the Schedule, that item will be taken to be 'not applicable' for the purpose of this Contract.

## 2. Priority of Contract documents

If there is inconsistency between any of the documents forming part of this Contract, those documents will be interpreted in the following order of priority to the extent of any inconsistency:

- a) Agreed Terms;
- b) Schedules;
- c) any attachments to the Schedules; and
- d) documents incorporated by reference in this Contract.
- e) RFP document and its corrigendum
- f) Proposal submitted by the bidder

## 3. Duration of Contract

### 3.1 Initial Contract Period

This Contract begins on the Commencement Date and continues for the duration of the Initial Contract Period unless terminated in accordance with clause 0 or 28.

### 3.2 Option to extend Contract Period

- a) The Initial Contract Period may be extended by the Client for further period(s), specified in item 8 of the Contract Details (each an Option Period), on the terms and conditions then in effect, by giving written notice to the Consultant. Such notice must:
  - i. be at least 30 days; or
  - ii. such other period as specified in item 9 of the Contract Details (Option Notice Period), before the end of the current Contract Period.
- b) Any extension exercised in accordance with this clause 0 takes effect from the end of the then current Contract Period.

*[The nodal agency may like to "close end" this, so that extensions could be discouraged. However it should not be such that it curbs the flexibility of the Nodal Agency to seek extension for valid reasons]*

#### **4. Services to other Agencies**

##### **4.1 Obligation to provide Services**

The Consultant offers to provide the Services to any Nominated Agency in accordance with the requirements set out in this clause 4.

##### **4.2 Separate contracts**

Each Agency Order Form agreed with the Consultant in accordance with this Contract will create a separate contract between the Consultant and the <Nodal Agency>for the supply by the Consultant of the requested Services to the Govt. Agency. For the sake of clarity, the terms and conditions governing each such separate contract will be the same as the provisions of this Contract.

#### **5. General obligations of the parties**

The parties will, at all times:

- a. act reasonably in performing their obligations and exercising their rights under this Contract;
- b. diligently perform their respective obligations under this Contract; and
- c. work together in a collaborative manner.

#### **6. Provision of Services**

##### **6.1 Service obligations**

The Consultant must supply the Services:

- i. with due skill and care and to the best of the Consultant's knowledge and experience;
- ii. in accordance with the Performance Criteria;
- iii. in accordance with relevant Indian industry standards, good industry practice and guidelines or where none apply, relevant international industry standards, best practice and guidelines, including any specified in item 11 of the Contract Details;
- iv. using the Specified Personnel (if any);
- v. in accordance with all applicable Laws;
- vi. in accordance with any reasonable directions in relation to the Services given by the Client from time to time;
- vii. so as to meet the Milestones and other project plan requirements, and where no Milestones or project plan requirements are specified, promptly and without delay; and
- viii. otherwise in accordance with the provisions of this Contract.

##### **6.2 Consultant warranties**

The Consultant represents and warrants that:

- i. it has the right to enter into this Contract;
- ii. it has all rights, title, licences, interests and property necessary to lawfully perform the Services;
- iii. it and its subcontractors and Personnel, including its Specified Personnel, have the necessary experience, skill, knowledge and competence to perform the Services;
- iv. the Services will be complete, accurate and free from material faults; and
- v. it will not, nor will it suffer or permit any third party under its direction or control to negligently introduce into the Client's systems or any Deliverables any Harmful Code.

### 6.3 Access to Client's premises

The Client will cooperate with the Consultant by providing access to its premises and facilities as reasonably necessary to enable the Consultant to provide the Services.

### 6.4 Conduct at Client's premises

The Consultant must, if using or accessing the Client's premises or facilities, comply with all reasonable directions and procedures relating to occupational health and safety and security in operation at those premises or facilities whether specifically drawn to the attention of the Consultant or as might reasonably be inferred from the circumstances.

### 6.5 Subcontracting

The Consultant will:

- i. not subcontract any aspect of the provision of the Services other than to those entities set out in item 12 of the Contract Details without the prior written approval of the Client, which will not be unreasonably withheld; and
- ii. ensure that any subcontractor approved under this Contract complies with:
  - Clause 20 (Confidentiality and privacy);
  - Clause 21 (Protection of personal information);
  - Clause 22 (Conflict of interest);
  - Clause 23 (Security);
  - Clause 0 (Access by Client); and
  - Clause 0 (Knowledge transfer).

## 7. *Documentation*

### 7.1 Provision of Documentation

The Consultant must give the Client the Documentation specified in the Statement of Work in the format and at the times specified in the Statement of Work.

## 7.2 Documentation requirements

The Documentation must at the time of delivery:

- i. be current and accurate;
- ii. adequately explain key terms and symbols; and
- iii. unless specified otherwise in item 13 of the Contract Details, be in English.

## 8. *Varying the Services*

### 8.1 Variations proposed by Client

If the Client wants to vary the Services:

- a) the Client must request the Consultant in writing setting out the proposed variations;
- b) within 14 days after receiving the Client's request or within another period agreed by the parties, the Consultant must respond in writing to the Client specifying what impact those variations will have on: the Service Charges (see clause 0); the Services or Deliverables, including any particular Deliverable; the Consultant's ability to perform its obligations under this Contract (including its ability to meet Milestones); and this Contract; and
- c) within 14 days after receiving the Consultant's response, or within another period agreed by the parties, the Client must give the Consultant a written notice accepting or rejecting the response.

### 8.2 Variations proposed by Consultant

If the Consultant wants to vary the Services:

- a) the Consultant must request the Client in writing setting out the proposed variations and specifying what impact those variations will have on: the Service Charges (see clause 0); the Services or Deliverables, including any particular Deliverable; the Consultant's ability to perform its obligations under this Contract (including its ability to meet Milestones); and this Contract; and
- b) within 14 days after receiving the request or within another period agreed by the parties, the Client must give the Consultant a written notice accepting or rejecting the Consultant's request.

### 8.3 Changes to Service Charges

Changes to Service Charges associated with a variation in the Services must:

- a) not exceed any reasonable additional cost; and
- b) take fully into account any reduction in cost.

#### 8.4 Effective date of variation

Any variation in the Services takes effect from the date on which the parties execute a Change Order. This Contract will be amended to give effect to the Change Order.

### 9. *Co-operation with Personnel and contractors*

The Consultant must in the performance of the Services under the Contract:

- a. fully co-operate with the Client's Personnel and other contractors; and
- b. use its best efforts to coordinate its activities so as to support and facilitate, in the Client's best interests, the timely and efficient completion of all work and other activities to be performed for the Client by any person.

### 10. *Monitoring progress*

#### 10.1 Progress meetings

The parties will meet at the times set out in the Statement of Work (or otherwise as agreed in writing between the parties) to discuss any issues in relation to the provision of the Services. The Consultant must ensure that the Consultant Representative and the Client must ensure the Client Representative is reasonably available to attend such meetings and answer any queries relating to the provision of the Services raised by either party.

#### 10.2 Reporting

The Consultant must provide the Client with reports in accordance with the Statement of Work.

### 11. *Performance assessment*

#### 11.1 Assessment of Services

Each element of the Services is subject to assessment by the Client against the relevant Performance Criteria.

#### 11.2 Notice of non-compliant Services

- a. If the Client considers that all or part of the Services do not meet the Performance Criteria, the Client must notify the Consultant within <15> Business Days (or such other period as specified in item 14 of the Contract Details) of assessing the Services against the Performance Criteria.

- b. The Client must include reasons for the Services not meeting the Performance Criteria in the notice given under clause a.

### 11.3 Rectification of non-compliant Services

If the Client notifies the Consultant that all or part of the Services do not meet the Performance Criteria, the Consultant must:

- i. take all necessary steps to ensure that the Services are promptly corrected;
- ii. give notice to the Client when the Services have been corrected; and
- iii. allow the Client to repeat the assessment of all or part of the Services against the Performance Criteria, within five Business Days after the date of the notice or such other time as agreed between the parties in writing.

### 11.4 Right to terminate

If any parts of the Services do not meet the Performance Criteria on two or more occasions, the Client may (in addition to its other remedies) terminate the Contract immediately under clause 0 by giving the Consultant written notice.

## 12. *Personnel*

### 12.1 Use of Specified Personnel

The Consultant must:

- i. provide the Services or any part of the Services to which their particular experience relates, with the active involvement of, and using the skill of the Specified Personnel; and
- ii. ensure that each of the Specified Personnel is aware of and complies with the Consultant's obligations in providing the Services.

### 12.2 If the Specified Personnel are not available

Where one or more of the Specified Personnel is or will become unable or unwilling to be involved in providing the Services, the Consultant must notify the Client immediately. The Consultant must:

- i. if requested by the Client, provide a replacement person of suitable ability and qualifications at no additional charge and at the earliest opportunity; and
- ii. obtain the Client's written consent prior to appointing any such replacement person. The Client's consent will not be unreasonably withheld.

### 12.3 Client may request replacement of Personnel

The Client may at any time request the Consultant to remove from work in respect of this Contract any of the Specified Personnel or the Consultant's subcontractors or Personnel. The Consultant must promptly arrange for the removal of such subcontractors or Personnel and their replacement in accordance with the process outlined in clause 0.

## 13. *Intellectual Property Rights*

### 13.1 Auxiliary Material

This clause 13 does not affect the ownership of the Intellectual Property Rights in any Auxiliary Material.

### 13.2 Third Party Material

The Consultant must obtain all necessary copyright and other Intellectual Property Right permissions before making any Third Party Material available as Auxiliary Material for the purpose of this Contract.

### 13.3 Selecting an ownership model for Intellectual Property Rights in Contract Material

**NOTE TO USERS:**

Two models for ownership of Intellectual Property Rights in Contract Material are set out below.

Under the first model, the Client owns the Intellectual Property Rights in the Contract Material and provides a licence to the Consultant to use the Contract Material. Under the second model, the Consultant owns the Intellectual Property Rights in the Contract Material and provides a licence to the Client to use the Contract Material.

Users are to select a model through item 16 of the Contract Details. If no model is selected, the first model will apply. The first model is not, however, intended to represent a default position. The Client should, therefore, not rely on the position set out in the first model without considering the appropriateness of both ownership models and whether other ownership and licensing models would be more suitable. Please refer to the User Notes for further guidance.

This note should be deleted prior to execution of the Contract.

- i. The ownership model for Intellectual Property Rights in Contract Material is the model set out in item 16 of the Contract Details.
- ii. If no ownership model is selected in item 16 of the Contract Details, clause 0 applies and clause 0 in its entirety, does not apply to this Contract.
- iii. Each party must, at its own cost, do all things and execute all documents necessary or convenient to give effect to the ownership model.

#### 13.4 Client ownership of Intellectual Property Rights in Contract Material

- i. All Intellectual Property Rights in the Contract Material vest in the Client.
- ii. Unless otherwise specified in item 17 of the Contract Details, to the extent that: the Client needs to use any of the Auxiliary Material provided by the Consultant to receive the full benefit of the Services (including the Contract Material), the Consultant grants to, or must obtain for, the Client for the period specified in item 17 of the Contract Details, a world-wide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify and communicate that Auxiliary Material; the Consultant needs to use any of the:
- iii. Client Material; or Contract Material, for the purpose of performing its obligations under this Contract, the Client grants to the Consultant, subject to any conditions or restrictions specified in item 18 of the Contract Details and any direction by the Client, a world-wide, royalty-free, non-exclusive, non-transferable licence (including the right to sublicense) to use, reproduce, adapt, modify, distribute and communicate such Material solely for the purpose of providing the Services.
- iv. The licence granted to the Client under clause ii does not include a right to exploit the Auxiliary Material for the Client's commercial purposes.

#### 13.5 Consultant ownership of Intellectual Property Rights in Contract Material

- i. If specified in item 16 of the Contract Details, all Intellectual Property Rights in the Contract Material vest in the Consultant.
- ii. Unless otherwise specified in item 19 of the Contract Details, to the extent that: the Client needs to use any of the: Auxiliary Material provided by the Consultant; or
- iii. Contract Material, to receive the full benefit of the Services, the Consultant grants to, or must obtain for, the Client for the period specified in item 19 of the Contract Details a world-wide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify, distribute and communicate that Material; or
- iv. the Consultant needs to use any of the Client Material for the purpose of performing its obligations under this Contract, the Client grants to the Consultant, subject to any conditions or restrictions specified in item 18 of the Contract Details and any direction by the Client, a world-wide, royalty-free, non-exclusive, non-transferable licence (including the right to sublicense) to use, reproduce, adapt, modify and communicate such Material solely for the purpose of providing the Services.
- v. The licence granted to the Client under clause ii does not include a right to exploit the Auxiliary Material or the Contract Material for the Client's commercial purposes.

#### 13.5 IPR Warranty

The Consultant warrants that:

- i. the Warranted Materials and the Client's use of those Warranted Materials, will not infringe the Intellectual Property Rights of any person; and
- ii. it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided in this clause 13.

### 13.6 Remedy for breach of warranty

If someone claims, or the Client reasonably believes that someone is likely to claim, that all or part of the Warranted Materials infringe their Intellectual Property Rights the Consultant must, in addition to the indemnity under clause 17 and to any other rights that the Client may have against it, promptly, at the Consultant's expense:

- i. use its best efforts to secure the rights for the Client to continue to use the affected Warranted Materials free of any claim or liability for infringement; or
- ii. replace or modify the affected Warranted Materials so that the Warranted Materials or the use of them does not infringe the Intellectual Property Rights of any other person without any degradation of the performance or quality of the affected Warranted Materials.

## 14. *Moral Rights*

### 14.1 Obtaining consents

To the extent permitted by applicable Laws and for the benefit of the Client, the Consultant must:

- i. give, where the Consultant is an individual; and
- ii. use its best endeavours to ensure that each of the Personnel used by the Consultant in the production or creation of the Contract Material gives, genuine consent in writing, in a form acceptable to the Client, to the use of the Contract Material for the Specified Acts, even if such use would otherwise be an infringement of their Moral Rights.

### 14.2 Specified Acts

In this clause, unless otherwise specified in item 20 of the Contract Details, Specified Acts means:

- i. falsely attributing the authorship of any Contract Material, or any content in the Contract Material (including without limitation literary, dramatic, artistic works and cinematograph films within the meaning of the Copyright Act, 1957);
- ii. materially altering the style, format, colours, content or layout of the Contract Material and dealing in any way with the altered Contract Material;
- iii. reproducing, communicating, adapting, publishing or exhibiting any Contract Material; and

- iv. adding any additional content or information to the Contract Material.

## **15. Payment**

### **15.1 Obligation to pay charges**

Subject to this clause and the Services meeting the Performance Criteria, the Client must pay to the Consultant the Service Charges as set out in Schedule 3.

### **15.2 Consultant to provide invoice**

The Consultant must provide a correctly rendered invoice to the Client for the Service Charges in accordance with the requirements specified in Schedule 3.

### **15.3 Due date for payment**

Unless otherwise specified in Schedule 3, the Client must make payment of a correctly rendered invoice within 30 days after receiving the invoice. If the payment is not made by the Client within 30 days [or any shorter period specified in the Contract] of receipt of a correctly rendered invoice, the Client will pay simple interest <@12%> per annum (or any other higher rate allowed under law) on the undisputed invoice amount.

### **15.4 Incorrect invoices, under/over payment**

If an invoice is found to have been rendered incorrectly after payment, any underpayment or overpayment will be recoverable by or from the Consultant, as the case may be, and, without limiting recourse to other available means, may be offset against any amount subsequently due by the Client to the Consultant under this Contract.

### **15.5 Expenses**

Unless specified otherwise in Schedule 3, the Consultant must not charge the Client for any fees, charges or expenses (including travel and accommodation, document reproduction, transportation and courier charges, and telecommunications charges) in addition to the Service Charges. The Client is under no obligation to pay any amount in excess of the Service Charges.

## **16. Taxes**

16.1 The <Nodal Agency>or its nominated agencies shall be responsible for withholding taxes from the amounts due and payable to the Consultant wherever applicable. The Consultant shall pay for all other taxes in connection with this Agreement required to be undertaken as a part of this Agreement, including, but not limited to, property, sales, use, excise, value-added, goods and services, consumption and other similar taxes or duties.

16.2 The <Nodal Agency> or its nominated agencies shall provide Consultant with the original tax receipt of any withholding taxes paid by <Nodal Agency> or its nominated agencies on payments under this Agreement. The Consultant agrees to reimburse and hold the <Nodal Agency> or its nominated agencies harmless from any deficiency including penalties and interest relating to taxes that are its responsibility under this paragraph. For purposes of this Agreement, taxes shall include taxes incurred on transactions between and among the <Nodal Agency> or its nominated agencies, the Consultant and third party subcontractors.

16.3 If, after the date of this Agreement, there is any change of rate of levy under the existing applicable laws of India with respect to taxes and duties, which are directly payable by the <Nodal Agency> for providing the services i.e. service tax or any such other applicable tax from time to time, which increase or decreases the cost incurred by the Agency in performing the Services, then the remuneration and reimbursable expense otherwise payable to the <Nodal Agency> under this Agreement shall be increased or decreased accordingly by correspondence between the Parties hereto, and corresponding adjustments shall be made to the contract price specified in the Contract. However, in case of any new or fresh tax or levy imposed after submission of the proposal the Consultant shall be entitled to reimbursement on submission of proof of payment of such tax or levy.

16.4 The Parties shall cooperate to enable each Party to accurately determine its own tax liability and to minimize such liability to the extent legally permissible.

## **17. Indemnity**

**17.1 Subject to Clause 17.2 below, Consultant** (the "Indemnifying Party") undertakes to indemnify <Nodal Agency> (the "Indemnified Party") from and against all Losses on account of bodily injury, death or damage to tangible personal property arising in favour of any person, corporation or other entity (including the Indemnified Party) attributable to the Indemnifying Party's negligence or willful default in performance or non-performance under this Agreement. If the Indemnified Party promptly notifies Indemnifying Party in writing of a third party claim against Indemnified Party that any Service provided by the Indemnifying Party infringes a copyright, trade secret or Indian patents of any third party, Indemnifying Party will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Indemnified Party. Indemnifying Party will not indemnify the Indemnified Party, however, if the claim of infringement is caused by (a) Indemnified Party's misuse or modification of the Service; (b) Indemnified Party's failure to use corrections or enhancements made available by the Indemnifying Party; (c) Indemnified Party's use of the Service in combination with any product or information not owned or developed by Indemnifying Party; (d) Indemnified Party's distribution, marketing or use for the benefit of third parties of the Service; or (e) information, direction, specification or materials provided by Indemnified Party or any third party contracted to it. If any Service is or likely to be held to be infringing, Indemnifying Party shall at its expense and option either (i) procure the right for

Indemnified Party to continue using it, (ii) replace it with a noninfringing equivalent, (iii) modify it to make it noninfringing. The foregoing remedies constitute Indemnified Party's sole and exclusive remedies and Indemnifying Party's entire liability with respect to infringement.

**17.2** The indemnities set out in **Clause 17.1** shall be subject to the following conditions:

- (i) the Indemnified Party as promptly as practicable informs the Indemnifying Party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise;
- (ii) the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the Defense of such claim including reasonable access to all relevant information, documentation and personnel provided that the Indemnified Party may, at its sole cost and expense, reasonably participate, through its attorneys or otherwise, in such Defense;
- (iii) if the Indemnifying Party does not assume full control over the Defense of a claim as provided in this Article, the Indemnifying Party may participate in such Defense at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the Indemnified Party will be included in Losses;
- (iv) the Indemnified Party shall not prejudice, pay or accept any proceedings or claim, or compromise any proceedings or claim, without the written consent of the Indemnifying Party;
- (v) all settlements of claims subject to indemnification under this Clause will:
  - a. be entered into only with the consent of the Indemnified Party, which consent will not be unreasonably withheld and include an unconditional release to the Indemnified Party from the claimant or plaintiff for all liability in respect of such claim; and
  - b. include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement;
- (vi) the Indemnified Party shall account to the Indemnifying Party for all awards, settlements, damages and costs (if any) finally awarded in favour of the Indemnified Party which are to be paid to it in connection with any such claim or proceedings;
- (vii) the Indemnified Party shall take steps that the Indemnifying Party may reasonably require to mitigate or reduce its loss as a result of such a claim or proceedings;
- (viii) in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this Article, the Indemnifying Party will, upon payment of such indemnity in full, be subrogated to all rights and defenses of the Indemnified Party with respect to the claims to which such indemnification relates; and

- (ix) if a Party makes a claim under the indemnity set out under Clause 17.1 above in respect of any particular Loss or Losses, then that Party shall not be entitled to make any further claim in respect of that Loss or Losses (including any claim for damages).

## **18. Liability**

18.1 The liability of Consultant (whether in contract, tort, negligence, strict liability in tort, by statute or otherwise) for any claim in any manner related to this Agreement, including the work, deliverables or Services covered by this Agreement, shall be the payment of direct damages only which shall in no event in the aggregate exceed the fees and expenses received under this. The liability cap given under this Clause 18.1 shall not be applicable to the indemnification obligations set out in Clause 17.

18.2 In no event shall either party be liable for any consequential, incidental, indirect, special or punitive damage, loss or expenses (including but not limited to business interruption, lost business, lost profits, or lost savings) even if it has been advised of their possible existence.

18.3 The allocations of liability in this clause 18 represent the agreed and bargained-for understanding of the parties and compensation for the Services reflects such allocations. Each Party has a duty to mitigate the damages and any amounts payable under an indemnity that would otherwise be recoverable from the other Party pursuant to this Agreement by taking appropriate and commercially reasonable actions to reduce or limit the amount of such damages or amounts.

## **19. Insurance (Optional)**

### **19.1 Obligation to maintain insurance**

In connection with the provision of the Services, the Consultant must have and maintain:

- i. for the Contract Period, valid and enforceable insurance policies for: public liability; either professional indemnity or errors and omissions; workers' compensation as required by law; and any additional types specified in item 21 of the Contract Details

### **19.2 Certificates of currency**

The Consultant must, on request by the Client, provide current relevant confirmation of insurance documentation from its insurance brokers certifying that it has insurance as required by this clause 19.

## **20. Confidentiality and privacy**

#### 20.1 Confidential Information not to be disclosed

- i. Subject to clause 0, a party must not, without the prior written consent of the other party, disclose any Confidential Information of the other party to a third party.
- ii. In giving written consent to the disclosure of Confidential Information, a party may impose such conditions as it thinks fit, and the other party agrees to comply with these conditions.

#### 20.2 Written undertakings

- i. A party may at any time require the other party to arrange for: its Advisers; or any other third party, other than a Client's employee, to whom information may be disclosed pursuant to clause i or v, to give a written undertaking in the form set out in 0 or, where 0 does not include a form of undertaking, in the form of a deed reasonably acceptable to the other party and relating to the use and non-disclosure of the other party's Confidential Information.
- ii. If the other party receives a request under clause i, it must promptly arrange for all such undertakings to be given.

#### 20.3 Exceptions to obligations

The obligations on the parties under this clause 20 will not be taken to have been breached to the extent that Confidential Information:

- i. is disclosed by a party to its Advisers or employees solely in order to comply with obligations, or to exercise rights, under this Contract;
- ii. is disclosed to a party's internal management personnel, solely to enable effective management or auditing of Contract related activities;
- iii. is disclosed by the Client;
- iv. is disclosed by the Client, in response to a request by a House or a Committee of the Parliament/Assembly;
- v. is shared by the Client within the Client's organisation, or with another Agency, where this serves the country's legitimate interests;
- vi. is authorised or required by law, including under this Contract, under a licence or otherwise, to be disclosed; or
- vii. is in the public domain otherwise than due to a breach of this clause 20.

#### 20.4 Obligations on disclosure

Where a party discloses Confidential Information to another person:

- i. pursuant to clauses i, ii or v, the disclosing party must: notify the receiving person that the information is Confidential Information; and not provide the information unless the receiving person agrees to keep the information confidential; or
- ii. pursuant to clauses iii and iv, the disclosing party must notify the receiving party that the information is Confidential Information.

## 20.5 Additional confidential information

- i. The parties may agree in writing after the date of this Contract that certain additional information is to constitute Confidential Information for the purposes of this Contract.
- ii. Where the parties agree in writing after the date of this Contract that certain additional information is to constitute Confidential Information for the purposes of the Contract, this documentation is incorporated into, and becomes part of this Contract, on the date by which both parties have signed this documentation.

## 20.6 Period of confidentiality

The obligations under this clause 20 continue, notwithstanding the expiry or termination of this Contract:

- i. in relation to an item of information described in Schedule 4, for the period set out in that Schedule in respect of that item; and
- ii. in relation to any information which the parties agree in writing after the date of this Contract is to constitute Confidential Information for the purposes of this Contract, for the period agreed by the parties in writing in respect of that information.

## 21. *Protection of personal information*

### 21.1 Application of the clause

This clause applies only where the Consultant deals with personal information when, and for the purpose of, providing Services under this Contract.

### 21.2 Obligations

The Consultant acknowledges that it will use or disclose personal information obtained during the course of providing Services under this Contract, only for the purposes of this Contract.

### 21.3 Subcontracts

The Consultant must ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Contract contains provisions to ensure that the subcontractor has the same awareness and obligations as the Consultant has under this clause 21, including the requirement in relation to subcontracts.

## 22. *Conflict of interest*

### Warranty that there is no conflict of interest

The Consultant warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Contract no conflict of interest exists or is likely to arise in the performance of its obligations under this Contract.

- a. An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “**Conflict of Interest**”). Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the <Nodal Agency> shall forfeit and appropriate the EMD, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the <Nodal Agency> for, *inter alia*, the time, cost and effort of the <Nodal Agency> including consideration of such Applicant’s Proposal, without prejudice to any other right or remedy that may be available to the <Nodal Agency> hereunder or otherwise.
- b. The <Nodal Agency> requires that the Consultant provides professional, objective, and impartial advice and at all times hold the <Nodal Agency>’s interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the <Nodal Agency>.
- c. [ Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in the Guidance Note at Section 2.4.10]. Without limiting the generality of the above, an Applicant shall be deemed to have a Conflict of Interest affecting the Selection Process, if:
  - i. the Applicant, its consortium member (the “**Member**”) or Associates (or any constituent thereof) and any other Applicant, its consortium member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; *provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be) in the other Applicant, its consortium member or Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof. For the purposes of this Clause , indirect shareholding held through one or more intermediate persons shall be computed as follows:*
    - where any intermediary s controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to Sub-clause (aa) above, where a person does not exercise control over an intermediary, which has

- shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on
- a proportionate basis; provided, however, that no such shareholding shall be reckoned under this Sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or
  - ii. a constituent of such Applicant is also a constituent of another Applicant; or
  - iii. such Applicant or its Associate receives or has received any direct or indirect subsidy or grant from any other Applicant or its Associate; or
  - iv. such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
  - v. such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Application of either or each of the other Applicant; or
  - vi. there is a conflict among this and other consulting assignments of the Applicant (including its personnel and other members, if any) and any subsidiaries or entities controlled by such Applicant or having common controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the <Nodal Agency> for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or
  - vii. A firm hired to provide consulting services for the preparation or implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project;
- d. An Applicant eventually appointed to provide Consultancy for this Project, its Associates, affiliates and the Financial Expert, shall be disqualified from subsequently providing goods or works or services related to the construction and operation of the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of <12 months> from the completion of this assignment; provided further that this restriction shall not apply to consultancy/ advisory services performed for the <Nodal Agency> in continuation of this Consultancy or to any subsequent consultancy/ advisory services performed for the <Nodal Agency> in accordance with the rules of the <Nodal Agency>.

#### Notification of a conflict of interest

- e. In the event that the Consultant, its Associates or affiliates are auditors or financial advisers to any of the bidders for the Project, they shall make a disclosure to the <Nodal Agency> as soon as any potential conflict comes to their notice but in no case later than 7 (seven) days from the

opening of the RFP applications for the Project and any breach of this obligation of disclosure shall be construed as Conflict of Interest. The <Nodal Agency> shall, upon being notified by the Consultant under this Clause, decide whether it wishes to terminate this Consultancy or otherwise, and convey its decision to the Consultant within a period not exceeding 15 (fifteen) days.

## **23. Security**

### **23.1 Compliance with Client requirements**

The Consultant must, and must ensure that its subcontractors and Personnel comply with:

- i. all relevant security and other requirements specified in the Client's Information Security Policy, if the same has been made aware by the Client;
- ii. any additional security requirements specified in item 233 of the Contract Details; and
- iii. any other security procedures or requirements notified, in writing, by the Client to the Consultant. The Consultant must comply with such a security procedure or requirement, from the date specified in the notice, or if none is specified, within five Business Days of receipt of the notice.

### **23.2 Security clearance**

- i. The Client may, from time to time, notify the Consultant of the level of security or access clearance applicable to the Consultant's subcontractors or Personnel, and the date from which, or the period during which, that clearance will be effective and the Consultant must comply with and ensure its subcontractors and Personnel act in accordance with that notice.
- ii. Unless otherwise specified in item 24 of the Contract Details, the Client is responsible for all costs associated with obtaining security clearances.

### **23.3 Removal of Client Data**

The Consultant must not, and must ensure that its subcontractors and Personnel do not:

- i. remove Client Data or allow Client Data to be removed from the Client's premises; or
- ii. take Client Data or allow Client Data to be taken outside of India, without the Client's prior written consent.

## **24. Books and records**

### **24.1 Consultant to keep books and records**

The Consultant must:

- i. keep and require its subcontractors to keep adequate books and records, in accordance with Indian Accounting Standards, in sufficient detail to enable the amounts payable by the Client under this Contract to be determined; and
- ii. retain and require its subcontractors to retain books and records as mandated by law and the same would be made available to the Client and will terminate upon expiry / termination of this Agreement

#### 24.2 Costs

The Consultant must bear its own costs of complying with this clause.

### 25. *Audit and access*

#### 25.1 Right to conduct audits

The Client or a representative may conduct audits relevant to the performance of the Consultant's obligations under this Contract. Audits may be conducted of:

- i. the Consultant's operational practices and procedures as they relate to this Contract, including security procedures;
- ii. the accuracy of the Consultant's invoices and reports in relation to the provision of the Services under this Contract;
- iii. the Consultant's compliance with its confidentiality, privacy and security obligations under this Contract;
- iv. material (including books and records) in the possession of the Consultant relevant to the Services or Contract; and
- v. any other matters determined by the Client to be relevant to the Services or Contract.

#### 25.2 Access by Client

- i. The Client may, at reasonable times and on giving reasonable notice to the Consultant: access the premises of the Consultant to the extent relevant to the performance of this Contract; require the provision by the Consultant, its employees, agents or subcontractors, of records and information in a data format and storage medium accessible by the Client by use of the Client's existing computer hardware and software; inspect and copy documentation, books and records, however stored, in the custody or under the control of the Consultant, its employees, agents or subcontractors; and require assistance in respect of any inquiry into or concerning the Services or this Contract. For these purposes an inquiry includes any administrative or statutory review, audit or inquiry (whether within or external to the Department), any request for information directed to the Client, and any inquiry conducted by Parliament or any Parliamentary committee.

- ii. The Consultant must provide access to its computer hardware and software to the extent necessary for the Client to exercise its rights under this clause, and provide the Client with any reasonable assistance requested by the Client to use that hardware and software provided that any proprietary information including confidential information like profit margins, overheads and other such confidential information about its employees, sub-contractors, organization would not be made available.

### 25.3 Conduct of audit and access

The Client must use reasonable endeavours to ensure that:

- i. audits performed pursuant to clause 0; and
- ii. the exercise of the general rights granted by clause 0 by the Client, do not unreasonably delay or disrupt in any material respect the Consultant's performance of its obligations under the Contract.

### 25.4 Costs

- i. Except as set out in clause ii, each party must bear its own costs of any reviews and/or audits.
- ii. If the Consultant is able to substantiate that it has incurred direct expenses in the Client's exercise of the rights granted under clause 0 or clause 0 which, having regard to the value of this Contract, are substantial, the Client and the Consultant will negotiate an appropriate reimbursement. Any reimbursement must not be greater than the direct expenses incurred and substantiated.

### 25.5 Comptroller and Auditor-General of India

The rights of the Client under clause i to i apply equally to the Comptroller and Auditor-General of India or a delegate, for the purpose of performing the statutory functions or powers.

### 25.6 Consultant to comply with Comptroller and Auditor-General of India's requirements

The Consultant must do all things necessary to comply with the Comptroller and Auditor-General of India's or his or her delegate's requirements, notified under clause 0, provided such requirements are legally enforceable and within the power of the Comptroller and Auditor-General of India, or his or her respective delegate.

### 25.7 No reduction in responsibility

The requirement for, and participation in, audits does not in any way reduce the Consultant's responsibility to perform its obligations in accordance with the Contract.

### 25.8 Subcontractor requirements

The Consultant must ensure that any subcontract entered into for the purpose of this Contract contains an equivalent clause granting the rights specified in this clause.

### 25.9 No restriction

Nothing in this Contract reduces limits or restricts in any way any function, power, right or entitlement of the Comptroller and Auditor-General of India or a delegate. The rights of the Client under this Contract are in addition to any other power, right or entitlement of the Comptroller and Auditor-General of India or a delegate.

### 25.10 Survival

This clause applies for the Contract Period or till the termination or expiry of this Contract.

## 26. *Unforeseen events*

### 26.1 Occurrence of unforeseen event

A party (Affected Party) is excused from performing its obligations under this Contract to the extent it is prevented by circumstances beyond its reasonable control (other than lack of funds for any reason or any strike, lockout and labour disputes in respect of the Consultant only), including but not limited to acts of God, natural disasters, acts of war, riots and strikes outside that party's organisation.

### 26.2 Notice of unforeseen event

When the circumstances described in clause 0 arise or are reasonably perceived by the Affected Party as an imminent possibility, the Affected Party must give notice of those circumstances to the other party as soon as possible, identifying the effect they will have on its performance. An Affected Party must make all reasonable efforts to minimise the effects of such circumstances on the performance of this Contract.

### 26.3 Termination

If non-performance or diminished performance by the Affected Party due to the circumstances under clause 0 continues for a period of more than 30 consecutive days or other period as specified in item 255 of the Contract Details, the other party may terminate the Contract immediately by giving the Affected Party written notice.

### 26.4 Consequences of termination

If this Contract is terminated under clause 0:

- i. each party will bear its own costs and neither party will incur further liability to the other; and
- ii. where the Consultant is the Affected Party, it will be entitled to payment for Services Accepted or work performed prior to the date of intervention of the circumstances described in clause 0.

## 27. *Dispute Resolution*

### 27.1 Reconciliation Process

If a dispute arises in relation to the conduct of this Contract (Dispute), a party must comply with this clause 27 before starting arbitration or court proceedings (except proceedings for urgent interlocutory relief). After a party has sought or obtained any urgent interlocutory relief that party must follow this clause 27.

#### 27.2 Notification

A party claiming a Dispute has arisen must give the other parties to the Dispute notice setting out details of the Dispute.

#### 27.3 Parties to resolve Dispute

During the 14 days after a notice is given under clause 27.2 (or longer period if the parties to the Dispute agree in writing), each party to the Dispute must use its reasonable efforts through a meeting of Senior Executive (or their nominees) to resolve the Dispute. If the parties cannot resolve the Dispute within that period then any such dispute or difference whatsoever arising between the parties to this Contract out of or relating to the construction, meaning, scope, operation or effect of this Contract or the validity of the breach thereof shall be referred to a sole arbitrator to be appointed by mutual consent of both the parties herein. If the parties cannot agree on the appointment of the arbitrator within a period of one month from the notification by one party to the other of existence of such dispute, then the Arbitrator shall be appointed by the High Court of the jurisdiction specified in Item 27. The provisions of the Arbitration and Conciliation Act, 1996 will be applicable and the award made there under shall be final and binding upon the parties hereto, subject to legal remedies available under the law. Such differences shall be deemed to be a submission to arbitration under the Indian Arbitration and Conciliation Act, 1996, or of any modifications, Rules or re-enactments thereof. The Arbitration proceedings will be held at the jurisdiction specified in Item 27. Any legal dispute will come under the sole jurisdiction specified in Item 27.

#### 27.4 Confidentiality

Any information or documents disclosed by a party under this clause 27:

- i. must be kept confidential; and
- ii. may only be used to attempt to resolve the Dispute.

#### 27.5 Costs

Each party to a Dispute must pay its own costs of complying with this clause 27.7. The parties to the Dispute must equally pay the costs of the arbitrator.

#### 27.6 Termination of process

A party to a Dispute may terminate the dispute resolution process by giving notice to the other party after it has complied with clauses 0 to **Error! Reference source not found.** Clauses 0 and 0 survive termination of the dispute resolution process.

### 27.7 Breach of this clause

If a party to a Dispute breaches clauses 0 to 0, the other party does not have to comply with those clauses in relation to the Dispute.

## 28. Termination

### 28.1 Termination and reduction for convenience

- i. The Client may, at any time, by a prior written notice of 60 days, terminate this Contract or reduce the scope of the Services, including for a machinery of government change.
- ii. On receipt of a notice of termination or reduction the Consultant must stop work as specified in the notice; take all available steps to minimise loss resulting from that termination and to protect Client Material and Contract Material; and continue work on any part of the Services not affected by the notice.
- iii. If this Contract is terminated under clause 0, the Client is liable only for: payments under clause a.a.i.15 for Services rendered before the effective date of termination; and reasonable costs incurred by the Consultant and directly attributable to the termination.
- iv. If the scope of the Services is reduced, the Client's liability to pay the Service Charges or to provide Client Material abates in accordance with the reduction in the Services.
- v. The Client is not liable to pay compensation under clause iii in an amount which would, in addition to any amounts paid or due, or becoming due, to the Consultant under this Contract, exceed the total Service Charges payable under this Contract.
- vi. The Consultant is not entitled to compensation for loss of prospective profits.

### 28.2 Termination by the Client for default

- a. Without limiting any other rights or remedies the Client may have against the Consultant arising out of or in connection with this Contract, the Client may terminate this Contract effective immediately by giving written notice to the Consultant if: the Consultant breaches a material provision of this Contract where that breach is not capable of remedy; the Consultant breaches any provision of this Contract and fails to remedy the breach within 30 days after receiving notice requiring it to do so; or an event specified in clause 00 happens to the Consultant.
- b. Without limitation, for the purposes of clause 00, each of the following constitutes a breach of a material provision:
  - breach of warranty under clause 0 (Consultant warranties);
  - a failure to comply with clause 12 (Personnel);
  - a failure to comply with clause 13 (Intellectual Property Rights);
  - a failure to comply with clause 19 (Insurance);

- a failure to comply with clause 20 (Confidentiality and privacy);
  - a failure to comply with clause 21 (Protection of personal information); or
  - a failure to notify the Client of a conflict of interest under clause 22 (Conflict of interest).
- c. The client can terminate the contract under the scenarios mentioned below. The Consultant must notify the Client immediately if any of these situations arise:
- the Consultant being a corporation, there is any change in the direct or indirect beneficial ownership or control of the Consultant;
  - the Consultant disposes of the whole or any part of its assets, operations or business other than in the ordinary course of business;
  - the Consultant ceases to carry on business;
  - the Consultant ceases to be able to pay its debts as they become due;
  - the Consultant being a company enters into liquidation or has a controller or liquidator or administrator appointed;
  - the Consultant being a natural person is declared bankrupt or assigns his or her estate for the benefit of creditors; or
  - where the Consultant is a partnership, any step is taken to dissolve that partnership.

In this clause, controller and administrator have the same meanings as in the Companies Act.

### 28.3 Termination by the Consultant for default

Without limiting any other rights or remedies the Consultant may have against the Client arising out of or in connection with this Contract, the Consultant may terminate this Contract by giving at least <30> Days notice to the Client if the Client:

- i. has not paid a correctly rendered invoice or has not notified the Consultant that it disputes the charges specified under an invoice within 60 days of receipt of that invoice; and
- ii. the Consultant has given the Client: a first notice 30 days after the due date of the invoice, specifying the failure to pay and giving the Client at least 30 days to pay the invoice; and a second notice 15 days after the first notice, referring to the first notice and giving the Client at least 15 days to pay the invoice.

### 28.4 After termination

On termination of this Contract the Consultant must:

- i. stop work on the Services;
- ii. deal with Client Material as reasonably directed by the Client; and
- iii. return all the Client's Confidential Information to the Client.

### 28.5 Survival

The following clauses survive the termination and expiry of this Contract:

- i. Clause 13 (Intellectual Property);
- ii. Clause 17 (Indemnity);
- iii. Clause 19 (Insurance);
- iv. Clause 20 (Confidentiality and privacy);
- v. Clause 21 (Protection of personal information);
- vi. Clause 23 (Security);
- vii. Clause 25 (Audit and access); and
- viii. Clause 0 (Knowledge transfer).

#### 28.6 Termination does not affect accrued rights

Termination of this Contract does not affect any accrued rights or remedies of a party.

#### 28.7 Knowledge transfer

Subject to any qualification or provision to the contrary in the Statement of Work, the Consultant must provide the following assistance to the Client on termination or expiration of this Contract:

- i. transferring or providing access to the Client to all information stored by whatever means held by the Consultant or under the control of the Consultant in connection with this Contract; and
- ii. making Specified Personnel and Consultant Personnel available for discussions with the Client as may be required. The time, length and subject of these discussions will be at the sole discretion of the Client, provided that any matter discussed is not considered to reveal any 'Commercial-in-Confidence' information of the Consultant.

### 29. *Notices and other communications*

#### 29.1 Service of notices

A Notice must be:

- i. in writing, in English and signed by a person duly authorised by the sender; and
- ii. hand delivered or sent by prepaid post or facsimile to the recipient's address for Notices specified in item 266 of the Contract Details, as varied by any Notice given by the recipient to the sender.

#### 29.2 Effective on receipt

A Notice given in accordance with clause 0 takes effect when it is taken to be received (or at a later time specified in it), and is taken to be received:

- i. if hand delivered, on delivery;
- ii. if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside India);

- iii. if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice, but if the delivery, receipt or transmission is not on a Business Day or is after 6.00pm on a Business Day, the Notice is taken to be received at 10.00am on the next Business Day.

## **30. *Miscellaneous***

### **30.1 Varying the Contract**

This Contract may be varied only in writing signed by each party.

### **30.2 Approvals and consents**

Except where this Contract expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Contract.

### **30.3 Assignment and novation**

A party may only assign its rights or novate its rights and obligations under this Contract with the prior written consent of the other party.

### **30.4 Costs**

Each party must pay its own costs of negotiating, preparing and executing this Contract.

### **30.5 Counterparts**

This Contract may be executed in counterparts. All executed counterparts constitute one document.

### **30.6 No merger**

The rights and obligations of the parties under this Contract do not merge on completion of any transaction contemplated by this Contract.

### **30.7 Entire agreement**

This Contract constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

### **30.8 Further action**

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Contract and any transaction contemplated by it.

### **30.9 Severability**

A term or part of a term of this Contract that is illegal or unenforceable may be severed from this Contract and the remaining terms or parts of the terms of this Contract continue in force.

### 30.10 Waiver

Waiver of any provision of or right under this Contract:

- i. must be in writing signed by the party entitled to the benefit of that provision or right; and
- ii. is effective only to the extent set out in any written waiver.

### 30.11 Relationship

- i. The parties must not represent themselves, and must ensure that their officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the other party, or as otherwise able to bind or represent the other party.
- ii. This Contract does not create a relationship of employment, agency or partnership between the parties.

### 30.12 Announcements

- i. The Consultant must, before making a public announcement in connection with this Contract or any transaction contemplated by it, obtain the Client's agreement to the announcement, except if required by law or a regulatory body (including a relevant stock exchange).
- ii. If the Consultant is required by law or a regulatory body to make a public announcement in connection with this Contract or any transaction contemplated by this Contract the Consultant must, to the extent practicable, first consult with and take into account the reasonable requirements of the Client.
- iii. Where reasonably practicable, the Client must, on or before making a public announcement in connection with this Contract or any transaction contemplated by it, provide notice to the Consultant of the general nature of the announcement. For the avoidance of doubt, the Client does not require the consent of the Consultant to the making of the announcement.

### 30.13 Governing law and jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of India, without giving effect to conflict of law rules. The parties expressly agree to exclude the application of the U.N. Convention on Contracts for the International Sale of Goods (1980) to this Agreement and the performance of the parties contemplated under this Agreement, to the extent that such convention might otherwise be applicable.

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the jurisdiction specified in Item 27 of the Contract Details.

SIGNED, SEALED AND DELIVERED

For and on behalf of the Consultant by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of the Buyer by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

In the presence of:

1.

2.

Schedule 1 – Contract Details

<b>Item number</b>	<b>Description</b>	<b>Clause Reference</b>	<b>Details</b>
1.	<b>Client details</b>	<b>1.1</b>	<i>[insert name of Client] [insert street address] [insert ABN]</i>
2.	<b>Consultant details</b>	<b>1.1</b>	<i>[insert name of Consultant] [insert street address] [insert ABN]</i>
3.	<b>Client Representative</b>	<b>1.1</b>	<i>[insert position and/or name of the Client's representative]</i>
4.	<b>Consultant Representative</b>	<b>1.1</b>	<i>[insert position and/or name of Consultant's representative]</i>
5.	<b>Business Hours</b>	<b>1.1</b>	<i>[if Business Hours differ from those specified in the definition, specify alternative hours here. Otherwise insert 'not applicable']</i>
6.	<b>Commencement Date</b>	<b>1.1 and 0</b>	<i>[insert date Contract is to commence eg, dd/mm/yy]</i>
7.	<b>Initial Contract Period</b>	<b>1.1 and 0</b>	<i>[insert the initial period of time for which the Contract will continue, eg 2 years]</i>
8.	<b>Option Period</b>	<b>0</b>	<i>[insert Option Period eg, 2 periods each being 1 year in duration. Otherwise insert 'not applicable']</i>
9.	<b>Option Notice Period</b>	<b>0</b>	<i>[if Option Notice Period is to be other than 30 days, insert alternative Option Notice Period (eg, 45 days). Otherwise insert 'not applicable']</i>
10.	<b>Nominated Agency</b>	<b>1.1 and 4</b>	<i>[insert name(s) of any Nominated Agencies. Otherwise insert 'not applicable']</i>
11.	<b>Relevant Industry Standards</b>	<b>iii</b>	<i>[insert relevant Industry Standards, best practice and guidelines (if any). Otherwise insert 'not applicable']</i>
12.	<b>Subcontractors</b>	<b>0</b>	<i>[insert names and ABNs of any subcontractors. Otherwise insert 'not applicable']</i>
13.	<b>Language of Documentation</b>	<b>0</b>	<i>[if the Documentation is to be in a language other than English, specify the required language here. Otherwise insert 'not applicable']</i>

Item number	Description	Clause Reference	Details
			<i>applicable']</i>
14.	<b>Period for notification</b>	0	<i>[if the period for notification is to be a period other than 5 Business Days of assessing the Services against the Performance Criteria, specify the relevant timeframe here. Otherwise insert 'not applicable']</i>
15.	<b>Specified Personnel</b>	12	<i>[insert names and positions of Specified Personnel. Otherwise insert 'not applicable']</i>
16.	<b>Intellectual Property Rights – Ownership of Contract Material</b>	0	<i>[parties are to select one of the following. Refer to the note to users at clause 0 for further information]  <input type="checkbox"/> clause 0 (Client Ownership of and licence to Intellectual Property Rights in Contract Material) is to apply  <input type="checkbox"/> clause 0 (Consultant Ownership of and licence to Intellectual Property Rights in Contract Material) is to apply</i>
17.	<b>Intellectual Property Rights - licences</b>	ii	Where clause 0 (Client Ownership of and licence to Intellectual Property Rights in Contract Material) is to apply: 1. Period of Govt. Agency's licence is: <i>[Insert the duration of the Govt. Agency's licence to use the Auxiliary Material provided by the Consultant. For example, will the licence be perpetual, for the Contract Period or for some other period]</i> 2. <i>[If the terms of the licence are to differ from that provided in clause ii state the position here]</i>
18.	<b>Client Material</b>	1.1, ii and ii	<i>[insert specific Material to be provided to the Consultant by the Client (if any) and any restrictions on the use of the Material. Otherwise insert 'not applicable']</i>

Item number	Description	Clause Reference	Details
19.	<b>Intellectual Property Rights – licences</b>	ii	<p>Where clause 0 (Consultant ownership of and licence to Intellectual Property Rights in Contract Material) is to apply:</p> <ol style="list-style-type: none"> <li>1. Period of Client's licence is: <i>[Insert the duration of the Client's licence to use the Auxiliary Material provided by the Consultant, and Contract Material. For example, will the licence be perpetual, for the Contract Period or for some other period]</i></li> <li>2. <i>[If the terms of the licence are to differ from that provided in clause ii state the position here]</i></li> </ol>
20.	<b>Moral Rights – Specified Acts</b>	0	<i>[if the Client wants to perform additional acts with the Contract Material other than those listed in clause 0, these should be set out here. Otherwise insert 'not applicable']</i>
21.	<b>Additional insurance</b>	0	<i>[insert any additional types of insurance the Consultant is required to maintain. Otherwise insert 'not applicable']</i>
22.	<b>Insurance quantum</b>	0	<p>Public liability insurance for an insured amount of <i>[INR insert amount]</i> per occurrence and not less than <i>[INR insert amount]</i> in aggregate</p> <p>Either professional indemnity or errors and omissions insurance for an insured amount of <i>[INR insert amount]</i> per occurrence and not less than <i>[INR insert amount]</i> in aggregate</p> <p>Workers compensation as required by law <i>[insert amount required of any other type of insurance specified at item 21 above]</i></p>
23.	<b>Security</b>	0	<i>[insert any security requirements additional to those specified in clause 23. Otherwise insert 'not applicable']</i>
24.	<b>Costs of security clearances</b>	0	<i>[if the position as to payment for security clearances is to differ from that provided in</i>

Item number	Description	Clause Reference	Details
			<i>clause i, state the position here. Otherwise insert 'not applicable']</i>
25.	<b>Unforeseen events termination period</b>	0	<i>[if a termination period other than 30 days will apply in the event of an 'unforeseen event,' specify it here. Otherwise insert 'not applicable']</i>
26.	<b>Address for Notices</b>	0	<p><b>Govt. Agency:</b>  <i>[insert name and/or position of person to receive notices]</i>  <i>[insert postal address]</i>  <i>[insert physical address]</i>  <i>[insert facsimile number]</i></p> <p><b>Consultant:</b>  <i>[insert name and/or position of person to receive notices]</i>  <i>[insert postal address]</i>  <i>[insert physical address]</i>  <i>[insert facsimile number]</i></p>
27.	<b>Jurisdiction</b>	0	<i>[insert the place of jurisdiction which is to govern the Contract eg New Delhi, India]</i>

Schedule 2 – Statement of Work

*Note: Insert particulars of the Services and Deliverables to be provided under this Contract in this Schedule. The format of this Schedule is provided as an example only and may be amended to address particular Client requirements*

1. Purpose (clause 6)

*Note: Insert a brief summary of the:*

- (a) *business requirements of the Client relevant to provision of the Services; and*
- (b) *purpose of procuring the Services.*

2. Services (clauses 1.1 and 6)

*Note: Insert details of Services here*

	Description of Services (attach additional pages if required)	Milestone
1.		
2.		
3.		
4.		
5.		

3. Deliverables (clauses 1.1 and 0)

*Note: Insert details of Deliverables here, including Milestones*

	Deliverables	Milestone
1.		
2.		
3.		
4.		
5.		

4. Documentation (clause 7)

*Note: Insert details of Documentation here, including required format and Milestones*

	Documentation	Format	Milestone
1.			
2.			
3.			
4.			
5.			

5. Performance Criteria (clauses 1.1 and 11)

*Note: Insert details of Performance Criteria against which the Services and Deliverables will be assessed, and the date of assessment*

	Service/Deliverable	Performance Criteria	Assessment date
1.			
2.			
3.			
4.			
5.			

6. Progress meetings (clause 0)

*Note: Insert details of attendees, frequency (eg. weekly, monthly) and place of meetings*

Meeting	Attendees	Frequency	Place

7. Reporting (clause 0)

*Note: Insert details of required reports, including content, frequency (eg. weekly, monthly) and dates due*

Report type and content	Frequency	Milestone

8. Knowledge Transfer (clause 0)

*Note: If requirements for Knowledge Transfer are different to those specified in clause 0, specify the requirements here*

Requirement	Milestone

Requirement	Milestone

Schedule 3 – Payment

*Note: Insert details of all relevant charges, costs or fees for the performance of the Services and provision of Deliverables and when each item is payable. All Service Charges are exclusive of VAT, sales tax, service tax and other similar tax. The format of this Schedule is provided as an example only and may be amended to address particular Client requirements*

*[This should be as per Appendix II, Form 2 of Model RFP document]*

1. Fixed charges (clause a.a.i.15)

*Note: Insert fixed charges for Services. If payment is to be made on a time and materials basis, mark this section as 'Not Applicable'*

	Charges (exclusive of taxes)	Tax Component	Total (inclusive of Taxes)
Service Charges (fixed)			
Other Charges (if any)			
<b>TOTAL</b>			

2. Hourly rates

*Note: Add hourly rates for each person if payment is to be made on a time and materials basis*

Personnel	Hourly Rate (exclusive of Tax)	Tax Component	Maximum Work Effort (Days)	Charges (exclusive of Tax)	Tax Component
<b>Sub total</b>					
<b>Add Taxes</b>					
<b>TOTAL</b>					

3. Daily rates

*Note: Add daily rates for each person if payment is to be made on a time and materials basis*

Personnel	Daily Rate (exclusive of Taxes)	Tax Component	Maximum Work Effort (Days)	Charges (exclusive of Tax)	Tax Component
<b>Sub total</b>					
<b>Add Tax</b>					
<b>TOTAL</b>					

4. Milestone Payments

*Note: Insert Milestone payment amounts against the Milestone dates. If Milestone Payments are not applicable, mark as 'Not Applicable'*

Milestone date	Milestone/Deliverable	Milestone Payment
<b>TOTAL</b>		

5. Liquidated Damage: Time is the essence of the Agreement and the completion of deliverables within the given timeframe are binding on the Consultant. In the event of delay, for causes attributable to the Consultant, in meeting the deliverables, the <Nodal Agency> shall be entitled at its option to recover from the Consultant as agreed, liquidated damages, a sum of 0.5% of the contract value which suffered delay for each completed week or part thereof by which the deliverable has been delayed subject to a limit of 5% of the contract value.

6. Invoicing requirements (clause 0)

*Note: Specify invoicing requirements here*

7. Payment period (clause 0)

*Note: Specify an alternative payment period if the 30 day period contemplated in clause 0 is not suitable*

8. Expenses (clause 0)

- (a) Subject to (b) below, the Client will not pay any travel, accommodation or other expenses unless they have been pre-approved in writing by the Client.
- (b) The Consultant will be reimbursed for the travel and related accommodation at non-SES rates where they are pre-approved in writing by the Client. The Consultant must submit an invoice for those expenses and the Client will reimburse the Consultant in accordance with the invoicing procedures set out in this Schedule.

Schedule 4 – Designated Confidential Information

*Note: This Schedule should include each party's Confidential Information. The period of confidentiality should be specified for each item. If the parties agree that different items of information are to be confidential for different periods of time, the different periods should be recorded next to each item. An assessment will need to be made by the parties on a case-by-case basis about what is to be included in the Schedule.*

1. Confidential information of the Client (clause 1.1 and 20)

**1.1 Contract provisions / Schedules**

Item	Period of Confidentiality
<i>[insert relevant items]</i>	

**1.2 Contract-related Material**

Item	Period of Confidentiality
<i>[insert relevant items]</i>	

2. Confidential information of the Consultant (clause 1.1 and 20)

**2.1 Contract provisions / Schedules**

Item	Period of Confidentiality
<i>[insert relevant items]</i>	

**2.2 Contract-related Material**

Item	Period of Confidentiality
<i>[insert relevant items]</i>	

Schedule 5 – Client Requirements

*Note: Client to address particular requirements with which the Consultant must comply, for example, Client specific legislative requirements (including in relation to secrecy and confidentiality), specific Client policies and/or procedures and specific Commonwealth government policies*

Schedule 6 – Change Order

*Note: If the proposed changes will vary the Specifications, or the Services, the following form must be completed*

**This Change Order (including its attachments, if any) serves to vary the Contract in accordance with the terms set out below. Unless specifically stated in this Change Order, all terms and conditions of the Contract continue unaffected.**

1.	Change Order number	
2.	Raised by	
3.	Details of change (use attachments if required)	
4.	Implementation date of Change Order	
5.	Effect on Services	
6.	Plan for implementing the change	
7.	Effect on Service Charges	
8.	Effect on Performance Criteria	
9.	Effect on Documentation	
10.	Other relevant matters (eg transitional impacts)	

**Client**

**Name (print)**

**Position**

**Signature**

**Date**

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**Consultant**

**Name (print)**

**Position**

**Signature**

**Date**

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Schedule 7 – Confidentiality and privacy undertaking

*Note: Insert here the terms of the confidentiality and privacy undertaking (if any) which a party may be required, under clause 0, to arrange for its Advisers or other third parties to give*

Schedule 8– Consultant’s Bid Response

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## Schedule 9– Governance Schedule

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### GOVERNANCE SCHEDULE

#### 10.1 Purpose

The purpose of this Schedule is to (i) establish and maintain the formal and informal processes for managing the relationship between the <Nodal Agency> and the Consultant including the outputs from other Schedules to this Agreement; (ii) define the principles that both Parties wish to follow to ensure the delivery of the Services; (iii) ensure the continued alignment of the interests of the Parties; (iv) ensure that the relationship is maintained at the correct level within each Party; (v) create the flexibility to revise and maintain the relationship and this Agreement during the Term; (vi) set out the procedure for escalating disagreements; and (vii) enable contract administration and performance management.

#### 10.2 Governance Structure

a. The Program Governance Structure to be put in place by <Nodal Agency> will have the following units:

- i. Steering Committee
- ii. Program Management Unit

The composition of each of the above units will be in line with the approach described in the RFP or as decided by <Nodal Agency>.

b. Project Directors: The relationship under this Agreement will be operated by the Project Directors appointed by each Party, who will provide the interface between the executive management of the respective Parties.

c. Before the signing of this agreement, the <Nodal Agency> and the Consultant shall each appoint a Project Director. In the event that either Party wishes to substitute its Project Director it will notify the other Party of such substitution as soon as reasonably practicable but at the latest within seven days of the substitution.

d. The Project Directors shall have responsibility for maintaining the interface and communication between the Parties.

e. Steering Committee: <Nodal Agency> will appoint a Steering Committee before the signing of this agreement.

f. The Steering Committee will meet formally on, at least, a monthly basis at a time and location to be agreed within the Committee. These meetings will cover, as a minimum, the following agenda items: (i) consideration of monthly Performance Reports; (ii) consideration of matters arising out of the Change Control Schedule; (iii) issues escalated in accordance with the escalation procedure as set out in this Schedule; (iv) matters to be brought before the Steering Committee in accordance with this agreement and the Schedules; (v) any matter brought before the Steering Committee by the Consultant under this Article; and (vi) any other issue which either Party wishes to add to the agenda.

g. In the event that there is any material factor which affects the delivery of the Services or the terms of payment as stated in the Terms of Payment Schedule (Schedule VI of this Agreement), the Parties agree

to discuss in the Steering Committee meeting any appropriate amendment in the MSA or the SLA or Scope of work including any variation to the terms of payment as stated in the Terms of Payment Schedule. Any variation so agreed shall be implemented through the change control procedure as set out in the Change Control Process.

#### 4.3 Governance Procedures

- a. The Consultant shall document the agreed structures in a procedures manual.
- b. The agenda for each meeting of the Steering Committee shall be set to reflect the discussion items referred to above and extraordinary items may be added either with the agreement of the Parties or at the request of either Party. Copies of the agenda for meetings of the Steering Committee, along with relevant pre-reading material, shall be distributed at least one week in advance of the relevant meeting.
- c. All meetings and proceedings will be documented; such documents to be distributed to both Parties and copies shall be kept as a record. All actions, responsibilities and accountabilities arising out of any meeting shall be tracked and managed.
- d. The Parties shall ensure as far as reasonably practicable that the Steering Committee shall resolve the issues and resolve the objectives placed before them and that members representing each Party are empowered to make relevant decisions or have easy access to empowered individuals for decisions to be made to achieve this.

## **ANNEXURE II**

# Agreement Template for a Capacity Augmentation based Assignment

## CAPACITY AUGMENTATION SERVICES AGREEMENT

**THIS AGREEMENT** is dated < INSERT DATE >

### BETWEEN

1. <Vendor>, a company registered in India and whose registered office is at <address>; **and**
2. <NODAL AGENCY>, with its office at <address> ("**Client**").

### WHEREAS

- A** Client is engaged in the business of -----.
- B** <Vendor> is engaged in the business of Consulting.
- C** <Client>is desirous to implement the project of e-Governance for <Insert the type of project>. In furtherance of the same, <Client>undertook the selection of a suitable Vendor through a competitive bidding process to provide the manpower on secondment basis to assist in <provide brief summary of services> and in this regard issued Request for Proposal (RFP) dated <date> .
- D** The successful bidder has been selected as the Vendor on the basis of the bid response dated <date>.
- E** The parties wish to enter into this Agreement pursuant to which the parties may from time to time agree that <Vendor> will provide its personnel to Client by way of secondment.
- F** Accordingly, the parties are entering into this Agreement to set out the terms on which the personnel may be provided by <Vendor> to Client.

**IT IS HEREBY AGREED** as follows:

### 1. Definitions

1.1 For the purposes of this Agreement:

"<Nodal Agency> OR Client" means <insert the full name of the Nodal Agency>;

"Vendor" means <insert the full name of the Vendor>;

"Control" (or variants of it) means the ability whether directly or indirectly to direct the affairs of another whether by way of contract, ownership of shares or otherwise;

"Effective Date" means <insert date>]

<b>"Order"</b>	means a specific work order relating to the provision of Personnel signed by the parties and referencing this Agreement, which work order is substantially in the form set out in Appendix A;
<b>"Personnel"</b>	means the <Vendor> personnel identified in the relevant Order;
<b>"Secondment Period"</b>	means the period during which the relevant Personnel is/are seconded to Client to provide the Services pursuant to this Agreement as specified in the relevant Order;
<b>"Services"</b>	means the services to be performed by Personnel as such are described in paragraph 2.1 of the relevant Order;

1.2 Reference to "parties" means the "parties" to this Agreement and references to a party means one of those parties.

1.3 If there is inconsistency between any of the documents forming part of this Contract, those documents will be interpreted in the following order of priority to the extent of any inconsistency:

- a) Agreed Terms;
- b) Schedules;
- c) any attachments to the Schedules; and
- d) documents incorporated by reference in this Contract.
- e) RFP document and its corrigendum
- f) Proposal submitted by the bidder

## **2. Services**

2.1 Client may from time to time ask <Vendor> to provide Personnel to Client by way of secondment. If, in response to a request from Client to provide Personnel, <Vendor> agrees to provide such Personnel, the parties shall enter into an Order setting out their agreement in respect of the provision of such Personnel. <Vendor> shall have no obligation to provide any Personnel until both parties shall have signed and delivered an Order relating to such Personnel.

2.2 <Vendor> shall arrange to provide to Client, by way of secondment, Personnel to perform the Services. The parties may increase, reduce or change Personnel and/or the Services by mutual written agreement.

2.3 This Agreement shall commence on the Effective Date and will continue subsequently < until [INSERT DATE] > unless terminated earlier in accordance with Clause 12.

2.4 In respect of each Personnel during the Secondment Period and for the purposes of the secondment of such Personnel to Client, <Vendor> shall procure that:

2.4.1 Personnel shall report directly to Client. Client shall be responsible for the direction, supervision, management and performance of such Personnel to the extent related to the performance of the Services and in this regard shall be solely responsible for the results of both performance of such Personnel and all related quality control measures (including quality of work product generated by such Personnel or with which such Personnel are involved) in connection with the Services. On occasion, Personnel may wish to consult with others at <Vendor> or at another entity within the <Vendor> Group on particular matters and <Vendor> shall allow such discussion and consultation and Client shall permit them to do so;

2.4.2 Personnel shall provide the Services at Client's premises in \_\_\_\_\_ or such other premises as Client shall direct (after having agreed this with <Vendor> in the relevant Order) and shall observe Client's reasonable rules, policies and procedures regarding working conditions, practices and hours of work to the extent such policies are made known to Personnel and Personnel shall comply with Client's reasonable and lawful instructions provided that <Vendor>'s sole responsibility in the event of the refusal of any Personnel to so observe such rules, policies and procedures or otherwise to comply with such instructions shall be to arrange to furnish Client with replacement Personnel who will so comply within a reasonable period of time. Client shall use its reasonable endeavours to assist <Vendor> which employs such Personnel in complying with their respective duties under the applicable employment related laws. and any other relevant legislation and any statutory re-enactment or modification thereof in respect of Personnel and Client shall ensure that its working conditions, practices and the hours of work to which it requires Personnel to adhere during the Secondment Period do not conflict with this obligation; and

- 2.4.3 if, for any reason, any Personnel is unable to complete the intended period of secondment or if his (her) performance does not meet Client's expectations, <Vendor> will endeavour to provide a suitable replacement within a reasonable period of time, which shall be Client's sole remedy against <Vendor> with respect to any inability to complete the intended period of secondment or any performance issues. If <Vendor> is unable to identify a replacement, the relevant Personnel's Secondment Period will be deemed to have automatically ended from the date he (she) ceases to provide the Services.
- 2.5 The parties acknowledge that the provision by <Vendor> of Personnel on secondment shall not operate so as to transfer employment of such Personnel to Client and all Personnel shall, notwithstanding the secondment, remain the employees of the relevant entity within the <Vendor> Group. <Vendor> shall be exclusively responsible for procuring that payment of all Personnel's salary, and income tax liability and provision of applicable employee benefits such as vacation, sick pay, insurance, pension and profit-sharing benefits is made.
- 2.6 Client shall ensure that all major and material decisions which Personnel are requested or instructed to make in connection with the provision of the Services will be reviewed and approved in advance by either the board of directors of Client or such other person(s) not associated with <Vendor> that Client may designate to review and approve such decisions. Therefore, while Personnel is authorised to perform any functions and make any decisions that are normally performed and made by a person in such a role, Client or its designee is required to review and approve all major and material decisions, including without limitation, reviewing and approving all contractual and other arrangements intended to create legally binding obligations for Client with which Personnel may be requested to assist pursuant to the provision of the Services.
- 3. Payment for Services and Expenses**
- 3.1 Subject to Clause 3.4, Client shall pay a fee to <Vendor> for the Services at those rates specified in the relevant Order (the "Fee"). <Vendor> will invoice Client monthly in [arrears/advance] in respect of the Fee. The Fee shall be exclusive of VAT and other taxes which shall be payable in addition by Client in accordance with Clause 16.

- 3.2 During the Secondment Period, Personnel shall be entitled to take his (her) usual leave entitlement in accordance with his (her) terms and conditions of employment with <Vendor>. **[The date(s) of such holiday shall be agreed from time to time by Client and Personnel.]** In cases of holiday taken by Personnel pursuant to this Clause 3.2 is of 2 (working) days or less in a month, the Fee will still be payable by Client and <Vendor> shall be under no obligation to provide a replacement for any such relevant Personnel. In cases of leave taken by Personnel pursuant to this Clause 3.2 in excess of 2 (working) days, <Vendor> will endeavour to provide a replacement for such Personnel, and the Fee will not be payable by Client in respect of any period in excess of 2 (working) days' absence where a replacement has not been provided.
- 3.3 In cases of sick leave taken by any Personnel of 5 (working) days or less, the Fee will still be payable by Client and <Vendor> shall be under no obligation to provide a replacement for any such relevant Personnel. In cases of sick leave taken by Personnel in excess of 5 (working) days, <Vendor> will endeavour to provide a suitable replacement for such Personnel, and the Fee will not be payable by Client in respect of any period in excess of 5 (working) days' absence where a replacement has not been provided.
- 3.4 Client shall pay the amounts payable hereunder to <Vendor> within fifteen (15) days of receipt of the relevant invoices submitted by <Vendor>. Invoices will be sent monthly, and a closing invoice will be sent upon completion of the Services. In the event of any dispute with regard to a portion of an invoice, the undisputed portion shall be paid as provided in this Agreement.
- 3.5 In addition, Client shall reimburse <Vendor> for all out-of-pocket expenses incurred by <Vendor> or any Personnel in connection with providing the Services in accordance with <Vendor>'s standard expense policies including but not restricted to travel to and from Client locations, phone calls, including mobile phones, and car usage.
- 3.6 Payment shall be made within *30 working days* of the receipt of invoice along with supporting documents by the Nodal Agency subject to penalties. The penalties are imposed on the <vendor> as per the SLA criteria specified in the SLA. In the event of delay in payment of

undisputed amount beyond 30 working days, Consultant shall be entitled to a late payment interest <@12% p.a.> from the date of submission of invoice.

#### **4. Client Responsibilities**

- 4.1 In addition to supervising and managing Personnel, Client shall supply on-site Personnel (or (as the case may be) procure that Personnel are supplied) with suitable office space, desks, storage, furniture and other normal office equipment support, including adequate computer resources and terminals (including having obtained necessary third party consent to use software and equipment to undertake the role in question), telephone and facsimile service, postage, copying, typing, secretarial services and general office supplies which may be necessary in connection with Personnel's performance of the Services.
- 4.2 Client shall (or shall ensure that Client's Group) have and maintain for the duration of this Agreement and thereafter if applicable, the following types of insurance policies: (a) public liability insurance; (b) professional liability insurance; and (c) property damage insurance.
- 4.3 Client shall comply with the provisions of and any statutory re-enactment or modification thereof or any rules or regulations made in so far as the same concern Personnel and any other relevant legislation affording protection to workers in such circumstances. Client shall also cooperate with <Vendor> in respect of any action which <Vendor> or any other entity within the <Vendor> Group wishes to take in respect of such Personnel in order to fulfil the duties of <Vendor> or (as the case may be) <Vendor> which employs such Personnel under the relevant legislation in so far as the same concern such Personnel.
- 4.4 Client will not take any action against any Personnel which may create any legal or other liability for <Vendor> or the <Vendor> Group. In particular, Client may not:
- 4.4.1 agree, make or attempt to make any variation to the terms and conditions of employment of any Personnel;
  - 4.4.2 seek to terminate the secondment or employment (either directly or constructively) of any Personnel without the prior authority of <Vendor>; and/or

4.4.3 seek to discipline, impose any sanction on or take any action short of dismissal in respect of any Personnel (whether directly or indirectly), in any case whether pursuant to its own internal disciplinary procedure, in compliance with any statutory procedure or otherwise.

## **5. Ownership of Work Product**

5.1 Subject to <Vendor>'s rights as reserved in this Clause 5 and Clause 6, upon final payment for Services, Client shall own the copyright in all original written material including programs, listings and other documentation originated and prepared for Client by Personnel pursuant to this Agreement.

5.2 This Agreement shall not, however, preclude <Vendor> or Personnel from developing for <Vendor> and/or any other member(s) of the <Vendor> Group, or for others, materials which are competitive with those produced as a result of the Services provided hereunder, irrespective of their similarity to materials which may be delivered to Client pursuant to this Agreement.

## **6. Proprietary Materials**

Client shall not have or obtain any rights in proprietary products, materials and methodologies of <Vendor>, the <Vendor> Group or any third parties except pursuant to a separate written agreement executed by the parties.

## **7. Confidential Information**

7.1 During the course of performance of the Services, Personnel may be given access to trade secrets, materials or information which is in writing and labelled confidential and information which Personnel has been told is of a confidential nature or which such Personnel might reasonably expect Client would regard as confidential and Client may be given access to trade secrets, materials or information which is in writing and labelled confidential and information which Client has been told is of a confidential nature or which Client might reasonably expect

<Vendor> would regard as confidential (all such information being referred to as “Confidential Information”). The parties agree:

- 7.1.1 the Confidential Information of the other (which, for the avoidance of doubt, for the purposes of this Clause 7 in the case of Confidential Information received by Client, shall refer to Confidential Information of <Vendor> may be used, copied and disclosed by the receiving party only in furtherance of providing the Services;
  - 7.1.2 each party shall protect the confidentiality of the Confidential Information of the other in the same manner that it protects the confidentiality of its own confidential information of like kind. Further, <Vendor> shall procure that Personnel will do likewise;
  - 7.1.3 all Confidential Information made available to Personnel or to Client including copies thereof, shall be returned to Client and <Vendor> respectively upon the first to occur of:
    - (a) completion of the Services; or
    - (b) request by the relevant disclosing party (provided that Personnel and <Vendor> shall not be obliged to delete any computer records containing any such Confidential Information); and
  - 7.1.4 Personnel’s access to Confidential Information shall not prevent Personnel or <Vendor> from marketing, developing or using services or products similar to or competitive with the Services or from using ideas, concepts, expressions, know-how, skill and experience acquired by any Personnel or <Vendor> in the course of its association with Client, provided that the provisions of this Clause 7 are not breached.
- 7.2** Each party’s obligations under this Clause 7 do not apply to information received by it (which in the case of <Vendor> shall include information received by Personnel) which is:
- 7.2.1 in the public domain or entering the public domain but not from a breach by the relevant receiving party of this Agreement;
  - 7.2.2 possessed by the receiving party (including, in the case of <Vendor>, Personnel) without any written obligation to the other party to protect it;
  - 7.2.3 acquired from a third party by the receiving party (including, in the case of <Vendor>, Personnel) without written restrictions against disclosure and which third party, to the receiving party’s knowledge (as applicable), is not restricted from disclosing the information;

- 7.2.4 independently developed by the receiving party (which, where the receiving party is <Vendor> shall include a member of the <Vendor> Group or Personnel) without use of the other's Confidential Information;
  - 7.2.5 disclosed by the other party without nondisclosure restrictions comparable to the restrictions of this Agreement; or
  - 7.2.7 which the receiving party (including, in the case of <Vendor>, Personnel) is required by law, or the rules or regulations of a recognised stock exchange or listing authority on which shares in the receiving party (which in the case of <Vendor> shall include any member of the <Vendor> Group) is traded, to disclose.
- 7.3 Client represents that it has the right to disclose all information, including Confidential Information, made available to Personnel.

## **8. Use of Name**

- 8.1 Client will not use or in any way associate the name of <Vendor> or any other entity of the <Vendor> Group with any work or work product of any Personnel in any oral or written communication with a third party.

## **9. Authority and Recruitment of Personnel**

- 9.1 <Vendor> will not and will procure that Personnel will not assume, create or incur any liability or obligation on behalf of Client (and acknowledge that they have no right to do so) save as specifically authorised in writing by Client, or as provided for by this Agreement.
- 9.2 Client shall ensure that Personnel shall not, without the prior consent of Client:
  - 9.2.1 incur any capital expenditure on behalf of Client or any associated company, [by way of any of the actions listed in this Clause], other than that which is properly authorised by Client from time to time;
  - 9.2.2 enter into on behalf of the company any commitment, contract or arrangement otherwise than in accordance with any authorisation by Client or any Affiliate of Client;

- 9.2.3 engage any person on behalf of Client or discharge any employee or worker of Client or any Affiliate of Client; or
  - 9.2.4 negotiate or enter into a contract with <Vendor> on behalf of Client.
- 9.3 Client shall not and shall procure that each entity within Client's Group shall not, without prior written consent of <Vendor>, on behalf of itself or any other person, directly or indirectly during any Personnel's Secondment Period and for a period of one (1) year following the termination of his (her) Secondment Period:
- 9.3.1 offer to employ or otherwise engage such Personnel; or
  - 9.3.2 entice or solicit or endeavour to entice or solicit such Personnel to leave his (her) employment with <Vendor> or any entity within the <Vendor> Group (as applicable).

## **10. Relationship between the Parties**

- 10.1 In connection with this Agreement, the relationship of <Vendor> to Client will be that of an independent contractor and <Vendor> shall procure that at no time will Personnel hold himself (herself) out as being an employee of Client. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, joint employer or Vendor relationship between Personnel and Client and/or <Vendor> and Client for any purpose.
- 10.2 This Agreement constitutes a contract for the provision of services and not a contract of employment. Accordingly, <Vendor> will be fully responsible for any Personnel being deemed to be an employee of Client as a result of his (her) secondment pursuant to this Agreement.

## **11. Limitation on Liability.**

- 11.1 <Vendor> warrants that each Personnel possesses the relevant qualifications, skills and experience reasonably expected to be required by such Personnel in the provision of the Services save that, as Client has all necessary control over the method and manner of such Personnel's performance of the Services during the relevant Personnel's Secondment Period, <Vendor> shall not be responsible or bear liability for any defects in performance of the Services

arising from any requirement imposed on such relevant Personnel by Client to undertake any task(s) in connection with the Services which are beyond such Personnel's reasonable level of qualification, skills and experience or otherwise arising from Client's failure to afford adequate supervision or management of such Personnel in relation to such task(s).

11.2 Without prejudice to Clause 10.2, Client shall indemnify <Vendor> against any and all claims, actions, liabilities, losses, damages and expenses (including legal expenses) incurred by <Vendor>and/or any other entity within the <Vendor> Group:

11.2.1 which arise, directly or indirectly, out of or in connection with the performance of the Services by Personnel; or

11.2.2 in respect of any Personnel which arise as a result of any act or omission by Client or any of its employees or officers during such Personnel's relevant Secondment Period.

11.3 Neither party shall be liable to the other under or in connection with this Agreement, or any collateral contract, for any loss of actual or anticipated loss of business, loss of revenue, loss of profit, loss of goodwill, loss of expended management time, loss of anticipated savings or any indirect or consequential losses or damage of any kind, in each case howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the parties and whether arising in or for breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise.

11.4 Nothing in this Clause 11 or otherwise in this Agreement shall exclude or in any way limit either party's liability to the other for:

11.4.1 fraud or fraudulent misrepresentation (to the extent such an exclusion is not permitted by law);

11.4.2 death or personal injury caused by negligence or that of its employees, directors, partners, agents or subcontractors

11.4.3 any liability to the extent that the same may not be excluded or limited as a matter of law.

- 11.5 Subject to Clauses 11.3 and 11.4, <Vendor>'s maximum aggregate liability to Client under or in connection with an Order under this Agreement or any collateral contract, whether arising from negligence, breach of contract, tort, breach of statutory duty, indemnity or otherwise shall not in the aggregate exceed the charges paid to <Vendor> for the Services in respect of the Order in question and in respect of this Agreement shall be limited in any particular year to the total amount of the charges paid to <Vendor> for Services in that year.
- 11.6 This Agreement sets forth the full extent of <Vendor>'s obligations and liabilities arising out of or in connection with this Agreement, an Order or any collateral contract, and there are no conditions, warranties, representations or terms, express or implied, that are binding on <Vendor> except as specifically stated or contemplated in this Agreement. Any condition, warranty, representation or term concerning the performance of the Services which might otherwise be implied into or incorporated in this Agreement, an Order or any collateral contract, whether by statute, common law or otherwise, is hereby expressly excluded.

## **12. Termination**

- 12.1 Subject to the remaining provisions of this Clause 12, either party may at any time and without cause terminate this Agreement by giving thirty (30) days' written notice of termination to the other party.
- 12.2 Either party may terminate this Agreement with immediate effect upon 15 days notice if the other party commits a material breach of its obligations under this Agreement which has not been cured within such 15 days notice period.
- 12.3 In the event of termination pursuant to Clause 12.1 or 12.2 above, Client shall pay <Vendor> for:
- 12.3.1 all Services rendered and expenses incurred by Personnel up to and including the date of termination; and
  - 12.3.2 any demobilisation costs resulting from such early termination as provided for in the relevant Order.

12.4 The expiry or termination of this Agreement shall not give either party the right to claim any compensation, indemnity or reimbursement whatsoever from the other by reason of such termination, but termination shall be without prejudice to any rights or remedies available to, or any obligations or liabilities accrued to, either party at the effective date of termination. Without prejudice to the generality of the foregoing, the following Clauses shall survive the termination of this Agreement for any reason: 1, 3, 5, 6, 7, 8, 9, 11, 12, 13, 21, 24.

**13. Severability**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties contained in this Agreement.

**14. Notice**

Any notice or other communication given pursuant to this Agreement shall be in writing and shall be effective either when delivered personally to the party for whom intended, or five (5) days following deposit of the same into the Mail (registered or recorded post or first class postage prepaid) or other local equivalent postal service, if sent by facsimile on receipt of confirmation of delivery if sent on a business day in the place of receipt or, if not sent on a business day in the place of receipt, on opening of business on the next business day or the next day if sent by overnight delivery services (with confirmation of delivery), addressed to such party at the address set forth on the initial page of this Agreement. Either party may designate a different address by notice to the other given in accordance with the terms of this Clause 14.

**15. Force Majeure**

15.1 Neither party shall be liable for any delays or failures in performance in whole (or in part) of its obligations under this Agreement if such delay or non-performance is due to any Act of God, war, terrorism, insurrection, riot, civil disturbance, rebellion, government regulation, embargo,

explosion, fire, flood, tempest, strike, or failure in lighting, electrical power or telecommunications equipment, circuits, or other events beyond the reasonable control of the party whether or not similar to the foregoing (an "event of Force Majeure"). In any such event, the parties will discuss the feasibility of continuing the provision of the Services, including the cost related thereto.

- 15.2 In the event that the event of Force Majeure persists for a period of 30 business days or more and whichever party's performance is affected by the event of Force Majeure, either party shall be entitled to terminate the relevant Order under this Agreement unilaterally without liability to the other in respect of such termination. Upon such termination, Client shall pay <Vendor> for all Services rendered and expenses incurred by Personnel up to and including the date of termination and any demobilisation costs resulting from such early termination as provided for in the relevant Order. In the event of such termination, Client acknowledges that the Services will be work in progress and may not be in a finished state.

## **16. Taxes**

- 16.1 Without prejudice to Clauses 2.4 and 10.2:

16.1.1 Client shall pay for all taxes incurred in connection with the Services including value-added, sales, use, excise, services, consumption, withholding and other taxes and duties assessed on the provision of Services and deliverables by <Vendor> to Client in relation to the Services and on any goods or services used or consumed by either party in connection with this Agreement.

- 16.1.2 In the event that any payments received from Client by <Vendor> in connection with the Services are subjected to or reduced by any taxes required to be withheld by Client, the payments shall be grossed up so as to result in <Vendor>'s receipt of an amount equal to that which would have been received by <Vendor> but for the said taxes.

- 16.1.3 Client agrees to indemnify and hold <Vendor> harmless from any deficiency (including penalties and interest) relating to taxes which are the responsibility of Client under this Agreement and reimburse <Vendor> for all reasonable accounting and legal fees and expenses incurred in connection with an assessment of such a deficiency.

**17. Appendix**

Appendix A is hereby incorporated into the terms and conditions of this Agreement by reference. Once signed by both parties, an Order shall be deemed incorporated into this Agreement. In the event of any conflict between the provisions of this Agreement and any of the provisions contained in an Order, the provisions of the Order shall govern to the effect of such conflict in respect of that Order.

**18. Affiliates and Assignment**

18.1 In providing the Services, <Vendor> may use Personnel from any member of the <Vendor> Group.

18.2 Neither party may assign its rights or obligations hereunder, except that a party may assign (or novate as appropriate) its rights, benefits and/or obligations under this Agreement to its Affiliate.

18.3 Client undertakes that should <Vendor> or any other member of the <Vendor> Group need to execute a novation rather than an assignment to an entity contemplated in Clause 18.2, Client shall execute a deed of novation to effect such novation, provided that the terms of this Agreement are not otherwise varied.

**19. Data Privacy**

19.1 Client will in connection with this Agreement receive personal data in relation to Personnel. Such data may be received from <Vendor>, other members of the <Vendor> Group, it's or their employees, directors or officers (including directly from Personnel) or from other (for example, published) sources. Client may use such data for purposes connected with this Agreement in accordance with all applicable data protection legislation

19.2 Client agrees that it shall implement appropriate technical and organisational measures to protect the personal data of Personnel against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, and against all other unlawful forms of processing.

**20. Interpretation**

Headings are included in this Agreement for ease of reference only and shall not affect the interpretation of this Agreement. References to Clauses and Appendices are, unless otherwise stated, references to Clauses of and Appendices to this Agreement. A reference to any statute, enactment, order or regulation or other similar instrument shall be construed as a reference to the statute, enactment, order or regulation or instrument as contained in any subsequent re-enactment thereof.

**21. Entire Agreement**

This Agreement constitutes the entire agreement between Client and <Vendor> relating to the Services and the supply of Personnel and supersedes all previous communications, representations and arrangements, written or oral, except in respect of any fraudulent misrepresentation made by either party. Client confirms that it has placed no reliance on any representation made but not embodied in this Agreement.

**22. Amendment and Waiver**

This Agreement may not be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by both parties.

**23. Third Party Rights**

Nothing in this Agreement is intended to confer any benefit on any third party (whether referred to in this Agreement by name, class, description or otherwise) or any right to enforce a term of this Agreement.

**24. Applicable Law**

This Agreement will be governed by and construed in accordance with the laws of India and will be subject to the exclusive jurisdiction of the Court at New Delhi.

This Agreement has been entered into by the parties on the date set out at the beginning of this Agreement.

**SIGNED for <Vendor>**

**SIGNED for <NODAL AGENCY>**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

## Appendix A

### Order

**THIS ORDER** is dated < INSERT DATE >

#### **BETWEEN**

1. <Vendor>, a company registered in India and whose registered office is at <address> **and**
2. <NODAL AGENCY>, a company registered in <City> and whose registered office is at <address> (“Client”).

This Order is entered into pursuant to the Agreement for Secondment of Personnel dated ,< INSERT DATE > made between <Vendor> and Client (“**Agreement**”). Terms used in the Agreement shall have the same meaning herein.

**IT IS HEREBY AGREED** as follows:

#### **Personnel**

- 1.1 < IDENTIFY NAME(S) OF EMPLOYEE> shall be provided as Personnel pursuant to this Order. The provision of such Personnel shall be in accordance with the terms of the Agreement.
- 1.2 The Secondment Period in respect of the Personnel to be provided pursuant to this Order shall commence on < INSERT DATE > and shall terminate on < INSERT DATE >, unless varied by mutual agreement of <Vendor> and Client in accordance with the terms of the Agreement.

#### **Services**

- 2.1 Personnel shall provide the following advice and assistance to Client in connection with the project(s) managed by Client and described in this paragraph 2.1: < INSERT DETAILED DESCRIPTION OF THE SERVICES >. For this purpose, Client requires Personnel to have the following qualifications, skills and experience: < INSERT DETAIL >.
- 2.2 For the avoidance of doubt, Client shall ensure that the Services shall not include, and shall not be deemed to include, any activity that is commensurate with that of a director (or a shadow director) of Client (nor any Affiliate of Client). Accordingly, <Vendor> owes Client no fiduciary duty whatsoever and Client undertakes that Personnel shall not be required to perform any such activity.
- 2.3 In addition, the Services shall not include, and shall not be deemed to be, giving or offering to give investment advice.

2.4 It is understood that Client will be obtaining its own legal, financial, tax and other advice as it deems appropriate and neither <Vendor> nor Personnel will be expected or requested to provide such advice.

**Fee**

The rate for the Services of Personnel to be provided pursuant to this Order will be INR\_\_\_\_\_ per hour plus Service Tax, VAT, any other applicable taxes and disbursements. An estimate of the out-of-pocket expenses to be incurred in conjunction with providing such Personnel's Services to Client is outlined below.

**Lodging:**

RS \_\_\_\_\_

**Travel:**

\_\_\_\_\_ RS \_\_\_\_\_

**Incidentals:**

\_\_\_\_\_ RS \_\_\_\_\_

**Potential Demobilisation Costs**

In the event of termination of the Agreement by Client, Client is responsible for

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SIGNED for <Vendor>**

**SIGNED for <NODAL AGENCY>**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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