



**Infrastructure Corporation of Andhra Pradesh Limited (INCAP)**

**NOTICE INVITING**

**REQUEST FOR PROPOSAL (RFP)  
FOR**

**SELECTION OF DEA EMPANELED RETAINER CONSULTANTS FOR PROVIDING  
SERVICES FOR DEVELOPMENT OF VARIOUS IDENTIFIED INFRASTRUCTURE  
PROJECTS IN THE STATE OF ANDHRA PRADESH**

**(QUALITY CUM COST BASED SELECTION)**

**(DECEMBER 2024)**

**(PROPOSAL DUE DATE: 06.01.2025)**

**(This document is meant for exclusive purpose of submitting the Proposal against this RFP document and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued)**

**Vice Chairman and Managing Director,**

**Infrastructure Corporation of Andhra Pradesh Limited (INCAP)  
4<sup>th</sup> Floor, IHC Corporate, Opposite to Aranya Bhavan, Industrial  
Park, Mangalagiri, Guntur District, 522503  
A.P. India**

**Email: [incapap@incap.co.in](mailto:incapap@incap.co.in), [md@incap.co.in](mailto:md@incap.co.in)**

**Web: [www.incap.co.in](http://www.incap.co.in)**

**SELECTION OF DEA EMPANELED RETAINER CONSULTANTS FOR PROVIDING SERVICES FOR DEVELOPMENT OF VARIOUS IDENTIFIED INFRASTRUCTURE PROJECTS IN THE STATE OF ANDHRA PRADESH**

**Notice No. INCAP/ Retainer Consultants/02/2021, dated 09.12.2024**

**REQUEST FOR PROPOSAL DOCUMENT**

Proposals in the prescribed format are invited from suitable Applicant(s) from DEA Empaneled consultancy firms for providing consultancy services for implementation of various identified infrastructure projects in the state of Andhra Pradesh.

1	Name of Authority	Infrastructure Corporation of Andhra Pradesh Ltd.
2	Name of the Consultancy Assignment	Selection of DEA Empaneled Retainer Consultants for providing Services for development of various identified infrastructure projects in the A.P. state
3	Period of Agreement:	1 (one) year from the effective date.
4	Transaction Fee (Cost for downloading the Tender Document)	Rs.11,800/- to M/s. Vupadhi Techno Services Pvt. Ltd., Kunchanapalli, Tadepalli Mandal, Guntur District., by using Credit cards (Any MASTER /VISA Card) issued by any bank or through net banking accounts with ICICI or HDFC Banks as per G.O.Ms.No.13 IT&C Dept. Dt.07.05.06 with effect from 02.02.2007.
5	Tender Fee	Rs. 20,000+ 18% GST (23,600/-) in the form of Demand Draft/ NEFT/ RTGS/ ONLINE from Nationalized or any scheduled bank (but not from Co-operative or Grameena Bank) in favour "Infrastructure Corporation of AP Ltd., State bank of India, Kamayyathopu Branch, Kanuru, Vijayawada." <b>Account Number: 52188924158,</b> IFSC Code SBIN0021134.
6	Earnest money Deposit	E.M.D. Rs. 1,00,000/- (Rupees One lakh only) to be paid in the form of Demand Draft/ NEFT/ RTGS/ ONLINE from Nationalized or any scheduled bank (but not from Co-operative or Grameena Bank) in favour "Infrastructure Corporation of AP Ltd., State bank of India, Kamayyathopu Branch, Kanuru, Vijayawada." <b>Account Number: 52188924158,</b> IFSC Code SBIN0021134.
7	Publishing of RFP document in INCAP website: <a href="http://www.incap.co.in">www.incap.co.in</a>	09.12.2024 @ 11.00AM
8	Start date for submission of pre- bid Queries by bidders to the email: <a href="mailto:md@incap.co.in">md@incap.co.in</a>	09.12.2024 @ 11.00AM

9	End date for submission of pre-bid queries to the email: <a href="mailto:md@incap.co.in">md@incap.co.in</a>	16.12.2024 @ 03.00 PM
10	Submission of clarifications by AUTHORITY to the bidder's queries through INCAP website: <a href="http://www.incap.co.in">www.incap.co.in</a>	19.12.2024 @ 05.00 PM
11	Start date of Online Submission of Bids envelopes I & II on AP e- procurement portal	23.12.2024 @ 10.00 AM
12	End date of Online submission of Bids envelopes I & II on AP e-procurement portal	06.01.2025 @ 03.00 PM
13	Last date to submit original Demand draft/ BG of Tender Fees/EMD and letter of unconditional acceptance of AUTHORITY's terms and conditions	07.01.2025 @ 05.00 PM
14	Opening of envelope- I (Pre-Qualification cum Technical bids) on the AP e - procurement portal	08.01.2025 @ 11.00 AM
15	Opening of Envelope-II (Financial Bid) on AP e - procurement portal	20.01.2025 @ 04.00 PM
16	Mode of selection	Quality cum Cost Based Selection (QCBS) Technical – 80% and Financial 20%
17	Method of Selection	The selection shall be on the following basis: <ol style="list-style-type: none"> <li>1. The Applicants should meet the minimum eligibility criteria.</li> <li>2. Technical proposals of Applicants who meet the minimum eligibility criteria shall be evaluated</li> <li>3. The financial bids of only the Technically Qualified Applicants (who scores a minimum of 60% in technical bid) will be opened.</li> <li>4. The Technically Qualified Applicant with lowest financial quote will be selected as retainer Consultant (Based on 80% Technical and 20% financial score) from amongst the Technically Qualified Applicants.</li> </ol>
18	Validity of the Proposal	The proposal shall remain valid for a period of minimum 120 (one hundred and twenty) days from the last date of submission of the bids with a provision for extension on mutual consent basis.

## **Acknowledgement**

This document shall be uploaded in the AP e-Procurement website duly signing each page by the authorized person accepting the terms and conditions.

It is expressly understood that the party has subscribed to this document with an express understanding that they will use this document only for the sole purpose of participating in the Qualification process for **SELECTION OF DEA EMPANELED RETAINER CONSULTANTS FOR PROVIDING SERVICES FOR DEVELOPMENT OF VARIOUS IDENTIFIED INFRASTRUCTURE PROJECTS IN THE STATE OF ANDHRA PRADESH** and must not be used for any other purpose. This document must not be passed to a third party except professional advisers assisting with this Proposal submission. The document may not be reproduced or communicated, in whole or in part, and its contents may not be distributed in written or oral form without written permission from the issuing authority.

### **Signature of the issuing Authority**

#### **Vice Chairman & Managing Director**

Infrastructure Corporation of Andhra Pradesh Limited (INCAP)

4th Floor, IHC Corporate,

Opposite to Aranya Bhavan,

Industrial Park, Mangalagiri,

Guntur District - 522503, A.P. India.

Email: [incapap@incap.co.in](mailto:incapap@incap.co.in),

[md@incap.co.in](mailto:md@incap.co.in)

Web: [www.incap.co.in](http://www.incap.co.in)

## **Disclaimer**

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

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Applicants or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

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

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

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

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

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

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

**Notice Inviting Tender  
(NIT)**



**Infrastructure Corporation of Andhra Pradesh Ltd.**

4th Floor, IHC Corporate,  
Mangalagiri, Guntur Dt., 522503,

Under the control of Infrastructure & Investment Dept., GoAP)



**SELECTION OF DEA EMPANLED RETAINER CONSULTANT FOR PROVIDING SERVICES  
FOR DEVELOPMENT OF VARIOUS IDENTIFIED INFRASTRUCTURE PROJECTS IN THE  
A.P. STATE.**

Notice No. INCAP/P/Retainer Consultant/02/2021, dt. 09.12.2024

Infrastructure Corporation of Andhra Pradesh Ltd. (INCAP) invites Proposals from DEA Empaneled Consultancy firms for the captioned assignment. Interested consultancy firms may download the Request for Proposal (RFP) document from the website of INCAP @ [www.incap.co.in](http://www.incap.co.in) on 09.12.2024 @ 11 AM onwards. The last date for submission of the proposals is on or before 15:00 hours IST on 06.01.2025 {in AP e- procurement portal only}.

Sd/-

**Vice Chairman and Managing Director**

For any clarifications please send e-mail to: [incapap@incap.co.in](mailto:incapap@incap.co.in), [md@incap.co.in](mailto:md@incap.co.in).

## 1. Introduction

### 1.1. Background

1.1.1. Government of Andhra Pradesh is engaged in the development of various infrastructure projects across **sectors** including but not limited to:

- (a) Core Infrastructure Projects include Ports, Airports, Industrial Corridors, Power, Roads / Bridges, Logistics & Allied sector etc.
- (b) Social & Urban Infrastructure Projects include Convention Centers, Sports Complex, educational institutions (viz. Universities, International Schools), hotels & hospitality sector etc.

1.1.2. Infrastructure Corporation of Andhra Pradesh (INCAP) (the “**Authority**”) is providing project development and transaction services to the Government of Andhra Pradesh for implementation of the aforesaid projects in the state of A.P.

1.1.3. With the view to select retainer consultants for providing services for development of various infrastructure projects in the state of Andhra Pradesh, the Authority invites proposals from interested DEA Empaneled consultancy firms.

### 1.2. Request for Proposals

The Authority invites proposals from interested firms (the “Proposals”) for selection of DEA Empaneled Retainer Consultant (the “Consultant”) for providing services for development of various infrastructure projects in the state of Andhra Pradesh (“the Consultancy”).

### 1.3. Due diligence by Applicants

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

### 1.4. Release of RFP Document

1.4.1. The RFP document will be made available in the website of INCAP from the date of publication of RFP notification in the newspapers.

1.4.2. The Applicant needs to furnish, as part of its Proposal, a fee of Rs. 20,000/- (Rupees Twenty thousand only) and Rs. 3600/- (Rupees Three thousand and Six Hundred only) towards GST in the form of a Demand Draft issued by one of the Nationalized/ Scheduled Banks in India in favour of the “Infrastructure Corporation of AP Ltd”., payable at Vijayawada, Andhra Pradesh towards non-refundable Bid Processing Fee (the “**Bid Processing Fee**”). The bid processing fee can also be paid through NEFT to the following Bank Account (enclosing covering letter):

**Bank Account Name:** INFRASTRUCTURE CORPORATION OF AP LTD.

**Account No:** 52188924158

**IFSC:** SBIN0021134

**Branch:** SBI, Kamayyathopu Branch, Kanuru, Vijayawada.

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

The Proposal shall be valid for a period of not less than 120 days from the Proposal Due Date (the “PDD”).

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

**1.6.1.** The Authority intends to select the DEA Empaneled Retainer Consultant(s) through a competitive bidding process in accordance with the procedure set out herein.

**1.6.2.** The Authority has adopted a two stage selection process (collectively the “Selection Process”) for evaluating the Proposals comprising technical and financial bids to be submitted in AP e – procurement portal. In the first stage, a technical evaluation will be carried out as specified in Clause 3.1. Based on this technical evaluation, a list of short-listed applicants shall be prepared as specified in Clause 3.2. In the second stage, a financial evaluation will be carried out as specified in Clause 3.3. Proposals will finally be ranked according to their combined technical and financial scores as specified in Clause 3.4. The first ranked Applicant (the “Selected Applicant”) shall be called for negotiation, if necessary, while the second ranked Applicant will be kept in reserve.

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

**1.7.1** For the purposes of technical evaluation of Applicants, [Rs. 75 (Rupees Seventy Five only)] per US\$ shall be considered as the applicable currency conversion rate. In case of any other currency, the same shall first be converted to US\$ as on the date 60 (sixty) days prior to the PDD, and the amount so derived in US\$ shall be converted into INR at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

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

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

The Authority would endeavor to adhere to the following schedule:

<b>S. No</b>	<b>Event Description</b>	<b>Date</b>
1.	Last date for receiving queries/clarifications	16.12.2024
2.	Authority response to queries	19.12.2024
3.	Proposal Due Date or PDD	06.01.2025 @ 03:00 PM
4.	Opening of Technical Proposals	08.01.2025 @ 11:00 AM
5.	Signing of Agreement	Within 7 days of LOA
6.	Validity of Applications	120 days of Proposal Due Date

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

**dataDeleted**

### **1.10. Pre-Proposal Queries**

The Last date & time of Pre-Proposal Queries shall be:

Date: 16.12.2024 Time: 15:00 hrs

By mail to [incapap@incap.co.in](mailto:incapap@incap.co.in), [md@incap.co.in](mailto:md@incap.co.in)

Replies by INCAP: 19.12.2024 @ 17:00 hrs

### **1.11. Communications**

- 1.11.1.** Submission of proposals shall only be in AP e – procurement platform.  
Communication address for queries:

**Vice Chairman and Managing Director,**  
Infrastructure Corporation of Andhra Pradesh Ltd.,  
4th Floor, IHC Corporate, Opposite to Aranya Bhavan,  
Industrial Park, Mangalagiri,  
Guntur District - 522503, A.P. India  
Email: [incapap@incap.co.in](mailto:incapap@incap.co.in), [md@incap.co.in](mailto:md@incap.co.in)  
The Official Website of the Authority is: <http://www.incap.co.in>

- 1.11.2.** All communications, including the envelopes, should contain the following information, to be marked as:

**Notice No. INCAP/ Retainer Consultants/02/2021 dated. 09.12.2024**

**SELECTION OF DEA EMPANALED RETAINER CONSULTANTS FOR PROVIDING SERVICES FOR DEVELOPMENT OF VARIOUS IDENTIFIED INFRASTRUCTURE PROJECTS IN THE STATE OF A.P.**

## **2. Instructions to Bidders**

### **A. Bid Submission:**

- 2.1.** Bids are invited on the e-procurement platform for the above mentioned work from the DEA Empaneled Consultancy firms registered with Government of Andhra Pradesh. The details of Tender conditions and terms can be downloaded from the electronic procurement platform of Government of Andhra Pradesh i.e. [www.apecurement.gov.in](http://www.apecurement.gov.in) and [www.incap.co.in](http://www.incap.co.in).
- 2.1.1. The bidders should pay a Tender Fee of Rs.20,000/+18% GST-(i.e., 23600/-) in the form of Demand Draft/NEFT/RTGS/ ONLINE from Nationalized or any scheduled bank (but not from co-operative or Gramin bank) in favour of “Infrastructure Corporation of AP Ltd., State bank of India, Kamayyathopu Branch, Kanuru, Vijayawada.”, Account Number 52188924158 , IFSC Code SBIN0021134.” The Bids received without the Tender Fee, shall be considered as non-responsive. The tender fee submitted in form of cash or any other form except as provided in the ITB, shall not be accepted. INCAP shall not be liable for any ignorance of the bidders throughout the bidding process, if any. The tender fee should be posted in INCAP account/ original DD received on or before submission of bid.
- 2.1.2. DEA Empaneled consultancy firms would be required to register on the e-Procurement Market place “[www.apecurement.gov.in](http://www.apecurement.gov.in)” and submit their bids online. The department will not accept any bid submitted in the paper form.
- 2.1.3. E.M.D. Rs. 1,00,000/- (Rupees One Lakh only) to be paid in the form of Demand Draft/NEFT/RTGS/ ONLINE from Nationalized or any scheduled bank (but not from co-operative or Gramin bank) in favour of “Infrastructure Corporation of AP Ltd., State bank of India, Kamayyathopu Branch, Kanuru, Vijayawada.”, Account Number 52188924158 , IFSC Code SBIN0021134.” All the bidders shall invariably upload the scanned copies of Demand Draft/ NEFT/ RTGS in e- Procurement system and the hard copies of all the uploaded documents and original DD should be submitted within 24 hours from the end date of online submission of bids (envelopes I&II on AP e-procurement Portal) and this will be the primary requirement to consider the bid as responsive. The Department shall carry out the technical bid evaluation solely based on the uploaded certificates / documents, DD towards EMD in the e- Procurement system and open the price bids of the responsive bidders. The Department will notify the successful bidder for submission of original hard copies of all uploaded documents.
- 2.1.4. All the participating bidders should pay a Transaction fee for Rs. 11,800/- to M/s. Vupadhi Techno Services Pvt. Ltd., Kunchanapalli, Tadepalli Mandal, Guntur (District) by using Credit cards (Any MASTER / VISA Card) issued by any bank or through net banking accounts with ICICI or HDFC Banks as per G.O.Ms.No.13/ IT&C Dept. Dt.07.05.06 with effect from 02.02.2007.
- 2.1.5. Scanned E.M.D. and Tender fee may be uploaded with the bids and all the uploaded documents must be submitted to Managing Director, INCAP through email so as to reach on or before the date and time of opening of Price bid. Failure to furnish the original DD towards EMD and DD for Tender fee within 24 hours from the end date of online submission of bids (envelopes I&II on AP E-Procurement Portal) will entail rejection of the bid and forfeiture of EMD and tender will be suspended/disqualify from the participating them.
- 2.1.6. The bidders can view/download the tender documents from the 'AP e – procurement' market place.

#### 2.1.7. Procedure for submission of bids:-

The Managing Director INCAP invites bids from eligible Contractors for the above work. The dates and times of opening the bids by the Technical Committee at the chambers of the Managing Director INCAP shall be as mentioned in the E-tender notice. The dates specified in the E-tender notice are firm and shall not be relaxed under any circumstances unless officially extended. The Bid Opening Authority will not consider any tender received after expiry of the date and time fixed for receipt of tenders.

- a) For submitting bids, the intending bidders are required to enroll themselves on the 'e' procurement market place at [www.apecurement.gov.in](http://www.apecurement.gov.in).
- b) The bids should be submitted only in the prescribed forms given on the e-procurement by the inviting authority which can be downloaded from the website [www.apecurement.gov.in](http://www.apecurement.gov.in), [www.incap.co.in](http://www.incap.co.in). The bidders shall upload scanned copies of all the documents, statements, certificates etc., required to be submitted in the Notification Inviting Tenders and in support of their technical / qualification bids. The bidders shall sign on all such documents, certificates, statements uploaded by him owning responsibility for their correctness / authenticity. If any of the certificates, documents etc., furnished by the bidder is found to be false/fabricated/bogus, his bid shall be rejected and his EMD forfeited and further such bidder shall be blacklisted.

The documents, certificates etc., described duly signed and authenticated by the bidder as stated above, shall be scanned and uploaded by the bidder in support of his technical / qualification bid.

The Government of A.P. vide G.O. Ms. No. 30, Information Technology & Communications Corporation, e-procurement, dated 09-08-2012, passed orders requesting all Corporations, PSUs, undertakings and local bodies of GoAP to utilize the e- Auction services in consultation with IT&C Corporation, with such amendments/changes in the existing procedure as deemed necessary. It is also ordered therein that all the existing Codal rules, Government of India evaluation instructions for processing of the auction are applicable to the e-auctions also. Hence, the Comprehensive Tender Procedures and Registration of Contractors Rules issued vide G.O. Ms. No. 94, Irrigation and CAD (PW-COD) Corporation, dated 01-07-2003, as amended from time to time by various G.O.s, are applicable. Vide G.O. Ms. No. 174, I&CAD (PW-Reforms) Corporation, dated 01-09-2008, the following modifications were made in the procedure for submission of hard copies of uploaded documents, D.Ds/B.Gs etc., by the bidders:-

All the bidders shall invariably upload the scanned copies of D.Ds in e-procurement system and this shall be the primary requirement to consider the bid as responsive.

The Corporation shall carry out the technical bid evaluation solely based on the uploaded certificates/documents, D.Ds towards EMD and Tender Fee in the e-procurement system and open the price bids of the responsive bidders.

The Corporation will notify the successful bidder for submission of original hard copies of all uploaded documents, D.D. towards EMD prior to entering into agreement.

The successful bidder shall invariably furnish the original D.D. towards EMD, certificates/documents of uploaded scanned copies to the Tender Inviting Authority before entering into Agreement either personally or through courier or post and the receipt of the same within the stipulated time shall be the responsibility of the successful bidder. The Corporation will not take any responsibility for any delay in receipt/ non-receipt of original DD towards EMD, Certificates/Documents, from the successful bidder before the

stipulated time. On receipt of the documents, the Corporation shall ensure the genuineness of the DD towards EMD and all other certificates/Documents uploaded by the bidder in e- procurement system in support of the qualification criteria before concluding the agreement.

If the successful bidder fails to submit the original hard copies of the uploaded certificates/documents, DD towards EMD within the stipulated time, or if any variations are noticed between the uploaded documents and the hard copies submitted by him, not only will his bid be rejected, but he will be suspended from participating in the tenders on e- platform for a period of 3 years. The e- procurement system would de- activate the user ID of such defaulting successful bidder on the trigger/recommendation by the Tender Inviting Authority in the system. Besides this, the Tender Inviting Authority shall invoke all processes of law including criminal prosecution of such defaulting successful bidder as an act of extreme deterrence to avoid delays in the tender process for execution of the development schemes taken up by the Government and Public bodies. The information to this extent may be displayed in the e-procurement platform website.

Note:- The bidders shall sign on all the statements, documents, certificates uploaded by him owning the responsibility for their correctness/authority.

- c) The bidders shall furnish a self-declaration in Appendix III that they have not been blacklisted by any Corporation, PSUs Undertakings and local bodies of the Government of A.P. and in India. If the said declaration is found to be false at any stage, the said bidder will be disqualified and his bid will be rejected. If the bidder has been successful in obtaining award of the work on the basis of such or any false declaration, certificate, document etc., not only will the award of work be cancelled but all the actions mentioned above shall be taken against him and his EMD will be forfeited.
- d) The data filled by the bidder in the online form shall be the sole criterion for the evaluation of responsiveness of his bid and any other data supplemented later on shall not be accepted by the Tender Issuing / accepting authorities for evaluation.
- e) The bidders are solely responsible for the correctness of the particulars furnished in the online bid form. No corrections, amendments, supplements or any changes whatsoever shall be permitted after the bids are submitted.
- f) The bidders shall invariably upload legible scanned copies of all certificates and documents in the e-procurement platform in support of the data furnished by him in the online form, while submitting the bids. The bidders are advised to upload all their qualification criteria in the common folder facility available to them in the supplier registration module in e-procurement platform. The bidders shall create a tender specific folder and compulsorily upload the entire relevant documents specific to the tender by exercising selection option. The bidder shall sign on all statements, documents and certificates uploaded by him accepting responsibility for their correctness / authenticity.
- g) The bidders have to submit attested hard copies of the certificates/documents uploaded to the Tender Inviting Authority on demand. Hard copies of certificates and documents other than of those uploaded shall not be considered for evaluation.
- h) Failure on the part of the bidders to upload documentary proof in respect of any particulars furnished by him in the online bid form will entail rejection of the bid and forfeiture of the EMD paid. No documentary proof furnished subsequent to the uploading of the bid will be accepted or considered.

- i) If it is noticed at any time that any information, document, certificate, DD etc., furnished by a bidder is false or fabricated or altered etc., not only will the bid be rejected, and if the bidder has been successful in getting award of the work, the award cancelled, but the EMD will be forfeited and the bidder will be recommended for blacklisting.
- j) The Tender Inviting Authority will not hold any risk or responsibility for the loss in transit during uploading of the scanned documents, for the invisibility of the scanned document online, and any other problems like any internet connectivity, loss of power supply etc., human or computer errors encountered by the bidder while submitting the bids online.

**2.1.8. Submission of Bids:-**

- a. Tender has to be submitted in two parts i.e., Technical Bid and Price Bid. The Technical Bid shall contain the qualification data, viz., Annual Turnover and value of works under execution, etc., as mentioned in paragraph 10 of
- b. G.O. Ms. No. 94, I&CAD, dated 01-07-2003. The Price Bid shall contain the financial bid for the work in question. Both bids should be submitted in the standard prescribed forms in the online bid submission form displayed at e market place / e procurement.
- c. The EMD /DD Pay through online and the hard copy should be submitted within 24 hrs from the end date of online submission of bids (envelopes I and II on AP e-procurement portal). Failure of Submission of the hardcopy of EMD/DD will leads to disqualification.
- d. The bids shall be opened and evaluated as per the procedure prescribed.
- e. Before recommending/accepting the tender, the tender accepting authority shall verify the correctness of certificates submitted to meet the eligibility criteria and specifically for experience, the authenticated agreements of previous works executed by the lowest tenderer, shall be called for.
- f. The EMD will be returned to the qualified but unsuccessful tenderer either after finalization of tenders or on expiry of validity of tenders whichever is earlier.
- g. The "Price Bids" of those tenderers who are determined as qualified as per eligibility criteria will be opened on the date specified in the tender notice and the Price Bids of un-qualified tenderers will not be opened and the EMDs of such tenderers shall be refunded without interest. The premium or discount quoted by the contractor shall be applicable. The tenderers will have to state clearly their willingness to execute the work at the amount excess or less or at par over the ECV indicated at the space provided therein.

## **B. GENERAL**

### **2.2. Scope of Proposal**

2.2.1. Detailed description of the objectives, scope of services, Deliverables and other requirements relating to this Consultancy are specified in this RFP. In case an applicant firm possesses the requisite experience and capabilities required for undertaking the Consultancy, it may participate in the Selection Process either individually (the “Sole Firm”) or as lead member of a consortium of firms (the “Lead Member”) in response to this invitation. The term applicant (the “Applicant”) means the Sole Firm or the Lead Member, as the case may be. The manner in which the Proposal is required to be submitted, evaluated and accepted is explained in this RFP.

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

2.2.3. The Applicant shall submit its Proposal in the form and manner specified in this Section of the RFP. The Technical proposal shall be submitted in the form at Appendix-I and the Financial Proposal shall be submitted in the form at Appendix-II. Upon selection, the Applicant shall be required to enter into an agreement with the Authority in the form specified at Schedule-2.

#### **2.2.4. Key Personnel**

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

<b>S. No.</b>	<b>Position</b>	<b>Minimum Experience and Qualification</b>
1	Team Leader	<ul style="list-style-type: none"><li>• Should have more than 15 years of Experience</li><li>• Should have led and successfully completed transaction advisory of at least 2 PPP projects in India</li><li>• Should have led and successfully completed financial feasibility and market assessment studies of at least 2 PPP projects.</li></ul>
2	Technical Expert Team Member -1 No.	<ul style="list-style-type: none"><li>• Should have more than 07 years of Experience</li><li>• Should have led and successfully completed transaction advisory of atleast 2 PPP projects in India</li></ul>
3	Finance cum PPP Transaction Expert Team Member – 2 Nos.	<ul style="list-style-type: none"><li>• Should have more than 07 years of Experience</li><li>• Should have led and successfully completed transaction advisory of at least 2 PPP projects in India.</li></ul>

### **2.3. Minimum Eligibility Criteria for Selection**

- 2.3.1. **The Applicant shall be a company / a corporate body incorporated under the Companies Act, 1956 or the Companies Act, 2013 or a limited liability partnership (LLP) incorporated under the Limited Liability Partnership Act, 2008. Certificate of Incorporation/ Registration shall be furnished for the same.**
- 2.3.2. **The Applicant shall be a single entity applying for RFP process.**
- 2.3.3. The Bidder should be an empaneled Transaction Advisor with Department of Economic Affairs, Ministry of Finance, Government of India, as on the bid due date.
- 2.3.4. **The Applicant should not have a conflict of interest that affects the RFP process. Any Applicant found to have a Conflict of Interest shall be disqualified.**
- 2.3.5. **Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project, and the bar subsists as on the bid due date of RFP, would not be eligible to submit a RFP.**
- 2.3.6. **An Applicant, in the last 3 years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Applicant.**
- 2.3.7. **Documentary proof of Completion regarding meeting above eligibility criteria must be furnished. Projects without completion certificates will not be considered. All payments received shall be certified by the Statutory Auditor. Ongoing Project which have 90% completion, will be treated as eligible, with supporting document proof as above.**
- 2.3.8. **Financial Capacity: The Applicant shall have received a minimum of Rs.100 crores (Rupees One Hundred crores) per annum as professional fees in each of the 3 (three) financial years 2021-22, 2022-23 and 2023-24. For the avoidance of doubt, professional fees hereunder refers to fees received by the Applicant for providing advisory or consultancy services to its clients.**
- 2.3.9. **Technical Capacity: The Applicant shall have, over the past 5 (five) years preceding the PDD, undertaken a minimum of 5 (five) PPP Projects as specified in Clause 3.1., of cost not less than Rs.100 Crores each.**  
**Availability of Key Personnel: The Applicant shall offer and make available all Key Personnel meeting the requirements specified in 2.2.10 below.**
- 2.3.10. **Conditions of Eligibility for Key Personnel:** Each of the Key Personnel must fulfil the Conditions of Eligibility specified below:

S. No.	Position	Minimum Experience and Qualification	Educational Qualification
1	Team Leader	<ul style="list-style-type: none"> <li>Should have more than 15 years of Experience</li> <li>Should have led and successfully completed transaction advisory of at least 2 PPP projects in India.</li> <li>Should have led and successfully completed financial feasibility and market assessment studies of at least 2 PPP projects.</li> </ul>	MBA/ CA/CFA or equivalent
2	Technical Expert Team Member - 1 No.	<ul style="list-style-type: none"> <li>Should have more than 07 years of Experience</li> <li>Should have led and successfully completed transaction advisory of at least 2 PPP projects in India</li> </ul>	B. Tech in Civil & Post Graduate in Management/Construction / Transport /Highway etc. or equivalent civil engineering stream.
3	Finance cum PPP Transactions expert Team Member - 2 Nos.	<ul style="list-style-type: none"> <li>Should have more than 07 years of Experience</li> <li>Should have led and successfully completed transaction advisory of at least 2 PPP projects in India</li> </ul>	MBA/CA/CFA or equivalent

**2.3.12. The Applicant shall enclose with its Proposal, certificate(s) from its Statutory Auditors<sup>§</sup> stating its total revenues from professional fees during each of the 3 (three) financial years preceding the PDD and the fee received in respect of each of the Eligible Assignments specified in the Proposal. In the event that the Applicant does not have a statutory auditor, it shall provide the requisite certificate(s) from the firm of Chartered Accountants that ordinarily audits the annual accounts of the Applicant.**

**2.3.13. The Applicant should submit a Power of Attorney as per the format at Form -4 of Appendix-I;**

**2.3.14.** The Applicant firms may note that mere meeting of the minimum eligibility criteria does not entitle them for selection. The applicants meeting the minimum eligibility criteria will be further short-listed for Evaluation. Technical Proposals of only those firms will be evaluated who meet the minimum eligibility criteria.

**2.4. Conflict of Interest**

**2.4.1. An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “Conflict of Interest”). Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Performance Security, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter alia*, the time, cost and effort of the Authority including consideration of such Applicant’s Proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.**

- 2.4.2. **The Authority requires that the Consultant provides professional, objective, and impartial advice and at all times hold the Authority's interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the Authority.**
- 2.4.3. **Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in the Guidance Note at Schedule-3. Without limiting the generality of above, an Applicant shall be deemed to have a Conflict of Interest affecting the Selection Process, if:**
- (a) the Applicant, its consortium member (the "**Member**") or Associates (or any constituent thereof) and any other Applicant, its consortium member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be) in the other Applicant, its consortium member or Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof. For the purposes of this Clause 2.4.3(a), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "**Subject Person**") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to Sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this Sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or
  - (b) a constituent of such Applicant is also a constituent of another Applicant; or
  - (c) Such Applicant or its Associate receives or has received any direct or indirect subsidy or grant from any other Applicant or its Associate; or
  - (d) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
  - (e) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each other's information about, or to influence the Application of either or each of the other Applicant; or
  - (f) There is a conflict among this and other consulting assignments of the Applicant (including its personnel and other members, if any) and any subsidiaries or entities controlled by such Applicant or having common

controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the Authority for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or

- (g) a firm which has been engaged by the Authority to provide goods or works or services for a project, and its Associates, will be disqualified from providing consulting services for the same project save and except as provided in Clause 2.4.4; conversely, a firm hired to provide consulting services for the preparation or implementation of a project and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project; or
- (h) the Applicant, its Member or Associate (or any constituent thereof), and the bidder or Concessionaire, if any, for the Project, its contractor(s) or sub-contractor(s) (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be,) in the bidder or Concessionaire, if any, or its contractor(s) or sub-contractor(s) is less than 5% (five per cent) of the paid up and subscribed share capital of such Concessionaire or its contractor(s) or sub-contractor(s); provided further that this disqualification shall not apply to ownership by a bank, insurance company, pension fund or a Public Financial Institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. For the purposes of this Sub-clause (h), indirect shareholding shall be computed in accordance with the provisions of Sub-clause (a) above.

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

- 2.4.4. **An Applicant eventually appointed to provide Consultancy for this Project, its Associates, affiliates and the Financial Expert, shall be disqualified from subsequently providing goods or works or services related to the construction and operation of the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 3 (three) years from the completion of this assignment or to any consulting assignments granted by**

**banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services performed for the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services performed for the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant's firm or a person who holds more than 5% (five per cent) of the subscribed and Paid up share capital of the Consultant, as the case may be, and any Associate thereof. For the avoidance of doubt, in the event that: (a) the Financial Expert of an Applicant/ Consultant was a partner or an employee of another firm, which attracts the provisions relating to Conflict of Interest hereunder; and (b) was directly or indirectly associated with any assignment that causes a Conflict of Interest hereunder, then such Financial Expert shall be deemed to suffer from Conflict of Interest for the purpose hereof.**

- 2.4.5. 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 Authority as soon as any potential conflict comes to their notice but in no case later than 7 (seven) days from the opening of the RFQ applications for the Project and any breach of this obligation of disclosure shall be construed as Conflict of Interest. The Authority shall, upon being notified by the Consultant under this Clause 2.4.5, decide whether it wishes to terminate this Consultancy or otherwise, and convey its decision to the Consultant within a period not exceeding 15 (fifteen) days.

## **2.5. Number of Proposals**

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

## **2.6. Cost of Proposal**

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

## **2.7. Visit to the Authority and verification of information**

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

## **2.8. Acknowledgement by Applicant**

- 2.8.1. It shall be deemed that by submitting the Proposal, the Applicant has:
- (a) made a complete and careful examination of the RFP;
  - (b) received all relevant information requested from the Authority;

- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority;
- (d) Satisfied itself about all matters, things and information, including matters referred to in Clause 2.7 herein above, necessary and required for submitting an informed Application and performance of all of its obligations thereunder;
- (e) Acknowledged that it does not have a Conflict of Interest in providing retainer consultancy services to the Authority.
- (f) Agreed to be bound by the undertaking provided by it under and in terms hereof.

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

## **2.9. Right to reject any or all Proposals**

- 2.9.1. Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.
- 2.9.2. Without prejudice to the generality of Clause 2.5.1, the Authority reserves the right to reject any Proposal if:
  - (a) at any time, a material misrepresentation is made or discovered, or
  - (b) the Applicant does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal.
- 2.9.3. Misrepresentation/ improper response by the Applicant may lead to the disqualification of the Applicant.
- 2.9.4. Receipt of Proposal beyond the Proposal Due Date shall result in disqualification.
- 2.9.5. Additionally, the Proposals may lead to disqualification under, inter-alia, any of the following circumstances:
  - (a) Prior suspension by Government of Andhra Pradesh, whether in a capacity as a consulting firm or individual consultant.
  - (b) A record of unsatisfactory past performance, particularly non-compliance with contract terms, plans and specifications or abandonment of work and similar deficiencies.

## **C. DOCUMENTS**

### **2.10. Contents of the RFP**

2.10.1. This RFP comprises the Disclaimer set forth herein above, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.12:

#### **Request for Proposal**

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

#### **Schedules**

- 1 **Terms of Reference**
- 2 **Form of Agreement**
  - Annex-1: Terms of Reference
  - Annex-2: Deployment of Personnel
  - Annex-3: Estimate of Personnel Costs
  - Annex-4: Approved Sub-consultant(s)–**Deleted**
  - Annex-5: Cost of Services
  - Annex-6: Payment Schedule
  - Annex-7: Bank Guarantee for Performance Security
  - Annex-8: Fortnightly Time Report
- 3 **Guidance Note on Conflict of Interest**
- 4 **Appendices**
  - Appendix-I: Technical Proposal**
    - Form 1: Letter of Proposal
    - Form 2: Particulars of the Applicant
    - Form 3: Statement of Legal Capacity
    - Form 4: Power of Attorney
    - Form 5: Financial Capacity of the Applicant
    - Form 6: Particulars of Key Personnel
    - Form 7: Abstract of Eligible Assignments of the Applicant
    - Form 8: Abstract of Eligible Assignments of Key Personnel
    - Form 9: Eligible Assignments of Applicant
    - Form 10: Eligible Assignments of Key Personnel
    - Form 11: CVs of Professional Personnel
    - Form 12: Proposal for Sub-consultant(s)- **Deleted**
    - Form-13 Experience of Key Personnel

#### **Appendix – II: Financial Proposal**

## **2.11. Clarifications**

2.11.1. Applicants requiring any clarification on the RFP may send their queries to the Authority in writing by speed post/ courier/ special messenger or by e-mail so as to reach before the date mentioned in the Schedule of Selection Process at Clause 1.8. The envelopes shall clearly bear the following identification:

"Queries concerning RFP for Selection of DEA Empaneled retainer consultants for providing services for development of various identified infrastructure projects in the state of Andhra Pradesh."

The Authority shall endeavor to respond to the queries within the period specified.

2.11.2. The Authority reserves the right not to respond to any queries or provide any clarifications, in its sole discretion, and nothing in this Clause 2.11 shall be construed as obliging the Authority to respond to any question or to provide any clarification.

## **2.12. Amendment of RFP**

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

2.12.2. The amendments will be uploaded only on the website of the Authority and AP e-procurement platform and will not be published in the newspapers. In order to afford the Applicants a reasonable time for taking an amendment into account, or for any other reason, the Authority may, in its sole discretion, extend the Proposal Due Date.

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

### **2.13. Language of Proposal**

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

### **2.14. Format and signing of Proposal**

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

2.14.2. The Applicant shall prepare one original set of the Proposal (together with originals/ copies of Documents required to be submitted along therewith pursuant to this RFP) and clearly marked "ORIGINAL". In addition, the Applicant shall submit 1 (one) copy of the Proposal, along with Documents, marked "COPY". In the event of any discrepancy between the original and its copies, the original shall prevail.

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

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

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

2.14.4. Applicants should note the PDD, as specified in Clause 1.8, for submission of Proposals. Except as specifically provided in this RFP, no supplementary material will be entertained by the Authority, and that evaluation will be carried out only on the basis of Documents received by the closing time of PDD as specified in Clause 2.18.1. Applicants will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected.

## **2.15. Technical Proposal**

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

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

- (a) all forms are submitted in the prescribed formats and signed by the prescribed signatories;
- (b) power of attorney, if applicable, is executed as per Applicable Laws;
- (c) CVs of all Key Personnel have been included;
- (d) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 2.3.10 of the RFP;
- (e) no alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
- (f) The CVs have been recently signed and dated, in blue ink by the respective Personnel and countersigned by the Applicant. Photocopy or unsigned / countersigned CVs shall be rejected;
- (g) the CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFP;

- (h) Key Personnel proposed have good working knowledge of English language;
  - (i) Key Personnel would be available for the period indicated in the TOR;
  - (j) no Key Personnel should have attained the age of 75 years at the time of submitting the proposal; and
  - (k) The proposal is responsive in terms of Clause 2.21.3.
- 2.15.3. Failure to comply with the requirements spelt out in this Clause 2.15 shall make the Proposal liable to be rejected.
- 2.15.4. If an individual Key Personnel makes a false averment regarding his qualification, experience or other particulars, he shall be liable to be debarred for any future assignment of the Authority for a period of 3 (three) years. The award of this Consultancy to the Applicant may also be liable to cancellation in such an event
- 2.15.5. **The Technical Proposal shall not include any financial information relating to the Financial Proposal.**
- 2.15.6. The proposed team shall include experts and specialists (the “Professional Personnel”) in their respective areas of expertise and managerial/support staff (the “Support Personnel”) such that the Consultant should be able to complete the Consultancy within the specified time schedule. The Key Personnel specified in Clause 2.2.4 shall be included in the proposed team of Professional Personnel. The team shall comprise other competent and experienced professional personnel in the relevant areas of expertise (where applicable) as required for successful completion of this Consultancy. The CV of each such professional personnel, if any, should also be submitted in the format at Form-11 of Appendix-I.
- 2.15.7. An Applicant may, from time to time, if it considers necessary, propose suitable Sub-Consultants in specific areas of expertise (where applicable). Credentials of such Sub-Consultants should be submitted by the Applicant in Form-12 of Appendix-I. A Sub-Consultant, however, shall not be a substitute for any Key Personnel.
- 2.15.8. The Authority reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFP. Any such verification or the lack of such verification by the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.
- 2.15.9. In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Agreement, and if the Selected Applicant has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority without the Authority being liable in any manner whatsoever to the Selected Applicant or Consultant, as the case may be.

## **2.16. Financial Proposal**

- 2.16.1. Applicants shall submit the financial proposal in the formats at Appendix-II (the “Financial Proposal”) clearly indicating the total cost of the Consultancy (Item F of Form of Appendix II) in both figures and words, in Indian Rupees, and signed by the Applicant’s Authorised Representative. In the event of any difference between figures and words, the amount indicated in words shall prevail. In the event of a difference between the arithmetic total and the total shown in the Financial Proposal, the lower of the two shall prevail.
- 2.16.2. While submitting the Financial Proposal, the Applicant shall ensure the following:
- (i) **All the costs associated with the assignment shall be included in the Financial Proposal. These shall normally cover remuneration for all the Personnel (Expatriate and Resident, in the field, office etc), accommodation, air fare, equipment, printing of documents, etc. The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected.**
  - (ii) The Financial Proposal shall take into account all expenses and tax liabilities. For the avoidance of doubt, it is clarified that all taxes shall be deemed to be included in the costs shown under different items of the Financial Proposal. Further, all payments shall be subject to deduction of taxes at source as per Applicable Laws.
  - (iii) Costs (including break down of costs) shall be expressed in INR.

## **2.17. Submission of Proposal**

- 2.17.1. The Applicants shall submit the Proposal in hard bound form with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be initialed by the Authorised Representative of the Applicant as per the terms of this RFP. In case the proposal is submitted on the document down loaded from Official Website, the Applicant shall be responsible for its accuracy and correctness as per the version uploaded by the Authority and shall ensure that there are no changes caused in the content of the downloaded document. In case of any discrepancy between the downloaded or photocopied version of the RFP and the original RFP issued by the Authority, the latter shall prevail.
- 2.17.2. The Proposal will be sealed in an outer envelope which will bear the address of the Authority, RFP Notice number, Consultancy name as indicated at Clause 1.11.1 and 1.11.3 and the name and address of the Applicant. It shall bear on top, the following:

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

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

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

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

**2.18. Proposal Due Date**

2.18.1. Proposal should be submitted at or before 1500 hrs on the Proposal Due Date specified in Clause 1.8 at the address provided in Clause 1.11.1 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified therein.

2.18.2. The Authority may, in its sole discretion, extend the PDD by issuing an Addendum in accordance with Clause 2.12 uniformly for all Applicants.

**2.19. Late Proposals**

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

**2.20. Modification/ substitution/ withdrawal of Proposals**

**Deleted**

**2.21. Performance Security**

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

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

2.21.2. An amount equal to **10% (ten percent) of the Agreement Value** shall be deemed to be the Performance Security for the purposes of this Clause 2.21, which may be forfeited and appropriated in accordance with the provisions hereof. The Bid Security/ Earnest Money Deposit (EMD) will be refunded to the successful bidder after signing the agreement and submitting the Performance Security at 10% (ten percent) of the Agreement Value.

## **E. EVALUATION PROCESS**

### **2.22. Evaluation of Proposals**

- 2.22.1. The Authority shall open the Proposals at 1600 hours on the PDD, at the AP e – procurement market place. The envelopes marked “Technical Proposal” shall be opened first. The envelopes marked “Financial Proposal” shall be kept sealed for opening at a later date.
- 2.22.2. Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.20 shall not be opened.
- 2.22.3. Prior to evaluation of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:
  - (a) the Technical Proposal is received in the form specified at Appendix-I;
  - (b) It is received by the PDD including any extension there of pursuant to Clause 2.18;
  - (c) It is accompanied by the Power of Attorney as specified in Clause 2.3.13;
  - (d) It contains all the information (complete in all respects) as requested in the RFP;
  - (e) It does not contain any condition or qualification; and
  - (f) It is not non-responsive in terms hereof.
- 2.22.4. The Authority reserves the right to reject any Proposal which is non- responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Proposals.
- 2.22.5. The Authority shall subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 1.6 and the criteria set out in Section 3 of this RFP.
- 2.22.6. After the technical evaluation, the Authority shall prepare a list of pre- qualified Applicants in terms of Clause 3.2 for opening of their Financial Proposals. A date, time will be notified to all Applicants for announcing the result of evaluation and opening of Financial Proposals. The Authority will not entertain any query or clarification from Applicants who fail to qualify at any stage of the Selection Process. The financial evaluation and final ranking of the Proposals shall be carried out in terms of Clauses 3.3 and 3.4.
- 2.22.7. Applicants are advised that Selection shall be entirely at the discretion of the Authority. Applicants shall be deemed to have understood and agreed that the Authority shall not be required to provide any explanation or justification in respect of any aspect of the Selection Process or Selection.
- 2.22.8. Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant if the Consultancy is subsequently awarded to it.

## **2.23. Confidentiality**

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

## **2.24. Clarifications**

- 2.24.1. To facilitate evaluation of Proposals, the Authority may, at its sole discretion, seek clarifications from any Applicant regarding its Proposal. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.
- 2.24.2. **If an Applicant does not provide clarifications sought under Clause 2.24.1** above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the Authority may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

## **F. APPOINTMENT OF CONSULTANT**

### **2.25. Negotiations**

- 2.25.1. The Selected Applicant may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the Proposal, but will be for re-confirming the obligations of the Consultant under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan shall be discussed during negotiations. A Key Personnel who did not score 60% (sixty per cent) marks as required under Clause 3.1.2 shall be replaced by the Applicant with a better candidate to the satisfaction of the Authority. In case the Selected Applicant fails to reconfirm its commitment, the Authority reserves the right to designate the next ranked Applicant as the Selected Applicant and invite it for negotiations.
- 2.25.2. The Authority will examine the CVs of all other Professional Personnel and those not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.
- 2.25.3. The Authority will examine the credentials of all Sub-Consultants/ Consortium Members proposed for this Consultancy and those not found suitable shall be replaced by the Selected Applicant to the satisfaction of the Authority.

## **2.26. Substitution of Key Personnel**

In case notice to commence services is given within 120 days of signing of contract, the Authority expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. The Authority will not consider any substitution of Key Personnel except under compelling circumstances beyond the Control of the Consultant and the concerned Key Personnel. Such substitution shall be limited to not more than three Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Replacement of the Team Leader will not normally be considered and may lead to disqualification of the Applicant or termination of the Agreement. Replacement of one Key Personnel shall be permitted subject to reduction of remuneration equal to 5% (five per cent) of the total remuneration specified for the Key Personnel who is proposed to be replaced. In case of second replacement the reduction in remuneration shall be equal to 10% (ten per cent) and for third and subsequent replacement, such reduction shall be equal to 15% (fifteen per cent). If the consultant finds that any of the personnel had made false representation regarding his qualification and experience, he may request the Employer for replacement of the personnel. There shall be no reduction in remuneration for such replacement. The replacement shall however be of equal or better score. The personnel so replaced shall be debarred from future projects for 2 years.

## **2.27. Indemnity**

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

## **2.28. Award of Consultancy**

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

## **2.29. Execution of Agreement**

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

## **2.30. Commencement of Assignment**

The Consultant shall commence the Consultancy within seven days of the date of the Agreement, or such other date as may be mutually agreed. If the Consultant fails to either sign the Agreement as specified in Clause 2.29 or commence the assignment as specified herein, the Authority may invite the second ranked Applicant for negotiations. In such an event, the LOA or the Agreement, as the case may be, may be cancelled /terminated.

### **2.31. Proprietary data**

Subject to the provisions of Clause 2.23, all documents and other information provided by the Authority or submitted by an Applicant to the Authority shall remain or become the property of the Authority. Applicants and the Consultant, as the case may be, are to treat all information as strictly confidential. The Authority will not return any Proposal or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the Consultant to the Authority in relation to the Consultancy shall be the property of the Authority.

### 3. Criteria for Evaluation of Technical Proposal

#### 3.1. Technical Evaluation

The quality of consultancy services is of significant importance to the Authority. So, the technical capabilities and past experience of the agency is more important for this assignment. Therefore, the agency will be selected based on combined Quality- cum- Cost-Based-Selection (QCBS) in the ratio of 80% (Technical) and 20% (Financial). The proposals of only those Applicants which meet the minimum eligibility criteria will be considered for Technical Evaluation. The Applicants who meet the minimum eligibility criteria would be invited to make a presentation to Authority on understanding of scope of retainer consultancy work to be provided, on approach and on methodology to be adopted for the assignment.

Applicants that have scored more than 60% in the technical evaluation will be Technically Qualified for opening their financial bids. The unopened financial bids of disqualified Applicants will be returned within 60 days from Proposal Due Date. The technical bid will be evaluated on a scale of 100 and the weightage for each criterion would be as follows:

Evaluation Criteria	Maximum Marks	Supporting Documents
<b>A. Financial Criteria</b>	<b>10 Marks</b>	
<p><b>A Gross Average Annual Turnover of the Firm</b></p> <p>Gross Average Annual Turnover of the Firm from Advisory Services in the last three financial years.</p> <ul style="list-style-type: none"> <li>Between INR 100 Crores – 200 Crores: 3 marks</li> <li>Between INR 200 Crores – INR 300 Crores – 5 marks</li> <li>Above INR 300 Crores: 10 marks</li> </ul>		Appendix I – Form 5
<b>B. Experience of the Firm</b>	<b>20 Marks</b>	
<p>B.1 PPP Experience</p> <p>Experience in successfully completing transaction advisory of PPP projects with total project cost not less than Rs.100 Crore (as per clause 1.1.1.) in India in the last 5 years before PDD:</p> <ul style="list-style-type: none"> <li>Between 5 to 7 projects – 2 marks</li> <li>Between 8-10 projects – 5 marks</li> <li>More than 10 projects – 10 marks</li> </ul>	10 Marks	<p>Appendix I – Form 7, Form9</p> <p>Documentary proof to be submitted: Letter of Award along with Completion Certificate issued by the Authority and only for the Government Projects.</p> <p>Projects without completion certificates will not be considered for evaluation.</p> <p>Ongoing Project which have 90% completion, will be treated as eligible, with supporting document proof as above.</p>

<p><b>B.2 Feasibility Experience</b> Experience in undertaking financial feasibility and market assessment studies in the last 10 years before PDD:</p> <ul style="list-style-type: none"> <li>• Between 5 to 7 projects – 2 marks</li> <li>• Between 8-10 projects – 5 marks</li> <li>• More than 10 projects – 10 marks</li> </ul>	10 Marks	<p>Appendix I – Form 7 Documentary proof to be submitted: Letter of Award along with Completion Certificate. Projects without completion certificates will not be considered for evaluation.</p> <p>Ongoing Project which have 90 % completion, will be treated as eligible, with supporting document proof as above.</p>
<p><b>C. Experience of Key Personnel</b> <b>50 Marks</b></p>		
<p><b>C.1 Team Leader</b></p> <ul style="list-style-type: none"> <li>• Should have more than 15 years of Experience</li> <li>• Should have led and successfully completed transaction advisory of at least 2 PPP projects in India</li> <li>• Should have led and successfully completed financial feasibility and market assessment studies of at least 2 projects.</li> </ul>	20 Marks	Appendix I – Form 6, Form 8, Form 11 & Form 13
<p><b>C.2 Technical Expert Team Member – 1No.</b></p> <ul style="list-style-type: none"> <li>• Should have more than 07 years of Experience</li> <li>• Should have successfully completed at least 2 PPP projects in India</li> </ul>	10 Marks	Appendix I – Form 6, Form 8, Form 11 & Form 13
<p><b>C.3 Finance &amp; PPP Transactions Expert</b> <b>Team Members – 2 Nos.</b></p> <ul style="list-style-type: none"> <li>• Should have more than 07 years of Experience</li> <li>• Should have successfully completed transaction advisory of at least 2 PPP Projects in India.</li> </ul>	2*10 Marks = 20 Marks	Appendix I – Form 6, Form 8, Form 11 & Form 13
<p><b>D. Technical Presentation</b> <b>20 Marks</b></p> <p>The Applicants who meet the minimum eligibility criteria would be invited to make a presentation to Authority on understanding of scope of retainer consultancy work to be provided, on approach and on methodology to be adopted for the assignment.</p>		
Total Technical Score		100 Marks

Note:

1. The Team Leader shall be required to present for the project work interactions/ engagements with INCAP for minimum 5 days in a month. The remaining two team members shall work full time in INCAP office during the Retainer Consultancy period.
2. The two/ three Team Members are to be deployed by selected consultant shall work in INCAP office during all INCAP office working days in a month which is mandatory irrespective of above man- days charged.
3. One finance and PPP transaction expert (Team Member 2) services will be utilised by the Authority initially and the other Finance and PPP Transaction expert (Team Member 3) services will be on need basis as per the orders of the Authority. The payment is as per man days.

### **3.2. Eligible Assignments**

For the purposes of determining Conditions of Eligibility and for evaluating the Applications under this RFP, advisory/ consultancy assignments with Government agency (Central/State) thereof shall be deemed as eligible assignments (the “**Eligible Assignments**”).

### **3.3. Evaluation of Proposals**

The overall selection of the Applicants will be a Quality-cum-Cost-Based Selection (QCBS) and the following formula will be used for the evaluation of the bids. The Applicants having equal to or more than 60% of the Technical Scores will be intimated regarding the date of financial bid opening. The unopened financial bids of unsuccessful Applicant agencies will be returned within 60 days from Proposal Due Date. The Evaluation of Applicants with technical scores equal to or more than 80% will be calculated as:  $S = (0.8)*T + (0.2)*(Fm/F * 100)$

Where,

S = Combined score (Technical Score + Financial Score) of Applicant agency under consideration (calculated up to two decimal points)

T = Technical score for the Applicant agency under consideration

F = Financial Bid Value for the Applicant agency under consideration

Fm = Lowest Financial Bid Value among the financial proposals under consideration

If Authority decides to appoint two consultancy firms for provision of said consultancy services, the Applicants with top two combined scores will be selected as Retainer Consultants and in that case the Selected Consultant with higher financial bid will be asked to match that of the lower financial bid of the other Selected Consultant. If Authority decides to appoint only one Consultant for provision of said consultancy services, the Technically Qualified Applicant with lowest financial quote will be selected as retainer Consultant from amongst the Technically Qualified Applicants.

### **3.4. Award of Consultancy**

After selection, a Letter of Intent (the “LOI”) shall be issued, in duplicate, as per the format provided by the Authority to the Selected Applicant(s) and the Selected Applicants shall, within 7 (seven) days of the receipt of the LOI, sign and return the duplicate copy of the LOI in acknowledgement thereof. In the event the duplicate copy of the LOI duly signed by the Selected Applicant is not received by the stipulated date, the Authority, unless it consents to extension of time for submission thereof, may consider the next highest-ranking agency for award of Consultancy.

#### 4. FRAUD AND CORRUPT PRACTICES

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

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

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

**5.1. Deleted.**

**5.2. Deleted.**

## **6. MISCELLANEOUS**

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

**SCHEDULE - I**

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

- 1. Role of Consultant:** The selected Consultant/s will provide consultancy services for various infrastructure sectors as mentioned in clause 1.1.1 in the course of the retainer period and also for continuation of the ongoing projects undertaken by INCAP. The duration of the retainer consultants is for a period of 01 (one) year, as indicated in clause 2.4 of the Agreement. The Consultant would be responsible for assisting the Authority in project concept preparation, pre-feasibility studies, assistance in bid process management for ongoing and new projects, drafting of policies, program monitoring, investment facilitation and knowledge sharing with the Authority.

The selected Consultant would have to wholly or partially undertake the scope described below for various identified projects

### **1. Concept preparation and Pre-feasibility Studies**

- 1.1. Carrying out high-level market analysis for the identified project(s)
- 1.2. Undertake cost-benefit analysis for the identified project(s)
- 1.3. Prepare roadmap for end-to-end project award
- 1.4. Support INCAP in prioritizing / phasing of the identified project(s)

### **2. Assistance in Bid Process and Transaction Management**

- 2.1. Assistance in selection of appropriate bid structure
- 2.2. Assistance in preparation of RFQ/RFP and Concession/ Service Agreements for PPP/EPC projects
- 2.3. Assistance in running the bid process
- 2.4. Assistance in post-bid activities

### **3. Capacity Building and assistance in empaneling technical consultants**

- 3.1. Empanelment of sector specific legal and technical consultants

### **4. Drafting of Policies**

- 4.1. Contribute towards drafting policies and enable effective policy making by sharing insights and expertise

### **5. Program Monitoring**

- 5.1. Support in developing dashboard for monitoring of the portfolio of projects to be taken up by INCAP
- 5.2. Ongoing assistance for review/status updates of project(s)
- 5.3. Assisting in Third party audit MIS reports.

## **6. Investment Facilitation**

- 6.1. Assist in preparation of presentations for Investment Promotion Seminars /Events
- 6.2. Assist in organizing international investment delegations
- 6.3. Assist in preparation of customized promotion collaterals for various delegations

## **7. Knowledge Sharing**

- 7.1. Provide insights and global industry trends in the ports, airports, recreation & tourism sectors etc.

## **8. Project Management Unit**

- 8.1. Develop a Project and Contract Management Plan
- 8.2. Support in compliance of the conditions precedent and achievement of financial close within the period specified in the concession agreement
- 8.3. Support in adherence to the timelines and other obligations specified in the concession agreement
- 8.4. Oversee and ensure the service provider mobilizes effectively and on program
- 8.5. Support in monitoring the service provider's ongoing performance and service delivery.
- 8.6. Monitor and manage risk - Develop mitigation measures for potential and identified risks and maintain the risk register
- 8.7. Study and implement the best practices in PPP Project execution of similar nature
- 8.8. Review exit strategy and hand over procedures

The scope indicated above is tentative and actual scope of work may vary based on requirements of the Authority.

## **9. National Infrastructure Pipeline (NIP) Projects Monitoring**

- 9.1. Coordinating with state departments on NIP
- 9.2. Coordinating with GoI on NIP
- 9.3. Updating NIP website for projects of Andhra Pradesh
- 9.4. Any other issue related to NIP

**10. National Monetization Pipeline**

- a. Coordinating with state departments on NMP
- b. Coordinating with GoI on NMP and any other issues related to NMP.

**11. Projects under Infrastructure and Investment department.**

- 11.1. Projects relating to AP Airport Development Corporation Limited.
- 11.2. Projects relating to AP Maritime board and its corporations.

**12. Any other projects allotted by Government to INCAP.**

**Note:**

- (a) No Key Personnel should have attained the age of 75 (seventy-five) years at the time of submitting the Proposal.
- (b) The aforementioned key personnel shall not be substituted during the selected period. However, substitution shall be permitted if the Key Personnel is not available for reasons of any incapacity or due to ill health, death, resignation of key personnel from the firm or promotion of key personnel to higher position or extended leave of the key personnel from the firm. However, upon evaluation of the CV of the Key Personnel proposed as a substitute, the Firm shall meet the above requirements of 80% of the Technical Score as per the Clause 3.1/qualification as may be determined by the Authority to suit the requirement.
- (c) The Selected consultant is expected to deploy the two Team Members to provide retainer consultancy services to Authority on a full-time basis. The Selected consultant shall deploy additional resources if required by the authority. Such additional resources will be evaluated against the above qualification criteria or qualification as may be determined by the Authority to suit the requirement. Authority may at its discretion reduce or increase the number of resources, depending on the requirements of the Authority.

**2.1. Transaction Adviser**

The Consultant shall advise and assist the Authority in the selection of suitable firms as technical and legal consultants in a fair and transparent manner by preparing the TOR for the consultancy assignments and also assisting in the bidding process leading to final selection of the respective consultants. The Consultant shall be responsible for review of the financial parameters and examination of the viability of the Project. The Consultant will also render advisory services for conducting the bid process and will assist in the preparation of bidding documents and in conducting the bidding process for selection of the concessionaire for the project. The Consultant shall also maintain, update and disseminate the necessary data and information related to the Project and the bid process. During interaction with the bidders and stakeholders, the Consultant shall assist the Authority in responding to all queries satisfactorily and within the specified time. The Consultant shall render advisory services up to the signing of the Concession Agreement.

## **2.2. Compilation and analysis of Data**

The Consultant shall, based on available information, compile and analyse the financial and commercial data relating to the Project and prepare a revenue and expenditure statement, on commercial accounting principles, for three financial years preceding the consultancy. The expenditure statement shall include expenses on staff, material, contractual payments, etc.

## **2.3. Review of costs**

Feasibility Report, along with [the Manual and] the Concession Agreement will indicate the nature and extent of infrastructure, facilities and services to be provided by the Concessionaire. The Consultant shall review and comment on the cost estimates contained in the Feasibility Report. He shall ensure that appropriate provisions have been made for physical and price contingencies, financing costs, interest during construction, etc. The Consultant shall also make a broad assessment of O&M expenses to be incurred by the Concessionaire during the entire Concession period based on [standards and specifications laid down in the Manual].

## **2.4. Estimation of revenues**

The Consultant shall evaluate the available data and information with a view to preparing a reasonable estimation of the likely revenues of the concessionaire [from the user fees likely to be collected from the Project and from other sources of revenue, if any]. It shall propose various options for optimising such revenues.

## **2.5. Comment on draft Concession Agreement**

The Consultant shall comment on the draft Concession Agreement (CA) provided by the Authority and take into account the provisions of MCA, if any, while making its recommendations.

## **2.6. Impact of Project on Government Resources**

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

## **2.7. Development of Revenue Model**

The Consultant shall identify and quantify all costs, expenses and revenues of the Project, and shall prepare cash-flow statements for the concession period. Based on the above, the Consultant shall prepare the Revenue Model which will indicate the possible capital structure, likely sources of financing, the costs of financing, the cash flow, debt service, return on investment etc. (the "**Revenue Model**"). This would also include sensitivity analysis in relation to the critical parameters of the Revenue Model.

## **2.8. Project Appraisal**

Based on the parameters specified in the draft Bid Documents as well as the Revenue Model, the Consultant shall prepare an Appraisal Report for the Project outlining the salient features of the Project, its financial viability and its social and economic benefits. The Consultant shall work out the financial viability of the Project [with a view to estimating the likely IRR over a concession period of 15 (fifteen) years, 20 (twenty) years, 25 (twenty five) years and 30 (thirty) years].

The Consultant shall review the Feasibility Report[, Manual] and the draft Concession Agreement to estimate the capital costs, O&M costs, revenues etc. and prepare a financial appraisal report for the Project (the “**Appraisal Report**”).

### **2.9. Assistance in the RFQ process**

The bidding process is specified in the Model Request for Qualification (RFQ) document published by the Planning Commission and available at [www.infrastructure.gov.in](http://www.infrastructure.gov.in). The Consultant shall assist in adapting the Model RFQ document for project-specific purposes. The Consultant shall also assist the Authority in the pre-qualification process. The Authority intends to pre-qualify and short-list bidders on the basis of the response to the RFQ document.

### **2.10. Assistance in preparation of Bid Documents**

The Consultant shall assist in preparing the Request for Proposal and draft Concession Agreement based on the Model RFP [and MCA]. The Model RFP has been published by the Planning Commission and is available at [www.infrastructure.gov.in](http://www.infrastructure.gov.in). [The MCA shall be provided by the Authority.] The Consultant may also suggest improvements in the development plan and in the Bid Documents. For this purpose, he shall work closely with the Authority and its legal advisers and technical consultants. Bid documents would include the draft Concession Agreement and the Feasibility Report. Bids to be submitted by the bidders shall be based on the aforesaid Bid Documents.

### **2.11. Assistance in the Bid Process**

The Consultant shall assist the Authority in the bid process for selection of the Concessionaire from among the bidders and till the signing of the Concession Agreement. This will primarily relate to participation in pre-bid meetings and answering questions or issuing clarifications with the approval of the Authority. The Consultant shall also assist the Authority in engaging with the bidders on different aspects of the Project such as its assets, the process of the transaction, the Revenue Model and the structure of the Project. It will also assist the Authority in preparing internal notes and projections for securing governmental approvals, if any.

### **2.12. Assistance in selection of the preferred bidder**

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

### **2.13. Rendering advisory services**

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

#### **2.14. Tax and insurance-related Matters**

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

#### **2.15. Specific Requirements for the Project**

Deleted

#### **2.16. Scope not exhaustive**

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

### **3. Deliverables**

Deleted

### **4. Time and Payment Schedule**

Deleted

### **5. Meetings**

**5.1.** The Authority may review with the Consultant, any or all of the documents and advice forming part of the Consultancy, in meetings and conferences which will be held at the Authority's office. Further, the Consultant may be required to attend meetings and conferences with pre-qualified bidders or the Selected Bidder. The expenses towards attending such meetings during the period of Consultancy, including travel costs and *per diem*, shall be reimbursed in accordance with the Corporation rules.

**5.2.** The Authority may, in its discretion, require the Consultant to participate in extended meetings and/ or work from the offices of the Authority and the Consultant shall, on a best endeavor basis and without unreasonable delay, provide such services at the offices of the Authority.

### **6. Consultancy Team**

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

<b>S. No.</b>	<b>Position</b>	<b>Minimum Experience and Qualification</b>	<b>Educational Qualification</b>
1	Team Leader	<ul style="list-style-type: none"> <li>• Should have more than 15 years of Experience</li> <li>• Should have led and successfully completed transaction advisory of at least 2 PPP projects in India.</li> <li>• Should have led and successfully completed financial feasibility and market assessment studies of at least 2 PPP projects</li> </ul>	MBA/ CA/CFA or equivalent
2	Technical Expert Team Member – 1No.	<ul style="list-style-type: none"> <li>• Should have more than 07 years of Experience</li> <li>• Should have led and successfully completed at least 2 PPP Projects in India</li> </ul>	B. Tech in Civil & Post Graduate in Management/ Construction/Transport/ Highway etc. or equivalent civil engineering stream.
3	Finance cum PPP Transactions expert Team Member – 2 Nos.	<ul style="list-style-type: none"> <li>• Should have more than 07 years of Experience</li> <li>• Should have led and successfully completed transaction advisory of at least 2 PPP projects in India</li> </ul>	MBA/CA/CFA or equivalent

**6.2.** The Consultant shall mobilise and de-mobilise its Professional Personnel and Support Personnel with the concurrence of the Authority and shall maintain the time sheet/ attendance sheet of the working of all Personnel in the Project Office.

**6.3.** The consultancy team shall work from the office of the INCAP.

## **7. Reporting**

7.1 The Consultant shall electronically and by mail, submit fortnightly time reports of each of the Key Personnel. Such time reports shall be submitted to the Authority on the 15<sup>th</sup> and the last day of each calendar month by end of the business day and shall include the number of hours expended on the Project by the Consultant on each working day of the fortnight covered by the time report. The time reports shall also include a brief description of work performed during that fortnight by each of the Key Personnel.

7.2 The Consultant will work closely with the Authority and its technical and legal consultants. The Authority has established a Working Group (the “**WG**”) to enable conduct of this assignment. The CGM (Technical), INCAP will be responsible for the overall coordination and project development. He will play a coordinating role in dissemination of the Consultant’s outputs, facilitating discussions, and ensuring required reactions and responses to the Consultant.

7.3 The Consultant may prepare Issue Papers highlighting issues that could become critical for the timely completion of the Project and that require attention from the Authority.

- 7.4 The Consultant will make a presentation on the inception report for discussion with the WG at a meeting. This will be a working document. The Consultant is required to prepare and submit a monthly report that includes and describes, *inter alia*, general progress to date; data and reports obtained and reviewed, conclusions to date, if any; concerns about availability of, or access to, data, analyses, reports; questions regarding the TOR or any other matters regarding work scope and related issues; and so on. The Consultants' work on the TOR tasks should continue while the report is under consideration and is being discussed.
- 7.5 Regular communication with the WG and the Project Director is required in addition to all key communications. This may take the form of telephone/teleconferencing, emails, and occasional meetings.
- 7.6 The Deliverables will be submitted as per schedule provided in this RFP.

**8. Documents to be made available by the Authority**

Deleted

**9. Completion of Services**

Deleted

SCHEDULE – 2  
(See Clause 2.2.3)

*Draft AGREEMENT*

**1. General**

- 1.1 Definitions and Interpretation
- 1.2 Relation between the Parties
- 1.3 Rights and obligations
- 1.4 Governing law and jurisdiction
- 1.5 Language
- 1.6 Table of contents and headings
- 1.7 Notices
- 1.8 Location
- 1.9 Authority of Member-in-charge
- 1.10 Authorised representatives
- 1.11 Taxes and duties

**2. *Commencement, Completion and Termination of Agreement***

- 2.1 Effectiveness of Agreement
- 2.2 Commencement of Services
- 2.3 Termination of Agreement for failure to commence Services
- 2.4 Expiry of Agreement
- 2.5 Entire Agreement
- 2.6 Modification of Agreement
- 2.7 Force Majeure
- 2.8 Suspension of Agreement
- 2.9 Termination of Agreement

**3. *Obligations of the Consultant***

- 3.1 General
- 3.2 Conflict of Interest
- 3.3 Confidentiality
- 3.4 Liability of the Consultant
- 3.5 Accounting, inspection and auditing
- 3.6 Consultant's actions requiring the Authority's prior approval
- 3.7 Reporting obligations
- 3.8 Documents prepared by the Consultant to be the property of the Authority
- 3.9 Materials furnished by the Authority
- 3.10 Providing access to the Project Office and Personnel
- 3.11 Accuracy of Documents

**4. *Consultant's Personnel and Sub-Consultant***

- 4.1 General
- 4.2 Deployment of Personnel
- 4.3 Approval of Personnel

- 4.4 Substitution of Key Personnel
- 4.5 Working hours, overtime, leave etc.
- 4.6 Financial Expert and Project Manager
- 4.7. Sub-Consultants

**5.** *Obligations of the Authority*

- 5.1 Assistance in clearances etc.
- 5.2 Access to land and property
- 5.3 Change in Applicable Law
- 5.4 Payment

**6.** *Payment to the Consultant*

- 6.1 Cost estimates and Agreement Value
- 6.2 Currency of payment
- 6.3 Mode of billing and payment

**7.** *Liquidated damages and penalty*

- 7.1 Performance Security
- 7.2 Liquidated Damages
- 7.3 Penalty for deficiency in services

**8.** *Fairness and Good Faith*

- 8.1 Good Faith
- 8.2 Operation of the Agreement

**9.** *Settlement of Disputes*

- 9.1 Amicable settlement
- 9.2 Dispute resolution
- 9.3 Conciliation
- 9.4 Arbitration

**ANNEXES**

- Annex 1: Terms of Reference
- Annex 2: Deployment of Key Personnel
- Annex 3: Estimate of Personnel Costs
- Annex 4: Approved Sub-consultant(s)
- Annex 5: Cost of Services
- Annex 6: Payment Schedule
- Annex 7: Bank Guarantee for Performance Security
- Annex 8: Fortnightly Time Report

## *AGREEMENT*

### **Selection of DEA Empaneled Retainer Consultants for providing services for Development of various identified Infrastructure Projects in the State of Andhra Pradesh.**

This AGREEMENT (hereinafter called the “**Agreement**”) is made on the ..... day of the month of.....20...., between, on the one hand, the [Governor of Andhra Pradesh acting through Vice Chairman & Managing Director, INCAP (hereinafter called the “**Authority**” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand,..... (Hereinafter called the “**Consultant**” which expression shall include their respective successors and permitted assigns).

#### WHEREAS

- (A) The Authority vide its Request for Proposal for appointment of Retainer Consultants (hereinafter called the “**Consultancy**”) for the SELECTION OF DEA EMPANELED RETAINER CONSULTANTS FOR PROVIDING SERVICES FOR DEVELOPMENT OF VARIOUS IDENTIFIED INFRASTRUCTURE PROJECTS IN THE STATE OF A.P. Project (hereinafter called the “**Project**”);
- (B) the Consultant submitted its proposals for the aforesaid work, whereby the Consultant represented to the Authority that it had the required professional skills, and in the said proposals the Consultant also agreed to provide the Services to the Authority on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) the Authority, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the Consultant vide its Letter of Award dated ..... (the “**LOA**”); and
- (D) In pursuance of the LOA, the parties have agreed to enter into this Agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows:

#### **1. GENERAL**

##### **1.1 Definitions and Interpretation**

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

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

with the provisions of RFP;

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

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

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

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

## **1.2** *Relation between the Parties*

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

## **1.3** *Rights and obligations*

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

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

## **1.4** *Governing law and jurisdiction*

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

## **1.5** *Language*

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

## **1.6** *Table of contents and headings*

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

## **1.7** *Notices*

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

- (a) in the case of the Consultant, be given by e-mail and by letter delivered by hand to the address given and marked for attention of the Consultant's Representative set out below in Clause 1.10 or to such other person as the Consultant may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside the city specified in Sub-clause (b) below may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by e-mail to the number/address as the Consultant may from time to time specify by notice to the Authority;

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

### **1.8** *Location*

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

### **1.9** *Authority of Member-in-charge*

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

### **1.10** *Authorised Representatives*

- 1.10.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Authority or the Consultant, as the case may be, may be taken or executed by the officials specified in this Clause 1.10.
- 1.10.2 The Authority may, from time to time, designate one of its officials as the Authority Representative. Unless otherwise notified, the Authority Representative shall be:

Chief General Manager (Technical),  
Infrastructure Corporation of Andhra Pradesh Limited (INCAP)  
4<sup>th</sup> floor, IHC Corporate, Opposite to Aranya Bhavan, Industrial Park,  
Mangalagiri, Guntur District – 522503, A.P. India  
Email: [cgmt@incap.co.in](mailto:cgmt@incap.co.in), [incapap@incap.co.in](mailto:incapap@incap.co.in), [md@incap.co.in](mailto:md@incap.co.in)

- 1.10.3 The Consultant may designate one of its employees as Consultant's Representative. Unless otherwise notified, the Consultant's Representative shall be:  
Tel: .....  
Mobile: .....  
E-mail: .....

### **1.11** *Taxes and duties*

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

## **2.** *COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT*

### **2.1** **Effectiveness of Agreement**

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

### **2.2** *Commencement of Services*

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

### **2.3** *Termination of Agreement for failure to commence Services*

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

### **2.4** *Expiry of Agreement*

Unless terminated earlier pursuant to Clauses 2.3 or 2.9 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire upon the earlier of (i) expiry of a period of 60 (sixty) days after the delivery of the final Deliverable to the Authority; and (ii) the expiry of [01 (One) year] from the Effective Date. Upon Termination, the Authority shall make payments of all amounts due to the Consultant hereunder.

### **2.5** *Entire Agreement*

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

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

### **2.6** *Modification of Agreement*

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written

agreement between the Parties. Pursuant to Clauses 4.2.3 and 6.1.3 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

## **2.7 Force Majeure**

### **2.7.1 Definition**

- (a) For the purposes of this Agreement, “Force Majeure” means an event which is beyond the reasonable control of a Party, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s Sub-Consultant or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement, and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

### **2.7.2 No breach of Agreement**

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Agreement.

### **2.7.3 Measures to be taken**

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

### **2.7.4 Extension of time**

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

### 2.7.5 Payments

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

### 2.7.6 Consultation

Not later than 30 (thirty) days after the Consultant has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

## **2.8** *Suspension of Agreement*

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

## **2.9** *Termination of Agreement*

### 2.9.1 By the Authority

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

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

- (f) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (g) The Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

#### 2.9.2 By the Consultant

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

- (a) the Authority fails to pay any money due to the Consultant pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof within 45 (forty five) days after receiving written notice from the Consultant that such payment is overdue;
- (b) the Authority is in material breach of its obligations pursuant to this Agreement and has not remedied the same within 45 (forty-five) days (or such longer period as the Consultant may have subsequently granted in writing) following the receipt by the Authority of the Consultant's notice specifying such breach;
- (c) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (d) The Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

#### 2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, or which expressly survives such Termination; (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) the Consultant's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.5, as relate to the Consultant's Services provided under this Agreement, and (iv) any right or remedy which a Party may have under this Agreement or the Applicable Laws.

#### 2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and materials furnished by the Authority, the Consultant shall proceed as provided respectively by Clauses 3.8 or 3.9 hereof.

### 2.9.5 Payment upon Termination

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

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

### 2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

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

### **3.1 General**

#### 3.1.1 Standards of Performance

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

#### 3.1.2 Terms of Reference

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

#### 3.1.3 Applicable Laws

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

### **3.2** *Conflict of Interest*

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

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

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

3.2.3 Prohibition of conflicting activities

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

- (a) during the term of this Agreement, any business or professional activities which would conflict with the activities assigned to them under this Agreement;
- (b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or
- (c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

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

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

- 3.2.5 The Consultant and its Personnel shall observe the highest standards of ethics and not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the **“Prohibited Practices”**). Notwithstanding anything to the contrary contained in this Agreement, the Authority shall be entitled to terminate this Agreement forthwith by a communication in writing to the Consultant, without being liable in any manner whatsoever to the Consultant, if it determines that the Consultant has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into this Agreement. In such an event, the Authority shall forfeit and appropriate the Performance Security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, *inter alia*, time, cost and effort of the Authority, without prejudice to the Authority’s any other rights or remedy hereunder or in law.
- 3.2.6 Without prejudice to the rights of the Authority under Clause 3.2.5 above and the other rights and remedies which the Authority may have under this Agreement, if the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Consultant shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.
- 3.2.7 For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) **“corrupt practice”** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser the Authority in relation to any matter concerning the Project;
  - (b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;
  - (c) **“coercive practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the Authority under this Agreement;

- (d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

### 3.3 Confidentiality

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

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

- (i) was in the public domain prior to its delivery to the Consultant, its Sub-Consultants and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Consultant, its Sub-Consultants and the Personnel of either of them;
- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the Consultant, its Sub-Consultants and the Personnel of either of them shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and
- (iv) is provided to the professional advisers, agents, auditors or representatives of the Consultant or its Sub-Consultants or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Consultant or its Sub-Consultants or Personnel of either of them, as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

**3.4** *Liability of the Consultant*

- 3.4.1 The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.
- 3.4.2 The Consultant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.
- 3.4.3 The Parties hereto agree that in case of negligence or willful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property, shall not be liable to the Authority:
- (i) for any indirect or consequential loss or damage; and
  - (ii) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.1.2 of this Agreement, or (b) the proceeds the Consultant may be entitled to receive from any insurance maintained by the Consultant to cover such a liability, whichever of (a) or (b) is higher.
- 3.4.4 This limitation of liability specified in Clause 3.4.3 shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services subject, however, to a limit equal to 3 (three) times the Agreement Value.

**3.5** *Accounting, inspection and auditing*

The Consultant shall:

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

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

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

- (a) Appointing such members of the professional personnel as are not listed in Annex-2;
- (b) Any other action that is specified in this Agreement.

**3.7** *Reporting obligations*

The Consultant/Team leaders should submit a fortnightly report duly giving a brief description of work performed during that fortnight by each of the key personnel.

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

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

**3.9** *Materials furnished by the Authority*

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

**3.10** *Providing access to Project Office and Personnel*

The Consultant shall ensure that the Authority, and officials of the Authority having authorisation from the Authority, shall have the right to inspect the Services in progress, interact with Personnel of the Consultant and verify the records relating to the Services for his satisfaction.

**3.11** *Accuracy of Documents*

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

**4** *CONSULTANT'S PERSONNEL AND SUB-CONSULTANTS***4.1 General**

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

**4.2** *Deployment of Personnel*

4.2.1 The designations, names and other particulars of each of the Consultant's Key Personnel required in carrying out the Services are described in Annex-2 of this Agreement. The estimate of Personnel costs and man day rates are specified in Annex-3 of this Agreement.

4.2.2 Adjustments with respect to the estimated periods of engagement of Personnel set forth in the aforementioned Annex-3 may be made by the Consultant by written notice to the Authority, provided that (i) such adjustments shall not alter the originally estimated period of engagement of any individual by more than 30% (thirty per cent), and (ii) the aggregate of such adjustments shall not cause payments under the Agreement to exceed the Agreement Value set forth in Clause 6.1.2 of this Agreement by more than 25% (twenty five per cent) thereof. Any other adjustments shall only be made with the written approval of the Authority.

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

**4.3** *Approval of Personnel*

4.3.1 The Key Personnel listed in Annex-2 of the Agreement are hereby approved by the Authority. No other Key Personnel shall be engaged without prior approval of the Authority.

4.3.2 If the Consultant hereafter proposes to engage any person as Professional Personnel, it shall submit to the Authority its proposal along with a CV of such person in the form provided at Appendix-I (Form-11) of the RFP. The Authority may approve or reject such proposal within 14 (fourteen) days of receipt thereof. In case the proposal is rejected, the Consultant may propose an alternative person for the Authority's consideration. In the event the Authority does not reject a proposal within 14 (fourteen) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the Authority.

**4.4** *Substitution of Key Personnel*

In case notice to commence services is given within 120 days of signing of contract the, the Authority expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. The Authority will not consider any substitution of Key Personnel except under compelling circumstances beyond the control of the Consultant and the concerned Key Personnel. Such substitution shall be limited to not more than three Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.

Replacement of the Team Leader will not normally be considered and may lead to disqualification of the Applicant or termination of the Agreement. Replacement of one Key Personnel shall be permitted subject to reduction of remuneration equal to 5% (five per cent) of the total remuneration specified for the Key Personnel who is proposed to be replaced. In case of second replacement, the reduction in remuneration shall be equal to 10% (ten per cent) and for third and subsequent replacement, such reduction shall be equal to 15% (fifteen per cent). If the consultant finds that any of the personnel had made false representation regarding his qualification and experience, he may request the Employer for replacement of the personnel. There shall be no reduction in remuneration for such replacement. The replacement shall however be of equal or better score. The personnel so replaced shall be debarred from future projects for 2 years.

**4.5** *Working hours, overtime, leave, etc.*

The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in the Agreement, and the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is excluded from the man days of service set forth in Annex-3. Any taking of leave by any Personnel for a period exceeding 7 days per annum shall be subject to the prior approval of the Authority, and the Consultant shall ensure that any absence on leave will not delay the progress and quality of the Services.

**4.6 Team Leader and Project Manager**

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

**4.7** *Sub-Consultants*

Deleted

**5. OBLIGATIONS OF THE AUTHORITY**

**5.1 Assistance in clearances etc.**

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

- (a) provide the Consultant, its Sub-Consultants and Personnel with work permits and such other documents as may be necessary to enable the Consultant, its Sub-Consultants or Personnel to perform the Services;
- (b) facilitate prompt clearance through customs of any property required for the Services; and
- (c) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

**5.2** *Access to land and property*

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

**5.3** *Change in Applicable Law*

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

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

**5.4** *Payment*

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

**6.** *PAYMENT TO THE CONSULTANT*

**6.1** **Cost estimates and Agreement Value**

**6.1.1** An abstract of the cost of the Services payable to the Consultant is set forth in Annex-5 of the Agreement.

**6.1.2** Except as may be otherwise agreed under Clause 2.6 and subject to Clauses 4.2.2 and 6.1.3, the payments under this Agreement shall not exceed the Agreement value specified herein (the “**Agreement Value**”). The Parties agree that the Agreement Value is Rs. .... (Rs. ) which does not include the Additional Costs specified in Annex-5 (the “**Additional Costs**”).

**6.1.3** Notwithstanding anything to the contrary contained in Clause 6.1.2, if pursuant to the provisions of Clause 2.6, the Parties agree that additional payments shall be made to the Consultant in order to cover any additional expenditures not envisaged in the cost estimates referred to in Clause 6.1.1 above, the Agreement Value set forth in Clause 6.1.2 above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

**6.2** *Currency of payment*

All payments shall be made in Indian Rupees. The Consultant shall be free to convert Rupees into any foreign currency as per Applicable Laws.

### 6.3 *Mode of billing and payment*

- (a) On monthly basis as per the rates agreed upon in this agreement for the Team leader & Key personnel, subject to the conditions that the consultant/Team Leader must furnish a statement of bill along with a report on the work done by the each of the Key Personnel and Team Leader during that month, which needs to be approved by the Authority.
- (b) All payments under this Agreement shall be made to the account of the Consultant as may be notified to the Authority by the Consultant.

## 7. *LIQUIDATED DAMAGES AND PENALTIES*

### 7.1 **Performance Security**

7.1.1 For the purposes of this Agreement, performance security shall be deemed to be an amount equal to **10% (ten per cent) of the Agreement Value** (the "**Performance Security**"); provided, however, that the Consultant shall not be required to provide a Performance Security in the form of a bank guarantee or cash deposit.

7.1.2 Notwithstanding anything to the contrary contained in Clause 7.1.1, as and when payments become due to the Consultant for its Services, the Authority shall retain by way of Performance Security, 10% (ten per cent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of three months after the expiry of this Agreement pursuant to Clause 2.4 hereof. For the avoidance of doubt, the parties hereto expressly agree that in addition to appropriation of the amounts withheld hereunder, in the event of any default requiring the appropriation of further amounts comprising the Performance Security, the Authority may make deductions from any subsequent payments due and payable to the Financial Consultant hereunder, as if it is appropriating the Performance Security in accordance with the provisions of this Agreement.

7.1.3 The Consultant may, in lieu of retention of the amounts as referred to in Clause 7.1.2 above, furnish a Bank Guarantee substantially in the form specified at Annex-7 of this Agreement. The Bid Security / Earnest Money Deposit (EMD) will be refunded to the selected Bidder after signing the agreement and submitting the Performance Security at 10% (ten per cent) of the Agreement Value.

### 7.2 *Liquidated Damages*

#### 7.2.1 Liquidated Damages for error/variation

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

**7.2.2** Liquidated Damages for delay

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

**7.2.3** Encashment and appropriation of Performance Security

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

**7.3** *Penalty for deficiency in Services*

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

**8.** *FAIRNESS AND GOOD FAITH*

**8.1** **Good Faith**

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

**8.2** *Operation of the Agreement*

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

**9.** *SETTLEMENT OF DISPUTES*

**9.1** **Amicable settlement**

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

**9.2** *Dispute resolution*

9.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party

(the “**Dispute**”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

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

### **9.3** *Conciliation*

In the event of any Dispute between the Parties, either Party may call upon [Secretary to Government, I & I Department, Govt. of AP] and the Managing Partner/ Chairman of the Board of Directors of the Consultant or a substitute thereof for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 9.4.

### **9.4** *Arbitration*

- 9.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the “**Rules**”), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The place of such arbitration shall be the capital of the State where the Authority has its headquarters and the language of arbitration proceedings shall be English.
- 9.4.2 There shall be [a sole arbitrator whose appointment] / [an Arbitral Tribunal of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected, and in the event of disagreement between the two arbitrators, the appointment]<sup>20</sup> shall be made in accordance with the Rules.
- 9.4.3 The arbitrators shall make a reasoned award (the “**Award**”). Any Award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the Consultant and the Authority agree and undertake to carry out such Award without delay.
- 9.4.4 The Consultant and the Authority agree that an Award may be enforced against the Consultant and/or the Authority, as the case may be, and their respective assets wherever situated.
- 9.4.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

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

SIGNED, SEALED AND DELIVERED  
For and on behalf of Consultant:

SIGNED, SEALED AND DELIVERED  
For and on behalf of Authority

1. Signature  
Name  
Designation  
Address

2. Signature  
Name  
Designation  
Address

In the presence

Annexure – 1  
*Terms of Reference*  
*(Refer Clause 3.1.2)*

(Reproduce Schedule-1 of RFP)

*Annexure-2*

*Deployment of Key Personnel*

*(Refer Clause 4.2)*

(Reproduce as per Form-6 of Appendix-I)

*Annexure-3*

*Estimate of Personnel Costs  
(Refer Clause 4.2)*

(Reproduce as per Form-3 of Appendix-II)

*Annexure – 4*  
*Approved Sub-Consultant(s)*  
*(Refer Clause 4.7)*

(Reproduce as per Form-12 of Appendix-I)

**Deleted**

*Annexure 5*

*Cost of Services*  
*(Refer Clause 6.1)*

(Reproduce as per Form of Appendix-II)

*Annexure 6*  
*Payment Schedule*  
*(Refer Clause 6.3)*

Annexure-7

Bank Guarantee for Performance Security

(Refer Clause 7.1.3)

To

[The Governor of Andhra Pradesh)

acting through

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

In consideration of ..... acting on behalf of the Governor of Andhra Pradesh (hereinafter referred as the “**Authority**”, which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) awarding to....., having its office at ..... (Hereinafter referred as the “**Consultant**” which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority’s Agreement no. .... dated ..... valued at Rs.

..... (Rupees .....), (hereinafter referred to as the “**Agreement**”) the assignment for consultancy services in respect of the ..... Project, and the Consultant having agreed to furnish a Bank Guarantee amounting to Rs..... (Rupees .....) to the Authority for performance of the said Agreement.

1. We, ..... (herein after referred to as the “Bank”) at the request of the Consultant do hereby undertake to pay to the Authority an amount not exceeding Rs. .... (Rupees .....) against any loss or damage caused to or suffered or would be caused to or suffered by the Authority by reason of any breach by the said Consultant of any of the terms or conditions contained in the said Agreement.
2. We,.....(indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Authority stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the Authority by reason of breach by the said Consultant of any of the terms or conditions contained in the said Agreement or by reason of the Consultant’s failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs..... (Rupees.....).
3. We, ..... (indicate the name of Bank) undertake to pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Consultant shall have no claim against us for making such payment.

Request for Proposal

- 4. We,..... (indicate the name of Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be required for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Authority under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Authority certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Consultant and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before a period of two years from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.
- 5. We, ..... (indicate the name of Bank) further agree with the Authority that the Authority shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Consultant from time to time or to postpone for any time or from time to time any of the powers exercisable by the Authority against the said Consultant and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Consultant or for any forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Consultant or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so relieving us.
- 6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Consultant(s).
- 7. We, ..... (indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Authority in writing.
- 8. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. .... (Rupees ..... ) only. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 2 hereof, on or before [. (indicate the date falling 730 days after the date of this Guarantee)].

Dated, the ..... day of ..... 20

For .....

(Name of Bank)

(Signature, name and designation of the authorized signatory)  
Seal of the Bank

NOTES:

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

Annex-8  
 (Name of Consultant)  
*Fortnightly Time Report*  
 (See Clause 3.7)

Project Name:

Fortnight ending:

Week One from ..... to..... (insert dates covered by Week One)

Key Personnel	Hours on Site	Hours off Site	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total Hours

Week Two from ..... to..... (insert dates covered by Week Two)

Key Personnel	Hours on Site	Hours off Site	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total Hours

Provide brief description of work undertaken on each day of the fortnight, below:

Date:

(Signature and name of authorised signatory)

Note: Hours on Site include time spent in the office of the Authority or at any place other than the office of the Consultant, as may be necessary for carrying out the assignment.

*SCHEDULE-3*

*(See Clause 2.4.3)*

**Guidance Note on Conflict of Interest**

1. This Note further explains and illustrates the provisions of Clause 2.4 of the RFP and shall be read together therewith in dealing with specific cases.
2. Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the Authority and a consultant or between consultants and present or future concessionaries/ contractors. Some of the situations that would involve conflict of interest are identified below:
  - (a) Authority and consultants:
    - (i) Potential consultant should not be privy to information from the Authority which is not available to others
    - (ii) Potential consultant should not have defined the project when earlier working for the Authority.
    - (iii) Potential consultant should not have recently worked for the Authority overseeing the project.
  - (b) Consultants and concessionaires/contractors:
    - (i) No consultant should have an ownership interest or a continuing business interest or an on-going relationship with a potential concessionaire/ contractor save and except relationships restricted to project-specific and short-term assignments.
    - (ii) No consultant should be involved in owning or operating entities resulting from the project.
    - (iii) No consultant should bid for works arising from the project.

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

4. The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Authority. All conflicts must be declared as and when the consultants become aware of them.
5. Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Authority.

6. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
7. Another form of conflict of interest called “scope-creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.
8. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

**Form 1: Letter of Proposal**

(On Applicant's letter head)

(Date and Reference)

To,

The Vice Chairman and Managing Director,  
Infrastructure Corporation of Andhra Pradesh Ltd.,  
4<sup>th</sup> floor, IHC Corporate, Opposite Aranya Bhavan, Industrial Park,  
Mangalagiri, Guntur District – 522503, A.P. India  
Email: [incap@incap.co.in](mailto:incap@incap.co.in), [md@incap.co.in](mailto:md@incap.co.in). Web: [www.incap.co.in](http://www.incap.co.in)

Sub: Selection of DEA Empaneled Retainer Consultants for providing services for development of various identified infrastructure projects in the state of Andhra Pradesh

Dear Sir,

With reference to your RFP Document dated....., I/We, having examined all relevant documents and understood their contents, hereby submit our Proposal for Selection of DEA Empaneled Retainer Consultants for providing services for development of various identified infrastructure projects in the State of Andhra Pradesh. The Proposal is unconditional and unqualified.

1. All information provided in the Proposal and in the Appendices is true and correct and all documents accompanying such Proposal are true copies of their respective originals.
2. This statement is made for the express purpose of appointment as the Consultant for the aforesaid Selection.
3. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
4. I/We acknowledge the right of the Authority to reject our Proposal without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
5. I/We to the best of our knowledge certify that in the last three years, we or any of our Associates in India have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
6. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant, without incurring any liability to the Applicants.

## Request for Proposal

7. I/We to the best of our knowledge certify that in regard to matters other than security and integrity of the country, we or any of our Associates in India have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.
8. I/We to the best of our knowledge further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates in India.
9. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority and/ or the Government of India in connection with the selection of Consultant or in connection with the Selection Process itself in respect of the above mentioned Project.
10. I/We agree and understand that the Proposal is subject to the provisions of the RFP document. In no case, shall I/We have any claim or right of whatsoever nature if me or our Proposal is not opened or rejected.
11. I/We agree to keep this offer valid for 120 days from the Proposal Due Date specified in the RFP.
12. I/We agree and undertake to abide by all the terms and conditions of the RFP Document. In witness thereof, I/We submit this Proposal under and in accordance with the terms of the RFP Document.
13. I/We agree and understand that the Authority may select one Consultant or two Consultants as per Clause 1.5 and Clause 3.3.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

(Name and seal of the Applicant)

**Form 2: Particulars of the Applicant**

(Pursuant to Clause 2.3)

1.	Title of Consultancy:	Selection of DEA Empaneled Retainer Consultants for providing services for development of various identified infrastructure projects in the state of Andhra Pradesh
2.	<p>State the following:</p> <p>Name of Company or Firm:</p> <p>Legal status (e.g. incorporated private company, unincorporated business, partnership etc.):</p> <p>Country of incorporation:</p> <p>Registered address:</p> <p>PAN</p> <p>GST Registration Number</p> <p>Year of Incorporation:</p> <p>Year of commencement of business:</p> <p>Principal place of business:</p> <p>Brief description of the Company including details of its main lines of business:</p> <p>Name, designation, address and phone numbers of authorised signatory of the</p> <p>Applicant:</p> <p>Name:</p> <p>Designation:</p> <p>Company:</p> <p>Address:</p> <p>Phone No.:</p>	
3.	<p>For the Applicant, state the following information:</p> <p>(i) In case of non-Indian Firm, does the Firm have business presence in India? If so, provide the office address(es) in India.</p> <p>(ii) Has the Applicant been penalized by any organization for poor quality of work or breach of contract in the last five years?</p> <p>(iii) Has the Applicant ever failed to complete any work awarded to it by any public authority/ entity in last five years?</p> <p>(iv) Has the Applicant been blacklisted by any Government department/Public Sector Undertaking in the last five years?</p> <p>(v) Has the Applicant suffered bankruptcy/insolvency in the last five years?</p> <p>(vi) Does the Applicant have a conflict of interest that affects the RFP process?</p> <p>(vii) Has the Applicant been barred by the Central/ State Government, or any entity controlled by it, from participating in any project, and does the bar subsists as on the date of RFP?</p> <p><b>Note: If answer to any of the questions at (ii) to (vii) is yes, the Applicant is not eligible for this consultancy assignment.</b></p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>



**Form 3:**

*Statement of Legal Capacity*

*(To be forwarded on the letter head of the Applicant)*

Ref. Date:

To,

.....

.....

.....

Dear Sir,

Sub: Selection of DEA Empaneled Retainer Consultants for providing services for development of various identified infrastructure projects in the state of Andhra Pradesh...Project

I/We hereby confirm that we, the Applicant (along with other members in case of consortium, the constitution of which has been described in the Proposal\$), satisfy the terms and conditions laid down in the RFP document.

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

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

Yours faithfully,

(Signature, name and designation of the authorised signatory

For and on behalf of .....

**Form 4: Power of Attorney for signing of Proposal**

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

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

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

For .....

(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Notarised

Accepted

.....

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

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Applicant should submit for verification the extract of the charter documents and other documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

**Form 5: Financial Capacity of the Applicant**

(Pursuant to Clause 2.3.8)

*In INR Crores*

<b>S. No.</b>	<b>Gross Turnover from Advisory Services</b>	
<b>1</b>	<i>FY 2021-22</i>	
<b>2</b>	<i>FY 2022-23</i>	
<b>3</b>	<i>FY 2023-24</i>	

**Certificate from the Statutory Auditor**

This is to certify that .....(Name of the Applicant) has received the payments shown above.

Name of the audit firm:

Seal of the audit firm:

Date:

(Signature, name and designation of the authorised signatory)

**Note:**

In case the Applicant does not have a statutory auditor, it shall provide the certificate from its chartered accountant that ordinarily audits the annual accounts of the Applicant.

Please do not attach any printed Annual Financial Statement.

**Form 6: Particulars of Key Personnel**

(Pursuant to clause 2.2.4 and 3.1)

<b>S. No.</b>	<b>Designation of Key Personnel</b>	<b>Name</b>	<b>Educational Qualification</b>	<b>Length of Professional Experience</b>	<b>Employment duration with present Firm</b>	<b>No. of Eligible Assignments</b>
1.	Team Leader					
2.	Technical Expert Team Member 1					
3.	Finance and PPP Transactions Team Member 1					
4.	Finance and PPP Transactions Team Member 2					

**Note:**

1. Detailed CVs of the key personnel should be submitted as per format given in Form 7.
2. Use separate rows in case of multiple CVs used for a particular designation

**Form-7***Abstract of Eligible Assignments of the Applicant<sup>\$</sup>**(Refer Clause 3.1)*

S. No	Name of Project	Name of Client	Estimated capital cost of Project (in Rs crore/ US\$ million)	Professional fee <sup>\$\$</sup> received by the Applicant (in Rs crore) <sup>£</sup>
(1) <sup>££</sup>	(2)	(3)	(4)	(5)
1				
2				
3				
4				
5				

<sup>\$</sup> The Applicant should provide details of only those assignments that have been undertaken by it under its own name.

<sup>\$\$</sup> Exchange rate for conversion of US \$ shall be as per Clause 1.7.1.

<sup>£</sup> In the event that the Applicant does not wish to disclose the actual fee received for any particular assignment, it may state that it has received more than the amount specified for eligibility under this RFP. For example, it may state: "Above Rs. 5 (five) Crores" in respect of a particular project.

<sup>££</sup> The names and chronology of Eligible Assignments included here should conform to the project-wise details submitted in Form-9 of Appendix-I.

<sup>\$</sup> In case the Applicant does not have a statutory auditor, it shall provide the certificate from its chartered accountant that ordinarily audits the annual accounts of the Applicant.



APPENDIX-I

Form-8<sup>\$</sup>

*Abstract of Eligible Assignments of Key Personnel<sup>1\$\$</sup>*

(Refer Clause 3.1)

Name of Key Personnel:

Designation:

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

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

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

<sup>£</sup> The names and chronology of projects included here should conform to the project-wise details submitted in Form-10 of Appendix-I.

APPENDIX - 1  
Form-9

*Eligible Assignments of Applicant*  
(Refer Clause 3.2)

1.	Name of Applicant:	
2.	Name of the Project:	
3.	Type of Project (PPP/ Privatisation/ Disinvestment/ Regulatory/ Review/ Other Project)	
4.	Length in Kms or other particulars:	
5.	Description of services performed by the Applicant firm:	
6.	Name of client and Address:	
7.	Name, telephone no. of client's representative:	
8.	Estimated capital cost of Project (in Rs crore or US\$ million):	
9.	Payment received by the Applicant as professional fees (in Rs. crore) \$:	
10.	Start date of the services (month/ year):	
11.	Finish date of the services (month/ year):	
12.	Brief description of the Project:	

*Notes:*

1. Use separate sheet for each Eligible Assignment.
2. Exchange rate for conversion of US \$ shall be as per Clause 1.7.1.

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

APPENDIX-I

Form-10

*Eligible Assignments of Key Personnel*

*(Refer Clause 3.1)*

1.	Name of Key Personnel:	
2.	Designation of Key Personnel:	
3.	Name of the Project:	
4.	Type of Project (PPP/ Privatisation/ Disinvestment/ Regulatory/ Review/ Other Project)	
5.	Length in kms or other particulars:	
6.	Name of Consulting Firm where employed:	
7.	Description of services performed by the Key Personnel (including designation):	
8.	Name of client and Address:	
9.	Name, telephone no. of client's representative:	
10.	Estimated capital cost of the Project (in Rs crore or US\$ million):	
11.	Start date of the services (month/ year):	
12.	Finish date of the services (month/ year):	
13.	Brief description of the Project:	

*Notes:*

1. Use separate sheet for each Eligible Assignment.
2. In the case of Financial Expert, only those Eligible Assignments shall be included where the Financial Expert worked as the Team Leader or the leader of the Financial Team in the relevant assignment.
3. Exchange rate for conversion of US \$ shall be as per Clause 1.7.1.

APPENDIX-I

Form-11

*Curriculum Vitae (CV) of Professional Personnel*

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

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

Certification:

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

(Signature and name of the Professional Personnel)

Place.....

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

*Notes:*

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

APPENDIX-I

Form-12

*Proposal for Sub-Consultant(s)*

**Deleted**

### Form 13: Experience of the Key Personnel

#### 9.1 Team Leader

S. No.	Description	Max. Points	Reference/Details of projects Claimed for self-assessment	Marks self-Assessed by the bidder
<b>1</b>	<b>General Qualification</b>	<b>25</b>		
i)	MBA (or) CA/CFA or equivalent	21		
ii)	Higher Qualification	04		
<b>2</b>	<b>Adequacy for the Project</b>	<b>70</b>		
<b>a)</b>	<b>Professional Experience in PPP Projects:</b>			
i)	Total Professional Experience in handling projects < 15 years -0 15 years -15 marks Add 1 mark extra for each additional year of experience subject to maximum 5 (five) marks.	20		
ii)	Experience as Team Leader or similar capacity < 5 years -0 5 years -20 marks Add 1 mark extra for each additional year of experience subject to maximum 5 (five) marks.	25		
iii)	Experience as Transaction Advisory and finance feasibility and market assessment in PPP Projects in India < 2 Projects -0 2 Projects -21 marks Add 2 marks extra for each additional Project subject to maximum 4 (four) marks.	25		
<b>3</b>	Employment with the Firm < 1 year -0  1 year – 3 marks Add 0.5 marks for each subsequent year subject to maximum 2 marks	<b>5</b>		
	<b>Total :</b>	<b>100</b>		

## 9.2 Technical Expert Team Member 1

S. No.	Description	Max. Points	Reference/Details of projects Claimed for self - assessment	Marks self-Assessed by the bidder
<b>1</b>	<b>General Qualification</b>	<b>25</b>		
i)	Graduate in Civil Engineering	21		
ii)	Post-Graduation in Management/ Construction/ Transportation/Highway Engineering/Structural Engineering or equivalent specialised stream of civil engineering	04		
<b>2</b>	<b>Adequacy for the Project</b>	<b>70</b>		
<b>a)</b>	<b>Professional Experience in PPP Projects:</b>			
i)	Total Professional Experience in handling projects < 07 years -0 07 years -15 marks Add 1 mark extra for each additional year of experience subject to maximum 5 (five) marks.	20		
ii)	Experience as Technical Expert or similar capacity < 07 years -0 07 years -20 marks Add 1 mark extra for each additional year of experience subject to maximum 5 (five) marks.	25		
iii)	Experience as Technical Expert led and successfully completed in India < 2 Projects -0 2 Projects -21 marks Add 2 marks extra for each additional Project subject to maximum 4 (four) marks.	25		
<b>3</b>	Employment with the Firm < 1 year -0 1 year – 3 marks Add 0.5 marks for each subsequent year subject to maximum 2 marks	<b>5</b>		
	<b>Total :</b>	<b>100</b>		

### 9.3 PPP Finance & Transactions Team Member 2

S. No.	Description	Max. Points	Reference/Details of projects Claimed for self-assessment	Marks self-Assessed by the bidder
<b>1</b>	<b>General Qualification</b>	<b>25</b>		
i)	MBA (or) CA/CFA or equivalent	21		
ii)	Higher Qualification	04		
<b>2</b>	<b>Adequacy for the Project</b>	<b>70</b>		
a)	Professional Experience in PPP Projects:			
i)	Total Professional Experience in handling projects < 07 years -0 07 years -15 marks Add 1 mark extra for each additional year of experience subject to maximum 5 (five) marks.	20		
ii)	Experience as Team Member or similar capacity < 07 years -0 07 years -20 marks Add 1 mark extra for each additional year of experience subject to maximum 5 (five) marks.	25		
iii)	Experience as Transaction Advisory in PPP Projects < 2 Project -0 2 Projects -21 marks Add 2 marks extra for each additional Project subject to maximum 4 (four) marks.	25		
<b>3</b>	Employment with the Firm < 1 year -0 1 year – 3 marks Add 0.5 marks for each subsequent year subject to maximum 2 marks	<b>5</b>		
	<b>Total :</b>	<b>100</b>		

**Financial Proposal**

(On Applicant's letter head)

(Date and Reference)

To,

The Vice Chairman and Managing Director,  
Infrastructure Corporation of Andhra Pradesh Ltd.,  
4<sup>th</sup> floor, IHC Corporate, Opposite to Aranya Bhavan,  
Industrial Park, Mangalagiri, Guntur District - 522503 A.P. India

Sub: Selection of DEA Empaneled Retainer Consultants for providing services for development of various identified infrastructure projects in the state of Andhra Pradesh

\*\*\*\*

We offer to provide the above mentioned retainer consultancy services as provided below.

<b>Sl.No.</b>	<b>Personnel</b>	<b>No of personnel</b>	<b>Total Man-days per month</b>	<b>Rate per man-day inRs.</b>	<b>Total cost per man-month in Rs.</b>
	<b>(A)</b>	<b>(B)</b>	<b>(C)</b>	<b>(D)</b>	<b>(E) = (C) * (D)</b>
1.	Team Leader	1	5		
2.	Technical Expert Team Member - 1	1	22		
3.	Finance and PPP Transactions Team Member - 2	2	22*2		
<b>4.</b>	<b>Total cost per month (Excluding Goods &amp; Service Tax) in words.....</b>				

\*Goods & Service Tax will be applicable as per prevailing law

**Note:**

1. Evaluation will be done based on the total cost per month as quoted by the bidder in serial no. 4 above.
2.
  - a) The two/ three Team Members are to be deployed by selected consultant shall work in INCAP office during all INCAP office working days in a month which is mandatory irrespective of above man- days charged.
  - b) One finance and PPP transaction expert (Team Member 2) services will be utilised by the Authority initially and the other Finance and PPP Transaction expert (Team Member 2) services will be on need basis as per the orders of the Authority. The payment is as per man days.
3. The selected consultant shall deploy additional resources if required by the authority with the same terms and conditions of engagement. Authority may at its discretion

reduce or increase the number of resources, depending on the requirements of the Authority.

4. The aforesaid fee payable to the Consultant will cover the costs of all travel, transport, telephone/fax, etc. No additional charges in respect thereof will be due or payable. All other charges are considered to have been included in the above fee.
5. 10% (ten) of the monthly remuneration/ Equivalent bank guarantee will be retained by INCAP from the monthly invoices of the consultants towards satisfactory completion of the retainer consultancy services of the consultancy firms. This 10% (ten) retained money/Equivalent bank guarantee will be returned to the consultancy firms on submission of consolidated services completion report covering entire consultancy period and on making a detailed presentation to the Authority/Government on their efforts made in making the project's success to bring the projects to bidding stage/award stage.
6. 100% payment will be released with equivalent bank guarantee against each invoice with validity of bank guarantee is as per clause 7.1 of schedule II.
7. The payments will be made to the consultant after completion of every month on submission of invoice (in duplicate) by the consultant along with the detailed work carried out during the said period.

I/We agree that this offer will be subject to the Terms & Conditions mentioned in the RFP.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

(Name and seal of the Applicant)