

MODEL PROCUREMENT DOCUMENT

REQUEST FOR PROPOSAL (RFP)

ENGINEERING PROCUREMENT AND CONSTRUCTION (EPC) CONTRACT

For Lines of Credit Projects under the Indian Development and
Economic Assistance Scheme (IDEAS)

Export-Import Bank of India



Version: V2.01
Date: XX March 2024

Instructions for Project Authority / LOC Borrower

This Bidding Document comprising of Request for Proposal (“RFP”), EPC Agreement, Annexures, Schedules and Enclosures shall be used for selection of EPC Contractors for all the project approved by the Government of India (GoI) and funded through the Export-Import Bank of India (Exim Bank) Line of Credit (LOC) under the Indian Development and Economic Assistance Scheme (IDEAS)

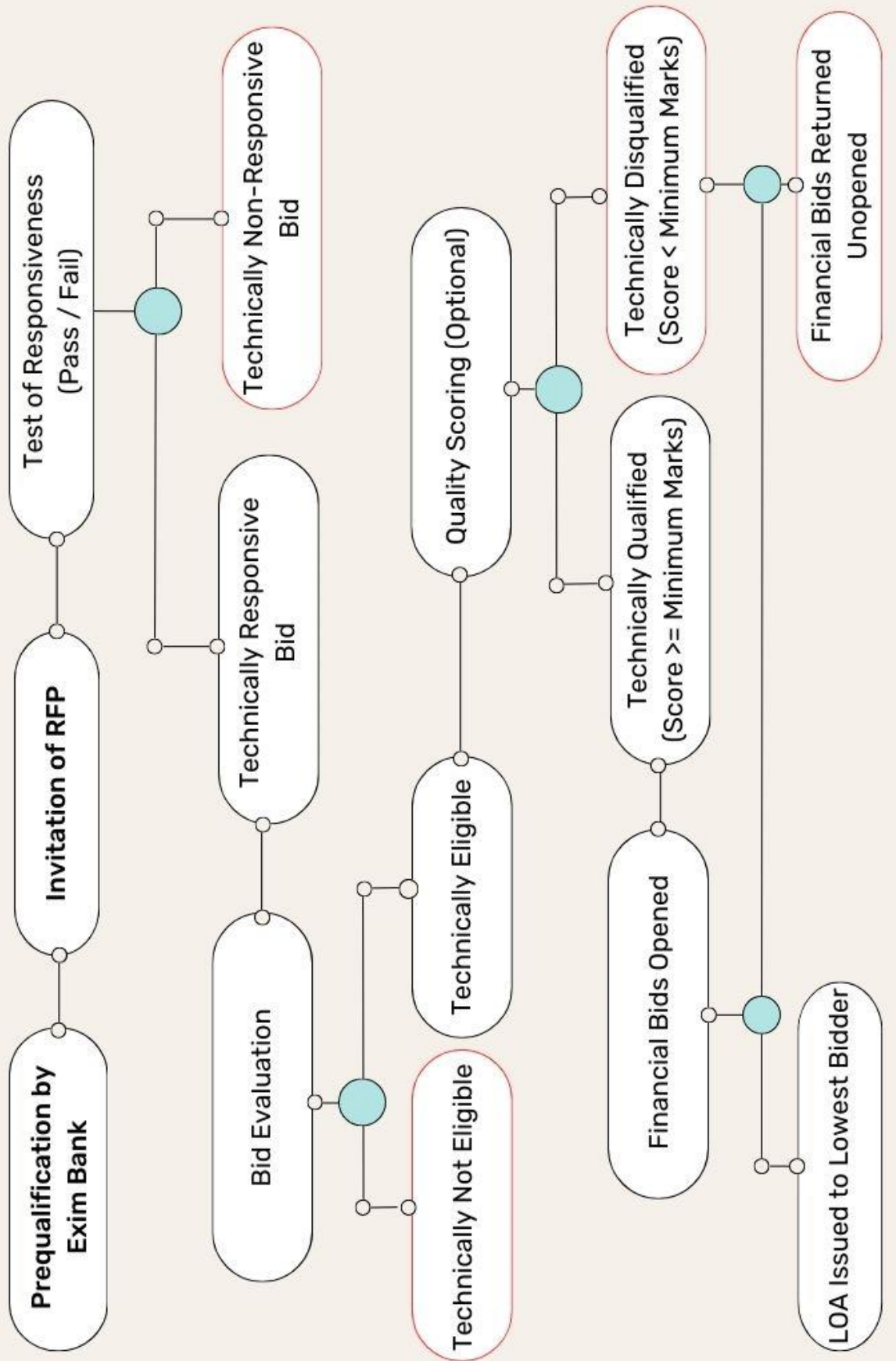
- This Bidding document shall be used for all the RFP to be floated from April 1, 2024.
- The selection of the EPC Contractor should be through Least Cost Selection (LCS) method only. Quality and Cost Based Selection (QCBS) Mode of selection of the Contractor should be with explicit approval of the competent authority of the GoI, failing which the contract may be disqualified for funding under the LOC
- This Bidding document shall be available on Exim Bank’s website (www.eximbankindia.in). The content of the RFP should not be altered unless explicitly required to be updated at designated places. For the following parts of the Bidding Document, in case of difference between the document available on the Bank’s website and that of the Bidding Document launched by the Project Authority and subsequently requested to be included under the LOC, the versions of this Bidding document available on Exim Bank’s website shall prevail and the approval for inclusion under the LOC shall be granted accordingly.
 - Part-I: Instructions to Bidders (ITB)
 - Part-IV: General Conditions of Contract (GCC)
- Changes to Part-I and Part-IV to be made by way of changes to “Part-II: Appendix to Instruction to Bidder (AITB)” and Part-V: Special Conditions of Contract (SCC)” only.
- It is mandatory for the Project Authority to obtain approval of Exim Bank for inclusion of the Contract under the LOC before commencement of Works under the Contract
- Before preparation of the Bidding Documents, the Project Authority shall check Exim Bank’s website and use only the latest version of the Bidding Document as updated on Exim Bank’s website.

Instructions for updating the RFP

This Bidding Document has been prepared to be used for the project procurement based on Engineering, Procurement & Construction (EPC) mode that are financed by Exim Bank under Government of India (GOI) supported Lines of Credit (LOC). This RFP is consistent with the Indian Development and Economic Assistance Scheme (IDEAS) Guidelines dated March 31, 2022. This RFP should be used only for the selection of the EPC Contractor through competitive bidding using Least Cost Selection method, amongst the companies prequalified by Exim Bank and is not suited for selection through QCBS Mode of selection.

- Serially numbered footnotes are for guidance of the Authority and should be omitted prior to issue of RFP. Footnotes marked in non-numerical characters shall be retained in the RFP.
- Wherever asterisks (***) are used, they should be substituted by the specific details prior to issue of RFP.
- Changes to “Instructions to Bidder” must be made by way of changes in the “Appendix to Instructions to Bidders”. No change should be made in the content of “Instructions to Bidder”.
- Changes to “General Conditions of Contract (GCC)” must be made by way of changes in “Special Conditions of Contract (SCC). No change should be made in the content of “General Conditions of Contract (GCC)”.
- The document is suitable for a Bidder applying as a JV

CONTRACTOR SELECTION PROCESS FLOW



Note: Before floating the RFP, information till this text should be deleted from the document

[Country]**

[Name of Project Authority]**

**ENGINEERING, PROCUREMENT AND
CONSTRUCTION (EPC) CONTRACT**

FOR

[Name of the Project **]

REFERENCE NO:

Funded by:

Export-Import Bank of India



DISCLAIMER

The information contained in this Request for Proposal document (the “**RFP**”) or subsequently provided to Bidder(s), in documentary or digital form, by or on behalf of the Authority, is provided to Bidder(s) 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 by the Authority with the prospective Bidders. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Bids pursuant to this RFP (the “**Bid**”). This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the objectives, financial situation 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 accurate, complete or adequate. Each Bidder should therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The Authority has right to interpret the Bid based on common usage of terminologies and phrases in public procurement. The interpretation of the Authority shall be final and binding on the Bidders. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. However, the Bidder must seek appropriate legal advice while formulating the Bid and assess the various risks accordingly.

The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder, 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, completeness or reliability of the RFP or any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way with participation in this Bid Stage.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP. The Authority may, at its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP. However, in such a case, appropriate addendum to the RFP shall be issued by the Authority.

The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder or Contractor, as the case may be, for the Project and the Authority reserves the right to accept any bid, and to reject all or any of the Bids.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid 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 Bid. All such costs and expenses shall be borne by the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

Summary of Content

Part-I: Instructions to Bidders (ITB)

This part provides relevant information to help Bidders prepare their bids. Information is also provided on the submission, opening, and evaluation of bids and on the award of Contracts. This part also specifies the criteria to determine the procedure for selection of the bidder. **The content of this Part should not be modified.**

Part-II: Appendix to Instruction to Bidder (AITB)

This part includes provisions specific to each RFP and supplements Part-I, Instructions to Bidders.

Part-III: Bidding Forms and Appendices

This Section includes the forms to be completed by the Bidder and submitted as part of the Bid.

Part-IV: Contract Form

This Part contains the Form / Document to be signed between the Selected Bidder and the Authority subsequent to award of the Contract. Part-V; Part-VI and Part-VII shall be annexed to the Contract Form while signing the EPC Agreement.

Part-V: General Conditions of Contract (GCC)

This Section contains the general clauses to be applied for the EPC Agreement. **The content of this Part should not be modified.**

Part-VI: Special Conditions of Contract (SCC)

The contents of this Section supplement the General Conditions and shall be prepared by the Authority. This part contains project specific provisions of the EPC Agreement. Any change in the GCC should be made by way of changes in the SCC. Content of the SCC shall prevail over the content of the GCC.

Part-VII: Schedules and Appendices

This Part contains the schedules specific to the contract and shall form part of the EPC Agreement. The Contract Form shall be used for signing the EPC Agreement between the Authority and the Selected Bidder.

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NOTICE INVITING RFP [Name of the Project**]

RFP No.[***]

Dated[***]

RFP for Selection of EPC Contractor for [Project Name**]

1. The [Name of Authority**] (the “Authority”) has received a Line of Credit from the Export-Import Bank of India (Exim Bank) towards financing the cost of [Name of project**] in [Country**] and intends to apply part of the proceeds toward payments under the contract for the Project. The Authority intends to undertake the Project through an Engineering, Procurement and Construction (EPC) Contract. The Authority now invites sealed Bids from prequalified Bidders for selection of the EPC Contractor. Key information is as under:

Ref. No.	Bid Security	Estimated Cost	Completion Period	Maintenance period
***	***	***	[**] Months	[**] Months

2. Bidding shall be restricted to the prequalified bidders. The RFP can be purchased from [details to be added***] by paying an amount of [cost of RFP to be mentioned***].

3. Schedule of Dates are as under:

- a) Date of Invitation of RFP : [**]
- b) Document available from : [**]
- c) Bid Submission End Date : [**]
- d) Bid Opening Date : [**]
- e) Last date for Physical Document Submission : [**]
- f) Date and Time of Opening of Technical Bids: [**]

4. Late Bids, partial Bids, Bids not received, and the Bids not opened at the Bid opening ceremony shall not be accepted for evaluation irrespective of the circumstances.

PART-I: INSTRUCTIONS TO BIDDERS

SECTION-1 INTRODUCTION

- 1.1 Background**
- 1.1.1** The Authority, **as specified in the Appendix to Instruction to Bidders (AITB)**, issues these Bidding Documents for undertaking Works (the “**project**”) **as specified in the AITB**. The Authority intends to undertake the Project through award of an Engineering, Procurement and Construction (the “**EPC**”) Contract by way of a competitive bidding process amongst the prequalified companies, in accordance with the procedure set out herein. The name, identification, and number of lots (contracts) of this Bidding process are **as specified in the AITB**.
- The Authority has received a Line of Credit (the “**LOC**”) from Export-Import Bank of India (the “**the Exim Bank**”), the proceeds from which shall be partly or fully be used for funding this Contract for which this RFP is being issued.
- 1.1.2** The selected Bidder (the “**Contractor**”) shall be responsible for designing, engineering, procurement and construction of the Project, including remedying of defects and conducting maintenance thereof, under and in accordance with the provisions of the “**Conditions of Contract**” or the “**EPC Agreement**” to be entered into between the Contractor and the Authority in the in accordance with Contract Form provided by the Authority as part of the Bidding Documents.
- 1.1.3** The EPC Agreement sets forth the detailed terms and conditions for award of the Contract to the Contractor, including the scope of the Contractor’s Works, Services and Obligations. The detailed scope of work has been laid out in Section 7 [Scope of the Project] of the EPC Agreement. If **specified in the AITB**, the Project Information Memorandum (the “**PIM**”) shall be enclosed at **Enclosure I**. The PIM is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the PIM shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the PIM. Project implementation Schedule is **as specified in the AITB**.
- 1.1.4** The indicative Cost Put to tender is **as specified in the AITB**. The assessment of actual costs, however, will have to be made by the Bidders.

- 1.1.5** The AITB [Section 5] shall supplement the information provided under Section 1-4 [Instructions to Bidders (ITB)]. The clauses under ITB, wherever appearing in the AITB, shall be taken to be negated or additional provisions added to, or existing provisions to be altered with the AITB. Whenever there is a conflict, the provisions of AITB shall prevail.
- 1.1.6** The Authority shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by the Authority pursuant to this RFP (collectively the **"Bidding Documents"**) and read along with any amendments and clarifications issued from time-to-time by the Authority, and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 [Schedule of Bidding Process] for submission of Bids (the **"Bid Due Date"**).
- 1.2 Brief description of Bidding Process**
- 1.2.1** (a) The RFP shall be obtained by the Prequalified Bidders in accordance with the procedure **as specified in the AITB**. Amount payable for purchase of the RFP shall be in accordance with ITB Sub-Clause 1.2.4(a).
- (b) The Authority has adopted a two-envelope system (referred to as the **"Bidding Process"**) for selection of the Bidder for award of the Project. Eligibility and qualification of the prequalified Bidder will be first examined based on the details submitted under the first part (Technical Bid) with respect to eligibility and technical qualifications criteria prescribed in this RFP (the **"Bidder"**, which expression shall, unless repugnant to the context, include the Members of the Unincorporated Joint Venture).
- The Financial Bid under the second part shall be opened of only those Bidders whose Technical Bids are responsive to eligibility and are technically qualified in accordance with Clause 3.7 [Opening and Evaluation of Financial Bids]
- 1.2.2** The complete Bidding Documents including the EPC Agreement for the Project is enclosed for the Bidders. The aforesaid documents and any addenda issued subsequent to this RFP Document, will be deemed to form part of the Bidding Documents.
- 1.2.3** The Bidders are called upon to submit their technical and financial offers (the **"Bids"**) in accordance with the Bidding Documents. The Bid shall be valid for a period as specified in Clause 1.3 [Schedule of Bidding Process] for submission of bids. Provided that, if in its opinion the Authority deems it necessary such Bid Due Date shall be extended by the Authority.

A Pre-Bid Conference of the interested Bidders shall be convened at the designated date and time in accordance with Clause 1.3 [Schedule of Bidding Process] and Clause 2.7 [Pre-Bid Meeting, Site Visit and verification of information].

1.2.4 (a) The Bidders shall have paid to the Authority a sum **as specified in the AITB** as the Fees for purchasing the RFP. For avoidance of doubt, the RFP Fee is non-refundable fee payable by the Bidder to the Authority irrespective of the result of the Bidding.

(b) The Bidder shall also be required to deposit, along with its Bid, a Bid Security for the amount and Currency **as specified in the AITB**. Modes for depositing Bid Security is **as specified in the AITB**. If the Bid Security is provided by way of a Bank Guarantee, the same should be valid for a period **as specified in the AITB** but not less than 45 days beyond bid validity period. Bid security shall be refunded upon selection of the Bidder, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Works Performance Security as per the provision of this RFP and Letter of Award (LOA). Any Bid not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive.

It is hereby clarified that in the event the Bid Due Date has been extended in the manner as provided in ITB Sub-Clause 1.2.3, a Bidder who intends to continue to participate in the Bidding Process, shall be required to extend the validity of the Bid and the Bid Security for such extended period.

1.2.5 Bidders would be required to furnish all the information specified in this RFP. Bidders are, therefore, advised to visit the site and examine the Project in detail, including the PIM, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the EPC Contract including implementation of the Project.

1.2.6 Any reference to the standards in the Bidding Documents should include equivalent Indian Standards. For avoidance of doubt, this applies to the specifications and standards of Goods and services set out in the Bidding Documents.

1.2.7 Banks acceptable for submission of Bank Guarantees are **as specified in the AITB**. Original Guarantee document(s) to be submitted along with the other physical documents.

- 1.2.8 Bids will be evaluated for the Project on the basis of **“Qualified Least Cost Selection System (QLCS)”**. The price quoted by the Bidders in their financial bid (the **“Bid Price”**) shall constitute sole criteria for evaluation of Bids amongst the Technically Qualified Bidders in accordance with ITB Sub-Clause 3.6.3 and the Project shall be awarded to the Bidder quoting the lowest evaluated Bid Price among those Bidders.
- 1.2.9 In this RFP, the term **“Lowest Bidder”** shall mean **“the Bidder who is offering the lowest evaluated Bid Price amongst the Technically Qualified Bidders”** in accordance with Clause 3.7 [Selected Bidder]. In case the Lowest Bidder withdraws or is disqualified or becomes ineligible in accordance with the provisions of this RFP or EPC Agreement, the Authority may invite such Technically Qualified Bidder with Financial Bid next to the Lowest Bidder for negotiation and award of the contract, without any change in the scope / obligations or any other aspect of the EPC Contract and without prejudice Authority’s rights to annul the bidding process at its discretion and invite fresh bids.
- 1.2.10 Any queries or request for additional information concerning this RFP shall be submitted in writing or by e-mail to the officer designated in ITB Sub-Clause 2.11.1. The envelopes/communications shall clearly bear the name of the project as the title.
- 1.3 Schedule of Bidding Process 1.3.1 The Authority shall endeavor to adhere to the Bidding Process as **specified in AITB**.
- 1.4 Reporting Currency 1.4.1 All financial information to be submitted by the Bidder in the Bid shall be in the currency **as specified in the AITB** (the **“Reporting Currency”**). The Financial Bid shall be in currency in accordance with Clause 2.16.4 [Financial Bid].

For the purpose of conversion of currencies for reporting the financial information, the Bidders shall use the Reference Rates of Foreign Currency published by Financial Benchmark India Private Ltd (FBIL) (<https://www.fbil.org.in/>). For the historical exchange rates, which are not made available by FBIL, the reference rate published by Reserve Bank of India (RBI) and available on <https://www.rbi.org.in/scripts/ReferenceRateArchive.aspx> may be. In case a particular currency rate is not published by Reserve Bank of India, then the selling rate of such currency shall be taken from the following website: <http://www.oanda.com>.

For submitting information under Clause 2.2.4 [Financial

Capacity] or for reporting any other information where such conversion is required, the Bidder shall adhere to the following for conversion to the Reporting Currency:

- i. The equivalent amount in Reporting Currency shall be arrived at using the exchange rate as on 31st March of respective financial year, where the information for any of the past financial years is reported;
- ii. For data related to Liquidity, Annual Residual Contract Value and contracts signed in the current financial year or any other information specified in the AITB, the exchange rate prevalent as on the working day preceding the date of Invitation of Bids under this RFP shall be used to arrive at the at the Bid Currency equivalent.

1.5 Contents of the RFP

1.5.1

This RFP comprises the disclaimer set forth at the beginning of this document, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.13 [Amendment of RFP].

Part-I: Instructions to Bidders

Section 1. Introduction
Section 2. Bidding Criteria and Requirements
Section 2. A. General
Section 2. B. Documents
Section 2. C. Preparation and Submission of Bid
Section 2. D. Opening and Evaluation of Bid
Section 2. E. Bid Security
Section 3. Criteria for Evaluation
Section 4. Miscellaneous

Part-II: Appendix to Instruction to Bidder (AITB)

Section 5. Appendix to Instructions to Bidders (AITB)

Part-III: Bidding Forms and RFP Appendices

Appendix I: Technical Bid [along with the Forms]
Appendix II: Financial Bid
Appendix III: Bank Guarantee for Bid Security
Appendix IV: Power of Attorney for signing of Bid
Appendix V: Power of Attorney for Lead Member of JV
Appendix VI: Joint Bidding Agreement for Joint Venture
Appendix VII: Form of Performance Bank Guarantee
Appendix VIII: Format of LOA

Part-IV: Contract Form

Part-V: General Conditions of Contract (GCC)

Section 6: Definitions And Interpretation
Section 7: Scope of the Project
Section 8: Obligations of the Contractor
Section 9: Obligations of the authority
Section 10: Representations, Disclaimer and

Warranties

Section 11: Performance Security

Section 12: Handing Over of Site and Utilities Management

Section 13: Initiation Of Works, Design and Construction

Section 14: Quality Assurance and Supervision

Section 15: Completion Certificate

Section 16: Change of Scope

Section 17: Maintenance Obligations

Section 18: Defects Liability

Section 19: Authority's Engineer

Section 20: Payments

Section 21: Insurance

Section 22: Force Majeure and Termination

Section 23: Suspension of Contractor's Rights

Section 24: Termination

Section 25: Assignment and Charges

Section 26: Liability and Indemnity

Section 27: Dispute Resolution

Section 28: Miscellaneous

Part-VI: Special Conditions of Contract (SCC)

Section 29: Special Conditions of Contract

Part-VII: Schedules and EPC Agreement Appendices

Enclosures

Enclosure I: Project Information Memorandum provided by the Authority, if provided for in the AITB.

Unless obtained in a manner as specified under Clause 1.2.1(a), the Authority is not responsible for the completeness of the Bidding Documents, responses to requests for clarification, the minutes of the pre-Bid meeting (if any), or Addenda to the Bidding Documents in accordance with Clause 2.13 [Amendment of RFP]. In case of any contradiction, documents obtained directly from the Authority shall prevail.

SECTION-2 INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1 Scope of Bid

- 2.1.1** Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the EPC Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Agreement. Further, the statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Contractor set forth in the Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the work to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted, and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority. The definitions in the Conditions of Contract shall apply mutatis mutandis to the RFP.
- 2.1.2** The Technical Bid shall be furnished in the format exactly as per **Appendix-I** including Forms annexed to **Appendix-I**. The Financial Bid shall be furnished in the format exactly as per **Appendix-II**. Bid amount shall be indicated clearly in both figures and words, and in currency as specified in ITB Sub-Clause 2.16.4 in the prescribed format of the Financial Bid and it will be signed by the Bidder's authorised signatory. In case of any difference between figures and words, the amount indicated in words shall be considered. If the Bid Security is furnished in the form of Bank Guarantee, the same shall be furnished in the format as per **Appendix-III**.
- 2.1.3** The Bidder should submit a Power of Attorney as per the format at **Appendix-IV**, authorising the signatory of the Bid to commit the Bidder.
- 2.1.4** In case the Bidder is a Joint Venture, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at **Appendix-V** and Joint Bidding Agreement in the format at **Appendix-VI**.
- 2.1.5** Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.6** The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in language as specified in Clause 2.14 [Language].

- 2.1.7 Any award of Contract pursuant to this RFP shall be subject to the terms of Bidding Documents and fulfilling the criterion as mentioned in Clause 2.2 [Eligibility and qualification of Bidders].
- 2.2 Eligibility and qualification of Bidders
- 2.2.1 Only the prequalified bidders notified by Exim Bank (the “Bidders”) as specified in the AITB which are in compliance with the Applicable Guidelines as defined under the EPC Agreement, are eligible to participate in the bidding process. For determining the eligibility of Bidders, the following shall apply:
- a. The Bidder shall be an entity that has been notified as prequalified for award of the Contract by Exim Bank, and may be a single entity or any combination of them in the form of Joint Venture (the “Unincorporated Joint Venture” or “JV”)
- For avoidance of doubt, an entity shall be construed as a reference to any firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality).
- b. No Bidder or its Associates applying individually or as a member of an Unincorporated Joint Venture, as the case may be, can be a member of another Bidder either in individual capacity or as a member of another JV for the same Bid.
 - c. In case of an Unincorporated JV, the following shall apply:
 - i. The formation of a JV is permissible at Prequalification stage only and the JV which is prequalified shall be sustained for the entire bidding process. JV among prequalified EPC Contractors and non-prequalified EPC Contractors or any other entity is not allowed subsequent to prequalification stage.
 - ii. No change of JV Members or change in per cent (%) share in JV is allowed during the currency of the contract or the bidding process, with respect to the respective JV’s application for prequalification, preceding this bidding process, as duly evaluated and prequalified by Exim Bank save and except as provided for under Clause 2.3 [Change in composition of the Joint Venture]. In any case, the Lead member must continue to be the JV’s Lead member. Failure to meet this requirement would render the bid invalid.

- iii. The Lead Member (the “**Lead Member**”) of the JV shall be the one with the highest share in the JV which shall not be less than 51%. All the members of the JV must be an entity incorporated under the laws of India.
- iv. The Lead Partner shall have the authority to conduct all businesses for and on behalf of any and all the partners of the JV during the prequalification process, bidding process and, in the event the JV is awarded the Contract, during contract execution. All notices /correspondence with respect to the contract would be sent only to the Lead Member of the JV.
- v. Bids shall be submitted only in the name of the JV and not in the name of constituent member.
- vi. In the event of award of the contract to a JV, all the payments to the JV shall be made to the bank account of the JV and not to the account of individual member(s).
- vii. The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.
- viii. Wherever required, by the local laws of the Authority’s Country (the “**Authority’s Country**” as defined under the EPC Agreement), the Authority may mandate that during a specified stage in the execution of the Project, the members of the Unincorporated Joint Venture shall incorporate the Joint Venture. However, in such a case, the members shall submit a board resolution or such equivalent documentation certified by an authorized officer of the respective Bidders to be authentic confirming unqualified support (both with regard to manpower and infrastructure as well as financial resources) to the Joint Venture so incorporated. The joint venture so incorporated shall continue to remain jointly and severally liable to the Contract.
- ix. Any Bid from a JV shall indicate the part or section of the contract to be performed by each party which shall not be substantially altered without prior approval of the Authority.
- x. No member of the Joint Venture firm shall have the right to assign or transfer the interest right or liability in the contract without the written consent of the other members and that of the Authority in respect of the said bid/contract,
- xi. On award of contract to a JV, all the Guarantees like the Performance Guarantee, Advance Payment Guarantee etc. shall be accepted only in the name

of the JV. For avoidance of doubt, submission of multiple guarantees individually by the JV members, aggregating to the value of the guarantee required to be submitted, shall not be permitted.

The Bidder shall continue to meet the prequalification criteria throughout the bidding process. Failure to meet this requirement shall make the bid liable to be disqualified.

d. A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

i. the Bidder, its Member or any constituent thereof and any other Bidder, its Member or any constituent thereof have common Beneficial Owner, except where the Beneficial Owner is the Government of India. The Beneficial Owner shall mean:

a. Where the customer is a company, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical persons, has/have a controlling ownership interest or who exercise control through other means.

For the purpose of this sub-clause “Controlling ownership interest” means ownership of/entitlement to more than 10 percent of the shares or capital or profits of the company and “Control” shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.

b. Where the customer is a partnership firm, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has/have ownership of/entitlement to more than 10 percent of capital or profits of the partnership or who exercises control through other means. For the purpose of this sub-clause, “control” shall include the right to control the management or policy decision.

ii. a constituent of such Bidder is also a constituent of another Bidder.

iii. Participation by a bidder in more than one bid will result in the disqualification of all Bids in which such Bidder is involved. However, this does not limit the inclusion of the same subcontractor in more than one bid; or

- iv. such Bidder receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member thereof; or
 - v. such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
 - vi. such Bidder has a relationship with another Bidder, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or
 - vii. such Bidder has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.
- e. A Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder as per Clause 2.10.4.
- f. A Bidder shall be ineligible to be awarded a contract if it has a close business relationship or family relationship or in its employment any near relations (defined as first blood relations, and their spouses, of the Bidder or the Bidder's spouse) with Persons who are / would be:
- i. Involved in decision making in the Project at the Authority; or
 - ii. Directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract;
 - iii. Involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Authority throughout the bidding process and execution of the contract.
- g. A Bidder shall be ineligible to be awarded a contract if:
- i) it is currently under default on any loan to any Bank / Financial Institution (FI) in India and its account has been classified as Non-Performing Asset (NPA) as per Central Repository of Information on Large Credits (CRILC) database in India;
 - ii) its promoters/directors (excluding nominee directors and independent directors) appear in Credit Information Bureau India Ltd. (CIBIL) Defaulter List, Reserve Bank of India (RBI) Caution List or RBI Wilful Defaulter List (Suit filed as well as non-suit filed);

- iii) A bidder, its member or any constituent thereof has been admitted by the National Company Law Tribunal (NCLT) for initiating corporate insolvency resolution process under the Indian Bankruptcy Code (IBC); and / or

h. The Bidder or members of the JV shall not be:

- i) debarred by Exim Bank
- ii) blacklisted, debarred or suspended from bidding by any multilateral development bank (MDB), such as World Bank, Asian Development Bank, African Development Bank;
- iii) blacklisted, debarred or suspended from bidding by any Ministry / Authority of GOI or of the Ministry / Authority of the Government in Authority's Country.;
- iv) convicted or an offense under (i) the Prevention of Corruption Act, 1988, or (ii) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract, shall be ineligible to participate in the bidding process as applicable, during such period of time as the sanctioning authority shall have determined.
- v) In regard to matters other than security and integrity of the country, convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
- vi) In regard to matters relating to security and integrity of the country, facing any investigation or charge-sheeted by any agency of the Government of India or convicted by a Court of Law.

In case any of disqualification / ineligibility conditions becoming true post the evaluation process (i.e. including during bidding process and/or contract implementation phase), the Bidder shall immediately inform the Authority and Exim Bank of such disqualification / ineligibility conditions becoming true and reasons thereof. This may lead to cancellation of the Bid / contract, if awarded, at any later stage.

2.2.2 Bid Capacity

The Bidder undertakes that the Bidder continues to meet the “**Bid Capacity**” requirements and all other eligibility requirements evaluated during the Pre-qualification stage and that there is no material change in the capacity of the Bidder to execute the project.

2.2.3 Technical Capacity

- a. The Bidder undertakes that the Bidders continues to meet the “**Technical Capacity**” and all other eligibility requirements evaluated during the Pre-qualification and that there is no material change in the technical capabilities of the Bidder to execute the project.
- b. The Bidder shall additionally meet the Technical Capacity requirements **as specified in the AITB**

2.2.4 Financial Capacity

- a. The Bidder undertakes that the Bidders continues to meet the “**Financial Capacity**” and all other eligibility requirements evaluated during the Pre-qualification and that there is no material change in the financial capabilities of the Bidder to execute the project.
- b. The Bidder shall submit copies of audited Financial Statements for the last 5 Financial Years calculated from the year of Invitation of Bids under this RFP. The financial statements shall:
 - i. Reflect the financial situation of the Bidder or in case of JV for each member, and not an affiliated entity (such as parent company or group member).
 - ii. Be independently audited and certified by the Statutory Auditors.
 - iii. Be complete, including all notes to the financial statements
 - iv. Correspond to accounting periods already completed and audited.
 - v. Be certified by the Statutory Auditors duly signed and stamped

Provided that in case the Annual Accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall provide Provisional Results for the Latest Financial Year duly certified by the Statutory Auditor. In such a case, the Bidder shall also provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.

- c. In the event that the Auditor's Report contains any qualifications, exceptions, or adverse opinions, due to which the Authority is unable to determine the financial soundness of the Bidder to execute the Project based on such qualifications, exceptions, or adverse opinions, the Bidder is liable to be disqualified on the ground for not meeting the Financial Capacity. Any disqualification resulting from such qualifications shall be at the sole discretion of the Authority and the decision thereof shall be final and binding.
- d. The Bidder shall additionally meet the Financial Capacity requirements **as specified in the AITB**.

2.2.5 Other Eligibility Conditions

The Bidder shall additionally meet Other Eligibility Conditions **as specified in the AITB**.

- 2.2.6 In case of the Bidder being an Unincorporated Joint Venture, the requirements **as specified in the AITB** shall be applicable for meeting the requirements under Clause 2.2.3, 2.2.3, 2.2.4 and 2.2.5
- 2.2.7 The Bid information and eligibility conditions sought in accordance with ITB 2.2 shall be based on the information submitted by the Bidder as per **Appendix-I** (including the Forms annexed to **Appendix-I**)
- 2.2.8 The Bidder shall submit a copy of Power of Attorney as per the format at **Appendix-IV**, in favour of the person duly authorized to sign on behalf of the Bidder, through an appropriate board resolution or such equivalent documentation certified by an authorized officer of the Bidder to be authentic. Certified copy of such board resolution or such equivalent documentation shall be submitted along with the Bid. In case the Bidder is an Unincorporated JV, each member of the JV shall submit a copy of the Power of Attorney as per the format at **Appendix-IV** along with a certified copy of relevant board resolution or such equivalent documentation and the lead member shall also submit a copy of Power of Attorney as per format at **Appendix-V** along with a copy of relevant board resolution or such equivalent documentation certified the person authorized in **Appendix-IV**.
- 2.2.9 In case the Bidder is an Unincorporated Joint Venture, it shall continue to comply with the requirements of the Bid and as mentioned below:
- a) The maximum number of members including the lead member shall not exceed 2 (two).
 - b) The Lead Member shall itself undertake and execute at least the percentage of the contract by value in accordance with GCC Clause 8.2.2, without sub-contracting.
 - c) The sub-contractors can be appointed by the JV/bidder.
 - d) The members of the Unincorporated Joint Venture shall have entered into a binding Joint Bidding Agreement substantially in the form specified at **Appendix-VI** (the "**Jt. Bidding Agreement**"), for the purpose of making the Bid and submitting a Bid. The Jt. Bidding Agreement, to be submitted along with the Bid, shall, *inter alia*:
 - i. convey the commitment(s) of all the members that the overall project management and coordination shall be carried out exclusively by the Lead Member.
 - ii. convey the commitment(s) of the Lead Member in accordance with this RFP, in case the contract to undertake the Project is awarded to the Joint Venture;
 - iii. clearly outline the proposed roles and responsibilities, if any, of each member of the JV;

- iv. include a statement to the effect that all members of the Joint Venture shall be liable jointly and severally for all obligations of the Contractor in relation to the Project until the completion of the Project is achieved in accordance with the EPC Agreement. For avoidance of doubt, the completion of project shall mean the end of maintenance period.
- v. shall include an undertaking to the effect that the members of the JV shall be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the EPC Contract, till such time as the final completion of the Project is achieved in accordance with the EPC Contract.
- vi. Shall in all respect be governed by and interpreted in accordance with Indian Laws.

e) there shall not be any amendment to the Jt. Bidding Agreement after it is submitted during the Prequalification or as a part of Bid.

2.2.10 (a) The Bidder shall be an Indian entity. For the purpose of this Clause, a Bidder shall be deemed to be Indian if the Bidder is registered in India and/or incorporated/established under any law in force in India, as evidenced by its articles of incorporation and its registration documents, as the case may be. Additional requirements, if any, shall be **as specified in the AITB.**

(b) The Bidder (In case of JV, applicable to each Member) shall adhere to the Applicable Guidelines in accordance with the EPC Agreement, including the IDEAS Guidelines, interalia including the requirement of meeting minimum percent (%) Indian Content as defined under the EPC Agreement.

(c) The Bidder shall be eligible with respect to the provisions contained in Public Procurement Orders No. 1 & No. 2 dated July 23, 2020 Public Procurement Order No. 3 dated July 24, 2020, and Public Procurement Order No.4 dated February 23, 2023, issued by the Public Procurement Division of the Department of Expenditure, Ministry of Finance, Government of India or any other Procurement Guidelines as maybe issued by the Government of India. The Bidder shall furnish such satisfactory evidence of eligibility as the Authority may reasonable request.

(d) Any entity from a country which shares a land border with India (except to which the Government of India has extended lines of Credit or in which the Government of India is engaged in development projects) will be eligible to bid only if the entity

is registered with the Competent Authority as prescribed by the Department of Promotion of Industry & Internal Trade (DPIIT), Government of India, and subject to provisions contained in Clause 2.2.10(e). An entity from a country which shares a land border with India means:

- a. An entity incorporated, established or registered in such a country; or
- b. A subsidiary of an entity incorporated, established or registered in such a country; or
- c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
- d. An entity whose beneficial owner is situated in such a country; or
- e. An Indian (or other) agent of such an entity; or
- f. A natural person who is a citizen of such a country; or
- g. A Joint Venture where any member of the consortium or joint venture falls under any of the above.

the eligibility conditions under this clause 2.2.10(c) and 2.2.10(d) shall apply Mutatis mutandis to the sub-contractors or subconsultants (if any) selected by the Selected Bidder.

(e) The following provisions shall also apply to the Bidder:

- a) Where, on the date of the Bid, not less than 50% (fifty percent) of the aggregate issued, subscribed and paid-up equity share capital in a Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India;
- b) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 50% (fifty percent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its Member;

then the Qualification of such a Bidder as described in Clause (a) or in the event described in Clause (b) above, shall be subject to approval of the Competent Authority of the Government of India. The decision of the Government of India in this regard shall be final and conclusive and binding on the Bidder.

2.3 Change in composition of the Joint Venture

2.3.1

Change in the composition of an Unincorporated Joint Venture will not be permitted by the Authority at any stage. Any such JV, if selected shall sustain the composition for the entire execution of the Project. However, only under exceptional and unavoidable circumstances the Authority may, at its sole discretion, permit such change in accordance with the provisions of the EPC Agreement.

2.4 Multiple

2.4.1

No Bidder shall submit more than one Bid for the Project. A

Bids and Alternative Bids not permitted		Bidder applying individually or as a member of a Joint Venture shall not be entitled to submit another Bid either individually or as a member of any Joint Venture, as the case may be. Alternate Bids are not permitted.
2.5 Proprietary Data	2.5.1	All documents and other information supplied by the Authority or submitted by a Bidder to the Authority shall remain or become the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause shall also apply <i>mutatis mutandis</i> to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid, document or any information provided along therewith.
2.6 Cost of Bidding	2.6.1	The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.
2.7 Pre-Bid Meeting, Site visit and verification of information	2.7.1	<p>(a) Bidders are advised to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, access, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them. Bidders are advised to visit the site and familiarize themselves with the Project within the stipulated time of submission of the Bid. The costs of such Site Visit shall be at the Bidder's own expense.</p> <p>(b) The Bidder and any of its personnel or agents will be granted permission by the Authority to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents shall release and indemnify the Authority and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.</p> <p>(c) A Pre-Bid Meeting shall be convened, at the designated date, time and place as specified in the AITB. A maximum of two representatives of each prospective Bidder shall be allowed to participate upon production of authority letter from the Bidder.</p>

(d) At least 7 days prior to such Pre-Bid Meeting, the Bidder shall submit in writing through the means as specified under Clause 2.11.1 to the Authority, the clarifications to be sought by them. The Authority reserves the right to deny providing clarifications and submission of such request for clarifications shall however not bind the Authority with the obligation to respond to same.

(e) During the course of Pre-Bid Meeting, the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

(f) Minutes of the pre-bid meeting, if applicable, including the text of the questions asked by Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly in manner as specified under ITB 2.11 [Correspondence with Authority] to all Bidders who have acquired the Bidding Documents in accordance with ITB 1.2.1. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the Authority exclusively through the issue of an Addendum pursuant to ITB 2.13 and not through the minutes of the pre-bid meeting.

(g) Attendance of Pre-Bid Meeting and Site Visit is not mandatory.

2.8 Acknowledgement by Bidder

2.8.1

It shall be deemed that by submitting the Bid, the Bidder has:

- a) made a complete and careful examination of the Bidding Documents including the Conditions of Contract, and Schedules annexed to the EPC Agreement ;
- b) received all relevant information requested from the Authority;
- c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to the RFP. No claim shall be admissible at any stage on this account.
- d) satisfied itself about all matters, things and information including matters referred to in the RFP for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
- e) acknowledged and agreed that inadequacy, lack of completeness, incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in the RFP shall not be a basis for

any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the EPC Agreement by the Contractor;

- f) acknowledged that it does not have a Conflict of Interest; and
- g) agreed to be bound by the undertakings provided by it under and in terms hereof.

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

2.9 Rejection of Bids

2.9.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to reject any or all Bids and/or to annul the Bidding Process, at any time without any liability or any obligation for such acceptance, rejection or annulment and without assigning any reason thereof. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite fresh Bids hereunder.

2.9.2 The Authority reserves the right to reject any Bid if any misrepresentation is made or uncovered.

2.10 Verification and Disqualification

2.10.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP, including cross checking of the completion certificates/testimonials with the Project Authorities issuing such certificates. And the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

2.10.2 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:

- a) at any time, a material misrepresentation is made or uncovered,
- b) The Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Joint Venture, then the entire Joint Venture and each Member of the Joint Venture shall be disqualified/rejected.

- 2.10.3** In case it is found during the evaluation or at any time before signing of the EPC Agreement or during its execution or after its execution and during the period of defects liability or maintenance period thereof, that one or more of the eligibility and /or qualification requirements have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the contractor either by issue of the LOA or entering into of the Contract, and if the Selected Bidder has already been issued the LOA or has entered into the Contract, 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 to the Bidder/Selected Bidder or the Contractor, as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or the Contractor. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and / or the EPC Contract, or otherwise. If the Agreement is terminated after the signing of the Agreement, the same shall be treated as Contractor's Default.
- 2.10.4** A Bidder shall be liable for disqualification and forfeiture of Bid Security, if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the EPC Agreement. In the event any such adviser is engaged by the selected Bidder or Contractor, as the case may be, after issue of the LOA or execution of the EPC Agreement for matters related or incidental to the project, then notwithstanding anything to the contrary contained herein or in the LOA or the EPC Agreement and without Prejudice to any other right or remedy or the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have thereunder or otherwise, the LOA or the EPC Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Contractor for the same. For the avoidance or doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFP. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

- 2.10.5** The Bidder shall be liable for disqualification if it is discovered that it has made misleading or false representations in the forms, statements, affidavits, and attachments submitted as a part of the Bid.
- 2.10.6** For the purpose of this ITB 2.10, if the Bidder is a Joint Venture, then the entire Joint Venture and each Member of the Joint Venture shall be disqualified.

B. DOCUMENTS

- | | |
|---|--|
| 2.11
Correspondence
with the
Authority | 2.11.1 Details of the Authority and the mode of communication for the purpose of Communication, Clarification and Bid Submission and Bid Opening are as specified in the AITB . |
| 2.12
Clarifications | <p>2.12.1 Bidders requiring any clarification on the RFP may notify the Authority in accordance with Clause 2.11 [Correspondence with the Authority] and shall clearly bear the identification/title of the project. The Bidders should send the queries before the date specified in the schedule of Bidding Process contained in ITB 1.3 [Schedule of Bidding Process]. The Authority shall endeavour to respond to the queries at the earliest. The Authority shall issue copies of its response to all Bidders who have acquired the Bidding Documents in manner as specified under ITB Sub-Clause 2.2.1(a), including a description of the inquiry but without identifying its source. Should the clarification result in changes to the essential elements of the Bidding Documents, the Authority shall amend the Bidding Documents following the procedure under Clause 2.13 [Amendment of RFP].</p> <p>2.12.2 The Authority shall endeavour to respond to the queries raised or clarifications sought by the Bidders and provide such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive RFP Process. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.</p> <p>2.12.3 The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.</p> |
| 2.13 Amendment | 2.13.1 At any time prior to the Bid Due Date, the Authority may, for |

of RFP

any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda including extension of Bid Due Date.

- 2.13.2 The addendum shall be issued in the same manner as specified under 1.2.1 (a). Any Addendum thus issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents from the Authority.
- 2.13.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Bid Due Date by issuing an amendment in the RFP.

C. PREPARATION AND SUBMISSION OF BID

- 2.14 Language 2.14.1 The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Bid may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by a translator. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.
- 2.15 Preparation and Signing of Bid 2.15.1 The Bidder shall adhere to the following requirements: The Technical Bid and the Financial Bid shall be submitted in 2 separate envelopes. The envelopes shall:
- a) Be clearly marked as **“TECHNICAL BID”** or **“FINANCIAL BID”**, as the case maybe.
 - b) Bear the Name of the Project
 - c) Bear the specific identification of this bidding process as specified in Clause 1.1 [Background].
 - d) Bear the name and address of the Bidder;
 - e) Be addressed to the Authority in accordance with Clause 2.11 [Correspondence with Authority];
 - f) Indicate Bid Due date on the right hand top corner of the envelop; and
 - g) Bear a warning not to open before the time and date for bid opening.
 - h) For Both Technical and Financial bid, the Bidder shall prepare one original of the documents, with soft copy in a flash drive, comprising the bid and clearly mark it **“ORIGINAL.”** In addition, the Bidder shall submit the number of copies of the bid, as **specified in the AITB** and clearly mark them **“COPY.”** In the event of any discrepancy between the original, copies and the flash drive, the original shall prevail. The sealed

envelopes containing the original and the copies shall then be enclosed in one single envelope.

- i) The sealed envelopes containing the Technical and Financial Bids shall be placed into one outer envelope and securely sealed in such a manner that opening and resealing cannot be achieved undetected. This outer envelope shall bear the details as specified above from sub-clause 2.15.1 (b) to (h).
- j) If all envelopes are not sealed and marked as required above, the Authority will assume no responsibility for the misplacement or premature opening of the contents of the Bid and consequent losses, if any, suffered by the Bidder. This sub-clause shall apply *mutatis mutandis* to ITB 2.16.5.
- k) Provided that in the event the bid submission procedure is electronic as specified under Clause 2.19.2, sub-clause 2.15.1 (a) to (i) pertaining to submission of hardcopy of the Bids shall not be applicable.
- l) Without prejudice to the above, the original and all copies of the bid shall be typed or written in indelible blue ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. The name and position held by each person signing the authorization must be typed or printed below the signature. All the inter-lineation, over-writing, alterations, omissions, additions or any other amendments made to the Bid shall be signed or initialed by the person(s) signing the Bid.
- m) In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- n) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information.
- o) All the pages shall be machine numbered and a table of contents shall be included in the beginning of each volume of documents referring the page numbers of the indexed items;**
- p) Information supplied by the Bidder (or other constituent Member if the Bidder is a Joint Venture) must apply to the Bidder /Member named in the Bid.

In the event the procedure for Bid submission procedure is electronic / online as specified under this Clause 2.19.2, additional requirements maybe applicable **as specified in the AITB.**

2.15.2 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are

received as per the manner specified under Clause 2.19.2 [Preparation and Submission of Bids] in the required formats and complete in all respects and Bid Security, payment of Bid Processing Fees, POA and Joint Bidding Agreement, etc. in accordance with Clause 2.16.5 are received in hard copies. Incomplete and/or conditional Bids shall be liable to rejection.

2.16 Documents comprising Technical and Financial Bid

2.16.1 2.16.1.1 The Bidder shall submit all the details as required in this RFP for technical eligibility and technical qualification. The Bidder shall ensure that all the details are updated as on the date of submission of this bid.

2.16.1.2 All financial information in the Bid are required to be in currency in accordance with Clause 1.4 [Reporting Currency]. The Financial Bid shall be in the Bid Currency in accordance with Clause 1.4 [Reporting Currency and Conversion].

2.16.2 The Bidder shall apply for the RFP as specified in ITB 2.19.2 [Preparation and Submission of Bid] by submitting the documents mentioned below along with the supporting documents which shall comprise of the Technical Bid.

2.16.3 Technical Bid

1. Letter comprising the Technical Bid as per format at **Appendix-I** including applicable **Forms** and supporting certificates and other information supporting the information in Form I to VI
2. Evidence of payment of the document fee, if applicable in accordance with Clause 1.2.4(a);
3. Bid Security in accordance with Clause 1.2.4(b) in the format at **Appendix-III**;
4. Power of Attorney for signing the Bid as per the format at **Appendix-IV**;
5. If applicable, Power of Attorney by each member of JV as per the format at **Appendix-IV**
6. if applicable, Power of Attorney for Lead Member of Joint Venture as per the format at **Appendix-V**;
7. if applicable, Joint Bidding Agreement for Joint Venture as per the format at **Appendix-VI**;
8. Copy of Memorandum and Articles of Association, if the Bidder is a body corporate, and if a partnership then a copy of its partnership deed;
9. Copies of duly audited complete annual accounts of the Bidder or of each member (in case of Joint Venture) for preceding 5 years; and

10. Any other document as specified in the AITB

2.16.4 Financial Bid

Letter comprising the Financial Bid as per format at **Appendix-II**. The Bid price submitted by the Bidder should be exclusive of any kind of taxes and duties of any nature levied in the Authority's Country in accordance with the IDEAS Guidelines as defined under the EPC Agreement. The Currency of the Financial Bid shall be **as specified in the AITB**.

2.16.5 Without prejudice to the manner of Submission of Bids defined under Clause 2.19.2 [Preparation and Submission of Bid], the Bidder shall submit the following documents physically at the address in accordance with Clause 2.11 [Address for Communication, Clarification and Bid Submission]:

- a. Original Power of Attorney for signing (POA) the Bid as per format at **Appendix-IV**;
- b. If applicable, Power of Attorney by each member of JV as per the format at **Appendix-IV**
- c. if applicable, Original Power of Attorney for Lead Member of Joint Venture as per the format at **Appendix-V**;
- d. if applicable, Original Joint Bidding Agreement for Joint Venture as per the format at **Appendix-VI**;
- e. Bid Security in the form of Original Bank Guarantee in the format at **Appendix-III**, in accordance with ITB 1.2.4(b) and ITB 1.2.7, or in any other form in accordance with the provisions of this RFP;
- f. Evidence of payment for Bid Document Fees, if applicable in accordance with Clause 1.2.4(a).

Above documents shall be submitted in an envelope which shall be securely sealed in such a manner that opening and resealing cannot be achieved undetected and clearly bear the details as specified under Clause 2.15.1 (b) to 2.15.1 (g).

2.16.6 Bids submitted in any other manner as specified under ITB 2.19.2 [Preparation and Submission of Bid] shall not be entertained and shall be rejected.

2.16.7 Bid Prices and Discounts

The prices and discounts quoted by the Bidder in the Letter of Financial Bid shall conform to the requirements specified below.

- (a) The price to be quoted in the Letter of Financial Bid, in accordance with ITB 12.1, shall be the total price of the Bid, excluding any discounts offered.
- (b) The Bidder shall quote the discounts, if any, and the methodology for their application in the Letter of

Financial Bid. In the event bids are invited for multiple lots, the Bidder shall specify in their bid the discounts as may be applicable to each lot, or alternatively, to individual Contracts within the lot. Provided that only unconditional discounts shall be considered for the purpose of evaluation. Any conditional discount shall not be considered for evaluation of the Financial Bid.

2.17 Bid Due Date	2.17.1	Bids must be received by the Authority no later than the date and time in accordance with Clause 1.3.
	2.17.2	b) The Authority may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with Clause 2.13, in which case all rights and obligations of the Authority and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended uniformly for all Bidders.
2.18 Late Bids	2.18.1	Bids received by the Authority after the specified time on or after the Bid Due Date shall not be eligible for consideration, shall be summarily rejected and returned unopened to the Bidder.
2.19 Procedure for Tendering	2.19.1	The procedure for accessing / purchasing of RFP documents shall be in accordance with ITB Sub-Clause 1.2.1(a). Whatsoever procedure is adopted under this ITB, the Authority shall obtain valid evidence of receipt of Bidding Documents from the Prequalified Bidders.
	2.19.2	<p>Preparation & Submission of Bid</p> <p>The Bid shall be submitted to Authority in a manner as specified in the AITB. If nothing is specified in the AITB, the Bid Submission shall be offline.</p> <p>In the event that the manner of Bid submission is offline, the Bidder shall prepare and submit bids in accordance with Clause 2.15 [Format, Preparation and Signing of Bid] and to the address as specified under Clause 2.11 [Correspondence with Authority. Any specific procedure for submission of electronic/online bid, if permitted, shall be as specified in the AITB.</p>
	2.19.3	<p>Modifications/ Substitution/ Withdrawal of Bids</p> <p>(a) Prior to the Bid Due Date, a Bidder may modify, substitute or withdraw its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization by the Authorised Signatory. The corresponding substitution or modification of the bid must accompany the respective written notice received by the Authority prior to the deadline prescribed for submission of bids. The respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION";". The Bids requested to be withdrawn shall be returned unopened to the Bidders.</p>

However, in the event the Bid submission Procedure is electronic/online, the Modifications/ Substitution/ withdrawal of Bids shall be in a manner **as specified in AITB**. No bid can be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.

D. OPENING AND EVALUATION OF BID

2.20 Opening of Technical Bids

- 2.20.1** Except in the cases specified in ITB 2.19.3, the Authority shall publicly open and read out all bids received by the Bid Due Date, at the date, time and place in accordance with Clause 1.3 [Schedule of Process] and 2.11.1, in the presence of Bidders' designated representatives who choose to attend.
- (a) First, envelopes marked "**WITHDRAWAL**" shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening.
 - (b) Next, envelopes marked "**SUBSTITUTION**" shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening.
 - (c) Envelopes marked "**MODIFICATION**" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only bids that are opened and read out at bid opening shall be considered for evaluation.
 - (d) Subsequently all other Bids shall be opened one at a time,

For every Bid that is opened, the Authority shall publicly read out the name of the Bidder and whether there is a modification; the presence or absence of a bid security, and any other details as the Authority may consider appropriate.

However, in the event the Bid submission Procedure is electronic/online, the manner of bid opening shall be **as specified in the AITB**, the bids of only those bidders shall be opened whose documents have been received physically in accordance with ITB Sub-Clause 2.16.5.

The Authority shall prepare minutes of the Bid opening, including information disclosed to those present at the time of Bid opening.

The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

2.20.2 The Authority will subsequently examine and evaluate Bids in accordance with the provisions set out in Section 3 of RFP.

2.20.3 Bidders are advised that the Bidding Process will be entirely at the discretion of the Authority. Notwithstanding anything contained in this RFP, the Authority reserves the right to accept any bid, and to or reject any or all Bid, and to annul the RFP process at any time, without thereby incurring any liability to the Bidders.

2.20.4 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.

2.20.5 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bids without assigning any reasons.

2.20.6 If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant information from evaluation.

2.21 Opening of Financial Bids

2.21.1 The Financial Bids of only the Technically Qualified Bidders in accordance with Clause 3.4 shall be opened. The financial Bid of the Bidders declared as disqualified in Quality Scoring as under ITB Sub-Clause 3.4.2(b) shall be returned unopened or shall not be opened in case of electronic/online bid submission as the case maybe.

2.21.2 The Authority shall inform the venue and time of opening of the Financial Bids to the Technically Qualified Bidders. The Authority shall open the Financial Bids of the Technically Qualified Bidders only on the scheduled date and time in the presence of the authorized representatives of the Bidders who may choose to attend. If the bidder is required to submit separate financial bids for multiple lots/packages, the financial bid shall be opened lot/package wise;

The Authority shall publicly announce the Bid Prices quoted by the Technically Qualified Bidders. If the bidder is required to quote for multiple lot/package in the single financial bid,

the bid price for each lot/package as submitted by bidder, including the discount shall be read out. Only discounts read out during the time of financial bid opening shall be considered for Evaluation.

2.21.3 The Letter of Financial Bid of each Bidder is to be initialed by the representatives of the Authority attending the Financial Bid opening. The Authority shall neither discuss the merits of any bid or reject any bid. Thereafter, the Authority shall prepare a record of opening of Financial Bids.

2.22 Validity of Bids

2.22.1 The Bids shall be valid for a period of not less than the days as specified in the AITB from the Bid Due Date ("Bid Validity"). If required, the Authority may request the Bidders to extend their validity of Bids provided that the request and the responses shall be made in writing.

If a bid security is requested in accordance with Clause 1.2.4(b), it shall also be extended for the corresponding period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its bid.

2.23 Confidentiality

2.23.1 (a) Information relating to the evaluation of bids and recommendation of contract award shall not be disclosed to Bidders or any other persons who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to, or matters arising out of, or concerning the Bidding Process until information on Contract award is communicated to all Bidders.

(b) Any attempt by a Bidder to influence the Authority in the evaluation of the bids or Contract award decisions may result in the rejection of its bid.

(c) The Authority will treat all information, submitted as part of Bid, in confidence and will 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 is 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 Correspondence with the Bidder

2.24.1 Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid. However, the Authority would communicate the result of technical evaluation to all the Bidders.

Notwithstanding the above, from the time of bid opening to the time of Contract award, if a Bidder wishes to contact the Authority on any matter related to the bidding process, it

shall do so in writing.

E. BID SECURITY AND PERFORMANCE GUARANTEE

2.25 Bid Security

- 2.25.1** The Bidder shall furnish as part of its Bid, a Bid Security for the amount and currency in accordance with ITB Sub-Clause 1.2.4(b) in the form of Bank Guarantee in accordance with ITB Sub-Clause 1.2.7 and in the format at **Appendix-III** (the “**Bank Guarantee**”). The bid Security shall be valid for a period as specified under ITB Sub-Clause 1.2.4(b) . In case of a JV, the Bid security shall be in the name of the JV that submits the bid.
- 2.25.2** Any Bid not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive.
- 2.25.3** The Selected Bidder’s Bid Security will be returned, without any interest, upon the Bidder signing the EPC Agreement and furnishing the Works Performance Security.
- 2.25.4** The Authority shall be entitled to forfeit and appropriate the Bid Security as Damages inter alia in any of the events specified in Clause 2.25.5 hereinbelow. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.25.5** The Bid Security shall be forfeited and appropriated by the Authority as damages payable to the Authority for, inter-alia, time cost and effort of the Authority without prejudice to any other right or remedy that may be available to the Authority under the bidding documents and / or under the EPC Agreement, or otherwise, under the following conditions:
1. If a Bidder engages in a corrupt practice, fraudulent practice, anti-competitive practice, coercive practice, undesirable practice, restrictive practice, or obstructive practice as specified in Section 4 of this RFP;
 2. If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
 3. In the case of Selected Bidder, if it fails within the specified/extended time limit by Authority –
 - (i) To sign and return the duplicate copy of LOA;

- (ii) To furnish the Works Performance Security as per Clause 2.26 [Works Performance Security]; or
- (iii) To sign the EPC Agreement; or
- (iv) To accept arithmetical corrections.

2.26 Works Performance Security

- 2.26.1** (a) Within 30 (thirty) days of receipt of Letter of Award, the selected Bidder shall furnish to the Authority an irrevocable and unconditional guarantee from a Bank in accordance with ITB Sub-Clause 1.2.7 and as per the format at in **RFP Appendix-VII** (the “**Works Performance Security Performance Bank Guarantee**”) for an amount as prescribed in the EPC Agreement.
- (b) The Authority reserves the right to seek clarifications on the Bid Price and detailed price analyses for any or all items of the Bill of Quantities.
- 2.26.2** The Works Performance Security shall be valid for a period in accordance with the EPC Agreement.
- 2.26.3** The Selected Bidder shall provide Works Performance Security, before signing of the EPC Agreement and in any case within 30 days of date of LOA.
- 2.26.4** In the event the Selected Bidder fails to provide the Works Performance Security, as prescribed herein, as per the provisions of ITB Sub-Clause 2.26.3, the award shall be considered to be withdrawn. In such case the Authority reserves the right to award the Contract to the next lowest evaluated and technically qualified Bidder.
- 2.26.5** For avoidance of any doubt, in case of failure of submission of Works Performance Security within the period of 30 days (thirty days) of date of LOA, the award shall be deemed to be cancelled/ withdrawn and the Bid Security shall be encashed and the proceeds thereof appropriated by the Authority. Thereupon all rights, privileges, claims and entitlements of the Contractor under or arising out of the Award shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor, and the Award shall be deemed to have been withdrawn by the Authority.
- 2.26.6** The EPC Agreement will be executed within 10 days of receipt of Works Performance Security.

SECTION-3 CRITERIA FOR EVALUATION

3.1 Evaluation of Technical Bids

- 3.1.1** (a) The Authority shall open the Bids at the date and time in accordance with Clause 1.3 [Schedule of Bidding Process], at the place specified in Clause 2.11 [Correspondence with Authority], and in the presence of the Bidders who choose to attend.
- (b) For those Bidders whose Bids are opened in accordance with Clause 2.20 [Opening of Technical Bid], the Authority will determine if the Technical Bid is responsive, in accordance with Clause 3.2 [Tests of Responsiveness] ("**Technically Responsive Bid**") [Ref Clause 3.2 [Tests of Responsiveness]].
- (c) For the Technically Responsive Bids, the Authority will scrutinize and evaluate the Bids on Pass-Fail basis. The Technically Responsive Bids meeting the terms and conditions stipulated in the RFP and meeting the requirements under Clause 2.2 [Eligibility and Qualification of Bidders], shall be declared as "**Technically Eligible**" [Ref Clause 3.3 [Technical Eligibility]].
- (d) The Quality Scoring of the technically Eligible Bidders shall be as undertaken as per the criteria and manner in accordance with Clause 3.4 [Technical Qualification] to identify the "**Technically Qualified Bidders**" [Ref Clause 3.4 Quality Scoring and Technical Qualification].
- (e) The Financial Bids of the Technically Qualified Bidders would be opened for further scrutiny, and evaluation for identification of the "**Selected Bidder**" in accordance with ITB Sub-Clause 3.7.1.
- 3.1.2** If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant information for consideration of eligibility and qualification of the Bidder.
- 3.1.3** To facilitate evaluation of Technical Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid. 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. The bids will be examined and evaluated in accordance with the provisions set out in this Section 3. The Authority will subsequently flag issues, if any, with the information provided by the Bidders. Additionally, the Authority may, at its sole discretion, waive any minor issues such as missing pages/ attachment or illegibility in a submitted document, provided that they do not constitute any material deviation. Such 'minor' issues may be conveyed to the Bidder, with a request to the Bidder to confirm and rectify the issue.

3.1.4 If a Bidder does not provide clarifications sought under Clause 3.1.3 above within the prescribed time, its Bid is liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

3.2 Tests of Responsiveness

3.2.1 As a first step towards evaluation of Technical Bids, the Authority shall determine whether each Technical Bid is responsive to the requirements of this RFP. A Technical Bid shall be considered responsive only if:

- (a) It is received in the manner specified in ITB 2.19.2 as per the format at **Appendix-I** - including applicable Form;
- (b) It is received by the Bid Due Date including any extension thereof;
- (c) It is signed and submitted as stipulated in Clause 2.15 [Preparation and Signing of Bid] and ITB 2.16 Clause [Documents comprising Technical and Financial Bid];
- (d) Documents listed at ITB Sub-Clause 2.16.5 are received physically on the address as specified in Clause 2.11 [Correspondence with Authority];
- (e) It is accompanied by the Bid Security in accordance with ITB Sub-Clause 1.2.4(b) and Sub-Clause 1.2.7;
- (f) It is accompanied by Power of Attorney for Lead Member of Joint Venture and the Joint Bidding Agreement as specified in ITB Sub-Clause 2.1.4, if so required;
- (g) It contains all the information and documents (complete in all respects) and in formats as requested in this RFP;
- (h) It contains certificates from its auditors in the formats specified in the RFP.
- (i) It does not contain any condition or qualification; and
- (j) Evidence of payment of fees in accordance with ITB Sub-Clause 1.2.4(a)
- (k) Meets the requirement of the Bidding Documents without material deviation, reservation or omission:

For the purpose of this clause, the following definitions shall apply:

During the evaluation of bids, the following definitions apply:

- (a) **“Deviation”** is a departure from the requirements specified in the Bidding Documents;
- (b) **“Reservation”** is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and
- (c) **“Omission”** is the failure to submit part or all of the information or documentation required in the Bidding Documents.

3.2.2 The Authority reserves the right to reject any Technical Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid.

3.3 Technical Eligibility

3.3.1 For the Technically Responsive Bidders, the Technical Eligibility of the Bidders shall be evaluated as per the requirements stipulated in Clause 2.2 [Eligibility and Qualifications of the Bidders] and other terms and conditions of eligibility as determined in Section 1 [Introduction] and Section 2 [Bidding Criteria and Requirements] of the RFP.

3.3.2 During the technical evaluation and anytime after that the Authority shall have the right to get the Bid security verified from the issuing Bank or Financial Institution, at the discretion of the Authority.

3.3.3 The evaluation of the Bidder’s qualification under Technical Eligibility shall be on Pass/Fail basis.

3.3.4 The Bidders meeting the eligibility conditions in accordance with ITB Sub-Clause 3.3.1 and 3.3.4 shall be adjudged as **“Technically Eligible”**.

3.4 Technical Qualification

3.4.1 , f Quality Scoring is applicable **as specified in the AITB**, then for ascertaining the Technical Qualification, the Technically Eligible Bidders shall be assigned Quality Score by the Authority. **“Quality Score”** for the purpose of this Clause shall mean the evaluation score assigned by the Authority against the parameters as **specified in the AITB**. Decision of the Authority regarding assigning Quality Score shall be final.

For avoidance of doubt, the Quality Scoring shall be done by the Authority only for the Technically Eligible Bidders. The Bidder shall submit information required for the purpose of Quality scoring as per format in **Form-X of Appendix-I**.

3.4.2 (a) The Technically Eligible Bidder shall be declared as Technically Qualified in the Quality Scoring (**“Technically Qualified Bidders”**) on scoring a minimum score **as specified in the AITB**.

(b) For avoidance of doubt, if the Bidder fails to score minimum score under ITB Sub-Clause 3.4.2(a), the Bidder will be declared **Technically Disqualified in Quality Scoring**.

If Quality Scoring is not applicable in accordance with Clause 3.4.1, the “Technically Eligible” bidders shall be adjudged “Technically Qualified Bidders”.

3.5 Evaluation of Financial Bids

- 3.5.1** Subject to compliance with Clause 2.16.4 , the Authority shall evaluate the Financial Bid for the Technically Qualified Bidders on the parameters and Methodologies as below:
- (a) the Bid price;
 - (b) Price Adjustments due to discounts offered;
 - (c) Price adjustment for correction of arithmetic errors in accordance with ITB Sub-Clause 3.6.1.

Provided that if the lowest evaluated Bid is abnormally low (the “**Abnormally Low Bid**”), the Authority may seek written clarifications from the Bidder to produce detailed price analyses in relation to any or all items of the Bill of Quantities, scope, allocation of risk and responsibility or any other requirement, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed by the Bidder. If, after evaluation of the price analyses, the Authority determines that the Bidder has substantially failed to demonstrate it’s capability to deliver the Contract at the offered price , the Authority may reject the Bid.

For the purpose of this clause, Abnormally Low Bid means the bid in which the Bid price, in combination with other elements of the Bid, appears so low that it raises material concerns as to the capability of the Bidder to perform the contract at the offered price.

- 3.5.2** The estimated effect of the price adjustment provisions under the EPC Agreement, if any, applied over the period of execution of the Contract, shall not be taken into account in ascertaining the Financial Bid.

3.6 Correction of Arithmetical Errors

- 3.6.1** The Authority shall correct arithmetical errors in the Financial Bids on the following basis:

- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Authority, there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

Bidders shall be requested to accept correction of arithmetical errors, if any. Failure to accept the correction in accordance with above Clause, shall result in the rejection of the Bid.

3.7 Selected Bidder

3.7.1 Amongst such Technically Qualified Bidders, the Bidder whose evaluated bid price is the lowest shall be declared as the selected Bidder (the “**Selected Bidder**”).

For avoidance of doubt, the Selected Bidder shall be the Bidder whose Bid meets the terms and conditions of this RFP, and whose Bid has been determined to be:

- (a) Technically Responsive to the RFP;
- (b) Technically Eligible
- (c) Technically Qualified (if applicable in accordance with Clause 3.4); and
- (d) Bid with the lowest evaluated bid price.

3.7.2 In the event that the Lowest Bidder is not selected for any reason, the Authority shall annul the Bidding Process and invite fresh Bids. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite fresh Bids hereunder.

3.7.3 After ascertaining the Selected Bidder, the Authority shall notify the Bidders, in writing, about the result of Financial Bid Opening. The Authority shall issue a notification letter (the “**Letter of Award**” or “**LOA**”) to the Selected Bidder, in duplicate by the Authority in the format set forth in **Appendix-VIII**. The LOA shall specify the sum that the Authority will pay the Contractor in consideration of the execution and completion of the Works and Maintenance in accordance with the EPC Agreement (the “**Contract Price**”). The Selected Bidder shall, within 10 (ten) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgment thereof. Until a formal contract is prepared and executed, the LOA shall constitute a binding Contract. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA.

3.7.4 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Bidder to submit Works Performance Security within a period of 30 days or any other period prescribed/extended by Authority. Submission of the Works Performance Security shall be prerequisite for signing of the EPC Agreement. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the EPC Agreement.

3.7.5 The Authority shall also notify all other Bidders of the results of the bidding and shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with Clause 3.7.3, requests in writing the grounds on which its bid was not selected by the Authority. The Authority shall return Bid Security of all bidders except the Selected Bidder, after 30 days of Bid Validity Period. The Authority shall be responsible to return the Bid Security, as above, and the bidders shall not be required to ask for the same.

**3.8 Contacts
during Bid
Evaluation**

3.8.1 Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

SECTION-4 MISCELLANEOUS

4. Miscellaneous

- 4.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India.
- 4.2 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 Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - b. consult in writing with any Bidder in order to receive clarification or further information;
 - c. select or not to select any Bidder and/ or to consult with any Bidder in order to receive clarification or further information;
 - d. retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
 - e. independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 4.3 It shall be deemed that by submitting the Bid, the Bidder 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 and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 4.4 Bidder as a single entity or JV will need to comply with the provisions of the Memorandum of Instructions on Project Exports and Service Exports of the Reserve Bank of India, and shall submit the Post Award Approval (if applicable) to Exim Bank, issued by the Authorized Dealer of the Bidder. It is clarified that obtaining necessary FEMA approvals from the Reserve Bank of India / Authorised Banks, shall be the sole responsibility of the Bidder.
- 4.5 In the event of any dispute or differences relating to the interpretation and Bid of the provisions of commercial contract(s), the same shall be dealt in accordance with the Dispute Resolution Mechanism set out in the EPC Agreement
- 4.6 Bidders shall observe highest standards of ethics in regard to corrupt and fraudulent/prohibited practices as set forth under the Applicable Guidelines, Applicable Laws and Applicable Laws of India as defined

under the EPC Agreement.

- 4.7 The bidder shall not, by themselves or by a third party, offer, ask or accept for itself or for a third party, financial, including agency commission or non-financial advantage or even direct or indirect promise or any other acts, as offsets for bidding or contract award and execution as applicable, if susceptible of being qualified as criminal unlawful acts in accordance with national laws of any party involved.
- 4.8 The Bidder including any Member should, in the last three (3) years from Bid Due Date as specified in Clause 1.3 [Schedule of Bidding Process], 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 Bidder or Member, as the case may be, nor has been expelled from any project or contract by any GOI Ministry/Authority of GOI nor have had any contract terminated by any Ministry of GOI or Authority of GOI for breach by such Bidder or Member.
- 4.9 Without prejudice to the rights of the Authority hereinabove, if in accordance with administrative procedures of the Authority's Country, the Government of India, the Exim Bank and the Authority, it is determined that a bidder in the process of submission of this bid or in case of award, during the contract performance has directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, anti-competitive practice, coercive practice, undesirable practice, restrictive practice, or obstructive practice, the Authority, inter alia, shall reject the bid or proposal to award the contract or the subsequent contract performance and declare the bidder ineligible to be awarded future contract. Such Bidder shall not be eligible to participate in any tender issued by the Authority or any other project being funded under the Exim Bank's LOCs, during the period as may be determined by Authority.
- 4.10 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 actions of any person connected with the Bidding 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 Bidding Process or the LOA or has dealt with matters concerning the EPC 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 Bidding Process); or (ii) save and except as permitted under sub Clause (d) of Clause 2.2.1, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the EPC Agreement, as the case may be, any person in respect of any

matter relating to the Project or the LOA or the EPC Agreement, who at any time has been or is a legal, financial or technical adviser of 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 Bidding Process;
- c) “**Anti-competitive practice**” means any collusion, bid rigging or anti-competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, that may impair the transparency, fairness and the progress of the procurement process or to establish bid prices at artificial, non-competitive levels;
- d) “**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 Bidding Process;
- e) “**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 Bidding Process; or (ii) having a Conflict of Interest; and
- f) “**restrictive practice**” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.
- g) “**Obstructive practice**” means any practice which materially impede the Authority’s investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/ or by threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the Authority’s rights of audit or access to information.

4.11 The Contractor, its sub-contractors and the personnel of either of them shall not, either during the term or after the expiration of the EPC Agreement, disclose any proprietary or confidential information relating to the project or operations without the prior written consent of the Authority. In case of third-party information gathered in execution of the Project, similar confidentiality shall be maintained.

4.12 In further pursuance of this policy, Bidders shall permit and shall cause its agents (whether declared or not), sub-contractors, sub-consultants, service providers, or suppliers and any personnel thereof, to permit the Authority, Authority’s Country Government of India and Exim Bank to inspect all accounts, records and other documents relating to any prequalification process, bid submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Exim Bank.

PART-II: APPENDIX TO INSTRUCTIONS TO BIDDERS

5.1 Appendix to Instructions to Bidders

Following Clauses, wherever appearing in the ITB, shall be taken to be negated or additional provisions to be added to, or existing provisions to be altered. Wherever there is any conflict between the provisions in the ITB and that in the AITB, the provisions contained in the AITB shall prevail.

Section 1: Introduction

Condition	Clause	Particulars
Brief Particulars of the Project		
Authority	1.1.1	<i>[Name of the Project Authority to be specified]</i>
Project	1.1.1	<i>[Mention Name of Project]</i>
Identification of the Tender	1.1.1	<i>[Mention Name, Reference Number, Number of Lots (Contracts)]</i>
Project Information Memorandum (PIM) (Yes/ No)	1.2.2	<i>[Yes / No to be mentioned]. If provided to be enclosed with the document.</i>
Project Implementation Schedule	1.1.4	<i>The implementation schedule is as under:</i> <ol style="list-style-type: none"> 1. Designing, engineering, procurement and construction of the Project under and in accordance with the provisions of an Engineering, Procurement and Construction Agreement in [24/36/48 months**] from the "Appointed Date" 2. Defects Liability Period of [24/36/48/60 months**] 3. Maintenance of Project during Maintenance Period of [24/36/48/60 months**]
Cost Put to Tender	1.1.4	<i>[Mention Cost Put to Tender]</i>
Brief Description of Bidding Process		
Procedure for obtaining the RFP by the Prequalified Bidders	1.2.1(a)	<i>[Online / Office and details of how to procure the RFP to be added]</i>
Amount for purchasing Bid Document	1.2.4(a)	<i>United States Dollar (USD)</i> _____ (_____) <i>(in figures and words)</i>
Currency and Amount of Bid Security	1.2.4(b)	<i>United States Dollar (USD)</i> _____ (_____) <i>(in figures and words)</i>
Modes of providing Bid Security	1.2.4(b)	By way of a Bank Guarantee from a Bank in accordance with Clause 1.2.7
Validity of Bid Security	1.2.4(b)	Validity period linked to Bid Validity to be

		specified. Bid Security Validity should be at least 45 days beyond Bid Validity
Acceptable Banks for providing Bank Guarantee	1.2.7	<i>[Bank in India / Banks in Authority's Country etc to be mentioned here]</i>

Schedule of Bidding Process	1.3.1	The Authority shall adhere to the schedule of Bidding Process as specified under:
Sr. No.	Event Description	Date
1	Invitation of RFP (Notice Inviting Tender)	<i>[To be specified**]</i>
2	Last date for receiving queries	<i>[To be specified**]</i>
3	Pre-Bid meeting	<i>[To be specified**]</i>
4	Bid Due Date	<i>[To be specified**]</i>
5	Physical Submission of Bid Security/POA etc.	<i>[To be specified**]</i>
6	Opening of Technical Bids	<i>[To be specified**]</i>
7	Declaration of Technically Eligible Bidders	<i>[To be specified**]</i>
8	Declaration of Technically Qualified Bidders	<i>[To be specified**]</i>
9	Opening of Financial Bid	<i>[To be specified**]</i>
10	Letter of Award (LOA)	<i>[Within 50 days of opening of Financial Bids]</i>
11	Return of signed duplicate copy of LOA	<i>[Within 10 days of issuance of LOA in accordance with Clause 3.8.3**]</i>

Reporting Currency	1.2.4	<i>United States Dollar (USD)</i>
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Section 2: Bidding Criteria and Requirements

Condition	Clause	Particulars
Eligible Bidders	2.2.1	Only prequalified bidders with reference to Invitation for Prequalification (PQ) No.: _____ <i>[Mention the name of the prequalified Bidders]</i>
Bid Capacity Requirements	2.2.2	<i>[Additional Bid Capacity Requirements in addition to the declaration submitted by the Bidder for meeting the requirements under PQ, if any]. In case of additional requirements, suitable Form to be provided.</i>
Technical Capacity Requirements	2.2.3	<i>[Additional Technical Capacity Requirements in addition to the declaration submitted by the Bidder for meeting the requirements under PQ, if any.]</i>

		<i>In case of additional requirements, suitable Form to be provided.</i>
Financial Capacity Requirements	2.2.4	<i>[Additional Technical Capacity Requirements in addition to the declaration submitted by the Bidder for meeting the requirements under PQ, if any] In case of additional requirements, suitable Form to be provided.</i>
Other Eligibility Conditions	2.2.5	<i>[Other Eligibility Conditions in addition to the declaration submitted by the Bidder for meeting the requirements under PQ and conditions specified in the RFP, if any]</i>
Additional / Supplemental Conditions in case of JV	2.2.6	In case additional eligibility conditions are stipulated under Clause 2.2.2, 2.2.3, 2.2.4 or 2.2.5, then the conditions for meeting the requirement under the respective clauses by the JV members to be specified here.
Pre-Bid Meeting	2.7.1 (c)	<i>[Mention date, time and place of Pre-Bid Meeting]</i>
Correspondence with Authority	2.11.1	<i>[Details and Address for Communication, Clarification, Bid Submission and Bid Opening]</i>
Number of Copies of Bids	2.15.1 (h)	<i>[Mention the Number of copies of the Bid required to be submitted applicable in case of offline submission of Bids only]</i>
Submission of Bids	2.15.1	<i>[Mention the address or web portal for submission of Bids, as the case maybe]</i>
Documents comprising Technical Bid	2.16.3	<i>[Mention any other document required that shall form part of the Technical Bid]</i>
Currency of Financial Bid	2.16.4	United States Dollars (USD)
Submission of Bids	2.19.2	<i>[Mention the manner of submission of Bids, Physical or Offline / Online or Electronic as the case maybe] [In case, the submission of bid is electronic/online, mention the specific procedure for the same.]</i>
Modifications/ Substitution/ Withdrawal of Bids	2.19.3	<i>In case, the submission of bid is electronic/online, mention the specific procedure for the same for Modifications, Substitution and Withdrawal of Bids</i>
Opening of Technical Bids	2.20.1	<i>[In case, the submission of bid is electronic/online, mention the specific procedure for opening of technical bids]</i>
Validity of Bids	2.22.1	<i>The Bid shall be valid for a period of [150**] days from the Bid due date</i>

Section-3: Criteria for Evaluation

Applicability of Quality Scoring	3.4.1	Yes / No
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Parameters for Quality Scoring	3.4.1	<i>[If quality scoring is applicable, mention the parameters in details for calculation of Quality Score]. Suitable Form under Appendix-I to be provided for the Bidder to submit information for Quality Scoring</i>
Minimum Score for Technical Qualification	3.4.2	If quality scoring is applicable, then the following shall be applicable the bidder should score a minimum score of _____ (_____) (in figures and words) marks in order to be technical qualified. <i>It may be noted that the technical score should not have any weightages while evaluation of financial bids. The technical scoring is only to ascertain the eligibility and technical soundness of the Bidder. If the weightages are assigned to the technical score and the financial bid then the selection method shall be classified as QCBS and explicit approval of the Government of India shall be required for such mode of selection.</i>

Part-III: Bidding Form and Appendices

[The information in Forms to be provided in case of (a) there is change in information submitted by the Bidder during prequalification stage; or (b) in case there is additional information sought by the Authority, in which case the Forms shall be modified suitably by the Authority]. If submission of firm is marked as No by the Authority, then the information in the forms should be provided only in case if it is marked as "Applicable".

(Appendix-I) Form-II	<i>[Applicable / Not Applicable].</i>
(Appendix-I) Form-III	<i>[Applicable / Not Applicable]</i>
(Appendix-I) Form-IV	<i>[Applicable / Not Applicable]</i>
(Appendix-I) Form-V	<i>[Applicable / Not Applicable]</i>
(Appendix-I) Form-VI	<i>[Applicable / Not Applicable]</i>
(Appendix-I) Form-VII	<i>[Applicable / Not Applicable]</i>
(Appendix-I) Form-VIII	<i>[Applicable / Not Applicable]</i>
(Appendix-I) Form-IX	<i>[Applicable / Not Applicable]</i>
(Appendix-I) Form-X	<i>[Applicable / Not Applicable]</i>

PART-III: BIDDING FORMS

RFP Appendix-I: Technical Bid

Date: *[insert day, month, and year]*
RFP No. and title: *[insert RFP number and title]*

To,

[Name and Address of Employer]

Dear Sir,

Sub: Bid for *[Name of the Project**]*

1. With reference to your RFP document dated^{1§}, including Corrigendum No(s). _____ *[insert the number and issuing date of each corrigendum or "nil" if no corrigendum is issued]*, we **(Name of the Bidder, or Name of JV Members as applicable)**, having examined the RFP document and understood its contents, hereby submit our Bid for the aforesaid project. The Bid is unconditional and unqualified.
2. I/We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Contractor for the aforesaid project, and we certify that all information provided in the Bid and in Forms, are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.
3. This statement is made for the express purpose of selection as a Bidder for the captioned Project and maintenance of the project thereof.
4. I/We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/We certify that we/any of the Joint Venture Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, 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, for the period specified under Clause 4.8 [Miscellaneous].
7. I/We declare that:

^{1§} All blank spaces shall be suitably filled up by the Bidder to reflect the particulars relating to such Bidder.

- a) I/We have examined and have no reservations to the RFP document, including any Addendum issued by the Authority.
 - b) I/We do not have any conflict of interest in accordance with provisions of the RFP document;
 - c) I/We confirm that I/we are/am currently not under default on any loan to any Bank/ Financial Institution (FI) and our account has not been classified as Non-Performing Asset (NPA) as per Central Repository of Information on Large Credits (CRILC) database. We further confirm that none of our promoters/directors (excluding nominee directors and independent directors) appear in Credit Information Bureau India Ltd. (CIBIL) Defaulter List, Reserve Bank of India (RBI) Caution List or RBI Wilful Defaulter List (Suit filed as well as non-suit filed).
 - d) I/We confirm that we have not been debarred by Exim Bank
 - e) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt, fraudulent, anti-competitive, coercive, undesirable, restrictive or obstructive practices, as defined in the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
 - f) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of the RFP document, no person acting for us or on our behalf has engaged or will engage in any corrupt, fraudulent, anti-competitive, coercive, undesirable, restrictive or obstructive practices;
 - g) I/We declare that I/we have the necessary equipment and personnel / have the ability to source the necessary equipment and personnel to undertake the Project in the manner provided herein and within the timelines as may be stipulated.
8. I/We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders.
9. I/We confirm that I/ our Joint Venture satisfy/ satisfies the Bid Capacity, Technical Capacity and Financial Capacity as specified in ITB Sub-Clause 2.2.2, 2.2.3 & 2.2.4 and meet(s) all the eligibility requirements as specified under Clause 2.2 [Eligibility and Qualification of the Bidder] the RFP document and are/am qualified to submit a Bid.
10. I/We declare that we/ any Member of the Joint Venture, or our/ its Associates are not a member of a/any other Joint Venture submitting a Bid for the Project.
11. I/We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Joint Venture or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community. I/We further certify that in regard to matters relating to security and integrity of the country, we/any Member of the Joint Venture or any of our/ their Associates have not been facing any investigation or charge-sheeted by any agency of the Government or convicted by a Court of Law.

12. I/We further certify that we have not made any misleading or false representations in the forms, statements, affidavits and attachments submitted as a part of the Bid.
13. I/We further certify that we have not been (a) blacklisted/ debarred/ sanctioned/ suspended from bidding by any Multilateral Development Banks such as World Bank, Asian Development Bank, African Development Bank, or Ministry/Authority of Government of India (GOI) or the Authority's Country or Exim Bank, in accordance with extant rules and procedures, or (b) convicted for an offense under (i) the Prevention of Corruption Act, 1988, or (ii) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.
14. I/We further certify that I/we or any member have/has not been admitted by the National Company Law Tribunal (NCLT) for initiating corporate insolvency resolution process under the Indian Bankruptcy Code (IBC).
15. I/We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GOI vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply mutatis mutandis to the Bidding Process.
16. I/We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFP, we shall intimate the Authority of the same immediately.
17. The Statement of Legal Capacity as per format provided in RFP document, and duly signed, is enclosed. The power of attorney for signing of Bid and, in case of JV, the power of attorney for Lead Member of Joint Venture, as per format provided at Appendix IV and Appendix V respectively of the RFP, are also enclosed.
18. I/We hereby confirm that I/we do not have a close business relationship or family relationship or in its employment any near relations (defined as first blood relations, and their spouses, of the Bidder or the Bidder's spouse) in accordance with Clause 2.2 [Eligibility and Qualification of Bidders] our employment any near relations of persons involved in decision making in the Project at the Authority.
19. I/We hereby confirm that we shall comply with the Project maintenance requirements, if any.
20. 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 in connection with the selection of the Bidder,

or in connection with the selection/ Bidding Process itself, in respect of the above-mentioned Project and the terms and implementation thereof.

21. I/We agree to the provisions of the Public Procurement Orders Nos. 1 & 2 dated July 23, 2020, Public Procurement Order No. 3 dated July 24, 2020, and Public Procurement Order No.4 dated February 23, 2023, issued by the Public Procurement Division of the Department of Expenditure, Ministry of Finance, Government of India, or any other Procurement Guidelines issued by the Government of India, and undertake to abide by the provisions of these Orders.
22. I/We agree to adhere to the provisions of Applicable Guidelines in accordance with the EPC Agreement, including the IDEAS Guidelines, inter alia the requirement of meeting minimum per cent (%) Indian Content as defined under the EPC Agreement.
23. I/We have read the Clause regarding restrictions on subcontracting to an entity of a country which shares a land border with India (except to which the Government of India has extended lines of Credit or in which the Government of India is engaged in development projects); We certify that we shall not subcontract any work to an Agency from such countries unless such Agency is registered with the Competent Authority. We hereby certify that this bidder fulfils all requirements in this regard and is eligible to be considered.
24. In the event of we being declared as the Selected Bidder, we agree to enter into Agreement in accordance with the draft EPC Agreement that has been provided to us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
25. I/We have studied all the Bidding Documents carefully and also surveyed the Project site(s). We understand that except to the extent as expressly set forth in the EPC Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of EPC Contract.
26. I/We offer Bid Security of [\$ ***** (United States Dollars (in words) only] to the Authority in accordance with the RFP Document.
27. The Bid Security in the form of a Bank Guarantee is attached.
28. The Documents accompanying the Technical Bid, as specified in the RFP, have been submitted in separate files.
29. I/We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, we shall have any claim or right of whatsoever nature if the Project / Contract is not awarded to us or our Bid is not opened or rejected.
30. The Bid Price has been quoted by us after taking into consideration all the terms and conditions stated in the RFP, draft EPC Agreement, our own estimates of

costs and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.

31. I/We agree that obtaining necessary FEMA approvals from the Reserve Bank of India / Authorised Banks, shall be our responsibility and a copy of such approval shall be submitted to the Authority on demand.
32. I/We confirm that we meet all the criteria specified in the RFP and agree and undertake to abide by all the terms and conditions of the RFP document.
33. (I/We agree and undertake to be jointly and severally liable for all the obligations under the resulting contract for Project execution till final completion of the Project in accordance with the EPC Agreement.)^{2§}
34. I/We shall keep this offer valid for the period as specified under Clause 2.22 [Validity of Bids] and shall remain binding upon us.
35. I/We hereby submit our Bid and offer a Bid Price as indicated in Financial Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the EPC Agreement.
36. I/We confirm that the contents of this form have not been altered / modified unless explicitly required to be altered / modified at places provided by the authority. The contents including the consents / agreements and declarations provided in this Form are as per the Form provided by the Authority in the RFP.
37. We hereby confirm that we have not appointed any agent and we have not paid any agency commission for this Bidding process. If selected, we also confirm that we will not appoint any agent and nor will we pay any agency commission for execution of the contract.
38. I/We confirm that I/we continue/do not continue to meet the criteria used at the time of Prequalification [select suitable option]. We furnish updated information that changed subsequent to Prequalification in the corresponding forms.
39. We understand that this bid, together with your written acceptance thereof included in notification letter in accordance with ITB Sub-Clause 3.7.3, shall constitute a binding contract, until a formal contract is prepared and executed;

In witness thereof, we submit this Bid under and in accordance with the terms of the RFP document.

Signature

Name And Designation of the Authorised Signatory

Name and Seal of the Bidder / Lead Member

Name of the Bidder [*In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder*]

Signature [*insert signature(s) of an authorized representative(s) of the Bidder;*

^{2§} Omit if the Bidder is not a Consortium.

Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid]

Name [insert full name of person(s) signing the Bid]

In the capacity of [insert capacity of person(s) signing the Bid]

Address [insert street number/town or city/country address]

Dated on [insert day number] day of [insert month], [insert year]

[For a joint venture, all members shall sign. Failure to comply with this requirement may result in rejection of Bid]

FORM-I: Details of the Bidder

(to be filled by Bidder if being a Single Entity or as Lead member of JV)

Date: [insert day, month, year]

RFP No. and Title: [insert RFP number and title]

Bidder's name: <i>[insert full name]</i>
In case of Joint Venture (JV), name of each member: <i>[insert full name of each member in JV]</i>
Bidder's country* of registration: <i>[indicate country of Constitution]</i>
Bidder's actual year of incorporation: <i>[indicate year of Constitution]</i>
Bidder's legal address [registered in India]: <i>[insert street/ number/ town or city/ country]</i>
Bidder's authorized representative information Name: <i>[insert full name]</i> Designation: <i>[insert designation]</i> Address: <i>[insert street/ number/ town or city/ country]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers, including country and city codes]</i> E-mail address: <i>[indicate e-mail address]</i>
Has the Bidder/ constituent of the JV been barred by the Central/ State Government, or any entity controlled by it, from participating in any project: [Yes/No] If yes, does the bar subsist as on the date of Bid Application: [Yes/No]

In case of a JV, Information regarding the role of each Member should be provided as per table below:

Sr. No.	Name of Member	Part or Section of the contract to be performed {Refer ITB Paragraph 2.2.1(c.ix)} ^{3§}	Percentage of equity in the JV {Refer ITB Sub-Clause 2.2.9}
1.			
2.			
3.			
4.			

^{3§} All provisions contained in curly parenthesis shall be suitably modified by the Bidder to reflect the particulars relating to such Bidder.

Name of Bidder/ member of JV:

No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the JV been barred by the [Central/ State**] Government, or any entity controlled by it, from participating in any project.		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid Application.		

FORM-I(A): Details of JV Members

([The following form is in addition to Form I (in case the Bidder is a JV), and shall be completed separately to provide information relating to each JV member])

Date: [insert day, month, year]

RFP No. and Title: [insert RFP number and title]

Bidder name: <i>[insert full name of the JV]</i>
Bidder's JV Member's name: <i>[insert full name of Bidder's JV Member]</i>
Bidder's JV Member's country* of registration: <i>[indicate country of registration]</i>
Bidder JV Member's date of constitution: <i>[indicate date of constitution in dd/mmm/yyyy]</i>
Bidder JV Member's legal address registered in India: <i>[insert street/ number/ town or city/ country]</i>
Bidder JV Member's authorized representative information Name: <i>[insert full name]</i> Address: <i>[insert street/ number/ town or city/ country]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers, including country and city codes]</i> E-mail address: <i>[indicate e-mail address]</i>
Has the Bidder/ constituent of the JV been barred by the Central/ State Government, or any entity controlled by it, from participating in any project: [Yes/No] If yes, does the bar subsist as on the date of Bid Application: [Yes/No]

Appendix-I

Form-II: Contract Non-Performance and Litigation

[Each of the following tables shall be filled in for the Bidder and for each member of a Joint Venture]

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

RFP No. and title: *[insert RFP number and title]*

Information pertaining to: *[Insert name of JV Leader or JV Member/s]*

A. Past Contract Non-Performance

Contract non-performance since period the from the date preceding five (5) years from the Bid Due Date: [Contract Non-performance has occurred/Non-performance of contract has not occurred.

If Yes, provide details Contract(s) not performed since the date specified in Part IV, Prequalification Criteria and Requirements, requirement B.1

Year	Non-performed portion of Contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and Reporting Currency Equivalent)
<i>[insert financial year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, date, value and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for non-performance: <i>[indicate main reason(s)]</i>	<i>[insert amount in Reporting Currency equivalent and specify exchange rate and date]</i>
	<i>Total:</i>		

B. Pending Litigation

Pending Litigation: [Pending Litigation /No Litigation Pending]

If Yes, provide details of Pending Litigation as specified in Part IV, Prequalification Criteria and Requirements, requirement B.1

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (Reporting Currency equivalent (exchange rate))	Amount of specific provision already made, if any
<i>[insert financial year]</i>	<i>[insert amount]</i>	<p>Contract Identification: [indicate complete contract name, number, date, value and any other identification]</p> <p>Name of Employer: <i>[insert full name]</i></p> <p>Address of Employer: <i>[insert street/city/country]</i></p> <p>Matter in dispute: <i>[indicate main issues in dispute]</i></p> <p>Party who initiated the dispute: <i>[indicate "Employer" or "Contractor"]</i></p> <p>Status of dispute: <i>[Indicate if it is being treated by the Adjudicator, under Arbitration or being dealt with by the Judiciary]</i></p>	<i>[insert amount]</i>	<i>[insert amount in Reporting Currency equivalent and specify exchange rate]</i>
	<i>Total:</i>			<i>Total:</i>

C. Litigation History

Litigation since the date the date preceding five (5) years from the Bid Due Date:
[Contract Litigation Awarded/No Litigation History]

Year of award	Outcome as percentage of Net Worth	Contract Identification	Total Contract Amount (Reporting Currency) (exchange rate)
<i>[insert financial year]</i>	<i>[insert percentage]</i>	Contract Identification: [indicate complete contract name, number, date, value and any other identification] Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Employer" or "Contractor"]</i> Result of dispute: <i>[Indicate if resolution was treated by the Adjudicator, under Arbitration or dealt with by the Judiciary and whether resolved in favour or against the Bidder]</i>	<i>[insert amount in Reporting Currency equivalent and specify exchange rate and date]</i>
	<i>Total:</i>		

Date:

Place:

Appendix-I
Form III: Financial Capacity of the Bidder

[The following table shall be filled in for the Bidder and for each member of a Joint Venture and shall be certified by the Statutory Auditors. Failure to comply with this requirement may result in rejection of the Bid.]

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

RFP No. and title: *[insert RFP number and title]*

Information pertaining to : *[Insert name of JV leader or JV member/s]*

A. Financial data

Type of Financial information	Historic information for previous five (5) years, (amount in Reporting Currency)				
	D-4	D-3	D-2	D-1	D ⁴ FY [Year of Invitation of RFP]
Sources of Fund					
Share Holder's Fund					
Loan Fund					
Application of Fund					
Fixed Assets					
Investments					
Net Current Assets					
(i) Current assets, loans and advances					
Less: (ii) Current liabilities & provisions					
Misc. exp. to the extent not W/Off or adjusted					
Profit and Loss Account					
Net Worth					
Net Worth					
Information from Income Statement					
Income					
Expenditure					
Profit/(Loss) Before Tax (PBT)					
Profit/(Loss) After Tax (PAT)					
Information From Cash flow Statement					

⁴ FY to be updated before launching the RFP

Cash Flow from Operating Activities					
Cash Flow from Investments					
Cash Flow from Financing Activities					

Registration No/ Membership No:
Stamp
(of the Statutory Auditors of the Bidder/each JV member)

Date:

Place:

UDIN:

B. Sources of Finance

[Specify sources of finance to meet the cash flow requirements for works currently in progress]

B. 1 Details of Credit Facilities available to the Bidder (Amount in Reporting Currency)

Sr. No.	Type of Facility	Sanctioned Limit	Utilised Limit	Unutilised Limit
	Fund Based Limits			
	a.			
	b.			
	c.			
	Total Fund Based			
	Non-fund Based Limits			
	a			
	b			
	C			
	Total Non –fund Based			
	Total Fund and Non-fund Based Limit			

B.2 Details of Liquid Assets such as cash and bank balance, marketable securities and any other financial means which may be used meet the cash flow requirements for works currently in progress by the Bidder

Sr No	Type of Liquid Assets	Amount (in Reporting Currency)
1.		
2.		
3.		

3. Financial documents

The Bidder shall submit copies of audited Financial Statements for the last 5 Financial Years calculated from the year of Invitation of Bids under this RFP. The financial statements shall:

- a) Reflect the financial situation of the Bidder or in case of JV for each member, and not an affiliated entity (such as parent company or group member).
- b) Be independently audited and certified by the Statutory Auditors.
- c) Be complete, including all notes to the financial statements
- d) Correspond to accounting periods already completed and audited.

Provided that in case the Annual Accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall provide Provisional Results for the Latest Financial Year duly certified by the Statutory Auditor. In such a case, the Bidder shall also provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.

Please submit Statement of Consolidated Credit Facilities (sanctioned, utilised and available) from Lead Banker or respective Bank statements. The statements shall also be certified by the Chartered Accountants of the Bidder/each JV member.

Registration No/ Membership No:
(of the Chartered Accountants of the Bidder/each JV member)
Date:
Place:
UDIN:

Stamp

C. Annual EPC Turnover

	Annual Turnover Data						
Year	EPC Turnover Amount (INR)			Total Turnover (INR)	EPC Turnover as % of Total Turnover	Exchange rate* (v/s Reporting Currency)	EPC Turnover in Reporting Currency equivalent
	Contracts in India	Overseas Contracts	Total EPC Turnover				
	[A]	[B]	C = [A+B]				

* Refer ITB Clause 1.2.4 for source of exchange rate. Exchange rate prevalent on 31st March shall be used to calculate turnover for respective financial year.

Registration No/ Membership No:
(of the Statutory Auditors of the Bidder/each JV member)

Stamp

Date:

Place:

UDIN:

Form-IV: Available Bid Capacity

[The following table shall be filled in for the Bidder and for each member of a Joint Venture and shall be certified by the Chartered Accountants of the Bidder/each JV member. Failure to comply with this requirement may result in rejection of the Bid.]

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

RFP No. and title: *[insert IFP number and title]*

Page *[insert page number]* of *[insert total number]* pages

Information pertaining to: *[Insert name of JV leader or JV member/s]*

Contract Identification	Role of Bidder	Start Date	Contractual Completion Date	Intended/ Revised Completion Date	Residual period for completion	Residual value of Work	Annual Residual value of Work
1	2	3	4	5	6	7	8
Contract Ref: Brief Title of the works: Amount of contract: <i>[insert amount in currency, mention currency used, exchange rate and Reporting Currency*]</i> Name & Address of Employer:	<i>[insert "Prime Contractor" or "JV Member"]</i>				<i>[Insert period in years starting from Bid Due Date. In case less than a year, value to be considered shall be 1]</i>	<i>[Insert value in Reporting Currency equivalent including amount billed but pending payment up to deadline for submission of Bid]</i>	<i>[Insert value in Reporting Currency equivalent] [7 divide by 6]</i>
							<i>[Insert Total for all Contracts in Reporting Currency]</i>

							yJ
--	--	--	--	--	--	--	----

* Exchange rate prevalent as on the working day preceding the date of Invitation for RFP (RFP) shall apply to ascertain residual value in Reporting Currency equivalent. Refer ITB clause 1.2.4 for source of exchange rate

Registration No/ Membership No:
(of the Chartered Accountants of the Bidder/each JV member)

Stamp

Date:

Place:

UDIN:

Appendix-I

Form-V: Project Execution Experience

A. General Experience

[The following table shall be filled in for the Bidder and in the case of a JV Bidder, for each Member]

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

RFP No. and title: *[insert IFP number and title]*

Information pertaining to: *[Insert name of JV leader or JV member/s]*

[Identify contracts that demonstrate similar experience in India. List contracts chronologically, according to their commencement (starting) dates and attach Final Acceptance Certificates.]

Contract Identification	Start Date	Initial Contractual End Date	Actual Completion Date and Reasons for delay, if any	Role of Bidder
Contract name: <i>[insert full name]</i> Brief Description of the works performed by the Bidder: <i>[describe works performed briefly]</i> Amount of contract: <i>[insert amount in currency, mention currency used, exchange rate and Reporting Currency equivalent*]</i> Name of Employer: <i>[indicate full name]</i> Address: <i>[indicate street/number/town or city/country]</i>	<i>[indicate date as dd/ mmm/ yyyy]</i>	<i>[indicate date as dd/ mmm/ yyyy]</i>		<i>[insert "Prime Contractor" or "JV Member"]</i>

* Refer ITB Clause 1.2.4 for date and source of exchange rate

Final Acceptance Certificate/Completion Certificate / Testimonial Letters issued by the main client / Project authority, and Concession Granting Authority in case of SPV, to be attached for each contract in an orderly fashion.

B. Specific Experience

[The following table shall be filled in for contracts completed by the Bidder, and each member of a Joint Venture, as applicable,]

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

RFP No. and title: *[insert RFP number and title]*

Information pertaining to: *[Insert name of JV leader or JV member/s]*

Information

Similar Contract No.	<i>[insert number] of [insert number of similar contracts required]</i>		
Contract Identification	<i>[insert contract name and number, if applicable]</i>		
Contract date	<i>[dd/mmm/yyyy]</i>		
Completion date	<i>Contractual: [dd/mmm/yyyy]</i>	<i>Actual: [dd/mmm/yyyy]</i>	
Role in Contract <i>[check the appropriate box]</i>	Prime Contractor "	Member in JV"	
Total Contract Amount	<i>[insert total contract amount in contract currency]</i>		US\$ <i>[insert Exchange rate and total contract amount in US\$ equivalent]*</i>
If member in a JV, specify participation in total Contract amount	<i>[insert a percentage amount]</i>	<i>[insert total contract amount in local currency]</i>	<i>[insert exchange rate and total contract amount in US\$ equivalent]*</i>
Employer Details	Employer's Name: Address: Telephone, fax number, E-mail:		
Description of the similarity	<i>[Name the Sector/ Sub-sector][Briefly mention the similarity in terms of sectoral characteristics and technical aspects listed in Sub-Factor D.2]</i>		
For the above contract, mention the following attributes			
1. Capacity/ Physical size of key works items	<i>[insert capacity/ physical size of key work items]</i>		
2. Complexity	<i>[insert description of complexity in accordance with the technical aspects mentioned under Part IV D.2]</i>		
3. Methods/ Technology	<i>[insert specific aspects of the methods/ technology involved in the contract]</i>		

4. Rate of execution for key items	<i>[insert execution rates for key items]</i>
5. Other Characteristics	<i>[insert other characteristics as appropriate]</i>

Note: Rate implies the quantity executed in unit time e.g. cubic meters of earthwork per annum, etc.

* Refer ITB Clause 1.2.4 for date and source of exchange rate.

* Final Acceptance Certificate /Completion Certificate / Testimonial Letters issued by the main client / Project authority, and Concession Granting Authority in case of SPV, to be attached for each contract, in an orderly fashion

Appendix-I
Form-VI: Contractor Equipments
[In case of JVCA, this form shall be submitted on a combined basis]

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

RFP No. and title: *[insert RFP number and title]*

We, *[insert Bidder's full name and in case of JVCA, insert names of all members]* hereby undertake, in the event that we are awarded the Contract, to arrange and deploy following equipment, , at site for execution of the Project in accordance with the EPC Agreement :

Equipment Type	Make/ Model	Capacity	Number
<i>[mention the generic name/ type of equipment]</i>	<i>[indicate make/ model of equipment]</i>	<i>[indicate capacity of equipment]</i>	<i>[indicate number available]</i>

[To be attested by the authorized representative of the Bidder and in case of a JVCA, by the lead member on behalf of the JV members]

Appendix-I

Form-VII: Skilled Human Resource

[Furnish details for key staff . In case of JVCA, this shall be on a combined basis]

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

RFP No. and title: *[insert RFP number and title]*

We, *[insert Bidder's full name and in case of JVCA, insert names of all members]* hereby undertake, in the event that we are prequalified and invited to submit a bid, to arrange and deploy key staff meeting the experience and qualification requirements, listed in E.3 :

Position	Name of key staff	Academic Qualification	Specialization	Years of Experience	Experience in Countries

[To be attested by the authorized representative of the Bidder and in case of a JVCA, by the lead member on behalf of the JV members]

Appendix-I

Form-VIII: Manufacturer's Authorisation

[The following form shall be filled in for the Bidder and in the case of a JV Bidder, on combined basis by the lead partner]

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

RFP No. and title: *[insert RFP number and title]*

Information pertaining to : *[Insert name of JV leader or JV member/s]*

We, *[insert Bidder's full name and in case of JVCA, insert names of all members]* hereby undertake, in the event that we are prequalified and invited to submit a bid, to submit manufacturer's authorization(s) in our favour:

- (1) to bid for the supply of equipment for the tender under reference;
- (2) confirming guarantee/ warranty support for the equipment bid for by us; and
- (3) confirming that the equipment being bid for to be supplied shall be new and unused.

[To be attested by the authorized representative of the Bidder and in case of a JVCA, by the lead member on behalf of the JV members]

Appendix-I
FORM-IX Statement of Legal Capacity

(To be forwarded on the letterhead of the Bidder/ Lead Member of JV)

Ref. Date:

To,

Dear Sir,

We hereby confirm that we/ our members in the JV (constitution of which has been described in the application) satisfy the terms and conditions laid out in the RFP document.

[We have agreed that {insert member's name} will act as the
Lead
Member of our JV.] *

We have agreed that {insert individual's name} will act as [our representative/ will act as the representative of the JV on its behalf]* and has been duly authorized to submit the RFP. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,
(Signature, name and designation of the authorised signatory)
For and on behalf of.....

**Please strike out whichever is not applicable.*

Form-X: Information for Quality Scoring

[Specify information required from Bidders for the purposes of Quality Scoring under ITB Clause 3.4 Technical Qualification]

RFP Appendix–II Financial Bid

Dated: _____

To,

[Name and Address of Authority]

Dear Sir,

Sub: Bid for [Name of the Project***]

1. With reference to your RFP document dated^{5\$}, we **(Name of the Bidder, or Name of JV Members as applicable)**, having examined the Bidding document and understood its contents, hereby submit our Bid for qualification for the aforesaid project. The Bid is unconditional and unqualified.
2. We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Contractor for the aforesaid Project, and we certify that all information provided in the Technical Bid and in Form I to Form VI thereto are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.
3. The Bid Price has been quoted by us after taking into consideration all the terms and conditions stated in the RFP, draft EPC Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.
4. We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. In the event of our being declared as the Selected Bidder, we agree to enter into an Agreement in accordance with the draft EPC Agreement that has been provided to us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
6. We shall keep this offer valid for the period as specified in the RFP Clause 2.22 [Validity of Bid].
7. We hereby submit our Bid and offer an Bid price, excluding discount, of USD (United State Dollars In words) inclusive of all applicable taxes for undertaking the aforesaid Project in accordance with the Bidding Documents and the draft EPC Agreement.

⁶[In case of multiple lots, total price of each lot is as follows:

Lot I: USD (United State Dollars In words)

^{5\$} All blank spaces shall be suitably filled up by the Bidder to reflect the particulars relating to such Bidder.

⁶ Omit if Lot/package not applicable

Lot (n): USD (United State Dollars In words)

In case of multiple lots, the Bid total price of all lots (sum of lots) is USD
(United State Dollars In words)]

8. The discounts offered and the methodology for their application are as follows:

i) The discounts offered are:

ii) The exact method of calculations to determine the net bid price after application of discounts is as specified below:

;

9. We confirm that the contents of this form have not been altered / modified unless explicitly required to be altered / modified at places provided by the Authority. The contents including the consents / agreements and declarations provided in this Form are as per the Form provided by the Authority in the RFP.

Signature

Name And Designation of the Authorised Signatory

Name and Seal of the Bidder / Lead Member

RFP Appendix–III Bank Guarantee for Bid Security

(Refer Clauses 2.25)

B.G. No. Dated:

1. In consideration of you, [details of the Authority**], (hereinafter referred to as the “Authority”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of _____ and having its registered office at _____ (and acting on behalf of its JV) (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the*** ** Project on EPC basis (hereinafter referred to as “the Project”) pursuant to the RFP Document dated issued in respect of the Project and other related documents including without limitation the draft EPC Agreement (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at _____ and one of its branches at _____ (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 1.2.7 read with Clause 2.25 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of USD .** ** (USD *** ** only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.

2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.

3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding *** ** (in words *** ** only).

4. This Guarantee shall be irrevocable and remain in full force till [****] excluding the claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.

5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or acquisition or amalgamation of the Bidder or the Bank with any other person.

7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger, acquisition or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.

9. We undertake to make the payment on receipt of your notice of claim

on us addressed to (name of Bank along with branch address) and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.

10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealized.

11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.

12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to USD *** (in words USD *** ** 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 9 hereof, on or before [***].

14. This guarantee shall also be operatable at our... Branch at from which, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment thereunder claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.

Signed and Delivered by

Bank

By the hand of Mr./Ms, its
authorised official.

and

(Signature of the Authorised Signatory)
(Official-Seal)

RFP Appendix-IV Format for Power of Attorney for signing of Bid
(Refer Clause 2.11.1)

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr./ Ms. (name), son/daughter/wife of and presently residing at, who is presently employed with us and holding the position of, as our true and lawful attorney (hereinafter referred to as the "Attorney") 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 Bid for the ***** Project proposed or being developed by the ***** (the "Authority") including but not limited to signing and submission of all Bids and other documents and writings, participate in Pre-Bids 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 Bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Contract with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney 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 Attorney 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 2.....

For

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

Witnesses:

- 1.
- 2.

(Notarised)

Accepted

..... (Signature)

(Name, Title 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 Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *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 Bidders 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.*

RFP Appendix-V Format for Power of Attorney for Lead Member of the JV
(Refer Clause 2.11.1)

Whereas the ***** (“the Authority”) has invited Bids from interested parties for the ***** Project (the “Project”).

Whereas, and (collectively the “Joint Venture”) being Members of the Joint Venture are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal (RFP) and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Joint Venture to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Joint Venture, all acts, deeds and things as may be necessary in connection with the Joint Venture’s bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at and M/s. having our registered office at....., (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s. having its registered office at, being one of the Members of the Joint Venture, as the Lead Member and true and lawful attorney of the Joint Venture (hereinafter referred to as the “Attorney”). We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Joint Venture and any one of us during the bidding process and, in the event the Joint Venture is awarded the contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Joint Venture, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all Bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Joint Venture and generally to represent the Joint Venture in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Joint Venture’s bid for the Project

and/ or upon award thereof till the contract is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney 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 Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Joint Venture.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 2.....

For
(Signature)

.....
(Name & Title)

For
(Signature)

Witnesses:

1.

2.

..... (Executants)
(To be executed by all the Members of the Joint Venture)

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.*
- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *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 Bidders 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 Appostille certificate.

RFP Appendix-VI Format for Joint Bidding Agreement for Joint Venture
(Refer Clause 2.2.6)
(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of 20...

AMONGST

1. {... incorporated under the Act, [year]}^{7\$} and having its registered office at (hereinafter referred to as the “**First Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {... incorporated under the Act, [year]}^{8\$\$} and having its registered office at (hereinafter referred to as the “**Second Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST and SECOND PART are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”

WHEREAS,

- (A) [Name of the Project Authority] (hereinafter referred to as the “Authority” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited applications (the Bid Applications”) by its Request for Proposal No dated(the “RFP”) for selection of bidders for [mention name of project] (the “Project”) through EPC mode of bidding.
- (B) The Parties are interested in jointly bidding for the Project as members of a Joint Venture and in accordance with the terms and conditions of the RFP document in respect of the Project, and
- (C) It is a necessary condition under the RFP document that the members of the Joint Venture shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Jt. Bidding Agreement, the capitalised terms shall, unless the context

^{7\$} Please mention name of the Lead Member of the JV/ Joint Venture, whether company, LLP, partnership, etc, stating the relevant Act (with year) under which incorporated.

^{8\$\$} Please mention name of other than Lead Member of the JV/ Joint Venture, whether company, LLP, partnership, etc, stating the relevant Act (with year) under which incorporated.

otherwise requires, have the meaning ascribed thereto under the RFP.

2. Joint Venture

- 2.1 The Parties do hereby irrevocably constitute an unincorporated Joint Venture (the “JV” or “Joint Venture”) for the purposes of jointly participating in the Bidding Process for the Project.
- 2.2 The Parties hereby undertake to participate in the Bidding Process only through this Joint Venture and not individually and/ or through any other Joint Venture constituted for this Project, either directly or indirectly or through any of their Associates.

3. Covenants

The Parties hereby undertake that in the event the Joint Venture is declared the selected Bidder and awarded the Project, it shall, if required by the terms of the local laws of Host Country and the Bidding process, incorporate a joint venture / or any other form of corporate entity for entering into an Agreement with the Authority and for performing all its obligations as the EPC Contractor in terms of the Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- a) Party of the First Part shall be the Lead member of the Joint Venture and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Joint Venture during the Bidding Process and until the date under the Agreement when all the obligations of the Contractor shall become effective;
- b) Party of the Second Part shall be {define the role of the Second Party or state “the other Member of the Joint Venture”};
- {(c) Party of the Third Part shall be _____^{9\$}; and}
- {(d) Party of the Fourth Part shall be _____^{10\$}.}

5. Joint and Several Liability

Notwithstanding the arrangement inter se the parties, the Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Agreement, till such time as the final completion of the Project is achieved in accordance with the Agreement.

6. Stake in the Joint Venture

- 6.1 The Parties agree that the proportion of shareholding / participation interest/ profit share/ economic interest, amongst the Parties shall be as follows:

^{9\$} define the role of the Second Party or state “the other Member of the Joint Venture”

^{10\$} define the role of the Second Party or state “the other Member of the Joint Venture”

First Party:

Second Party:

- 6.2 The Parties undertake that a minimum of 51% (fifty one per cent) of the subscribed and paid up equity share capital / participation interest / profit share / economic interest , as applicable, of the JV/ Joint Venture shall, at all times be held by the First Party.
- 6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above shall, at all times between the Appointed date of the Project and the final completion thereof, hold subscribed and paid up equity share capital, as applicable, of the JV/ Joint Venture equivalent to at least 26% (twenty six per cent) of the Total Project Cost.

7 Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- (a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Joint Venture Member is annexed to this Agreement, and will not, to the best of its knowledge:
 - (i) require any consent or approval not already obtained;
 - (ii) violate any Applicable Law presently in effect and having applicability to it;
 - (iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - (v) create or impose any liens, mortgages, pledges, claims, security

interests , charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

8 Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the final completion of the Project is achieved under and in accordance with the Agreement, in case the Project is awarded to the Joint Venture. However, in case the Joint Venture is does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not selected for award of project or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

9 Miscellaneous

9.2 This Joint Bidding Agreement shall be governed by laws of India.

9.3 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD MEMBER by:

SECOND PART

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

In the presence of:

1.

2.

Notes:

1. *The mode of the execution of the Joint Bidding Agreement 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.*
2. *Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Joint Venture Member.*
3. *For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.*

**RFP Appendix-VII Form of Performance Bank Guarantee
(Performance Security/Additional Performance Security)**

To
[Name of the Project Authority]

WHEREAS:

(A) (insert name and address of the contractor**) (hereinafter called the “**Contractor**”) has undertaken, in pursuance of Letter of Award (LOA) No. _____ Dated _____ issued by Ministry of External Affairs (hereinafter called the “**Authority**”) for construction of _____ [name of the Project** on Engineering, Procurement and Construction (the “EPC”) basis] (hereinafter called the “**Contract**”)

[Contractor has executed an agreement (hereinafter called the “**Agreement**”) with the Authority for the Contract, subject to and in accordance with the provisions of the Agreement.**]

(B) The Contract requires the Contractor to furnish Performance Security for due and faithful performance of its obligations, under and in accordance with the Contract, during the (Construction Period and Defects Liability Period (as defined in the EPC Agreement) in a sum of Rs..... cr. (Rupees crore) (the “**Guarantee Amount**”).

(C) We, through our branch at (the “**Bank**”) have agreed to furnish this Bank Guarantee (*hereinafter called the “**Guarantee**”*) by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of all or any of the Contractor’s obligations, under and in accordance with the provisions of the Contract during the [(Construction Period/ Defects Liability Period)], and undertakes to pay to the Authority upon occurrence of any failure or default on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, that the Contractor has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Contract shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and under the Contract and its decision that the Contractor is in default shall be final and binding on the Bank, notwithstanding any differences between the Authority and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Contractor for any reason whatsoever.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor to the extent of the Guarantee Amount and any change in the constitution of the Contractor and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.
5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Contract or to extend the time or period for the compliance with, fulfilment and/ or performance of all or any of the obligations of the Contractor contained in the Contract or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Contractor, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Contract and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law including the waiver of notice of any such change, addition or modification.
6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Contract or for the fulfilment, compliance and/or performance of all or any of the obligations of the Contractor under the Contract.
7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee on or before claim expiry date all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
8. The Guarantee shall cease to be in force and effect on *****. Unless a demand or claim under this Guarantee is made in writing before expiry of the Guarantee, the Bank shall be discharged from its liabilities hereunder. The expiry date of this Guarantee is _____ and the final date of claim lodgment with the Bank is _____, including the Claim Period of one (1) year.
9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof

forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.

11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for up to the date specified in paragraph 8 above or until it is released earlier by the Authority pursuant to the provisions of the EPC Agreement.
12. This Guarantee shall be operatable at our branch office at [_____], from whom, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this Guarantee being invoked and payment thereunder claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.
13. This Guarantee is subject to the laws of XXXX and all disputes with respect to this Guarantee shall be subject to jurisdiction of the courts at XXXX.

NOTWITHSTANDING anything contained hereinabove:

- a) Our liability under the Guarantee shall not exceed USD XXXX (USD XXXXXXXX Only).
- b) The Bank Guarantee shall be valid up to XXXXXX, that is, the Expiry Date and
- c) We are liable to pay the Guarantee Amount or any part thereof under this Guarantee only and only if we receive a written claim or demand on or before **** (Claim Expiry Date). Thereafter all your rights under this Guarantee shall be forfeited, and we shall be released from all our liabilities hereunder irrespective of whether the guarantee in original is returned to us or not.

Signed and sealed this day of, 20..... at

SIGNED, SEALED AND DELIVERED

For and on behalf of the Bank by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address) NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- (ii) The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.

RFP Appendix-VIII Format of LOA
(See Clauses 3.8.3)

No. _____

Dated _____

To,

(Name of selected Bidder)

Subject: (project description)- Letter of Award (LOA)-Reg.

Reference: Your bid for the subject work dated

Sir,

This is to notify you that your Bid dated for execution of the (project Description), at your quoted bid price amounting to XXXX (amount in words) has been determined to be the lowest evaluated bid and is substantially responsive and has been accepted.

2. You are requested to return a duplicate of the LOA as an acknowledgement within ten days of the date of issue of LOA and provide your consent to enter into EPC Agreement and the enforceability of the provisions of the EPC Agreement.

3. You are also requested to furnish Performance Security for an amount of (and Additional Performance Security for an amount of) as per Clause 2.26 of the RFP within 30 (thirty) days of receipt of this Letter of Award (LOA).

4. You are also requested to execute the EPC Agreement within 30 (Thirty) days of the date of issue of LOA.

5. In case of failure of submission of Performance Security, Additional Performance Security (if any) within 30 (thirty) days period from this LOA and non-execution of the EPC Agreement within 30(thirty) days from this

6. LOA, the award shall be deemed to be cancelled and Bid security shall be encashed by the Authority as per Clause 2.26 of the RFP.

Yours faithfully,

(Authorized signatory)

ENCLOSURE-I Project Information Memorandum
(Include Project Description)

Country:

State/Region:

Indian Mission:

- Background and Major Component of the Project:
- Salient Features:
- Site and Location:
- Execution Period:
- Project Facilities: