

**REQUEST FOR QUALIFICATION  
(RFQ)  
FOR  
EMPANELMENT OF  
INDEPENDENT ENGINEER  
(THIRD PARTY EVALUATION)  
FOR  
CERTIFICATION OF  
PRFORMANCE STANDARDS OF PPP OPERATORS**



(September 2015)

**Indian Ports Association**

1st Floor, South Tower, NBCC Place

B. P Marg, Lodi Road

New Delhi - 110 003

Ph No : 011-24369061/63; Fax No : 011-24365866

# **Indian Ports Association**

**LETTER FOR INVITATION FOR  
QUALIFICATION FOR  
“EMPANELMENT OF INDEPENDENT ENGINEER  
FOR CERTIFICATION OF  
PERFORMANCE STANDARDS OF PPP OPERATORS”**

TENDER REFERENCE NO. IPA/MSD/IE/MISC/2015 DATED 7-9-2015

Indian Ports Association (IPA) invites application in sealed cover from interested firms (Applicants) in accordance with the Request for the Qualification Documents for “Empanelment of Independent engineer for certification of performance standards of PPP operators engaged in Major Ports”.

The cost of the RFQ document is INR 10,000/- (Indian Rupees Ten Thousand only)

Sale of RFQ document from: 7-09-2015 to 15-09-2015

**Contact Details :**

Indian Ports Association

1st Floor, South Tower, NBCC Place

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## **1. INTRODUCTION**

### **1.1 Background**

- 1.1.1. India's ports comprise of 12 major ports and around 200 non-major ports along the coast and islands. The Major Ports except one i.e. Kamarajar Port (Ennore) are managed by the respective Port Trust Boards and the Kamarajar Port is in the form of Public Limited Company. All the Major Ports are administered by the Central Government under Ministry of Shipping. The total volume of traffic handled by all the Indian Ports during 2013-14 was 980.00 million tonnes and the major ports account for around 57% of total sea-borne trade.
- 1.1.2 There has been spurt in the PPP participation in the Major port during the recent past. As a result, 28 PPP projects are in operation with an investment of Rs. 8945.86 crores with a capacity of 190.45 MPTA till the year 2013. During the year 2013-14, 30 projects with an estimated investment of Rs. 20709.93 crores have been awarded, with an expected capacity addition of 217 MMTPA. Around 70 projects have been identified with an estimated investment of Rs. 50,280 crores, which are expected to be taken up at Major ports by the years 2020. These project will entail a capacity of 812 MMTPA.
- 1.1.3 The Ministry of Shipping during September 2013 issued revised tariff guidelines for determination of Tariff for Projects at Major Ports, 2013, which was notified by the Tariff Authority for Major Ports (TAMP) during September 2013. As per the above guidelines, the PPP operator would be free to propose a tariff along with Performance Standards (the "Performance Linked Tariff") from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap), subject to achievement of performance standards as per concession agreement.. The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

1.1.4 Such Performance Linked tariff proposal shall be submitted to TAMP along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Concession Agreement or for the actual number of months of operation in the first year of operation as the case may be.

1.1.5 Keeping in view of the above, Indian Ports Association has been mandated by the Ministry of Shipping to prepare a panel of independent Engineers for certification of performance standards of PPP operators engaged in Major Ports.

## **1.2 Request for Application.**

The Indian Ports Association invites Applications (the “Applications”) for selection of a Independent Engineers for empanelment for certification of performance standards of PPP operators engaged in Major Ports (the “Independent Engineer”) who shall examine the performance of the operator in accordance with the concession agreement and certify the performance achieved during the year by the operator.

## **1.3. Due diligence by Applicants**

Applicants are encouraged to inform themselves fully about the assignment before submitting the Applications and sending written queries to the IPA, and attending a Pre- Application Conference on the date and time specified in Clause 1.10.

## **1.4 Sale of RFQ Document**

RFQ document can be obtained between 1100 hrs and 1600 hrs on all working days (Monday to Friday) on payment of a fee of Rs. 10,000 (Rupees ten thousand only) in the form of a demand draft or banker’s cheque drawn on any Scheduled Bank in India in favour of Indian Port Association, and payable at New Delhi. The document can also be downloaded from the Official Website of the IPA. In case of a downloaded form, the Applicant need to deposit the aforesaid fee at the time of attending the pre-application conference.

## **1.5 Validity of the Applications**

The Proposal shall be valid for a period of not less than 90 days from the Application Due Date (the “ADD”).

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

The Indian Ports Association (IPA) will prepare a Panel of Independent Engineers (IE) by evaluating the Applications comprising technical and financial qualifications to be submitted by the applicants in accordance with RFQ (“Qualification Process”). The technical evaluation will be carried out as specified in Clause 3.1. Based on this technical evaluation, a list of qualified applicants shall be prepared as specified in Clause 3.2.

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

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

## **1.8 Schedule of Selection Process**

The Indian Ports Association (IPA) would endeavor to adhere to the following schedule:

<b>Event Description</b>	<b>Date</b>
1. Last date for receiving queries/clarifications	14 <sup>th</sup> September 2015
2. Pre-Application Conference	17 <sup>th</sup> September 2015
3. Indian Ports Association (IPA) response to queries	22 <sup>th</sup> September 2015
4. Application Due Date	30 <sup>th</sup> September 2015
5. Announcement of qualification	By 10 <sup>th</sup> October 2015
6. Validity of Applications	90 days of Application Due date

### **1.9 Pre-Application review of available data**

Prospective applicants may review the available data at any time prior to ADD. For any clarification, the following officer may be contacted:

**Chief Administrative Officer,**

Indian Ports Association  
1st Floor, South Tower, NBCC Place  
B. P Marg, Lodi Road  
New Delhi - 110 003  
Ph No : 011-24369061/63; Fax No : 011-24365866

### **1.10 Pre-Application Conference**

The date, time and venue of Pre-Application Conference shall be:

Date: 17<sup>th</sup> September 2015

Time: 1100 hrs

Venue: Indian Ports Association, Conference Room,

### **1.11 Communications**

1.11.1 All communications including the submission of Application should be addressed to:

**Chief Administrative Officer,**

Indian Ports Association  
1st Floor, South Tower, NBCC Place  
B. P Marg, Lodi Road  
New Delhi - 110 003  
Ph No : 011-24369061/63; Fax No : 011-24365866

1.11.2 The **Official Website** of the IPA is: <http://www.ipa.nic.in>

1.11.3 All communications, including the envelopes, should contain the following information, to be marked at the top in bold letters:

RFQ Notice No.

**“EMPANELMENT OF INDEPENDENT  
ENGINEER FOR CERTIFICATION OF  
PERFORMANCE STANDARDS OF PPP  
OPERATORS**

## 2. INSTRUCTIONS TO APPLICANTS

### A. GENERAL

#### 2.1 Scope of Proposal

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

2.1.2 Applicants are advised that the empanelment of Independent Engineer shall be on the basis of an evaluation by the Indian Ports Association (IPA) through the Selection Process specified in this RFQ. Applicants shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and that the Indian Ports Association (IPA)’s decisions are without any right of appeal whatsoever.

2.1.3 The Applicant shall submit its Application the form and manner specified in this RFQ. The Technical proposal shall be submitted in the forms at Appendices. Upon selection, the Applicants may be subsequently invited by the Major Ports to submit their financial proposal (“**bids**”) for the specified **Assignment** as and when required.

#### 2.1.4 Key Personnel

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

<b>Key Personnel</b>	<b>Responsibilities</b>
<b>Mechanical Engineer-cum-Lead member</b>	He will lead, co-ordinate and supervise the multidisciplinary team for providing services as per TOR. He will also be responsible for assessing the performance of handling system and other equipments and also study the reasons for delays / poor performance of the cargo handling rate with respect to performance standards as prescribed in the Concession Agreement.
<b>Traffic Expert – Member</b>	He will be responsible assessing the operational delays in terms of Concessionaire account and others account and prepare MIS statements of various performance parameters as the required by the Authority.

## 2.2 Conditions of Eligibility of Applicants

2.2.1 Applicants must read carefully the minimum conditions of eligibility (the “**Conditions of Eligibility**”) provided herein. Applications of only those Applicants who satisfy the Conditions of Eligibility will be considered for evaluation.

2.2.2 To be eligible for evaluation of its Applications, the Applicant shall fulfil the following:

(A) **Technical Capacity:** The Applicant shall have, over the past 5 (five) years preceding the ADD, undertaken a minimum of 5 (five) Eligible Assignments as specified in Clause 3.1.4.

(B) **Financial Capacity:** The Applicant shall have received a minimum income of Rs. 4 (four) crore or US \$ 2 (two) million]<sup>6</sup> per annum from professional fees during each of the 3 (three) financial years preceding the Application Due Date. For the purpose of evaluation, **Availability of Key Personnel:** The Applicant shall offer and make available all Key Personnel meeting the requirements specified in sub-clause (C) below.

(C) **Conditions of Eligibility for Key Personnel:** Each of the Key Personnel must fulfill the Conditions of Eligibility specified below:

Key Personnel	Educational Qualification	Length of Professional Experience	Experience on Eligible Assignments
Mechanical Engineer - cum - Lead Member	Graduate in Mech./ Elec. Engineering	10 years	He should have led the team for Two Eligible Assignments
Traffic/ Operational Expert	Post Graduate in any discipline and having experience in cargo handling system/ management in port sector.	7 Years	He should have worked as a Traffic expert/ operational expert in two Eligible Assignment.

2.2.3 The Applicant shall enclose with its Application, certificate(s) from its Statutory Auditors stating its total revenues from professional fees during each of the past three financial years. In the event that the Applicant does not have a statutory auditor, it shall provide the requisite certificate(s) from the firm of Chartered Accountants that ordinarily audits the annual accounts of the Applicant.

- 2.2.4 The applicant shall enclose document proof viz. copy of the work order/ copy of the completion certificate issued by the client for all projects claiming credit by the applicant in respect of eligible assignment as per clause 3.1.4.
- 2.2.5 The Applicant should submit a Power of Attorney as per the format at Form-4; provided, however, that such Power of Attorney would not be required if the Application is signed by a partner of the Applicant, in case the Applicant is a partnership firm or limited liability partnership.
- 2.2.6 Any entity which has been barred by the Central Government, any State Government, a statutory authority or a public sector undertaking, as the case may be, from participating in any project, and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal either by itself or through its Associate.
- 2.2.7 An Applicant or its Associate should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant or its Associate, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Applicant or its Associate.
- 2.2.8 While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.

### **2.3 Conflict of Interest**

- 2.3.1 An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “**Conflict of Interest**”). Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter alia*, the time, cost and effort of the Authority including consideration of

such Applicant's Proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.

2.3.2 The Authority requires that the Consultant provides professional, objective, and impartial advice and at all times hold the Authority's interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the Authority.

2.3.3 Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in the Guidance Note at Schedule-3. Without limiting the generality of the above, an Applicant shall be deemed to have a Conflict of Interest affecting the Selection Process, if:

- (b) the Applicant, its consortium member (the "**Member**") or Associate (or any constituent thereof) and any other Applicant, its consortium member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be) in the other Applicant, its consortium member or Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act, 1956. For the purposes of this Clause 2.3.3(a), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "**Subject**

**Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or a constituent of such Applicant is also a constituent of another Applicant; or

- (c) such Applicant or its Associate receives or has received any direct or indirect subsidy or grant from any other Applicant or its Associate; or
- (d) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
- (e) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each others’ information about, or to influence the Application of either or each of the other Applicant; or
- (f) there is a conflict among this and other consulting assignments of the Applicant (including its personnel and Sub-consultant) and any subsidiaries or entities controlled by such Applicant or having common controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the Authority for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or
- (g) a firm which has been engaged by the Authority to provide goods or works or services for a project, and its Associates, will be disqualified from providing consulting services for the same project save and except as provided in Clause 2.3.4; conversely, a firm hired to provide consulting

services for the preparation or implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project; or

- (h) the Applicant, its Member or Associate (or any constituent thereof), and the bidder or Concessionaire, if any, for the Project, its contractor(s) or sub-contractor(s) (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be,) in the bidder or Concessionaire, if any, or its contractor(s) or sub-contractor(s) is less than 5% (five per cent) of the paid up and subscribed share capital of such Concessionaire or its contractor(s) or sub-contractor(s); provided further that this disqualification shall not apply to ownership by a bank, insurance company, pension fund or a Public Financial Institution referred to in section 4A of the Companies Act, 1956. For the purposes of this sub-clause (h), indirect shareholding shall be computed in accordance with the provisions of sub-clause (a) above.

For purposes of this RFQ, Associate means, in relation to the Applicant, a person who controls, is controlled by, or is under the common control with such Applicant (the “**Associate**”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law or by contract.

- 2.3.4 An Applicant eventually appointed to provide Consultancy for this Project, and its Associates, shall be disqualified from subsequently providing goods or works or services related to the construction and operation of the same Project and any

breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 5 (five) years from the completion of this assignment or to consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services performed for the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services performed for the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant's firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Consultant, as the case may be, and any Associate thereof.

#### **2.4 Number of Applications**

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

#### **2.5 Cost of Application.**

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

#### **2.6 Site visit and verification of information**

Applicants are encouraged to submit their respective Applications. after ascertaining for themselves about the information relating to assignment and other data with the Indian Port Association (IPA), Applicable Laws and regulations or any other matter considered relevant by them.

## **2.7 Acknowledgement by Applicant**

2.7.1 It shall be deemed that by submitting the Application, the Applicant has:

- (a) made a complete and careful examination of the RFQ;
- (b) received all relevant information requested from the Indian Ports Association (IPA);
- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFQ or furnished by or on behalf of the Authority or relating to any of the matters referred to in Clause 2.6 above;
- (d) satisfied itself about all matters, things and information, including matters referred to in Clause 2.6 herein above, necessary and required for submitting an informed Application and performance of all of its obligations thereunder;
- (e) acknowledged that it does not have a Conflict of Interest; and
- (f) agreed to be bound by the undertaking provided by it under and in terms hereof.

2.7.2 The Indian Ports Association (IPA) shall not be liable for any omission, mistake or error on the part of the Applicant in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFQ or the Selection Process, including any error or mistake therein or in any information or data given by the Indian Ports Association (IPA).

## **2.8 Right to reject any or all Proposals**

2.8.1 Notwithstanding anything contained in this RFQ, the Indian Ports Association (IPA) reserves the right to accept or reject any Application and to annul the Selection Process and reject all Application, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

2.8.2 Without prejudice to the generality of Clause 2.8.1, the Indian Ports Association (IPA) reserves the right to reject any Application if:

- (a) at any time, a material misrepresentation is made or discovered, or
- (b) the Applicant does not provide, within the time specified by the Indian Ports Association (IPA), the supplemental information sought by the Indian Ports Association (IPA) for evaluation of the Application.

Misrepresentation/ improper response by the Applicant may lead to the disqualification of the Applicant. If the Applicant is the Lead Member of a consortium, then the entire consortium may be disqualified / rejected. If such disqualification / rejection occurs after the Proposals have been opened and the highest ranking Applicant gets disqualified / rejected, then the Indian Ports Association (IPA) reserves the right to consider the next best Applicant, or take any other measure as may be deemed fit in the sole discretion of the Indian Ports Association (IPA), including annulment of the Selection Process.

## **B. DOCUMENTS**

### **2.9 Contents of the RFQ**

2.9.1 This RFQ comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.11:

#### **Invitation for Qualification**

- 1 Introduction
- 2 Instructions to Applicants
- 3 Criteria for Evaluation
- 4 Fraud and corrupt practices
- 5 Pre-Application Conference
- 6 Guidance Note on Conflict of Interest
- 7 Miscellaneous

## Schedules

### 1 Appendices

#### Technical Proposal

Form 1 : Letter comprising of Application

Form 2 : Particulars of the Applicant

Form 3 : Statement of Legal Capacity

Form 4 : Power of Attorney

Form 5 : Financial Capacity of Applicant

Form 6 : Particulars of Key Personnel

Form 7 : Abstract of Eligible Assignments of Applicant

Form 8 : Abstract of Eligible Assignments of Key Personnel

Form 9 : Eligible Assignments of Applicant

Form 10: Eligible Assignments of Key Personnel

Form 11 : CV of Key Personnel

### 2.10 Clarifications

2.10.1 Applicants requiring any clarification on the RFQ may send their queries to the Indian Ports Association (IPA) in writing before the date mentioned in the Schedule of Selection Process at Clause 1.8. The envelopes shall clearly bear the following identification:

“Queries/Request for Additional Information concerning RFQ for.....”

The Indian Ports Association (IPA) shall endeavour to respond to the queries within the period specified therein but not later than 7 (seven) days prior to the Application Due Date. The responses will be sent by fax or e-mail. The Indian Ports Association (IPA) will post the reply to all such queries on the Official Website and copies thereof will also be circulated to all Applicants who have purchased the RFQ document without identifying the source of queries.

2.10.2 The Indian Ports Association (IPA) reserves the right not to respond to any questions or provide any clarifications, in its sole discretion, and nothing in this Clause 2.10 shall be construed as obliging the Indian Ports Association (IPA) to respond to any question or to provide any clarification.

## **2.11 Amendment of RFQ**

- 2.11.1 At any time prior to the deadline for submission of Application, the Indian Ports Association (IPA) may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFQ document by the issuance of Addendum/ Amendment and posting it on the Official Website and by conveying the same to the prospective Applicants (who have purchased the RFQ document) by fax or e-mail.
- 2.11.2 All such amendments will be notified in writing through fax or e-mail to all Applicants who have purchased the RFQ document. The amendments will also be posted on the Official Website along with the revised RFQ containing the amendments and will be binding on all Applicants.
- 2.11.3 In order to afford the Applicants a reasonable time for taking an amendment into account, or for any other reason, the Indian Ports Association (IPA) may, in its sole discretion, extend the Application Due Date<sup>s</sup>.

## **C. PREPARATION AND SUBMISSION OF APPLICATION**

### **2.12 Language**

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

### **2.13 Format and signing of Proposal**

- 2.13.1 The Applicant shall provide all the information sought under this RFQ. The Indian Ports Association (IPA) would evaluate only those Applications that are received in the specified forms and complete in all respects.

2.13.2 The Applicant shall prepare one original set of the Application (together with originals/ copies of Documents required to be submitted along therewith pursuant to this RFQ) and clearly marked “ORIGINAL”. In addition, the Applicant shall submit 2 (two) copies of the Applications, alongwith Documents, marked “COPY”. In the event of any discrepancy between the original and its copies, the original shall prevail.

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

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

A copy of the Power of Attorney certified under the hands of a partner or director of the Applicant and notarised by a notary public in the form specified in Appendices (Form- 4) shall accompany the Proposal.

2.13.4 Applicants should note the Application Due Date, as specified in Clause 1.8, for submission of Proposals. Except as specifically provided in this RFQ, no supplementary material will be entertained by the Indian Ports Association (IPA), and that evaluation will be carried out only on the basis of Documents received by the closing time of Application Due Date as specified in Clause 2.17.1. Applicants will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected. For the avoidance of doubt, the Indian Ports Association (IPA) reserves the right to seek clarifications under and in accordance with the provisions of Clause 2.23.

## 2.14 Technical Proposal

2.14.1 Applicants shall submit the technical proposal in the formats at Appendices (the “**Technical Proposal**”).

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

- (a) all forms are submitted in the prescribed formats and signed by the prescribed signatories;
- (b) Power of Attorney, if applicable, is executed as per Applicable Laws;
- (c) CVs of all Professional Personnel have been included;
- (d) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 2.2.2 (D) of the RFQ;
- (e) No alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
- (g) the CVs have been recently signed and dated in blue ink by the respective Personnel and countersigned by the Applicant. Photocopy or unsigned / countersigned CVs shall be rejected;
- (h) the CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFQ;
- (i) Professional Personnel proposed have good working knowledge of English language;
- (j) Key Personnel would be available for the period indicated in the TOR;
- (k) no Key Personnel should have attained the age of 75 (seventy five) years at the time of submitting the proposal; and
- (l) the proposal is responsive in terms of Clause 2.21.3.

2.14.3 Failure to comply with the requirements spelt out in this Clause 2.14 shall make the Proposal liable to be rejected.

2.14.4 If an individual Key Personnel makes a false averment regarding his qualification, experience or other particulars, or his commitment regarding availability for the Project is not fulfilled at any stage after signing of the Agreement, he shall be liable to be debarred for any future assignment of the Authority for a period of 5

(five) years. The award of this Consultancy to the Applicant may also be liable to cancellation in such an event.

2.14.5 The Technical Proposal shall not include any financial information relating to the Financial Proposal.

2.14.6 The proposed team shall be composed of experts and specialists (the “**Professional Personnel**”) in their respective areas of expertise and managerial/support staff (the “**Support Personnel**”) such that the Consultant should be able to complete the Consultancy within the specified time schedule. The Key Personnel specified in Clause 2.1.4 shall be included in the proposed team of Professional Personnel. Other competent and experienced Professional Personnel in the relevant areas of expertise must be added as required for successful completion of this Consultancy. The CV of each such Professional Personnel, if any, should also be submitted in the format at Form-11 of Appendices.

2.14.8 The Indian Ports Association (IPA) reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFQ. Any such verification or the lack of such verification by the Indian Ports Association (IPA) to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Indian Ports Association (IPA) thereunder.

2.14.9 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Agreement, and if the Selected Applicant has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQ, be liable to be terminated, by a communication in writing by the Authority without the Authority being liable in any manner whatsoever to the Applicant or Consultant, as the case may be.

In such an event, the Authority shall forfeit and appropriate the Bid Security as mutually agreed pre-estimated compensation and 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.

2.16.4 The Technical Proposal shall be typed or written in indelible ink and signed by the Authorised Representative of the Applicant. All pages of the original Technical Proposal must be numbered and initialed by the person or persons signing the Proposal.

2.16.5 The completed Application must be delivered on or before the specified time on Application Due Date. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained.

2.16.6 The Application shall be made in the Forms specified in this RFQ. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents. No separate documents like printed annual statements, company brochures, copy of contracts etc. will be entertained.

## **2.17 Application Due Date**

2.17.1 Application should be submitted at or before 1100 hrs on the Application Due Date specified at Clause 1.8 at the address provided in Clause 1.11 in the manner and form as detailed in this RFQ. A receipt thereof should be obtained from the person specified therein.

2.17.2 The Indian Ports Association (IPA) may, in its sole discretion, extend the Application Due Date by issuing an Addendum in accordance with Clause 2.11 uniformly for all Applicants.

## **2.18 Late Proposals**

Applications received by the Indian Ports Association (IPA) after the specified time on Application Due Date shall not be eligible for consideration and shall be summarily rejected.

## **2.19 Modification/ substitution/ withdrawal of Proposals**

- 2.19.1 The Applicant may modify, substitute, or withdraw its Application after submission, provided that written notice of the modification, substitution, or withdrawal is received by the Indian Ports Association (IPA) prior to Application Due Date. No Application shall be modified, substituted, or withdrawn by the Applicant on or after the Application Due Date.
- 2.19.2 The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.16, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.
- 2.19.3 Any alteration / modification in the Application or additional information or material supplied subsequent to the Application Due Date, unless the same has been expressly sought for by the Indian Ports Association (IPA), shall be disregarded.

## **D. EVALUATION PROCESS**

### **2.21 Evaluation of Application**

- 2.21.1 The Indian Ports Association (IPA) shall open the Applications at 1130 hours on the Application Due Date, at the place specified in Clause 1.11.1 and in the presence of the Applicants who choose to attend.
- 2.21.2 Application for which a notice of withdrawal has been submitted in accordance with Clause 2.19 shall not be opened.
- 2.21.3 Prior to evaluation of Applications, the Indian Ports Association (IPA) will determine whether each Application is responsive to the requirements of the RFQ. The Indian Ports Association (IPA) may, in its sole discretion, reject any Application that is not responsive hereunder. An Application shall be considered responsive only if:
- (a) the Technical Proposal is received in the form specified at Appendices;
  - (b) it is received by the Application Due Date including any extension thereof

pursuant to Clause 2.17;

- (c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.13 and 2.16;
- (d) it is accompanied by the Power of Attorney as specified in Clause 2.2.4;
- (e) it contains all the information (complete in all respects) as requested in the RFQ;
- (f) it does not contain any condition or qualification; and
- (g) it is not non-responsive in terms hereof.

2.21.4 The Indian Ports Association (IPA) reserves the right to reject any Application which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Indian Ports Association (IPA) in respect of such Applications.

2.21.5 The Indian Ports Association (IPA) shall subsequently examine and evaluate Application in accordance with the Selection Process specified at Clause 1.6 and the criteria set out in Section 3 of this RFQ.

2.21.6 After the technical evaluation, the Indian Ports Association (IPA) shall prepare a list of pre-qualified and shortlisted Applicants in terms of Clause 3.2 who will be eligible and empanelled for participation in the Bid stage to undertake the assignment of “Independent Engineer for certification of Performance Standards of PPP operators at Major ports” (Bidders) as and when required by the Major Ports. The Indian Ports Association (IPA) will not entertain any query or clarification from Applicants who fail to qualify.

2.21.7 Applicants are advised that Selection will be entirely at the discretion of the Indian Ports Association (IPA). Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Selection Process or Selection will be given.

2.21.8 Any information contained in the Application shall not in any way be construed as binding on the Indian Ports Association (IPA), its agents, successors or assigns, but shall be binding against the Applicant if the Assignment is subsequently awarded to it.

## **2.22 Confidentiality**

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising the Indian Ports Association (IPA) in relation to matters arising out of, or concerning the Selection Process. The Indian Ports Association (IPA) will treat all information, submitted as part of the Application, in confidence and will require all those who have access to such material to treat the same in confidence. The Indian Ports Association (IPA) 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 Indian Ports Association (IPA).

## **2.23 Clarifications**

- 2.23.1 To facilitate evaluation of Application, the Indian Ports Association (IPA) may, at its sole discretion, seek clarifications from any Applicant regarding its Application. Such clarification(s) shall be provided within the time specified by the Indian Ports Association (IPA) for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.
- 2.23.2 If an Applicant does not provide clarifications sought under Clause 2.23.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the Indian Ports Association (IPA) may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Indian Ports Association (IPA).

## **2.24 Proprietary data**

Subject to the provisions of Clause 2.22, all documents and other information provided by the Indian Ports Association (IPA) or submitted by an Applicant to the Indian Ports Association (IPA) shall remain or become the property of the Indian Ports Association (IPA). Applicants and the Consultant, as the case may be, are to treat all information as strictly confidential. The Indian Ports

Association (IPA) will not return any Proposal or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the Consultant to the Indian Ports Association (IPA) in relation to the Consultancy shall be the property of the Indian Ports Association (IPA).

## **E. EMPANELMENT OF CONSULTANTS**

### **2.25 Empanelment of consultants.**

Of the Applicants -qualified will be empanelled for participation in the Bid stage to undertake the assignment of “Independent Engineer for certification of Performance Standards of PPP operators at Major ports” (Bidders) as and when required by the Major Ports.

### 3. CRITERIA FOR EVALUATION

#### 3.1 Evaluation of Technical Proposals

3.1.1 In the first stage, the Technical Proposal will be evaluated on the basis of Applicant's experience, and the experience of Key Personnel. Only those Applicants whose Technical Proposals get a score of 70 marks<sup>9</sup> or more out of 100 shall qualify for further consideration.

3.1.2 Each Key Personnel must score a minimum of 50 % marks except as provided herein. A Proposal shall be rejected if the total Team of resource persons scores less than 50% marks or any two of the remaining Key Personnel score less than 50% marks.

3.1.3 The scoring criteria to be used for evaluation shall be as follows.

#### Experience Criteria

<b>Experience Criteria of the Applicant Firm (60 Marks).</b>	
1.	<p>Applicant should have completed Minimum Five Eligible works for the projects costing not less than 200 crores (Maximum 50 marks)</p> <p>Initials five completed similar works for the projects – 30 marks.</p> <p>For additional one projects additional 5 marks will be given</p>
2.	<p>Applicant should have Minimum Average Income from professional services Rs. 4 (Four) crores in case of projects in Indian or US\$2 (Two) million dollars for projects elsewhere during the last preceding financial years. (Maximum : 10 Marks)</p> <p>Average Income from professional services Rs. 4 (Four) crores in case of projects in India or US\$2 (Two) million dollars in case of projects elsewhere during the last preceding financial years. - 5 five marks</p> <p>For addition Rs. 50 lakhs for projects in India / US\$ 0.25 million dollars for projects elsewhere, additional - 1 mark.</p>
<b>B. Experience Criterial of Key Personnel (40 marks)</b>	
1.	<p>Mechanical Engineer - cum - Team leader : (Maximum 25 marks)</p> <p>He should have worked as Mechanical Enigneer for at for Three Eligible Assignments</p> <p>Initials three completed similar works for the projects – 15 marks.</p> <p>For additional one projects additional 5 marks will be given</p>

2	Traffic/Operational Expert; ( Maximum 15 marks He should have worked as Traffic expert/ operational expert in Three Eligible Assignments.	Initials Three completed similar works for the projects – 9 marks.  For additional one projects additional 2 marks will be given
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### 3.1.4 Eligible Assignments

For the purposes of determining Conditions of Eligibility and for evaluating the Proposals under this RFQ, advisory/ consultancy assignments in respect of preparation of feasibility report and/or detailed project report including engineering surveys, for the following projects shall be deemed as eligible assignments (the “**Eligible Assignments**”):

- (i) Development of Port infrastructure having an estimated cost (excluding land) at least Rs, 200, 00,00,000 (Rupees Two hundred crores) in case of projects in India, and US \$ 400,000,000 (US dollar Four hundred Million) for projects elsewhere.

For the purpose of this RFQ, Port Infrastructure would be deemed to include marine structures, on-shore and off-shore terminals, berths, jetties, quays, cargo handling system, bulk / liquid material handling system, port based terminal facilities, CFS / ICDs, storage tanks / tank farms, conveyors, pipelines, warehousing, etc

or

- ii) any project involving construction or supply and erection of Mechanical Handling Equipments and having an estimated capital cost (excluding land) of at least Rs. 200,00,00,000 (Rupees Two hundred crores) in case of a project in India, and US \$ 400,000,000 (US dollar Four hundred million) for projects elsewhere.

Provided that the Applicant firm claiming credit for an Eligible Assignment shall have, prior to ADD, received professional fees of at least Rs. 20 (twenty) lakh<sup>15</sup> for such assignment, and where credit is being claimed by a Key Personnel, she/he should have completed the relevant assignment prior to ADD.

Provided further that if the Applicant firm is taking credit for an Eligible Assignment which was undertaken for a private sector entity, such assignment shall have been completed prior to ADD and the Applicant shall have received professional fees of at least Rs. 40 (forty) lakhs <sup>16</sup>].

### **3.2 Qualification of Applicants**

Of the Applicants -qualified will be empanelled for participation in the Bid stage to undertake the assignment of “Independent Engineer for certification of Performance Standards of PPP operators at Major ports” (Bidders) as and when required by the Major Ports.. However, if the number of such pre-qualified Applicants is less than two, the Indian Ports Association (IPA) may, in its sole discretion, pre-qualify the Applicant(s) whose technical score is less than 70 points even if such Applicant(s) do(es) not qualify in terms of Clause 3.1.2; provided that in such an event, the total number of pre-qualified and short-listed Applicants shall not exceed two

## 4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFQ, the Indian Ports Association (IPA) shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “**Prohibited Practices**”) in the Selection Process.
- 4.2 Without prejudice to the rights of the Indian Ports Association (IPA) under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Applicant or Consultant, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or Consultant shall not be eligible to participate in any tender or RFQ issued by the Authority during a period of 2 (two) years from the date such Applicant or Consultant, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Section, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the

Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of the Authority in relation to any matter concerning the Project;

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

## **5. PRE-APPLICATION CONFERENCE**

- 5.1 Pre-Application Conference of the Applicants shall be convened at the designated date, time and place. Only those Applicants, who have purchased the RFQ document or downloaded the same from the Official Website for the Indian Ports Association (IPA), shall be allowed to participate in the Pre-Application Conference. A maximum of two representatives of each Applicant shall be allowed to participate on production of an Indian Ports Association (IPA) letter from the Applicant.
- 5.2 During the course of Pre-Application Conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Indian Ports Association (IPA). The Indian Ports Association (IPA) 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 Selection Process.

## 6. GUIDANCE NOTE ON CONFLICT OF INTEREST

*((See Clause 2.3.3))*

- 6.1 This Note further explains and illustrates the provisions of Clause 2.3 of the RFQ and shall be read together therewith in dealing with specific cases.
- 6.2 Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
- 6.3 Conflict of interest may arise between the Authority and a consultant or between consultants and present or future concessionaries/ contractors. Some of the situations that would involve conflict of interest are identified below:
- (a) Authority and consultants:
    - (i) Potential consultant should not be privy to information from the Authority which is not available to others; or
    - (ii) potential consultant should not have defined the project when earlier working for the Authority; or
    - (iii) potential consultant should not have recently worked for the Authority overseeing the project.
  - (b) Consultants and concessionaires/contractors:
    - (i) No consultant should have an ownership interest or a continuing business interest or an on-going relationship with a potential concessionaire/ contractor save and except relationships restricted to project-specific and short-term assignments; or
    - (ii) no consultant should be involved in owning or operating entities resulting from the project; or
    - (iii) no consultant should bid for works arising from the project.

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

- 6.4 The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Authority. All conflicts must be declared as and when the consultants become aware of them.

- 6.5 Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Authority.
- 6.6 Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
- 6.7 Another form of conflict of interest called “scope–creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.
- 6.8 Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

## 7. MISCELLANEOUS

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

## APPENDICES

### Form – 1

## TECHNICAL PROPOSAL

*(See Clause 2.1.3)*

### Letter of Proposal

(On Applicant's letter head)

(Date and Reference)

To,\*\*\*\*\*

\*\*\*\*\*

\*\*\*\*\*

Sub: Empanelment of Independent Engineer for Certification of Performance Standards of PPP operators.

Dear Sir,

With reference to your RFQ Document dated ....., I/we, having examined all relevant documents and understood their contents, hereby submit our Proposal for Empanelment of Independent Engineer for Certification of Performance Standards of PPP operators. The proposal is unconditional and unqualified.

2. All information provided in the Proposal and in the Appendices is true and correct and all documents accompanying such Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of empanelment as the Consultant for the aforesaid assignments at Major Ports.
4. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
5. I/We acknowledge the right of the Authority to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/We certify that in the last three years, we or any of our 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 against the Applicant, nor been expelled from any project or contract by any public authority

nor have had any contract terminated by any public authority for breach on our part.

7. I/We declare that:
  - (a) I/We have examined and have no reservations to the RFQ Documents, including any Addendum issued by the Authority;
  - (b) I/We do not have any conflict of interest in accordance with Clause 2.3 of the RFQ Document;
  - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFQ 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
  - (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFQ, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant, without incurring any liability to the Applicants in accordance with Clause 2.8 of the RFQ document.
9. I/We declare that we/any member of the consortium, are/is not a Member of a/any other Consortium applying for Selection as a Consultant.
10. I/We certify that in regard to matters other than security and integrity of the country, we or any of our Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.
11. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
12. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our

Directors/Managers/ employees.

13. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority [and/ or the Government of India] in connection with the selection of Consultant or in connection with the Selection Process itself in respect of the above mentioned Project.
14. I/We agree and understand that the proposal is subject to the provisions of the RFQ document. In no case, shall I/we have any claim or right of whatsoever nature if the Consultancy for the assignment is not awarded to me/us or our proposal is not opened or rejected.
15. I/We agree to keep this offer valid for 90 (ninety) days from the Proposal Due Date specified in the RFQ.
16. A Power of Attorney in favour of the authorised signatory to sign and submit this Proposal and documents is attached herewith in Form 4.
17. I/We have studied RFQ and all other documents carefully. We understand that except to the extent as expressly set forth in this document. 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 concerning or relating to the Selection Process including the award of Consultancy.
18. This Technical Proposal shall constitute the Application which shall be binding on us.
19. I/We agree and undertake to abide by all the terms and conditions of the RFQ Document. In witness thereof, I/we submit this Proposal under and in accordance with the terms of the RFQ Document.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

(Name and seal of the Applicant / Lead Member)

## APPENDICES

### Form – 2

#### PARTICULARS OF THE APPLICANT

1.1	Title of RFQ: Empanelment of Independent Engineer for Certification of Performance Standards of PPP operators.
1.2	State whether applying as Sole Firm or Lead Member of a consortium: Sole Firm
	or Lead Member of a consortium
1.3	State the following: Name of Company or Firm: Legal status (e.g. incorporated private company, unincorporated business, partnership etc.): Country of incorporation: Registered address:  Year of Incorporation: Year of commencement of business: Principal place of business: Brief description of the Company including details of its main lines of business Name, designation, address and phone numbers of authorised signatory of the Applicant:  Name: Designation: Company: Address: Phone No.: Fax No. : E-mail address:

1.5	<p>If the Applicant is Lead Member of a consortium, state the following for each of the other Member Firms:</p> <p>(i) Name of Firm:</p> <p>(ii) Legal Status and country of incorporation</p> <p>(iii) Registered address and principal place of business.</p>
1.6	<p>For the Applicant, (in case of a consortium, for each Member), state the following information:</p> <p>(i) In case of non Indian Firm, does the Firm have business presence in India? <span style="float: right;">Yes/No</span> If so, provide the office address(es) in India.</p> <p>(ii) Has the Applicant or any of the Members in case of a consortium been penalized by any organization for poor quality of work or breach of contract in the last five years? <span style="float: right;">Yes/No</span></p> <p>(iii) Has the Applicant/Member ever failed to complete any work awarded to it by any public authority/entity in last five years? <span style="float: right;">Yes/No</span></p> <p>(iv) Has the Applicant or any member of the consortium been blacklisted by any Government department/Public Sector Undertaking in the last five years? <span style="float: right;">Yes/No</span></p> <p>(v) Has the Applicant or any of the Members, in case of a consortium, suffered bankruptcy/insolvency in the last five years? <span style="float: right;">Yes/No</span></p> <p><b>Note:</b> <b>If answer to any of the questions at (ii) to (v) is yes, the Applicant is not eligible for this consultancy assignment.</b></p>
1.7	<p>Does the Applicant's firm/company (or any member of the consortium) combine functions as a consultant or adviser along with the functions as a contractor and/or a manufacturer? <span style="float: right;">Yes/No</span></p> <p>If yes, does the Applicant (and other Member of the Applicant's consortium) agree to limit the Applicant's role only to that of a consultant/ adviser to the Authority and to disqualify themselves, their Associates/ affiliates, subsidiaries and/or parent organization subsequently from work on this Project in any other capacity? <span style="float: right;">Yes/No</span></p>

Signature, name and designation of the authorised signatory)

For and on behalf of .....

## APPENDICES

### Form – 3

#### STATEMENT OF LEGAL CAPACITY

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

Ref. Date:

To,

\*\*\*\*\*

\*\*\*\*\*

Dear Sir,

Sub: RFQ for Empanelment of Independent Engineer for Certification of Performance Standards of PPP operators.

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

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

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

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of .....

*\*Please strike out whichever is not applicable*

**APPENDICES**

**Form – 4**

**POWER OF ATTORNEY**

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

Form-4

Know all men by these presents, we, ..... (name of Firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr / Ms..... son/daughter/wife 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 “Authorised Representative”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for and selection as the Consultant for Empanelment of Independent Engineer for Certification of Performance Standards of PPP operators. Prepared by developed by the Indian Ports Association, New Delhi (the “Authority”) including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with the Authority.

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

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

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

Witnesses:

- 1.
- 2.

Notarised

Accepted

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

Notes:

*The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure. The Power of Attorney should be executed on a non-judicial stamp paper of Rs. 100 (one hundred) and duly notarised by a notary public.*

*Wherever required, the Applicant should submit for verification the extract of the charter documents and other documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.*

*For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, Applicants from countries that have signed the Hague Legislation Convention, 1961 need not get their Power of Attorney legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

## APPENDICES

### Form – 5

#### FINANCIAL CAPACITY OF THE APPLICANT

(Refer Clause 2.2.2 (B))

S. No.	Financial Year	Annual Revenue (Rs./US \$ in million)
1.		
2.		
3.		

**Certificate from the Statutory Auditor<sup>§</sup>**

This is to certify that .....(name of the Applicant) has received the payments shown above against the respective years on account of professional fees.

Name of the audit firm:

Seal of the audit firm

Date:

(Signature, name and designation of the authorised signatory)

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

**Note:** Please do not attach any printed Annual Financial Statement.

## APPENDICES

### Form – 6

#### PARTICULARS OF KEY PERSONNEL

S. No.	Designation of Key personnel	Name	Educational Qualification	Length of Professional Experience	Present Employment		
					Name of Firm	Employed Since	No. of Eligible Assignments *
1	Mechanical Engineer-cum- Lead member						
2	Traffic Expert – Member						

\* Refer Form 8 of Appendices, Experience of Key Personnel.

Soft copy of the above in editable format (Word/ Excel) shall also be furnished

## APPENDICES

### Form – 7

#### Abstract of Eligible Assignments of the Applicant<sup>#</sup> (Refer Clause 3.1)

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

# The Applicant should provide details of only those projects that have been undertaken by it under its own name.

## Exchange rate should be taken as Rs. [60] per US \$ for conversion to Rupees.

\* The names and chronology of Eligible Projects included here should conform to the project-wise details submitted in Form-9 of Appendices.

\* The applicant shall enclose document proof viz. copy of the work order/ copy of the completion certificate issued by the client for all projects above.

#### Certificate from the Statutory Auditor<sup>\$</sup>

This is to certify that the information contained in Column 5 above is correct as per the accounts of the Applicant and/ or the clients.

Name of the audit firm:

Seal of the audit firm

Date:

(Signature, name and designation of the authorised signatory)

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

**Note:** The Applicant may attach separate sheets to provide brief particulars of other relevant experience of the Applicant.

Soft copy of the above in editable format (Word/ Excel) shall also be furnished

## APPENDICES

### Form – 8

#### ABSTRACT OF ELIGIBLE ASSIGNMENTS OF KEY PERSONNEL<sup>@</sup>

(Refer Clause 3.1)

Name of Key Personnel:

Designation:

S. No	Name of Project*	Name of Client	Estimated capital cost of project (in Rs. cr./ US\$ million)	Name of firm for which the Key Personnel worked	Designation of the Key Personnel on the assignment	Date of completion of the assignment
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

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

The names and chronology of projects included here should conform to the project-wise details submitted in Form-10 of Appendices.

**Note:** The Applicant may attach separate sheets to provide brief particulars of other relevant experience of the Key Personnel.

Soft copy of the above in editable format (Word/ Excel) shall also be furnished

## APPENDICES

### Form – 9

#### Eligible Assignments of Applicant

(Refer Clause 3.1.4)

Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:(Indicate whether public or private entity)	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs. crore or US\$ million):	
Payment received by the Applicant (in Rs. crore):	
Start date and finish date of the services (month/ year):	
Brief description of the Project:	

**Notes:**

1. Use separate sheet for each Eligible Project.
2. The Applicant may attach separate sheets to provide brief particulars of other relevant experience of the Applicant.
3. Exchange rate should be taken as Rs. [60] per US \$ for conversion to Rupees.
4. Soft copy of the above in editable format (Word/ Excel) shall also be furnished

## APPENDICES

### Form – 10

#### Eligible Assignments of Key Personnel

(Refer Clause 3.1.4)

Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Length in km or other particulars	
Name of Consulting Firm where employed:	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address: (indicate whether public or private)	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of the Project (in Rs. crore or US\$ million):	
Start date and finish date of the services (month/ year):	
Brief description of the Project:	
It is certified that the aforesaid information is true and correct to the best of my knowledge and belief.	
(Signature and name of Key Personnel)	

**Notes:**

1. Use separate sheet for each Eligible Project.
2. The Applicant may attach separate sheets to provide brief particulars of other relevant experience of the Key Personnel
3. Soft copy of the above in editable format (Word/ Excel) shall also be furnished

# APPENDICES

## Form – 11

### Curriculum Vitae (CV) of Key Personnel

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

Name of project	Description of responsibilities
-----------------	---------------------------------
8. Details of the current assignment and the time duration for which services are required for the current assignment.  
Certification:
  - 1 I am willing to work on the Project and I will be available for entire duration of the Project assignment as required.
  - 2 I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications and my experience.

Place.....

(Signature and name of the Key Personnel)

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

**Notes:**

1. Use separate form for each Key Personnel
2. The names and chronology of assignments included here should conform to the project-wise details submitted in Form-8 of Appendices.
3. Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorised Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.
4. Soft copy of the above in editable format (Word/ Excel) shall also be furnished

## CHECK LIST

Sl. No.	Particulars	Yes/ No.	Ref. Page No.
1.	Whether the Letter of Proposal on applicants letter is enclosed as per Form-1 duly signed by Authorized Signatory		
2.	Whether the Particulars of the applicant is enclosed as per Form-2.		
3.	Whether the statement of Legal Capacity is enclosed as per Form-3		
4.	Whether the Power of Attorney is enclosed as per Form-4( If applicable)		
5.	Whether the Auditor Statement certifying the financial capacity for the last 3 years as per Form -5.		
6.	Whether the details of the key persons is enclosed as per Form – 6.		
7.	Whether the abstract of eligible assignment of the Applicants is enclosed as per Form – 7.		
8.	Whether the copies of Work Order/Completion Certificates from the Client are enclosed in support of eligible assignments under Form – 7.		
9.	Whether the abstract of eligible assignment of Key Personnel is enclosed as per Form 8.		
10.	Whether the detailed statement as per Form-9 for each of the eligible assignment of the Applicants are enclosed.		
11.	Whether the detailed statement as per Form-9 for each of the eligible assignment of the Key Personnel are enclosed.		
12.	Whether the CVs of Key Persons are enclosed as per Form-11.		
13.	Whether the soft copies of Form 6 to 11 (Appendices) are submitted along with the proposal.		

