

Limited  
Request for Proposal (RFP)  
For  
Engagement of Consultant for processing  
revision of Model Concession Agreement  
at Major Ports

Tender No. IPA/GAD/MCA/2020  
Date: 28.05.2020



**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  
Email – [tender.ipa@nic.in](mailto:tender.ipa@nic.in)

28<sup>th</sup> May 2020

**LETTER FOR ISSUE OF RFP FOR THE**

**Engagement of Consultant for processing  
revision of Model Concession Agreement at Major Ports**

The set of RFP document is issued to: .....

Name : .....

Address : .....

.....

IPA

Signature of the Officer issuing the RFP Document: .....

**Indian Ports Association  
New Delhi**

No. IPA/GAD/MCA/2020

28/05/2020

Engagement of Consultant for processing  
revision of Model Concession Agreement at Major Ports

**1. INTRODUCTION**

Ministry of Shipping, Government of India/ Indian Ports Association wishes to engage a reputed Consultant, interested Agencies / Firms / Consortiatio undertake 'Revision of Model Concession Agreement at Major Ports. Accordingly, Indian Ports Association (IPA) invites Requests for Proposal (RFP) on limited offer basis from prospective bidders empanelled as Category 'A' of Centre of Excellence list of IPA as per list attached (Annexure –VIII) for the above stated objective.

- 1.1 The RFP document providing the Terms of Reference (ToR), Pre-qualification criteria, Terms and Conditions including evaluation criteria and application fee are available in the web site <http://ipa.nic.in>.
- 1.2 The schedule for receipt of the application is as follows:-
  - i. Pre-bid meeting at 1130 Hrs on 04/06/2020
  - ii. Submission of document fee of Rs.5,000/- for RFP on or before 1500 Hrs on 19/06/2020.
  - iii. Receipt of offers on or before 1500 Hrs on 19/06/2020.
  - iv. Opening of Technical offers at 1530 Hrs on 19/06/2020.
- 1.3 Reputed and interested Agencies/Companies/Firms/Consortia may download the RFP from the above website and send in their response to the Managing Director, Indian Ports Association, 1st. floor, South Tower, NBCC Place, Bhisham Pitamah Marg, Lodi Road, New Delhi – 110 003.
- 1.4 In case, RFP document is downloaded from website, the requisite document fee of Rs. 5,000/- (five thousand rupees only) in form of Demand Draft/pay order, in favor of Indian Ports Association payable at New Delhi shall be submitted along with bid.

## 2. PROPOSAL

Currently followed Model Concession Agreement (MCA) for Public Private Partnership (PPP) projects at Major Port was formulated in January 2018 to attract more PPP investors in Port Sector. To align the provisions of MCA with the best practice to attract more PPP investors in the Port Sector, Government intends to revise the existing MCA as this does not make investments sentiments favorable for PPP projects at Major Ports.

In order to make Port projects more Investor friendly and make investors climate in major ports more attractive, the revised Model Concession Agreement for PPP projects is to be formulated.

## 3. TERMS OF REFERENCE (SCOPE OF WORK)

To review the guidelines for Model Concession Agreement (MCA) as following:

- 3.1 To incorporate the remedial safeguards/provisions to evolve a mechanism which could ensure effective implementation of the PPP projects.
- 3.2 To provide flexibility to incorporate dynamic changes/scenarios coming into play because of the changes in Market demand and supply, in financial sector, etc.
- 3.3 To deliberate the suggestions from the existing/prospective investors/PPP concessioners/individuals and stakeholders.
- 3.4 To align the provisions of MCA with the best practices to attract more PPP investors in the Port Sector.

## 4. BRIEF DESCRIPTION OF RFP PROCESS:

The RFP process involves qualification of interested parties who make an application in accordance with the provisions of this RFP (the "Bidder"). At the end of this process, Ministry of Shipping (MoS)/IPA shall short-list suitable pre-qualified parties and the process involves broadly the following:-

- i. **Screening:** MoS/IPA shall undertake the initial screening of all the applications based on the qualifying criteria. Bidders not meeting any of the qualifying criteria and other essential conditions, etc., mentioned in the RFP document shall be summarily rejected and shall not be shortlisted for presentation.
- ii. **Short-listing:** All eligible firms may be invited to make presentations to the Selection Committee. The Committee will evaluate the bidders based on their past performance, experience, existing Clientele, etc. as per the technical scoring matrix.

## 5. **PRE-BID MEETING:**

A pre-bid meeting will be held at Indian Ports Association, New Delhi, to clarify the queries raised by the bidders on the RFP document. This meeting will be held on **19/05/2020 at 1130 hours**. All the prospective bidders are requested to submit their queries (if any) through email in editable word format to the CAO, Indian Ports Association at email id "**cao.ipa@nic.in**" on or before **19/05/2020 at 1030 hrs**. The clarifications to the bidders shall be hosted on the website of Indian Ports Association.

## 6. **BID SUBMISSION:**

Proposals have to be submitted as per the following directions:

- (i) **Cover 1 (sealed)** (to be superscribed in capitals and bold letters as "TECHNICAL BIDCOVER"):
  - (a) Demand Draft/Bank Pay Order of Rs.1,00,000/- (Rupees One Lakh only) shall be deposited as EMD in favour of "Indian Ports Association" payable at New Delhi.
  - (b) Covering letter on Letter Head of Company / Firm for Bid submission by the Bidder.
  - (c) Authority letter authorizing the person of the bidder to sign the proposal and other documents.
  - (d) Technical Bid shall also be submitted on CPP Portal also in PDF format only
  - (e) Technical Bid alongwith all schedules, certificates & Annexure, duly filled & signed, by authorized signatory of Bidder as per Format at **Annexure-I**.
  - (f) Confidentiality Undertaking in the Format at **Annexure-II**.
  - (g) Certificate on unconditional bid in the format at **Annexure-III**. Please note that bids with conditionality shall be summarily rejected.
  - (h) Affidavit regarding no conviction, no conflict as per **Annexure-IV**.
  - (i) Certificate that in case of selection and appointment, a Performance Guarantee of 10% of the contract value would be given in the form of Bank pay Order/digital payment or bank guarantee, valid till the completion of the assignment and acceptance of the report. The performance guarantee shall be handed over before issuance of letter of award. The format of Bank Guarantee is at **Annexure-VI**.
- (ii) **Cover2 (sealed)** (to be superscribed in capitals and bold letters as "FINANCIAL BID COVER"): Bidder shall furnish financial bid in the format as per **Annexure-V**.
- (iii) Both the above two covers shall be placed in a separate cover and sealed

and superscribed with tender number, date and subject.

The proposal as above may be submitted latest by **1500hrs on 04/06/2020** to the Managing Director, Indian Ports Association, 1<sup>st</sup> Floor, South Tower, NBCC Place, Bhisham Pitamah Marg, Lodhi Road, New Delhi – 110003 in hard copies in original, duly signed by the authorized person. No proposal shall be entertained after appointed time and date. The MoS/IPA shall not be responsible for any postal/courier delay.

(iv) The Technical Bid shall be opened at **1530 hrs on 04/06/2020** in the presence of the bidder/duly authorized representative if they choose to be present

## 7. ELIGIBILITY CRITERIA:

The Bidder must meet the following eligibility criteria for technical evaluation and thereafter for opening of their financial bids.

Sl. No.	The Bidder shall satisfy all the criteria stated below:	Supporting Document Required
A.	The Bidder must be an organization/Corporate house/Institution/ Consulting firm and must be registered in India having minimum 5 years of experience for processing revision of Model Concession Agreement for PPP Projects in maritime sector.	Certificate of Incorporation/ Registration etc.
B.	The Bidder must have an annual turnover of at least Rs. 5.00 Crores during each of the last three financial years starting from 2016-2017.	Audited/Certified Annual Financial Statements for the three financial years..
C.	The bidder shall have at least following full time experts (FTEs) with given qualifications and experience: a) <b>Project/Contract:</b> One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and PSUs. Qualifications: MBA with graduate in Law having experience in legal matters. b) <b>MCA Expert:</b> An expert with at least 20 years of experience in the Government, specializing in formulating concession agreements particularly for PPP projects (equivalent to team head). c) <b>Legal:</b> One team Head with minimum 20 years of experience in corporate legal matters with LLB.	Bidder shall submit declaration of educational qualifications duly self-certified. Specialization should be defined. MBA may be in Personnel Management/Industrial Relations/ Finance/Project Management/ Construction/Marketing/ Operations/ International Business. Most suitable qualifications is MBA (Construction Management). Similarly for

		MCA expert, qualifications should be defined, otherwise MCA (IT) may become eligible.
D.	The bidder shall have experience of having successfully conducted the work of revising/formulation of Modal Concessional Agreement (MCA) of PPP Projects of minimum two projects and out of which one must be in maritime sector	Completion Certificate has to be attached
E.	The Bidder shall not be in Blacklist of any CPSU/ State PSU/ Central or State Government Undertaking.	Bidder shall submit self-certified declaration for the same.

## 8. A PROPOSAL FORMAT & TECHNICAL EVALUATION CRITERIA

The short listing of the Consultant shall be based on the following evaluation and selection process:

### EVALUATIONS AND SELECTION PROCESS- QCBS

The overall selection of the Bidders shall be a Quality and Cost based Selection (QCBS), The following formula shall be used for the evaluation of the bids and the Final scores shall be calculated as:

$$Bb = (0.7)*Tb + (0.3)*(Cmin/Cb * 100)$$

Where

- I. Bb = overall score of bidder under consideration (calculated up to two decimalpoints)
- II. Tb = Technical score for the bidder underconsideration
- III. Cb = Financial Bid Value for the bidder underconsideration
- IV. Cmin = Lowest Financial Bid Value among the financial proposals under consideration

The bidder achieving the highest overall score shall be considered for awarding the contract. In case of a tie where two or more bidders achieve the same highest overall score, the bidder with the higher technical score may be invited first for awarding the contract.



	b. 3 Projects – 25 Marks. c. >3 Projects – 35 Marks.	
<b>B</b>	<b>Manpower</b>	<b>Maximum 50</b>
	<p><u>Details of Man power (FTEs):</u></p> <p><b><u>A.-Legal:</u></b>  <u>1-Legal Team head with experience in corporate legal affairs with LLB. :</u>          (a) &gt; 20 year and &lt;25 years = 5 Marks          (b) ≥25 years = 10 Marks  <u>2-Two Legal Associates with experience in corporate legal affairs with LLB :</u>          (a) &gt; 10 year and &lt;15 years = 3 Marks          (b) ≥15 years = 5 Marks</p> <p><b><u>B.-Project/Contract:</u></b>  <u>1-Project/Contract Team head with experience in formulating, executing contracts for projects, preferably in corporate and PSU. MBA with graduate in Law and having experience in legal matters:</u>          (a) &gt; 15year and &lt;20 years = 15 Marks          (b) ≥20 years = 20 Marks</p> <p><b><u>C.-MCA Expert:</u></b>  <u>1.MCA expert with experience in the Government , specializing in formulating concession agreements, particularly for Public Private Partnership Projects (Equivalent to Team Head ):</u>          (a) &gt; 20 year and &lt;25 years = 10 Marks          (b) ≥25 years = 15 Marks</p> <p>(Detailed profile of the core and support team (As mentioned in from Serial A to C above) with CV's (Annexure VII) of each team head/ member detailing qualifications and relevant experience those will be deployed on the assignment in the event of selection to be submitted along with bid.)</p>	<p>15 Marks</p> <p>20 Marks</p> <p>15 Marks</p>
<b>C</b>	<b>Presentation to Selection Committee (SC) / Representatives of MoS/IPA</b>	<b>10 Marks</b>
	<b>Total Technical Score</b>	<b>100 Marks</b>

## 9. OPENING OF FINANCIAL BIDS:

Financial Bids, shall be opened in presence of only those parties who qualify in the technical evaluation i.e. get a score of more than or equal to 70 in the technical evaluation matrix. Please note that the bids with any conditionality including counter conditions, subjective conditions shall be summarily rejected.

Note:

- a) The MoS/IPA reserves the sole right to accept or reject any or all proposals thus received without assigning any reasontherefore.
- b) The MoS/IPA shall not be responsible for any delay on account of late submission of Bid. of Bid received after the last date shall not be considered.
- c) Consortium bids will be allowed.
- d) Sub-contracting of the assignment shall not be allowed. The appointed Consultant shall be solely responsible for all the required final deliverables.

## 10. PROCEDURE FOR SELECTION OF CONSULTANT:

- a. Bidders meeting the eligibility criteria may be required to make a presentation of their credentials & understanding on the subject accordance with the TOR.
- b. The Evaluation Committee shall evaluate the Bidders on the criteria mentioned in this RFP based on their presentation and Proposals received and shortlist them for the purpose of opening of their Financial Bids. Only the bidders scoring minimum of pre-determined marks i.e. 70 marks shall be considered technically qualified and shall be short-listed for opening of financial bids.
- c. The Financial Bids of only the technically shortlisted bidders shall be opened.
- d. After opening of the financial bids, the marks shall be awarded on the QCBS formula stated above and the party securing highest marks may be considered as selected.
- e. In case of a tie, on QCBS Criteria, the bidder scoring higher marks in technical evaluation shall be treated as L1. The L1 bidder may be considered for award of the assignment.
- f. The party selected for award of the assignment shall be required to give Performance Guarantee of 10% of the bid cost by way of Bank Draft/Bank guarantee valid till the completion of the assignment and acceptance of the report. The format of Bank Guarantee is at **Annexure –VI**.

## 11. REQUIREMENT FOR FINANCIAL BIDS:

- a. The Bidder is required to quote a Fixed Lump-sum Fee for aforesaid scope of work in Indian Rupees. All applicable taxes must also be shown separately.
- b. If the party does not quote any taxes, then the amount quoted by him shall be deemed to be as inclusive of all taxes and the bid shall be evaluated accordingly.
- c. In case of any change in the rates of taxes, the applicable rates as on the date of payment shall be applicable irrespective of the rates quoted in the

tender document.

- d. Only taxes in India shall be paid. All taxes outside India shall be to the account of the party and shall not be paid/reimbursed by MoS/IPA.
- e. In case of mismatch between the fee quoted, the number in figures shall be taken as correct for all purposes, including evaluation of financial bids.
- f. The Fee quoted by the bidder shall remain Fixed till successful completion of transaction.
- g. The fee quoted by the bidder shall be unconditional. All other expenses would be borne by the Bidder.
- h. The Bidders shall be liable to pay taxes applicable as per law.
- i. TDS shall be deducted at appropriate rates.

## **12. TERMS OF PAYMENT**

The Consultant fee to the selected Bidder shall be paid in Indian Rupees after successful completion of the aforesaid work as follows:

- i. 40% amount of the contract value shall be released on submission of Preliminary Draft Report of revised Model Concession Agreement.*
- ii. Balance 60% of the contract value shall be released within 30 days of acceptance of final revised Model Concession Agreement.*
- iii. The selected bidder shall be liable to pay taxes on the fee applicable as per law.*

## **13. MODE OF PAYMENT**

The Selected Bidders shall raise the GST compliant invoices in triplicate to the Chief Administrative Officer, Indian Ports Association, 1<sup>st</sup> Floor, South Tower, NBCC Place, Bhisham Pitamah Road, Lodhi Road, New Delhi – 110 003. The verified bills shall be forwarded to the Finance & Accounts Officer (FAO) for arranging payment. All applicable taxes shall be shown separately on the bill.

## **14. ARBITRATION:**

Should any dispute or difference arise between Ministry of Shipping/IPA and consultant in connection with this assignment, or as to the rights and liabilities of the parties hereto, it shall be referred for arbitration to Secretary (Shipping), MOS whose decision shall be final and binding. The venue of the meetings will be at DELHI/NEW DELHI, and only the courts at Delhi/New Delhi shall have exclusive jurisdiction on all matters with reference to this assignment.

## **15. GENERAL AND SPECIAL CONDITIONS OF CONTRACT**

- i) This Invitation has been prepared to enable potentially interested Indian Firms/Consortiums per list attached (Annexure-VIII) who are meeting the qualification criteria to submit their Request for Proposal("RFP").
- ii) The bid to this RFP shall be sent so as to reach the address, by the scheduled date and time mentioned. Bid received beyond specified time and date shall be summarily rejected. The bids shall be opened at the time and place mentioned in RFP. The bid may be sent by post/ courier/ handed over personally to/ at the designated address in closed cover as specified in RFP.
- iii) Bid must be absolutely clear, failing which the same shall not be considered.
- iv) All columns must be properly and legibly filled in. No column must be left blank. Alterations, if any, not authenticated with attestation may result in the rejection of the bid.
- v) The bid prepared by the Firm and all correspondence and document relating to the RFP exchanged by the Firm and the Company shall be written in English.
- vi) The validity of RFP is for a period of 180 days (One hundred eighty days) from the date of submission/opening of bids.
- vii) Conditional bids and additional conditions of the Firms shall not be considered.
- viii) No advance payment shall be made to the consultant for any purpose. All payments shall be regulated as per the terms and conditions of the RFP.
- ix) Notwithstanding anything stated elsewhere in this RFP document, MoS/IPA reserves the right to terminate the engagement of consultant at any time by giving 15 days notice.
- x) Data provided for the study are confidential in nature. The consultant shall not share the data without IPA written permission. A certificate regarding non-sharing/informing of confidential data to third party is to be given by the consultant along with Technical Proposal.
- xi) At the time of submission of bid, the bidder has to ensure that each page is duly signed by the bidder or his duly authorized representative. In case the bid is signed by the authorized representative, a letter of authorization must be enclosed with the bid.
- xii) The bidding institution (s) shall provide professional, objective and impartial advice and at all times hold the client's interest paramount, without any consideration for future works, and that in providing advice they avoid conflicts with other assignments and their own corporate interests.
- xiii) Rates quoted shall remain firm till completion of works.
- xiv) The bidder must be registered under relevant Laws/Acts of the country.

- xv) In case of any dispute arising, the decision of the MoS/IPA shall be final.
- xvi) Even though the applicants satisfy the necessary requirements they are subject to disqualification if they have:
  - a. Made untrue or false representation in the form, statements required in the bid document.
  - b. Records of poor performance such as abandoning work, not properly completing contract, financial failures or delayed completion.
  - c. The bidder is required to collect suggestions, ideas and comments from all the possible stakeholders, compile analyze and give comments on thereon. The bidder is also required to provide assistance in the entire process involved in obtaining the approval of the competent authority in the Government till the final approval is obtained.

## 16. COMPLETION PERIOD:

The Bidder is required to complete the aforesaid services/ work within a period of 60 days from the date of issue of Letter of Intent (LoI).

This is a time bound job and in the event of any delay in completion of work due to reasons attributable to consultant, the consultant shall be liable for Liquidated Damages at the rate of 0.5% per week of such delays subject to a maximum amount of 10% of the total contract value.

For any further clarification, please contact CAO, Indian Ports Association, 1<sup>st</sup> Floor, South Tower, NBCC Place, Bhisham Pitamah Marg, Lodhi Road, New Delhi – 110 003. Tel No. 011-24365041, Fax No. 011-24365866 email: [cao.ipa@nic.in](mailto:cao.ipa@nic.in).

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### TECHNICAL PARTICULARS

1.	Name of Bidder	
2.	Postal address with Telephone / fax No./official e-mail for communication	
3.	Name, address, telephone/fax No./ email with whom reference may be made	
4.	Please state details of Bid Security Deposit paid	
	DD No and date	
	Amount	
	Bankers Name	
5.	Please confirm that bidder is registered in India.	
6.	Confirm that bidder meet the eligibility criteria and how.	
7.	State whether details of assignments done as are enclosed. Also please state whether relevant documents such as copy of Work Order's secured and performance certificates in support of experience enclosed.	
8.	State whether affidavit-cum-undertaking relating to no conviction and non-conflict enclosed.	
9.	Confirm that all technical and commercial terms and conditions are acceptable.	
10.	Any other information the bidder may desire to furnish:	

Verified that to the best of my knowledge and belief all the above information is correct and nothing has been concealed.

Seal with Signature of the authorized signatory of the bidder

Date ...../.../.....

## CONFIDENTIALITY UNDERTAKING

It is certified that the documents/ data/ information, which may be provided to [Name of the bidder] for Consultant to undertake for 'Engagement of Consultant for processing revised Model Concession Agreement at Major Ports' or otherwise related to it shall be treated as strictly confidential and shall not be disclosed or handed over by [Name of the bidder] to any outside agency/ person without prior written permission of IPA.

It is further certified that the valuation reports and other relevant documents, which are to be submitted by [Name of the bidder] to the MoS/IPA shall not be disclosed to any other agency/ person without prior permission of the MoS/IPA and shall be treated as strictly confidential.

Seal with Signature of the authorized signatory of the bidder

Date:

**FORMAT OF UNCONDITIONAL BID ON THE LETTERHEAD OF  
THE BIDDER**

To,

The Managing Director,  
Indian Ports Association,  
1<sup>st</sup> Floor, South Tower,  
NBCC Place,  
Bhisham Pitamah Marg, Lodhi Road  
New Delhi – 110 003.

Dear Sir,

This is to certify that the fee quoted by us to undertake 'Engagement of Consultant for processing revised Model Concession Agreement at Major Ports' is in accordance with the terms and conditions laid down in the RFP displayed on the website of the IPA and is unconditional.

Seal with signatures of authorized signatory of the  
Bidder

Date:

**AFFIDAVIT-CUM-UNDERTAKING**  
**(To be executed on Rs.100/- Non-Judicial Stamp Paper)**

We, the undersigned (“Bidder”) are submitting our bid in respect of the Request for Proposal No [●], dated [●] (“Bid”) issued by Indian Ports Association on behalf of Ministry of Shipping, Government of India, (“Government”) in relation to [●] and in this connection we hereby solemnly affirm, declare and undertake as follows:

- (1) Details of the Bidder as disclosed in Appendix-A enclosed herewith are true and correct as on date.
- (2) There has been no conviction by any court of law or indictment/adverse order by any statutory or regulatory authority for a Grave Offence against us or any of our Indian Sister Concern(s) or any of our promoters or directors or that of our Indian Sister Concern(s).
- (3) No enquiry/investigations for any Grave Offence is pending against us or any of our Indian Sister Concern(s) or any of our or our Indian Sister Concern’s directors, managers and/or other Senior Managerial Personnel by any regulatory authority and/or government agency.
- (4) The details of enquiry/investigations for non-Grave Offenses pending against us/our Indian Sister Concern(s)/ our or our Indian Sister Concern’s directors, managers and/or other Senior Managerial Personnel by any regulatory authority and/or government agency are disclosed in Appendix-B enclosed herewith.
- (5) There is no Conflict of Interest with respect to the Proposed Transaction as on date.
- (6) During the tenure of our engagement for the Proposed Transaction, we shall keep the Government/Company informed, without delay, of any situations, circumstances, relationships, possible source or potential areas of Conflict of Interest in the format enclosed as Appendix-C herewith and we shall not take up work in relation to any such assignment without obtaining prior approval of the Government/Company and granting of such approval shall be the sole discretion of Government/Company and shall be binding on us.
- (7) We ourselves and/or for/with or in association with or on behalf of or through any other Entity, shall not take up any Consultancy or consulting assignment or render any services on a similar transaction or any other transaction which could have a direct Conflict of Interest, in any manner or capacity to a Competitor of the Company during the term of our engagement in respect of the Proposed Transaction without prior written approval of the Government/Company and granting of such approval shall be the sole discretion of Government/Company and shall be binding on us.
- (8) We have put in place a robust mechanism to resolve any Conflict of Interest situations and circumstances that may arise or result while conducting our business or rendering of services and where-so-ever any Conflict of Interest or

potential for Conflict of Interest may arise, we shall take reasonable steps to resolve the same forthwith in a fair and equitable manner. During the term of our engagement we shall ensure to and continue to exercise adequate due diligence for identifying and removing any areas, source, situations and circumstances of conflict and mitigating the effects of such conflicts to the satisfaction of the Government/Company, in case any such Conflict of Interest (or apparent conflict of interest) arises or results in relation to the Proposed Transaction.

- (9) We have laid down an internal code of conduct for governing our internal procedures and operations and have prescribed the standards of appropriate conduct for our employees and officers for carrying out their duties and responsibilities with a view to appropriately ensuring proper maintenance of professional excellence and standards with integrity, confidentiality, objectivity and have made provisions for identification, avoidance and resolution of conflict of interests and for disclosure of shareholdings and interests, etc., in terms of applicable laws.
- (10) We understand that:
- (i) in cases where existing Conflict of Interest (or apparent conflict of interest) is disclosed by us, the Government/Company would be entitled to initiate appropriate actions to eliminate or address or mitigate or neutralize the conflict through or by restricting or modifying the work to be performed by us in respect of the Proposed Transaction. Government/Company may also terminate our engagement for the Proposed Transaction, in whole or in part, if such termination is absolutely necessary in view of the Government/Company to avoid the appearance of a Conflict of Interest.
  - (ii) The Government/Company would be entitled to terminate our appointment if any of the affirmation/declaration/undertaking given by us is found to be false or misleading in any manner or not adhered or fulfilled or complied by us.
  - (iii) if at any time after our appointment as a Consultant, either we or any of our Indian Sister Concern or the respective promoters/directors is convicted by a court of law in India or any indictment/adverse order is passed by a regulatory authority in India for a Grave Offence, we shall stand disqualified from continuing as Consultant to the Government/Company and shall be bound to inform them without any delay and shall voluntarily withdraw from the Proposed Transaction failing which the Government/Company may terminate our appointment after giving an opportunity of being heard.

## **Definitions**

Unless otherwise defined in this Affidavit, the following capitalized terms used herein shall have the meanings as set out below:

1. Consultant means the Bidder and includes bidder(s) who have been selected for the Proposed Transaction by the Government of

India/Company in terms of the Bid.

2. Conflict of Interest: Conflict of interest in relation to the Proposed Transaction shall without limitation is deemed to exist or have arisen if:
  - (i) The Consultant whether itself and/or for/with or in association with/or on behalf of or through any other Entity is engaged in any activity or business which would or may be reasonably expected to directly or indirectly, materially adversely affect the interest of the Government/Company or any such activity/association would or may impair his ability to render fair, impartial, technically sound and objective assistance or advice, or unbiased services or may result in it being given an unfair competitive advantage to any other person.
  - (ii) The Consultant whether itself and/or for/with or in association with/or on behalf of or through any other Entity is engaged in advising and/or have taken up engagement for advising/consulting any other Entity whether under a formal engagement or otherwise in relation to any transaction/matter ("Third Party Transaction") which would or may be reasonably expected to directly or indirectly, materially adversely affect the interest of the Government/Company.
  - (iii) The Consultant has any business or financial interests in any other Entity that would impair, or give the appearance of impairing, impartial decisions in relation to Proposed Transaction, in offering any advice recommendations or in providing technical assistance or other services to the Government/Company as part of Consultant's engagement obligations/duties.
  - (iv) In relation to a strategic sale by the Government of India/Company, the Consultants have taken up engagement with buyer/potential buyer of such strategic sale or their Sister Concerns.
  - (v) Any other situation, possible source or potential areas of interests which may impair Consultant's ability to render fair, impartial, technically sound, and objective assistance or advice, or unbiased services on in conflict of their professional duties towards Government/Company in respect of the Proposed Transaction or result in it being given an unfair competitive advantage to any other person.
3. Principal/Company means MoS/IPA.
4. Competitor of the Company means an Entity in India that is engaged in the business substantially similar to the business of the Company. Business of an Entity shall be deemed to be substantially similar to the business of the Company if turnover or profit of such Entity from the business activity(ies) in which the Company is engaged, exceeds 33% of its total turnover or profit (in any of the last three years).
5. Entity shall mean and include an individual, proprietorship, HUF, an association of person/body of Individuals, a partnership firm, limited

liability partnership, company or any other persons.

6. Grave Offence means offences of such nature that it materially affects the reputation, business or operations adversely or outrages the moral sense of the community and such other offences which may be considered by the Government/Company as grave on case to case basis after considering the facts and relevant legal principles.
7. Proposed Transaction means the transaction to be undertaken by the Government/Company as described in bid no [●], issued by the Government.
8. Senior Managerial Personnel's means managing director, company secretary, chief executive officer, chief financial officer or persons having equivalent positions and all such other employees of the Entity who are members of its core management team excluding Board of Directors comprising all members of management one level below the executive directors and include the functional heads.
9. Sister Concern in relation to the Consultant, means any Entity in which the Consultant has a significant influence or which has "significant influence" over the Consultant and includes a group and a joint venture company. "Significant influence" means holding of at least twenty percent or more of total voting rights or the power to participate in and influence the management, financial or operating policy decisions of that Entity, or of business decisions under an agreement or has twenty percent profit sharing in such Entity.

Appendix A, B and C hereto shall constitute and shall be deemed to form an integral part of this document.

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**BIDDER DETAILS**

Name of the Bidder	
Address: Registered Office: Corporate Office: Tel: Email:	
Constitution	Company/Partnership/LLP/Others (If selected others, please provide the nature of constitution)
SEBI Registration No., if registered with SEBI	
Details of registration with other professional statutory bodies	

**DETAILS OF PENDING ENQUIRY/INVESTIGATIONS**

S. No	Name of the Sister Concern(s)/ concerned person(s) against whom the enquiry/ investigation has been initiated	Relation-ship with the bidder	Name of the investi-gating agency	Nature of pending enquiry/inve stigation and law under which the enquiry has been initiated	Brief facts/interim orders /other relevant information in respect of the pending enquiry/ Investigation

**DETAILS OF PRESENT/POTENTIAL CONFLICTS/FACTS OR INTERESTS THAT MAY BE DEEMED AS POTENTIAL CONFLICT OF INTEREST**

S. No.	Name of the Entity, in which interests Conflicts exit/may arise	Relation-ship of the Bidder with the Entity	Nature/ reason of conflict/ potential conflict	Duration of the subsistence of conflict, if any	Such other information as may be relevant and material in deciding whether there is a conflict/ potential conflict of interest

Seal with signatures of authorized signatory of the Bidder

**Format of Financial Bid on the Letterhead of the Bidder**

Sl. No.	Description of work	Consultation Fee to undertake 'Engagement of Consultant for processing revised Model Concession Agreement at Major Ports' in INR (Rupees) #	
		Figures	words
1	Fixed Lump-Sum Fee in Indian Rupees. (Excluding all applicable taxes)		
2	All applicable Indian taxes  (i)  (ii)  (iii)		
3.*	Total		

No other amount other than stated above will be paid to the consultant. The amount will be inclusive of travel and other expenses that may be required to be incurred by the bidder.

Note:

\* Financial bid shall be evaluated based on SI No.3of Annexure-Vonly.

# In case of mismatch in figures and words quoted; the words will be taken as correct for allpurposes.

Seal with signatures of authorized signatory of the Bidder

**PROFORMA OF BANK GUARANTEE FOR PERFORMANCE  
SECURITY DEPOSIT**

**(To be executed on Rs.100/- Non-Judicial Stamp Paper)**

NOTE: The Bank Guarantee should be issued by a Nationalised Bank and enforceable at New Delhi.

In consideration of Indian Ports Association (herein after called the IPA) having awarded the workfor\_\_\_\_\_

(name of work) ofTenderNo.\_\_\_\_\_ dated\_\_\_\_\_vide  
workorder

issued vide letter no. \_\_\_\_\_ dated \_\_\_\_\_  
to

M/s.\_\_\_\_\_

(indicateName&FullAddressoftheTenderer)(hereinaftercalled thesaid  
“Tenderer”) exempt from payment under the terms and conditions of the said  
tenderdated\_\_\_\_\_No.\_\_\_\_\_made between  
theIPAand theTenderfor\_\_\_\_\_ (hereinafter  
called the said “Tender”) of Security Deposit in cash for the due fulfillment by the  
said Tenderer of the terms and conditions contained in the said Tender on  
production of a Bank GuaranteeforRs.\_\_\_\_\_ (Rupees\_\_only).

We\_\_\_\_\_ (indicate the name of Bank)  
(hereinafterreferredtoas“theBank”)attherequestofM/s.

\_\_\_\_\_ the said Tenderer do hereby  
undertake to pay to the IPA an amount not exceedingRs.  
\_\_\_\_\_ against any lossordamage  
caused to or sufferedorwould

be caused to or suffered by the IPA by reason of any breach by the said tenderer of  
any of the terms or conditions contained in the said tender.

2. We\_\_\_\_\_ do hereby undertake  
topay

the amounts due and (indicate the name of Bank) Payable under this guarantee  
without any demur, merely on a demand from the IPA stating that the amount  
claimed is due by way of loss or damage caused to or would be caused to or  
suffered by the IPA by reason breach by the said Tenderer of any of the terms or  
conditions contained in the said Tender or by reason of the Tenderer’s failure to  
perform the said Tender. Any such demand made on the Bank shall be conclusive  
as regards the amount due and payable by the Bank under this Guarantee.  
However, our liability under this guarantee shall be restricted to an amount  
notexceedingRs.\_\_\_\_\_.

3. We undertake to pay to the IPA any money so demanded notwithstanding  
any dispute or disputes raised by the said Tenderer in any suit or proceeding  
pending before any court or Tribunal relating thereto our liability under this present  
being absolute and unequivocal. The payment so made by us under this bond shall

be valid discharge of our liability for payment thereunder and the said Tenderer shall have no claim against us for making such payment.

4. We \_\_\_\_\_  
(indicate

the name of Bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Tender and that it shall continue to be enforceable till all the dues of the IPA under or by virtue of the said Tender have been fully paid and its claim satisfied or discharged \_\_\_\_\_ or \_\_\_\_\_ till \_\_\_\_\_ the IPAcertifiesthatthetermsandconditionsofthesaidTenderhavebeenfullyand properly carried out by the said Tender and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before \_\_\_\_\_,

we shall be discharged from all liability under this Guarantee thereafter.

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

6. This guarantee will not be discharged due to the change in the constitution of the Bank or the Tenderer.

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

8. This Guarantee will remain in force until one year from the date of delivery last of the subject Tender or till \_\_\_\_\_ whichever is later. All claims under this guarantee shall be made by Regd. Post/ Hand Delivery against acknowledgement/ by \_\_\_\_\_ courier. Notwithstanding what is stated above, our liability under this guarantee will be limited to Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only)

Date the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

For \_\_\_\_\_ (indicate the name of Bank)

\*\*\*

**CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF**

1. Proposed Position :  
[For each position of key professional separate from to be submitted]:
2. Name of Firm :  
[Insert name of firm proposing the Staff]:
3. Name of Staff :  
[Insert full name]:
4. Date of birth :
5. Nationality :
6. Education :  
[Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]:
7. Membership of Professional Associations :
8. Other Training :
9. Countries of work experience :  
[List countries where staff has worked in the last ten years]:
10. Languages :  
[For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]:
11. Employment Record :  
[Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment name of employing organization, positions held]:  
From [Year]: To  
Year] Employer:  
Positions held:
12. Detailed Tasks Assigned :  
[List all tasks to be performed under this Assignment/Job]:
13. Work undertaken that best illustrates Capability to Handle the Tasks Assigned: [Among the Assignment/Jobs in which the staff has been involved, indicate the following information for those Assignment/jobs that best illustrate staff capability to handle the tasks listed under point 12]

Name of Assignment/job or project:

Year:

Location:

Employer:

Main project features:

Positions held:

Activities performed:

14. Certification :

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

[Signature of staff member or authorized representative of the staff]

[Full name of authorized representative]

Date :

Place :

## **Annexure-VIII**

### **List of prospective bidders empanelled “Transaction Advisor” under Category ‘A’ of CoE list of IPA and others:**

- i. M/s. Pricewater house Coopers Pvt. Ltd
- ii. M/s.Deloitte Touche Tohmatsu India LLP in association with M/s.Orbit Law Services
- iii. M/s.Almondz Global Securities Limited (Division-Almondz infrastructure Consultants)
- iv. M/s.Mazars Advisory LLP (Previously known as Mazars Advisory Private limited) in association with M/s.Singhania git Partners LLP.
- v. M/s. Credible Management & Consultants Pvt. Ltd. JV Partner: M/s. Globe Infratech Limited
- vi. M/s. Infrastructure Development Corporation (Karnataka) Limited.
- vii. M/s. Ernst &Young LLP
- viii. M/s. VDS Consulting Services Pvt. Ltd., in association with M/s. Maritime & Transport Business Solutions B.V
- ix. M/s.Darashaw & Co. Pvt. Ltd. in association with M/s.IIFCL (Projects) Limited and M/s.Legacy Law Offices
- x. M/s. KPMG Advisory Services Pvt. Ltd.
- xi. M/s. Feedback Infra Pvt. Ltd