



**National Highways & Infrastructure Development Corporation Limited  
(Ministry of Road Transport & Highway)  
Government of India**

**Short Tender for “Specialised Consultancy Services for ‘Good for Tender’ design based on detailed investigations, estimation, survey, costing, preparation of Technical Schedules of EPC documents and Land Acquisition Survey for Construction of Moreh Bypass from NH-39 near Indo-Myanmar Border to Land Custom Port of India to bypass the Moreh Town (Length=less than 5 Km approx) in the State of Manipur”.**

**Request for Proposal**

**June, 2016**

Corporate Office: 3<sup>rd</sup> Floor, PTI Building, 4 Parliament Street, New Delhi-110001

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## **SECTION-1**

### **NOTICE INVITING E-TENDER**



**National Highways & Infrastructure Development Corporation Ltd.**  
**(Ministry of Road Transport & Highways)**  
**Government of India**  
**NOTICE INVITING TENDER (NIT)**

NHIDCL has been assigned the work by the Ministry of Road Transport & Highways, Govt. of India for Specialised Consultancy Services for '**Good for Tender**' design based on detailed investigations, estimation, survey, costing, preparation of Technical Schedules of EPC documents and Land Acquisition Survey for Construction of Moreh Bypass from NH-39 near Indo-Myanmar Border to Land Custom Port of India to bypass the Moreh Town (Length=less than 5 Km approx) in the State of Manipur.

2. Proposals are hereby invited from eligible Consultants for "Specialised Consultancy Services for '**Good for Tender**' design based on detailed investigations, estimation, survey, costing, preparation of Technical Schedules of EPC documents and Land Acquisition Survey for Construction of Moreh Bypass from NH-39 near Indo-Myanmar Border to Land Custom Port of India to bypass the Moreh Town (Length=less than 5 Km approx) in the State of Manipur (hereinafter called as '**Assignment**'). The Letter of Invitation (LOI) and Terms of Reference (TOR) including Request for Proposal (RFP) are available online on e-tender portal of nic i.e. <https://eprocure.gov.in>.

3. The document can also be viewed at NHIDCL website <https://www.nhidcl.com>. The cost of the bid document in the form of a non-refundable document fee of Rs. 5,000 (Rupees Five Thousand only) in the form of Demand Draft favoring '**National Highways & Infrastructure Development Corporation Ltd.**' and payable at New Delhi must be furnished in a separate envelop while submitting the proposal.

Bid must be submitted online at e-tender portal <https://eprocure.gov.in> on or before as per schedule given hereunder.

Bid Document Publishing Date	:	30.06.2016 (1000 hrs)
Bid Document Download Start Date	:	30.06.2016 (1000 hrs)
Last date for submission of Pre-Bid Queries	:	12.07.2016 (1700 hrs)
Pre-Bid meeting	:	14.07.2016 (1500 hrs)
Reply to Pre-Bid Queries	:	15.07.2016 (1700 hrs)
Bid submission Start Date (Physical as well as online)	:	16.07.2016 (1000 hrs)
Bid submission End Date (Physical as well as online)	:	22.07.2016 (1700 hrs)

Opening Date of Technical Bid	:	22.07.2016 (1730 hrs)
Opening Date of Financial Bid	:	To be intimated after final evaluation of Technical Bids

Yours sincerely,

(Yogesh Srivastava)  
General Manager (Technical)  
National Highway & Infrastructure  
Development Corporation Ltd.  
PTI Building, 3rd Floor,  
4, Parliament Street,  
New Delhi-110001  
Ph. 011-23711101  
Email: [yogenao5bro@gmail.com](mailto:yogenao5bro@gmail.com)

**NATIONAL HIGHWAYS & INFRASTRUCTURE DEVELOPMENT CORPORATION  
LIMITED  
(A Govt. of India Undertaking)**

NIT No. NHIDCL/Manipur/DPR/Moreh-Bypass/2016

Dated 29/06/2016

**Letter of Invitation**

Dear Sir,

**Sub: Short Tender for “Specialised Consultancy Services for ‘Good for Tender’ design based on detailed investigations, estimation, survey, costing, preparation of Technical Schedules of EPC documents and Land Acquisition Survey for Construction of Moreh Bypass from NH-39 near Indo-Myanmar Border to Land Custom Port of India to bypass the Moreh Town (Length=less than 5 Km approx) in the State of Manipur”.**

1. NHIDCL invites online bids from Consultancy firms as per schedule given hereunder:-

**Name of the work:** Specialised Consultancy Services for ‘Good for Tender’ design based on detailed investigations, estimation, survey, costing, preparation of Technical Schedules of EPC documents and Land Acquisition Survey for Construction of Moreh Bypass from NH-39 near Indo-Myanmar Border to Land Custom Port of India to bypass the Moreh Town (Length=less than 5 Km approx) in the State of Manipur.

NHIDCL will be the employer and executing agency for the Consultancy Services sought and the standard of output required from the appointed Consultants are expected to be of international level both in terms of quality and adherence to the agreed time schedules. The Letter of Invitation (LOI) and Terms of Reference (TOR) including Request for Proposal (RFP) are available online on e-tender portal of NIC i.e. <https://eprocure.gov.in> and also can be viewed on NHIDCL website [www.nhidcl.com](http://www.nhidcl.com).

**2. Brief Scope of Work:**

(i) The National Highways and Infrastructure Development Corporation Limited (NHIDCL) on behalf of the Ministry of Road Transport & Highways (MORT&H), has decided to construct Moreh Bypass on NH-39 near Indo-Myanmar Border in the State of Manipur under Engineering, Procurement and Construction (EPC) Mode.

(ii) The Bypass is to be constructed to bypass of the Moreh Town from proposed 2 laning of Imphal-Moreh Road upto Land Custom Port of India at Indo-Myanmar Border. The Consultant shall be guided by manual IRC SP:73:2015, Hill road manual IRC SP:48 1996 and other relevant codes of IRC publication as applicable.

(iii) The Consultant shall be guided by the Model Agreement for Engineering, Procurement and Construction (EPC) and the Manual of Specifications and Standards for

Highways along with relevant IRC codes for design of long bridges.

(iv) The Consultant shall be responsible for preparing all Technical schedules and drawings of the EPC Contract Agreement and for bringing out any special feature or requirement of the Project Highway referred to in the Contract Agreement or the Manual. The details and particulars to be specified in the Schedules shall be duly addressed and incorporated therein, in accordance with the provisions of the Manual. For this it is suggested that consultant should go through the EPC documents of Ministry before bidding the project.

(v) Consultant will also obtain 'NO Objection Certificate' from Ministry of Environment and Forest and also facilitate to obtain the estimates for shifting of utilities of all types involved from concerned local authorities in the DPR. Consultant will also be required to prepare all Land Acquisition papers (i.e. all necessary schedule and draft 3a, 3A, and 3D, 3G notification as per L.A. act) for acquisition of land either under NH Act or State Act(as applicable).

3. **Time for completion:** The Consultant shall complete and submit the study/detailed report as per scope of work in 2 months from the date of letter to proceed and shall submit deliverables mentioned at 2(v) above within 4 months from letter to proceed.
4. **Cost of Bid Document:** The cost of the bid document in the form of a non- refundable document fee of Rs. 5,000 (Rupees Five Thousand only) in the form of Demand Draft favouring "National Highways & Infrastructure Development Corporation Ltd." and payable at New Delhi must be furnished in a separate envelope while submitting the proposal.
5. **Cost of e-tender processing fee:** As per the CPPP norms the Bidders are requested to visit the website <https://eprocure.gov.in>. The bid document can be downloaded from the <https://eprocure.gov.in>. Corrigendum, if any, would appear on this web site only and shall not be published elsewhere.
6. The intending bidder(s) must read the General Conditions of this contract carefully. He/ She should only submit his/her bid if eligible and in possession of all the documents required.
7. Information and instructions for bidders hosted on website shall form part of the bid document.
8. The bid document consisting of scope of work and the set of terms and conditions of the contract to be complied with and other necessary documents can be seen and can be downloaded from website <https://eprocure.gov.in> and can also be viewed at [www.nhidcl.com](http://www.nhidcl.com)
9. The intending bidder(s) must have valid class-III Digital Signature Certificate to submit the bid.
10. Notwithstanding anything stated above, NHIDCL reserves the right to assess the capabilities and capacity of the bidder to perform the contract in the overall interest of NHIDCL.
11. The bidder(s) is/are required to quote strictly as per the terms and conditions, given in the tender documents and not to stipulate any deviations.
12. NHIDCL reserves the right to reject any or all tenders or cancel/withdraw the invitation for bids without assigning any reason whatsoever and in such case no bidder/intending bidder shall have any claim arising out of such action.



- 13.** Integrity Pact duly signed by the bidder shall be submitted. Any bid without signed Integrity Pact shall be rejected.
- 14. Bid Security:**
- 14.1 The applicant shall furnish as part of its proposal, a Bid Security of Rs 50,000 (Rupees Fifty Thousand only) in the form of Demand Draft/Banker's Cheque/Bank Guarantee in favour of "National Highways & Infrastructure Development Corporation Ltd". payable at New Delhi(the "Bid Security")
- 14.2 This Bid Security is returnable not later than 30 (thirty) days from the date of opening of the financial proposals. Bid Security of L-1 bidder shall be returned upon the signing the Agreement after receipt of Performance Bank Guarantee. Bid Security of all other bidders shall be returned in 15 days.
- 14.3 Any Bid not accompanied by the Bid Security of the required value and minimum required validity shall be rejected by the Client as non- responsive.
- 14.4 The NHIDCL shall not be liable to pay any interest on the Bid Security and the same shall be interest free.
- 14.4.1 The Consultant by submitting its proposal pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the NHIDCL's any other right or remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by NHIDCL as the mutually agreed pre-estimated compensation and damage payable to NHIDCL for, *inter alia* the time, cost and effort of the NHIDCL in regard to RFP including the consideration and evaluation of the Proposal under the following conditions:
- (a) If a Consultant withdraws its proposal during the period of its validity as specified in this RFP and as extended by the Client from time to time;
  - (b) In the case of the selected Consultant, if the Consultant fails to reconfirm its commitments during negotiations.
  - (c) In the case of a selected Consultant, if the Consultant fails to sign the Agreement.

**15. Set of Tender Documents:**

The following documents will constitute the set of tender documents:

- a) Notice inviting e-Tender
- b) RFP
- c) Technical Proposal.
- d) Financial Proposal.
- e) Integrity pact
- f) Corrigendum, if any
- g) Other documents, if any

**16. Mode of Submission**

The bidder must submit the Technical Bid in sealed envelope addressed to **Y C Srivastava, General Manager (Technical), National Highways & Infrastructure Development Corporation Ltd, PTI Building, 3<sup>rd</sup> Floor, Parliament Street, New Delhi-110001**. The envelope shall contain the following documents:

- a. Demand Draft/Banker's Cheque/Bank Guarantee of any Scheduled Bank against BID SECURITY.
- b. Demand Draft or Banker's Cheque of any Scheduled Bank towards cost of Bid Document.
- c. Integrity Pact.
- d. Letter of Acceptance of tender conditions in the prescribed format as enclosed in the section 2 of RFP.
- e. Power of Attorney
- f. Proof of Empanelment as per clause 18 of LoI or
- g. Proof of average turnover of Rs. 50 lakh during past three years in the Infrastructure Consultancy Business/Services.
- h. Copy of Debarment/Enforcement (if any).

The envelope containing Technical bid should also indicate clearly the name of the bidder and his/her address. In addition, the left hand top corner of the envelope or container should indicate the name of the work, name of the document in the envelope with bid opening date and time and the addressed to the address mentioned above and shall reach latest by 22.07.2016 hrs by 1700 hrs. The on line bids shall be opened at 1730 hrs on the same day.

Online technical bid documents submitted by intending bidders shall be opened only of those bidders, whose Bid Security, Cost of Bid Document and e-Tender Processing Fee and other documents placed in the envelope are found in order. **The Financial bid of those bidders whose documents are found to be in order and who qualify in the technical evaluation shall be opened. The date of opening of Financial Bid shall be informed to the bidder on CPPP Portal.**

**The following documents are to be submitted online as Technical Bid.**

- a) Scanned Copy of Demand Draft or Banker Cheque/ Bank Guarantee of any Scheduled Bank against BID SECURITY.
- b) Scanned Copy of Demand Draft or Banker's Cheque of any Scheduled Bank towards cost of Bid Document.
- c) Scanned Copy of Integrity Pact.
- d) Scanned Copy of Letter of Acceptance of tender conditions in the prescribed format as enclosed in the section 2 of RFP.
- e) Scanned Copy of Power of Attorney
- f) Scanned Copy of Proof of Empanelment as per clause 18 of LoI or
- g) Proof of average turnover of Rs. 50 lakh during past three years in the Infrastructure Consultancy Business/Services.
- h) Scanned Copy of Debarment/Enforcement (if any).

17. Before the last date and time of submission of bid as notified, the bidder can submit revised bid any number of times.

18. Consultants empanelled with the MORTH under Category I(A),I(B), Category –IV & Category –VI(A) & VI(B) vide Ministry’s letter No. RW/NH-34054/1/2006-S& R(B)-Part IV dated 01.08.2014, 15.01.2015 and 23.12.2013 are directly eligible for opening of Financial Bid. However, if not empanelled, conditions stipulated in clause 38.2 and 38.3 shall be met.

19. Proposal Evaluation will be done as given in Clause 38.2 of LoI.
20. The bid for the works shall remain open for acceptance for a period of 90 days from the last date of submission of bid including the extension given, if any. In case any bidder withdraws his/her bid before the said period or issue of letter of acceptance, whichever is earlier, or makes any modifications in the terms and conditions of the bid which are not acceptable to NHIDCL, then NHIDCL shall, without prejudice to any other right or remedy, would be at liberty to forfeit the said bid security as aforesaid. Further the bidders shall not be allowed to participate in the re-bidding process, if any.
21. The acceptance of any or all tender(s) will rest with the NHIDCL which does not bind itself to accept the lowest tender and reserves to itself the right to reject any or all of the tenders received without assigning any reason thereof.
22. On acceptance of tender, the name of the accredited representative(s) of the Consultant firms who would be responsible for taking instructions from Engineer-in-charge / GM, NHIDCL or its authorized representative shall be intimated within 07 days of the issue of letter of award by NHIDCL.
23. Date of start of work shall be reckoned from the date of letter to proceed.
24. The award of consultancy work, execution and completion of work shall be governed by tender documents consisting of (but not limited to) Letter of Award /Letter of Work Order, Price Bid, TOR, Conditions of Contract etc. The bidders shall be deemed to have gone through the various conditions while making/preparing their technical & financial proposals & submitting the Bid(s) including site conditions, topography of the land, drainage and accessibility etc. or any other condition which in the opinion of bidder will affect his/her price/rates before quoting their rates.
25. Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project, and the bar subsists as on the date of Application, would not be eligible to submit the BID.
26. The Bidder should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, as the case may be, nor should have been expelled from any project or contract by any public entity nor should have had any contract terminated by any public entity for breach by such Bidder.
27. The Bidder shall provide details of all their on-going projects along with updated stage of litigation, if so, against the Authority / Governments.
28. The Bidder shall also provide details of updated on-going process of blacklisting if so, under any contract with Authority / Government.
29. The Authority reserves the right to reject an otherwise eligible bidder on the basis of the information provided under clause 26, clause 27 & clause 28. The decision of the Authority in this case shall be final.
30. **Introduction**
  - 30.1 The Consultant firms are invited to submit Technical bid together with a Financial Bid. The tender will be the basis for technical discussions /negotiations if required and ultimately for a signed Contract with the selected Consultant firms.
  - 30.2 Consultant firms should familiarize themselves with local conditions and take them into

account while preparing their Proposals. To obtain first-hand information on the assignment and local conditions, Consultant firms may visit the site before submitting their proposal. Consultant firms or their authorized representatives should contact the following regarding site specific information and site visit enquiry:

**Y C Srivastava**

**GM (Tech)**

**National Highways & Infrastructure Development Corporation Ltd.**

**Head Office: 3<sup>rd</sup> Floor PTI building, 4 Parliament Street**

**New Delhi-110001**

**Mob No. 9599022989**

**Email: [yogena05bro@gmail.com](mailto:yogena05bro@gmail.com)**

- 30.3(a) The NHIDCL will provide the inputs to the consultant firms, if available. However, NHIDCL does not assume any responsibility for any loss or financial damages on account of use of such information by consultant & consultants are advised to collect their own information for preparation, submission of bids & execution of services after award of work.
- 30.3(b) The Consultant firms shall be responsible for obtaining licenses and permits to carry out the services.
- 30.4 Consultant firms shall bear all costs associated with the preparation and submission of their proposals and contract negotiation, site visits etc.
- 30.5 The NHIDCL is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultant firms.

### **31 Conflict of Interest**

- 31.1 NHIDCL policy requires that Consultant Firms provide professional, objective, and impartial advice and at all times hold the NHIDCL interests paramount, strictly avoid conflicts with other assignments or their own corporate interests and act without any consideration for future work.
- 31.2
- (i) Without limitation on the generality of the foregoing, Consultants, and any of their affiliates, shall be considered to have a conflict of interest and shall not be recruited, under any of the circumstances set forth below:

#### **Conflicting assignments**

- (ii) A Consultant firm (including its Personnel and Sub Consultants) or any of its affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant to be executed for the same or for another Employer.

#### **Conflicting relationship**

- (iii) A consultant (including its Personnel and Sub Consultants) that has a business or family

relationship with a member of the NHIDCL staff who is directly or indirectly involved in any part of (a) the preparation of the Terms of Reference of the assignment, (b) the selection process for such assignment, or (c) supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to NHIDCL throughout the selection process and the execution of the Contract.

- 31.3 Consultant firms have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the NHIDCL, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant firms or the termination of its Contract any time, throughout currency of the work.
- 31.4 No agency of current employees of the NHIDCL shall work at Consultant's firm. Recruiting former employees of the NHIDCL to work is acceptable, provided no conflict of interest exists.

## **32 Fraud and Corruption**

- 32.1 The NHIDCL requires that the Consultant firms participating in selection process adhere to the highest ethical standards, both during the selection process and throughout the execution of a contract. In pursuance of this policy, the NHIDCL:
- (a) defines, for the purpose of this paragraph, the terms set forth below:
    - (i) "corrupt practice" means the offering, promising, giving, receiving, or soliciting, directly or indirectly, of anything of value to a public official which he/she is not legally entitled to, to influence their action(s) in the selection process or in contract execution;
    - (ii) "fraudulent practice" means a willful misrepresentation or omission of facts or submission of fake/forged Documents in order to influence a selection process or the execution of a contract;
    - (iii) "collusive practices" means a scheme or arrangement whether formal or informal, between two or more consultants with or without the knowledge of the NHIDCL, designed to establish prices at artificial, non competitive levels, submission or non submission of Bids;
    - (iv) "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.
  - (b) will reject a proposal for award if it determines that the Consultant firm recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question; and
  - (c) will impose a sanction on the consultant firm, including declaring the consultant ineligible, either indefinitely or for a stated period of time, for award of a contract if at any time determines that the consultant firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing a contract.
- 32.2 The consultants firms should be aware of the provisions on fraud and corruption stated in the specific clauses in the General Conditions of Contract.

## **33 Only One Proposal**

The consultant firm shall submit only one proposal. If a Consultant submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the

participation of the same Sub-Consultant, including individual experts, to more than one proposal.

### 34 **Proposal Validity**

The consultant firm's tender must remain valid for 90 days after the last date fixed for submission of tender including the extension(s) given, if any.

### 35. **Clarification and Amendment of Bid Documents**

35.1 Consultant firms may request for a clarification on any clause(s) of the Bid documents as per the schedule mentioned in the Critical Date Sheet in Section – 1. Any request for clarification must be sent in writing, or by standard electronic means to the NHIDCL's address. The NHIDCL will respond in writing, or by standard electronic means and will send written copies of the response (including an explanation of the query but without disclosing the Source of query) to all Consultant firms. Should NHIDCL find it necessary to amend the bid document as a result of a clarification or any other reasons it shall do so following the procedure under para 35.2. However NHIDCL reserves the right to respond to the queries after cut off date as mentioned above.

35.2 At any time before the submission of tender, NHIDCL may modify/ amend the bid document and extend the last date of submission/ opening of the tender by issuing a corrigendum/addendum. Any Corrigendum/Addendum thus issued shall form part of tender document and shall be posted only on <https://eprocure.gov.in> and the consultants are thus advised to update their information by using said website. To give the consultant reasonable time to take such amendments into account in their bids, and on account of any other reasonable circumstances, NHIDCL may at its discretion, extend the deadline for the submission/opening of the tender.

### 36 **Preparation of Bid Proposal**

36.1 In preparing their tender, Consultant firms are expected to examine in detail the tender document. The tender shall contain technical & financial Bids.

36.2 The bid proposals, all related correspondences exchanged by the Consultant firms & NHIDCL and the contract to be signed with the winning consultant shall be written in English language.

### 36.3 **Technical Bid Proposal**

- a) The Technical bid shall not include any financial information. A Technical bid containing Financial information shall be declared non- responsive/invalid.
- b) The Technical bid will be declared non -responsive/ invalid, if the bid is not accompanied by the requisite documents as stipulated in tender document.

### 36.4 **Financial Bid Proposals**

The Financial bid shall not include any commercial or technical condition/information.  
**Financial offer shall be submitted as lump sum Rate.**

### 37 **Submission, Receipt and Opening of bids**

- 37.1 The original bids (Technical bid and Financial bid) shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person who signed tender documents must initial such corrections. Letter for acceptance of tender conditions should be submitted in the prescribed format of Annexure-I, Section-2.
- 37.2 An authorized representative of the Consultant firms shall sign the Technical & Financial bids. The authorization shall be in the form of a legally enforceable written power of attorney executed on non-judicial stamp paper of appropriate value duly notarized and shall be submitted along with bid.
- 37.3 The NHIDCL shall open the Technical bid after the deadline for the submission of original in hard form as per NIT. The Financial bid shall remain securely stored.

### 38 Tender Evaluation

- 38.1 If required, the NHIDCL may seek clarifications on the technical bid of the applicants. If the clarifications sought by the NHIDCL are not received in stipulated period, technical evaluation then will be done based on available data in the technical bid. Evaluators of Technical bid shall have no access to the financial bid until the technical evaluation is concluded.

#### 38.2 Evaluation of Technical Bid

Technical bid shall be evaluated only of those bidders who have submitted following documents. Otherwise bid shall be considered as Non-Responsive.

1. Demand Draft or Banker's Cheque of Rs. 50,000/- issued from any Nationalized or approved Scheduled Bank towards bid security.
2. Demand Draft or Banker's Cheque of Rs. 5,000/- issued from any Scheduled Bank towards cost of Bid Document.
3. Integrity Pact.
4. Letter of Acceptance of tender conditions, in the prescribed format as enclosed.
5. Power of Attorney and Copy of Service Tax Registration Number
6. Proof of Empanelment as per clause 18 of NIT or Proof of average turnover of Rs. 50 lakh in last three years in the Infrastructure Consultancy Business/Services.
7. Copy of Debarment/Enforcement.(if any).

- 38.3 Bidders fulfilling clause 38.2 above shall be technically evaluated as given hereunder:

Consultants empanelled with the MORTH under Category I(A),I(B), Category –IV & Category –VI(A) & VI(B) vide Ministry's letter No. RW/NH-34054/1/2006-S& R(B)-Part IV dated 01.08.2014, 15.01.2015 and 23.12.2013.	Eligible for opening of Financial bids.
<p>If not empanelled with MORTH:</p> <p>(i)The firm should have a minimum average turnover of Rs. 50 lakh during past three years. (Balance Sheet duly Audited shall be submitted)</p> <p>(ii)Under taking for employment of key personnel</p>	If all these conditions are met by the Consultancy firm then the firm is eligible for opening of Financial Bid.

### 39 Evaluation of Financial Bid:



The Consultancy firm quoting the lowest rate in its Financial Proposal will be declared as L-1 Bidder.

**40 Award of Contract**

The contract will be awarded to the firm quoting the lowest rate in its Financial Proposal. i.e. L-1 Consultant by NHIDCL through a letter of Award. The Consultant firm shall commence the assignment from the date of letter to proceed.

**41 Confidentiality**

Information relating to evaluation of tenders and recommendations concerning awards shall not be disclosed to the Consultant firms who submitted the tender or to other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its tender and then may be debarred from participating in future tenders.

## **SECTION -2**

### **ACCEPTANCE OF TENDER CONDITIONS**

**ACCEPTANCE OF TENDER CONDITIONS**

From: (On the letter head of the company by the authorized signatory having power of attorney)

To

**Managing Director,  
NHIDCL**

**Sub:** Specialised Consultancy Services for 'Good for Tender' design based on detailed investigations, estimation, survey, costing, preparation of Technical Schedules of EPC documents and Land Acquisition Survey for Construction of Moreh Bypass from NH-39 near Indo-Myanmar Border to Land Custom Port of India to bypass the Moreh Town (Length=less than 5 Km approx) in the State of Manipur & NIT No. NHIDCL/Manipur/DPR/Moreh-Bypass/2016.

Sir,

This has reference to above referred tender. I/We are pleased to submit our tender for the above work and I/We hereby unconditionally accept the tender conditions and tender documents in its entirety for the above work.

2. I/we are eligible to submit the bid for the subject tender and I/We are in possession of all the documents required.

3. I / We have viewed and read the terms and conditions of NHIDCL carefully. I/We have downloaded the following documents forming part of the tender document:

- a. Demand Draft or Banker's Cheque of any Scheduled Bank against BID SECURITY.
- b. Demand Draft or Banker's Cheque of any Scheduled Bank towards cost of Bid Document.
- c. Integrity Pact.
- d. Letter of Acceptance of tender conditions in the prescribed format as enclosed in the section 2 of RFP.
- e. Power of Attorney if applicable.
- f. Proof of Empanelment as per clause 18 of LoI or
- g. Proof of average turnover of Rs. 50 lakh during past three years in the Infrastructure Consultancy Business/Services.
- h. Copy of Debarment/Enforcement (if any).

4 I/we have uploaded the mandatory scanned documents such as cost of bid document, bid security, e-tendering Processing Fee with all Annexures of Acceptance of Tender Conditions.

Yours faithfully,

(Sign of the bidder)

With rubber stamp

Dated:\_\_\_\_\_

**(Annexure-I of Acceptance of Tender Conditions)****Form - A General****Information**

1.	Name of Applicant / Company	
2.	Address for correspondence	
3.	Contact Person:  Telephone  No(s). Fax  No(s). Mobile	
3	Type of Organisation:  (a) An individual  (b) A proprietary firm  (c) A firm in partnership (Attach copy of partnership)  (d) A Limited Company  (Attach copy of Articles of Association)  (e) Any other (mention the type)	
5.	Place and Year of Incorporation	
6.	Details of registration/membership with Institute of Engineers or such other Institute. (Attach copy)	
7.	Name of Director/Partners in the organisation and their status along with their qualifications.	
8.	Name(s) of the persons along with their qualification and designation, who is authorised to deal with NHIDCL.(Attach copy of power of Attorney)	

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9.	Organisation Chart of Key Personnel	
10.	Details of Awards/ Appreciations supported with document to be submitted.	
11.	Any other Information	

**(Annexure II of Acceptance of Tender Conditions)****Form – B****Details of work completed during the last 7 years****(Details to be furnished in the following format)**

<b>S. No.</b>	<b>Financial Year</b>	<b>Name of Work</b>	<b>Scope of Services</b>	<b>Value of construction</b>	<b>Date of start / completion</b>	<b>Name &amp; Address of the client</b>	<b>Remarks Satisfactory/ Unsatisfactory</b>
	2009-2010						
	2010-2011						
	2011-2012						
	2012-2013						
	2013-2014						
	2014-2015						
	2015-2016						

**Note:**

1. The following documents are to be enclosed for each of the above work:

- i)* Completion Certificate
- ii)* Copy of Award letter
- iii)* Other relevant documentary evidence, if any.

**(Annexure III of Acceptance of Tender Conditions)**  
**Form – C****Turn over for last three years:**

<b>S. No.</b>	<b>Financial Year</b>	<b>Fees Earned</b>	<b>Remarks</b>
1	2012-13		
2	2013-14		
3	2014-15		

**Note:** In addition to the above, the applicant has to submit the following documents / information:

- 1) Copy of Balance Sheet(s)
- 2) Copy of valid Service Tax Number
- 3) Copy of PAN/TAN Card
- 4) Details of litigations, if any
- 5) Other relevant details, if any



**(Annexure IV of Acceptance of Tender Conditions)**  
**Form - D****AFFIDAVIT**

(TO BE SUBMITTED ON NON-JUDICIAL STAMP PAPER OF MINIMUM Rs. 10/- DULY  
CERTIFIED BY NOTARY PUBLIC)

Affidavit of Mr....., S/o..... R/o.....

I, the deponent above named do hereby solemnly affirm and declare a under:

1. That I am the Proprietor/Authorised Signatory of M/s.....having its Head Office / Regd. Office at.....
2. That the information / documents/ experience certificates submitted by M/s.....along with this tender to NHIDCL are genuine and true and nothing has been concealed.
3. I shall have no objection in case NHIDCL verifies them from issuing Authority (ies). I shall also have no objection in providing the original copy of the documents(s), in case NHIDCL demands so for verification.
4. I hereby confirm that in case, any document, information &/or certificate submitted by me are found to be incorrect/false/fabricated, NHIDCL at its discretion may disqualify / reject my application for pre-qualification out rightly and also debar me / M/s.....from participating in any future tenders / PQ.

**DEPONENT**

I,....., the Proprietor / Authorised Signatory of M/s....., do hereby confirm that the contents of the above Affidavit are true to my knowledge and nothing has been concealed there from and that no part of it is false.

Verified at.....this.....day of .....

**DEPONENT**

**(Annexure V of Acceptance of Tender Conditions)****Form – E****AFFIDAVIT (original to be submitted in the envelope containing originals)**

1. I, the undersigned, do hereby certify that all the statements made in the enclosed attachments are true and correct.
2. The undersigned also hereby certifies that neither our firm M/s \_\_\_\_\_ have abandoned any work with National Highways & Infrastructure Development Corporation Ltd. nor any contract awarded to us for such works have been rescinded, during last five years prior to the date of this bid.
3. The undersigned hereby authorise(s) and request(s) any bank, person, firm or corporation to furnish pertinent information deemed necessary and requested by NHIDCL to verify this statement or regarding my (our) competence and general reputation.
4. The undersigned understands and agrees that further qualifying information may be requested, and agrees to furnish any such information at the request of the NHIDCL and within the prescribed time.

\_\_\_\_\_  
(Signed by an Authorised Representative of the Firm)

\_\_\_\_\_  
Name of the Representative

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

\_\_\_\_\_  
DATE

(To be notarized by Notary)

**(Annexure VI of Acceptance of Tender Conditions)**

**Form – F**

**UNDERTAKING**

**(Original to be submitted in the envelope containing originals)**

I,       The       undersigned       do       hereby       undertake       that       our       firm  
M/s \_\_\_\_\_ agree to abide by this bid for a period of  
90 days after the date fixed for receiving the same and it shall be binding on us and may be  
accepted at any time before the expiration of that period.

\_\_\_\_\_  
(Signed by an Authorised Representative of the Firm)

\_\_\_\_\_  
Name of the Representative

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

\_\_\_\_\_  
DATE

**(To be notarised by Notary)**

### **Section-3**

## **INSTRUCTIONS TO BIDDERS**

## **INSTRUCTIONSTO BIDDERS**

### **1. Central Procurement Portal**

Instructions to the Bidders to submit the bids online through the Central Public Procurement Portal website for e-Procurement at <https://eprocure.gov.in/eprocure/app:->

- (i.) Possession of valid Digital Signature Certificate (DSC) and enrollment/registration of the contractors/bidders on the eProcurement/eTender portal is a prerequisite for e-tendering.
- (ii.) Bidder should do the enrollment in the e Procurement site using the “Click here to Enroll” option available on the home page. Portal enrollment is generally free of charge. During enrollment /registration, the bidders should provide the correct/true information including valid email ID. All the correspondence shall be made directly with the contractors/bidders through email id provided.
- (iii.) Bidder need to login to the site through their user ID/ password chosen during enrollment/ registration.
- (iv.) The Digital Signature Certificate (Class II or Class III Certificates with signing key usage) issued by SIFY/TCS/n Code/eMudra or any Certifying Authority recognized by CCA India on e Token/SmartCard, should be registered.
- (v.) The DSC that is registered only should be used by the bidder and should ensure safety of the same.
- (vi.) Contractor/Bidder may go through the tenders published on the site and download the required tender documents/schedules for the tenders he/she is interested.
- (vii.) After downloading / getting the tender document/schedules, the Bidder should go through them carefully and then submit the documents as asked, otherwise bid will be rejected.
- (viii.) If there are any clarifications, this may be obtained online through the tender site, or through the contact details. Bidder should take into account the corrigendum published before submitting the bids online.
- (ix.) From “my tender” folder, select the tender to view all the details indicated.
- (x.) Bidder can then log in to the site through the secured login by entering the user id/ password chosen during enrolment/registration and then by entering the password of the eToken/SmartCard to access DSC.
- (xi.) Bidder can then select the tender which he/she is interested in by using the search option & then moving it to the ‘my tenders’ folder.
- (xii.) It is construed that the bidders have read all the terms and conditions before submitting their offer. Bidders should go through the tender schedules carefully and upload the documents as asked; otherwise, the bid will be rejected.
- (xiii.) Bidders should ready the bid documents to be submitted, in advance, as indicated in the tender document/schedule and generally, they can be in PDF/xls/rar/zip/dwf

formats. If there is more than one document, they can be clubbed together and can be provided in the requested format. Each document to be uploaded through online portal for the tenders should be less than 2 MB. If any document is more than 2MB, it can be reduced through zip/rar and the same can be uploaded, if permitted. Bidders' Bid documents may be scanned with 100 dpi with black and white option. However if the file size is less than 1 MB the transaction uploading time will be very fast.

- (xiv.) If there are any clarifications, they may be obtained through the site, or during the pre-bid meeting, if any. Bidders should take into account the corrigendum published from time to time before submitting their online bids.
- (xv.) The Bidders can update well in advance, the documents such as certificates, annual report details etc., under "My Space" option and these can be selected as per tender requirements and sent along with bid documents during bid submission. This will facilitate faster bid submission process by reducing upload time of bids.
- (xvi.) Bidders should submit the Tender Fee/ EMD as specified in the tender. The original should be posted/couriered/given in person to the Tender Inviting Authority (TIA), at least one working date prior to bid submission due date & time for the tender. Scanned copy of the instrument should be uploaded as part of the offer.
- (xvii.) While submitting the bids online, the bidder reads the terms & conditions and accepts the same to proceed further to submit the bid packets.
- (xviii.) The bidder has to select the payment option as offline to pay the Tender FEE/ EMD as applicable and enter details of the instruments.
- (xix.) The details of the DD/ any other accepted instrument, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise submitted bid will not be acceptable.
- (xx.) The bidder has to digitally sign and upload the required bid documents one by one as indicated. Bidders to note that the very act of using DSC for downloading the bids and uploading their offers shall be deemed to be a confirmation that they have read all sections and pages of the bid document including General conditions of contract without any exception and have understood the entire document and are clear about the requirements of the tender requirements.
- (xxi.) The bidder has to upload the relevant files required as indicated in the cover content. In case of any irrelevant files, the bid will be rejected.
- (xxii.) If the Financial Bid format is provided in a spread sheet file like BoQ\_XXXX.xls, the rates offered should be entered in the allotted space only and uploaded after filling the relevant columns. The Financial Bid/BOQ template must not be modified/replaced by the bidder; else the bid submitted is liable to be rejected for this tender.
- (xxiii.) The bidders are requested to submit the bids through online e-tendering system to the TIA well before the bid submission end date & time (as per Server System Clock). The TIA will not be held responsible for any sort of delay or the difficulties faced during the submission of bids online by the bidders at the eleventh hour.

- (xxiv.) After the bid submission (ie after Clicking “Freeze Bid Submission” in the portal), the acknowledgement number, given by the system should be printed by the bidder and kept as record of evidence for online submission of bid for the particular tender and will also act as an entry pass to participate in the bid opening date.
- (xxv.) The time settings fixed in the server side & displayed at the top of the tender site, will be valid for all actions of requesting, bid submission, bid opening etc., in the e-tender system. The bidders should follow this time during bid submission.
- (xxvi.) All the data being entered by the bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered will not be viewable by unauthorized persons during bid submission & not be viewable by any one until the time of bid opening.
- (xxvii.) Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid openers public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.
- (xxviii.) The confidentiality of the bids is maintained since the secured Socket Layer 128 bit encryption technology is used. Data storage encryption of sensitive fields is done.
- (xxix.) The bidder should logout of the tendering system using the normal logout option available at the top right hand corner and not by selecting the (X) exit option in the browser.
- (xxx.) For any queries regarding e-tendering process, the bidders are requested to contact as provided in the tender document. Parallely for any further queries, the bidders are asked to contact over phone@ 1-800-233-7315 or send a mail over to [cphp-nic@nic.in](mailto:cphp-nic@nic.in).

Section-4

**CONDITIONS OF CONTRACT**

**&**

**TERMS OF REFERENCE (TOR)**



## GENERAL CONDITIONS OF CONTRACT

### 1. GENERAL PROVISIONS

#### 1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) "Applicable Law" means the laws and any other instruments having the force of law in the Government's country as they may be issued and in force from time to time;
- (b) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract are attached, together with all the documents listed in Clause 1 of such signed Contract;
- (c) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1;
- (d) "foreign currency" means any currency other than the currency of the Government;
- (d) "GC" means these General Conditions of Contract;
- (f) "Government" means the Government of India;
- (g) "local currency" means the currency of the Government;
- (h) "Member", in case the Consultants consist of a joint venture or consortium of more than one entity, means any of these entities, and "Members" means all of these entities;
- (i) "Personnel" means persons hired by the Consultants or by any Sub Consultant as employees and assigned to the performance of the Services or any part thereof; "foreign Personnel" means such persons who at the time of being so hired had their domicile outside India; and "local Personnel" means such persons who at the time of being so hired had their domicile inside India;
- (j) "Party" means the Client or the Consultants, as the case may be, and Parties means both of them;
- (k) "Services" means the work to be performed by the Consultants pursuant to this Contract for the purposes of the Project, as described in Appendix A hereto;
- (l) "SC" means the Special Conditions of Contract by which these General Conditions of Contract may be amended or supplemented;
- (m) "Sub Consultant" means any entity to which the Consultants subcontract any

part of the Services in accordance with the provisions of Clause GC 3.7; and

- (n) “Third Party” means any person or entity other than the Government, the Client, the Consultants or a Sub Consultant.

**1.2 Relation between the Parties**

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

**1.3 Governing Law and Jurisdiction**

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Laws of India and the Courts at Delhi shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

**1.4 Language**

This Contract has been executed in the language specified in the SC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

**1.5 Table of Contents and Headings**

The table of contents, headings or sub-headings in this agreement is for convenience for reference only and shall not be used in, and shall not limit, alter or affect the construction and interpretation of this Contract.

**1.6 Notices**

- 1.6.1 *Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, facsimile or e-mail to such Party at the address specified in the SC.*

- 1.6.2 Notice will be deemed to be effective as specified in the SC.

- 1.6.3 A party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the SC with respect to Clause GC 1.6.2.

**1.7 Location**

The Services shall be performed at such locations as are specified in **Letter of Acceptance** hereto and, where the location of a particular task is not so specified, at such locations, whether in India or elsewhere, as the Client may approve.

**1.8 Authority of Member in Charge**

In case the Consultants consist of a joint venture of more than one entity, with or without an Associate the Members hereby authorize the entity specified in the SC to act on their behalf in exercising all the Consultants’ rights and obligations towards the Client under

this Contract, including without limitation the receiving of instructions and payments from the Client.

**1.9 Authorized Representatives**

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Client or the Consultants may be taken or executed by the officials specified in the SC.

**1.10 Taxes and Duties**

Unless otherwise specified in the SC, the Consultants shall pay all such taxes, duties, fees and other impositions as may be levied under the Applicable Law.

**2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT**

**2.1 Effectiveness of Contract**

This Contract shall come into force and effect on the date of the Client's notice to the Consultants instructing the Consultants to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SC have been met.

**2.2 Termination of Contract for Failure to Become Effective**

If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as shall be specified in the SC, either Party may, by not less than four (4) weeks' written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

**2.3 Commencement of Services**

The Consultants shall begin carrying out the Services at the end of such time period after the Effective Date as shall be specified in the SC.

**2.4 Expiration of Contract**

Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire when services have been completed and all payments have been made at the end of such time period after the Effective Date as shall be specified in the SC.

**2.5 Entire Agreement**

This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

**2.6 Modification**

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause GC 10 hereof, however, each party shall give due consideration to

any proposals for modification made by the other Party.

## **2.7 Force Majeure**

### **2.7.1 Definition**

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

### **2.7.2 No Breach of Contract**

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

### **2.7.3 Measures to be Taken**

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

### **2.7.4 Extension of Time**

Any period within which a Party shall, pursuant to this Contract, complete any action or

task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

#### 2.7.5 **Payments**

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

#### 2.7.6 **Consultation**

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

#### 2.8 **Suspension**

The Client may, by written notice of suspension to the Consultants, suspend all payments to the Consultants hereunder if the Consultants fail to perform any of their obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultants to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultants of such notice of suspension.

#### 2.9 **Termination**

##### 2.9.1 **By the Client**

The Client may, by not less than thirty (30) days' written notice of termination to the Consultants (except in the event listed in paragraph (f) below, for which there shall be a written notice of not less than sixty (60) days), such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause 2.9.1, terminate this Contract:

- (a) if the Consultants fail to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently approved in writing;
- (b) if the Consultants become (or, if the Consultants consist of more than one entity, if any of their Members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- (c) if the Consultants fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) if the Consultants submit to the Client a statement which has a material effect on the rights, obligations or interests of the Client and which the Consultants know to

be false;

- (e) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (f) if the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

#### 2.9.2 By the Consultants

The Consultants may, by not less than thirty (30) day's written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause 2.9.2, terminate this Contract:

- (a) if the Client fails to pay any money due to the Consultants pursuant to this Contract and not subject to dispute pursuant to Clause 8 hereof within forty-five(45) days after receiving written notice from the Consultants that such payment is overdue;
- (b) if the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultants may have subsequently approved in writing) following the receipt by the Client of the Consultants' notice specifying such breach;
- (c) if, as the result of Force Majeure, the Consultant are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

#### 2.9.3 Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses 2.2 or 2.9 hereof, or upon expiration of this Contract pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause 3.3 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause 3.6 (ii) hereof, and (iv) any right which a Party may have under the Applicable Law.

#### 2.9.4 Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Consultants shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultants and equipment and materials furnished by the Client, the Consultants shall proceed as provided, respectively, by Clauses 3.9 or 3.10 hereof.

#### 2.9.5 Payment upon Termination

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

- (i) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the effective date of termination.
- (ii) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the effective date of termination; and
- (iii) except in the case of termination pursuant to paragraphs (a) through (d) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract including the cost of the return travel of the Consultants' personnel and their eligible dependents.

### **2.9.6 Disputes about Events of Termination**

If either Party disputes whether an event specified in paragraphs (a) through (e) of Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

## **3. OBLIGATIONS OF THE CONSULTANTS**

### **3.1 General**

#### **3.1.1 Standard of Performance**

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

#### **3.1.2 Law Governing Services**

The Consultants shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub Consultants, as well as the Personnel and agents of the Consultants and any Sub Consultants, comply with the Applicable Law. The Client shall advise the Consultants in writing of relevant local customs and the Consultants shall, after such notifications, respect such customs.

### **3.2 Conflict of Interests**

#### **3.2.1 Consultants not to Benefit from Commissions, Discounts, etc.**

The remuneration of the Consultants pursuant to Clause 6 hereof shall constitute the Consultants' sole remuneration in connection with this Contract or the Services and the Consultants shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services

or in the Discharge of their obligations hereunder, and the Consultants shall use their best efforts to ensure that any Sub Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

### **3.2.2 Consultants and Affiliates not to be otherwise interested in Project**

The Consultants agree that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultants, as well as any Sub Consultant and any entity affiliated with such Sub Consultant, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

### **3.2.3 Prohibition of Conflicting Activities**

Neither the Consultants nor their Sub Consultants nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in the Government's country which would conflict with the activities assigned to them under this Contract; or
- (b) After the termination of this Contract, such other activities as may be specified in the SC.

### **3.3 Confidentiality**

The Consultants, their Sub Consultants and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relation to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

### **3.4 Liability of the Consultants**

Subject to additional provisions, if any, set forth in the SC, the Consultants' liability under this Contract shall be as provided by the Applicable Law.

### **3.5 Insurance to be taken out by the Consultants**

The Consultants (i) shall take out and maintain, and shall cause any Sub Consultants to take out and maintain, at their (or the Sub Consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, as shall be specified in the Special Conditions (SC), and (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

### **3.6 Accounting, Inspection and Auditing**

The Consultants (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges



and cost, and the bases thereof (including the bases of the Consultants' costs and charges), and (ii) shall permit the Client or its designated representative periodically, and up to one year from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client.

### 3.7 Consultants' Actions requiring Client's prior Approval

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

- (a) appointing such members of the Personnel as are listed in Appendix B;
- (b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-Consultant and the terms and conditions of the subcontract shall have been approved in writing by the Client prior to the execution of the subcontract, and (ii) that the Consultants shall remain fully liable for the performance of the Services by the Sub-Consultant and its Personnel pursuant to this Contract;
- (c) any other action that may be specified in the SC.

### 3.8 Reporting Obligations

The Consultants shall submit to the Client the reports and documents specified in **Appendix A/E** hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.

### 3.9 Documents prepared by the Consultants to be the Property of the Client

All plans, drawings, specifications, designs, reports and other documents prepared by the Consultants in performing the Services shall become and remain the property of the Client, and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultants may retain a copy of such documents. Restrictions about the future use of these documents, shall be as specified in the SC.

### 3.10 Equipment and Materials furnished by the Client

Equipment and materials made available to the Consultants by the Client, or purchased by the Consultants with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultants shall make available to the Client an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Client's instructions. While in possession of such equipment and materials, the Consultants, unless otherwise instructed by the Client in writing, shall insure them in an amount equal to their full replacement value.

## 4. CONSULTANTS' PERSONNEL

### 4.1 General

The Consultants shall employ and provide such qualified and experienced Personnel as are required to carry out the Services.

#### 4.2 Description of Personnel

- (a) The titles, agreed job descriptions, minimum qualification and estimated periods of engagement in the carrying out of the Services of each of the Consultants' Key Professional / Sub Professional Personnel are described in Appendix B.
- (b) If required to comply with the provisions of Clause 3.1.1 of this Contract, adjustments with respect to the estimated periods of engagement of Key Professional / Sub Professional Personnel set forth in Appendix B may be made by the Consultants by written notice to the Client, provided
  - (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and
  - (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause 6.1 (b) of this Contract. Any other such adjustments shall only be made with the Client's written approval.
- (c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix B may be increased by agreement in writing between the Client and the Consultants.

#### 4.3 Approval of Personnel

The Key Personnel and Sub Consultants listed by title as well as by name in Appendix B are hereby approved by the Client. In respect of other Key Personnel which the Consultants propose to use in the carrying out of the Services, the Consultants shall submit to the Client for review and approval a copy of their biographical data. If the Client does not object in writing (stating the reasons for the objection) within twenty-one (21) calendar days from the date of receipt of such biographical data, such Key Personnel shall be deemed to have been approved by the Client.

#### 4.4 Working Hours, Overtime, Leave, etc.

- (a) Working hours and holidays for Key Professional / Sub Professional Personnel are set forth in Appendix C hereto. To account for travel time, foreign Personnel carrying out Services inside the Government's country shall be deemed to have commenced (or finished) work in respect of the Services such number of days before their arrival in (or after their departure from) the Government's country as is specified in Appendix C hereto.
- (b) The Key Professional / Sub Professional Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in Appendix C hereto, and except as specified in such Appendix, the Consultants' remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set for in Appendix B. Any taking of leave by Personnel shall be subject to the prior approval of the Client by the Consultants, who shall ensure that

absence for leave purposes will not delay the progress and adequate supervision of the Services.

#### **4.5 Removal and/or Replacement of Personnel**

Removal and/or replacement of Personnel shall be regulated as under:

**4.5.1** In case notice to commence services pursuant to Clause 2.1 of this Contract is not ordered by Client within 120 days of negotiations the key personnel can excuse themselves on valid grounds, e.g., selection on some other assignment, health problem developed after contract negotiation, etc. In such a case no penalty shall be levied on the Firm or on the person concerned. The firm shall however be asked to give a replacement by an equal or better scoring person, whenever mobilization is ordered.

**4.5.2** In case notice to commence services is given within 120 days of negotiations there placement shall be as below:

- a. Replacement up to 33%: Replacement shall be by an equal or better scoring person. Reduction in remunerations for the balance period shall be @ 5% of the monthly rate.
- b. Replacement of more than 33% and up to 50%: Replacement shall be by an equal or better scoring person. Reduction in remunerations for the balance period shall be @ 10% of the monthly rate.
- c. Replacement beyond 50% and upto 66%. Replacement shall be by an equal or better scoring person. Reduction in remunerations for the balance period shall be @ 15% of the monthly rate.
- d. Replacement beyond 66 % shall normally not be considered. However in exceptional circumstances, where it becomes absolutely essential the remunerations of the substitute shall be reduced by 50 % of the original person replaced. Replacement shall be by an equal or better scoring person, The Department may initiate action for termination/debarment of such Consultant for future projects of NHIDCL/ MORTH for a period of 6 months to 24 months depending upon the severity of case.

**4.5.3** Replacement after original contract period is over:

There shall be no limit on the replacements and no reduction in remunerations shall be made. The replacement shall however be of equal or better score.

**4.5.4** If the Employer (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action or (ii) has reasonable ground to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Employer's written request specifying the grounds therefore, forthwith provide a replacement with qualifications and experience acceptable to him.

**4.5.5** If the team leader or any other key personnel/ specialist considered pivotal to the project are replaced, the substitute may be interviewed by NHIDCL to assess their merit and suitability.

**4.5.6** If any member of the approved team of a Consultant engaged by NHIDCL leaves that Consultant before completion of the job, he shall be barred for a period of 6 months to 24 months from being engaged as a team member of any other Consultant working (or to be

appointed) for any other NHIDCL/ MORT&H projects.

- 4.5.7 In exceptional situations where the replacement with equivalent or better qualification is not available, replacement with lower qualifications than the originally approved may be accepted with reduction in remuneration as per the procedure prescribed below. This kind of relaxation shall however, be limited to replacement of 2 key personnel only in one consultancy contract package.

- i) The new proposed personnel as a replacement has to be evaluated as per the criteria fixed at the time of evaluation of original proposal and marks/rating and then:

-If the original personnel (included in the original proposal based on which the contract was awarded) is to be replaced at the instruction of NHIDCL and the new proposed personnel is having less qualification/ experience i.e. marks/rating (but fulfilling the minimum requirement as per TOR), his remuneration would be reduced by 15% over and above the stipulated conditions in the contract because of less qualified personnel.

-If the original personnel (included in Contract Agreement) is to be replaced by the Consulting firm and the new proposed personnel is having less qualification/ experience (marks/rating), then his remuneration would be decreased proportionally in comparison to the marks of the original personnel. This will also take into account the contract condition and if the proposed reduction is less than that stipulated in contract condition, it would be as per the contract provision.

It will be ensured that the new proposed personnel should score at least 75% of the marks of the originally approved key personnel. Both the Consulting firm and the proposed personnel should give the undertaking in the format available in Section 6 of RFP along with the replacement CV.

- ii) The CV should be signed by personnel and the consulting firm in every page. If the CV is found incorrect at later date, the personnel accepted would be removed from the assignment and debarred from further NHIDCL/ MORT&H works for an appropriate period to be decided by NHIDCL and the new proposed personnel in place of removed personnel would be paid 15% less salary than the original personnel. 15% reduction in the salary will be imposed as penalty for submitting the incorrect information. This penalty will be imposed only once. If the same consulting firm submits incorrect information again second time, necessary action will be taken by NHIDCL to black list the firm.

#### 4.6 Resident Project Manager

If required by the SC, the Consultants shall ensure that at all times during the Consultants' performance of the Services in the Government's country a resident project manager, acceptable to the Client, shall take charge of the performance of such Services.

### 5. OBLIGATION OF THE CLIENT

#### 5.1 Assistance and Exemptions

Unless otherwise specified in the SC, the Client shall use its best efforts to ensure that the Government shall:

- (a) provide the personnel of the Consultants, Sub Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultants, Sub Consultants or Personnel to perform the Services;
- (b) assist for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all supporting papers for necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in India;
- (c) facilitate prompt clearance through customs of any property required for the Services;
- (d) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;

## 5.2 Access to Land

The Client warrants that the Consultants shall have, free of charge, unimpeded access to all land in the Government's country in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultants and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultants or any Sub Consultants or the Personnel of either of them.

## 5.3 Change in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultants in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause 6.1(b),

## 5.4 Services, Facilities and Property of the Client

The client shall make available to the Consultants and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix D at the times and in the manner specified in said Appendix D, provided that if such services, facilities and property shall not be made available to the Consultants as and when so specified, the Parties shall agree on (i) any time extension that may be appropriate to grant to the Consultants for the performance of the Services, (ii) the manner in which the Consultants shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultants as a result thereof pursuant to Clause 6.1(c) hereinafter.

## 5.5 Payment

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

**6. PAYMENT TO THE CONSULTANTS****6.1 Cost Estimates ; Ceiling Amount**

(a) An abstract of the cost of the Services payable in **local currency (Indian Rupees)** is set forth in **Appendix E.**

(b) Except as may be otherwise agreed under Clause 2.6 and subject to Clause 6.1(c), the payments under this Contract shall not exceed the ceiling specified in the SC. The Consultants shall notify the Client as soon as cumulative charges incurred for the Services have reached 80% of the ceiling.

(c) Notwithstanding Clause 6.1(b) hereof, if pursuant to Clauses 5.4 hereof, the Parties shall agree that additional payments shall be made to the Consultants in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause 6.1(a) above, the ceiling set forth in Clause 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

**6.2 Currency of Payment**

(a) The payment shall be made in Indian Rupees.

**6.3 Mode of Billing and Payment**

Billing and payments in respect of the Services shall be made as follows:-

(a) The Client shall cause to be paid to the Consultants an advance payment as specified in the SC, and as otherwise set forth below. The advance payment will be due after provision by the Consultants to the Client of a bank guarantee by a bank acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SC, such bank guarantee (i) to remain effective until the advance payment has been fully set off as provided in the SC, and **ii) in such form as the Client shall have approved in writing.**

**(b) Payment Schedule**

The Consultant will be paid stage-wise as a percentage of the contract value as per the schedule given below if not otherwise stated in SC:

S. No.	Item	Payment as % of Contract Value
1	On submission of Quality Assurance Plan and Inception Report	5 %
2	On submission of Draft Feasibility Study Report including Option Study Report	20 %
3	On Submission of Final Feasibility Study Report	10 %
4	On submission of Technical Schedules for EPC projects	10 %

<b>5</b>	<b>On submission of Draft DPR</b>	<b>15 %</b>
<b>6</b>	<b>On approval of DPR</b>	<b>10 %</b>
<b>7</b>	<b>On completion of Project Clearances (20 %)</b>	
	<b>(i) Completion of 3a, 3A and 3D&amp;3G</b>	<b>10 %</b>
	<b>(ii) Forest clearance and environmental Clearance</b>	<b>5 %</b>
	<b>(iii) Utility Shifting</b>	<b>5 %</b>
<b>8</b>	<b>On Appointed Date of civil contract</b>	<b>10%</b>
	<b>Total</b>	<b>100%</b>

**Note:** Consultants have to provide a certificate that all key personnel as envisaged in the Contract Agreement has been actually deployed in the project. They have to submit this certificate at the time of submission of bills to NHIDCL from time to time. Further approval of the various stages of the services rendered by the Consultant is mandatory to release the payment for that stage of the payment schedule.

No payment shall become eligible for the next stage till the Consultant completes to the satisfaction of the client the work pertaining to the preceding stage. The payment for the work of sub-soil investigation (Boring) will be as per plan approved by the client and will be paid as per actual at the rates quoted by the Consultants. The payment for the quantity given by the client for boring will be deemed to be included in the above mentioned payment schedule. Any adjustment in the payment to the Consultants will be made in the final payment only.

- (d) The Client shall cause the payment of the Consultants in Para 6.3 (b) above as given in schedule of payment within thirty (30) days after the receipt of bills by the Client. Interests at the rate specified in the SC shall become payable as from the above due date on any amount due by, but not paid on, such due date.

The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultants and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final statement shall be deemed approved by the Client as satisfactory one hundred and eighty (180) calendar days after receipt of the final report and final statement by the Client unless the Client, within ninety(90) day period, gives Consultants specifying in written notice to the detailed deficiencies in the Services, the final report or final statement. The Consultants shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any amount which the Client as paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultants to the Client within thirty (30) days after receipt by the Consultants of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with the above

- (f) All payments under this Contract shall be made to the account of the Consultants specified in the SC.

## **7. Responsibility for Accuracy of Project Documents**

### **7.1 General**

- 7.1.1 The Consultant shall be responsible for accuracy of the data collected, by him directly or procured from other agencies/authorities, the designs, drawings, estimates and all other details prepared by him as part of these services. He shall indemnify the Authority against any inaccuracy in the work which might surface during implementation of the project. The Consultant will also be responsible for correcting, at his own cost and risk, the drawings including any re-survey/ investigations and correcting layout etc. if required during the execution of the Services.

The Consultant shall be fully responsible for the accuracy of design and drawings of the bridges and structures. All the designs and drawings for bridges and structures including all their components shall be fully checked by a Senior Engineer after completion of the designs. All drawings for bridges and structures shall be duly signed by the (a) Designer, (b) Senior Checking Engineer, and (c) Senior Bridge / Structure Expert. The designs and drawings not signed by the three persons mentioned above shall not be accepted. The Consultant shall indemnify the Client against any inaccuracy / deficiency in the designs and drawings of the bridges and structures noticed during the construction and even thereafter and the Client shall bear no responsibility for the accuracy of the designs and drawings submitted by the Consultants.

- 7.1.3 The survey control points established by the Consultant shall be protected by the Consultants till the completion of the Consultancy Services.

### **7.2. Retention Money**

An amount equivalent to 5% of the contract value shall be retained at the end of the contract for accuracy of design and quantities submitted and the same will be released after the completion of civil contract works or after 3 years from completion of consultancy services, whichever is earlier. The retention money will however be released by the Client on substitution by Bank Guarantee of the same amount valid up to the period as above.

### **7.3. Penalty**

#### **7.3.1. Penalty for Error/Variation**

- i) If variation in any of the main quantities of work like earth work including sub grade, GSB, WMM, Bituminous works (BM/DBM/AC/BC), drains, total concrete quantities and reinforcing steel in bridge works or overall project cost, found during execution is more than +/- 15%, the penalty equivalent to 5% of the contract value shall be imposed. For this purpose retention money equivalent to 5% of the contract value will be forfeited. This shall exclude any



additional/deletion of items/works ordered during the execution.

- ii) For inaccuracies in survey/investigation/design work the penalties shall be imposed as per details given in Table below:

Sl. No.	Item	Penalty (%age of contract value)
1	Topographic Surveys	0.5 to 1.0
	a) <i>The horizontal alignment does not match with ground condition.</i>	
	b) <i>The cross sections do not match with existing ground.</i>	
	c) <i>The co-ordinates are defective as instruments of desired accuracy not used.</i>	
2	Geotechnical Surveys	0.5 to 1.0
	a) <i>Incomplete surveys</i>	
	b) <i>Data not analysed properly</i>	
	c) <i>The substrata substantially different from the actual strata found during construction.</i>	
3	Traffic data found to be varying by more than 25% on resurvey at a later date, unless there are justifiable reasons.	0.2 to 0.5
4	Axle load data found to be varying by more than 25% on resurvey at a later date, unless there are justifiable reasons.	0.20 to 0.5
5	Structural Designs found to be unsafe or grossly over safe.	1.0 to 2.0

### 7.3.2 Penalty for delay

In case of delay in completion of services, a penalty equal to 0.05% of the contract price per day subject to a maximum 10% of the contract value will be imposed and shall be recovered from payments due/performance security. However in case of delay due to reasons beyond the control of the Consultant, suitable extension of time will be granted.

- 7.3.3 Total amount of recovery from all penalties shall be limited to 20% of the Consultancy Fee.

## 7.4 ACTION FOR DEFICIENCY IN SERVICES

### 7.4.1 Consultants liability towards the Client

Consultant shall be liable to indemnify the client for any direct loss or damage accrued or likely to accrue due to deficiency in service rendered by him.

### 7.4.2 Warning/Debaring

In addition to the penalty as mentioned in para 7.3, warning may be issued to the erring Consultants for minor deficiencies. In the case of major deficiencies in the Detailed Project Report involving time and cost overrun and adverse effect on reputation of NHIDCL, other penal action including debarring for certain period may also be initiated as per policy of NHIDCL.

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

### **8.1 Good Faith**

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

### **8.2 Operation of the Contract**

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

## **9. SETTLEMENT OF DISPUTES**

### **9.1 Amicable Settlement**

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

### **9.2 Dispute Settlement**

Any dispute between the Parties as to matters arising pursuant to this Contract which cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SC.

## **10. Change of Scope**

The change of Scope on account of variation of total length as well as 4 laned length of project Highway from the indicative length as given Letter of Invitation of the RFP shall be dealt as follows

- i) During the course of consultancy services in case it is considered necessary to increase/decrease the scope of services (of total length or 4 laned length as compared to indicative Length as given in the RFP) by the client the same shall be notified by Change of scope notice. Similarly, if the Consultant determines that change of scope is

needed, he shall inform of the same to the Client. The Client will examine and shall either reject the proposal or issue change of scope notice.

ii) The Consultancy fee shall be revised on account of change of scope as below:

- In case the total length of project increase/ decrease up to more 10% of indicative length given in the RFP : **No change in Consultancy Fees**
- In case the increase/ decrease in total length of project is more than 10 % of the indicative length as given in the RFP: The consultancy fee shall be increased/ decreased in the same proportion in which the length of the project road is increased/ decreased beyond 10%.
- In case the length of 4 lane road is increased up to 10% of the length as indicated in the RFP :**No change in Consultancy Fees**
- In case the length of 4 lane road is increased by more than 10% of the length as indicated in the RFP : The consultancy fee shall be increased by 0.25 times the average quoted rate ( Rs per km ) for the increased length of 4 lane beyond 10%

iii) Length of Bypass / realignment shall not be treated as additional to the existing length of the highway for the purpose of change / variation in length. Increase/decrease in length on account of bypasses/realignment shall not be considered as change of scope. However, the total length of the project highway (including bypasses and realignment ) along the finally approved alignment shall be compared with the indicative length in the RFP for the purpose of variation.

**SPECIAL CONDITIONS OF CONTRACT****Number of**

GC Clause

**A. Amendments of, and Supplements to, Clauses in the General Conditions**1.1(a) The words “**in the Government’s country**” are amended to read “**in INDIA**”1.4 The language is: **English**

1.6.1 The addresses are:

**For the Client:**           **Managing Director**  
**National Highway & Infrastructure Development Corporation Ltd.**  
**PTI Building, 3rd Floor , 4, Parliament Street, New Delhi-110001**

**Attention :**               **General Manager (Technical)**  
**National Highway & Infrastructure Development Corporation Ltd.**  
**PTI Building, 3rd Floor , 4, Parliament Street, New Delhi-110001**  
**Ph. -9599022989**  
**Email: [yogena05bro@gmail.com](mailto:yogena05bro@gmail.com)**

**For the Consultants:**

**Attention:   Name**  
**Designation**  
**Address**  
**Tel:**  
**Fax:**  
**E-mail address**

1.6.2 Notice will be deemed to be effective as follows:

- (a) in the case of personal delivery or registered mail, on delivery;
- (b) In the case of facsimiles, 24 hours following confirmed transmission.
- (c) In case of E mail, 24 hours following confirmed transmission.

1.8 Entity to Act as Member in charge (In case of Joint Venture of Consultants) with or without an Associate:

- .....

1.9 The Authorized Representatives are:

**For the Client : ( -- )**

Managing Director ,NHIDCL ( -- )

For the Consultant: Name

## Designation

- 1.10 The Consultants and the personnel shall pay the taxes, duties, fees, levies and other impositions levied under the existing, amended or enacted laws (prevailing 7 days before the last date of submission of bids) during life of this contract and the Client shall perform such duties in regard to the deduction of such tax as may be lawfully imposed.
- 2.1 **The effectiveness conditions are the following:**
- a) The contract has been approved by NHIDCL.
  - b) The Consultant will furnish within 15 days of the issue of letter of acceptance, an unconditional Bank Guarantee from a Nationalised Bank, IDBI or ICICI/ICICI Bank/Foreign Bank/EXIM Bank / Any Scheduled Commercial Bank approved by RBI having a networth of not less than 500 crore as per latest Annual Report of the Bank. In the case of a Foreign Bank (issued by a Branch in India) the net worth in respect of Indian operations shall only be taken into account. In case of Foreign Bank, the BG issued by Foreign Bank should be counter guaranteed by any Nationalised Bank in India. In case of JV, the BG shall be furnished on behalf of the JV or lead partner of JV for an amount equivalent to 10% of the total contract value to be received by him towards Performance Security valid for a period of three years beyond the date of completion of services.
- 2.2 The time period shall be "four months" or such other time period as the parties may agree in writing.
- 2.3 The time period shall be "fifteen days" or such other time period as the Parties may agree in writing.
- 2.4 The time period shall be six **months** or such other time period as the parties may agree in writing.
- 3.4 Limitation of the Consultants' Liability towards the Client
- (a) Except in case of negligence or willful misconduct on the part of the Consultants or on the part of any person or firm acting on behalf of the Consultants in carrying out the Services, the Consultants, with respect to damage caused by the Consultants to the Client's property, shall not be liable to the Client:
    - (i) for any indirect or consequential loss or damage; and
    - (ii) for any direct loss or damage that exceeds (A) the total payments for Professional Fees and Reimbursable Expenditure made or expected to be made to the Consultants hereunder, or (B) the proceeds the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever of (A) or (B) is higher.

- (b) This limitation of liability shall not affect the Consultants' liability, if any, for damage to Third Parties caused by the Consultants or any person or firm acting on behalf of the Consultants in carrying out the Services.

3.5 The risks and the coverage shall be as follows:

- (a) Third Party motor vehicle liability insurance as required under Motor Vehicles Act, 1988 in respect of motor vehicles operated in India by the Consultants or their Personnel or any Sub Consultants or their Personnel for the period of consultancy.
- (b) Third Party liability insurance with a minimum coverage, for Rs. 1.00 million for the period of consultancy.
- (c) (i) The Consultant shall provide to NHIDCL Professional Liability Insurance (PLI) for a period of **Five years** beyond completion of Consultancy services or as per Applicable Law, whichever is higher.
- (ii) The Consultant will maintain at its expense PLI including coverage for errors and omissions caused by Consultant's negligence in the performance of its duties under this agreement, **(A)** For the amount not exceeding total payments for Professional Fees and Reimbursable Expenditures made or expected to be made to the Consultants hereunder OR **(B)** the proceeds, the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever of **(A) or (B) is higher**.
- iii) The policy should be issued only from an Insurance Company operating in India.
- iv) The policy must clearly indicate the limit of indemnity in terms of "Any One Accident" (AOA) and "Aggregate limit on the policy" (AOP) and in no case should be for an amount less than stated in the contract.
- v) If the Consultant enters into an agreement with NHIDCL in a joint venture or 'in association', the policy must be procured and provided to NHIDCL by the joint venture/in association entity and not by the individual partners of the joint venture/association.
- vi) The contract may include a provision whereby the Consultant does not cancel the policy midterm without the consent of NHIDCL. The insurance company may provide an undertaking in this regard.
- (d) Employer's liability and workers' compensation insurance in respect of the Personnel of the Consultants and of any Sub Consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and all insurances and policies should start from the date of commencement of services and remain effective as per relevant requirements of contract agreement
- 3.9 The Consultants shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Client.

4.6 The person designated as Team Leader cum Senior Highway Engineer in Appendix B shall serve in that capacity, as specified in Clause 4.6

6.1 (b) The ceiling amount in local currency is **Rs..... Excluding Service Tax)**

6.3 (a) No advance payment will be made.

6.3 (b)

S. No.	Item	Payment as % of Contract Value
1	On submission of Quality Assurance Plan and Inception Report including options study report	10 %
2	On Submission of Feasibility Study Report	25 %
3	On submission of Technical Schedules for EPC projects	10 %
4	On submission of Draft DPR	15 %
5	On approval of DPR	10 %
6	On completion of Project Clearances (20 %)	
	(i) Completion of 3a, 3A and 3D&3G	10 %
	(ii) Forest clearance and environmental Clearance	5 %
	(iii) Utility Shifting	5 %
7	On Appointed Date of civil contract	10%
	<b>Total</b>	<b>100%</b>

**Note:** Approval of the various stages of the services rendered by the Consultant is mandatory to release the payment for that stage of the payment schedule.

6.3 (e) The interest rate is : @ 12% annum

6.3 (f) **The account is: As provided by the Consultant.**

9.2 Disputes shall be settled by arbitration in accordance with the following provisions:

#### 9.2.1 Selection of Arbitrators

Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions:

- (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to the President, Indian Roads Congress, New Delhi, for a list of not fewer than five nominees and, on receipt of such list, the Parties shall alternately strike names there from, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, the president, Indian Roads Congress, New Delhi, shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.

- (b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultants shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the later of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary, the Indian Council of Arbitration, New Delhi.
- (c) If, in a dispute subject to Clause SC 9.2.1 (b), one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary, Indian Council of Arbitration, New Delhi, to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.

### 9.2.2 Rules of Procedure

Arbitration proceedings shall be conducted in accordance with procedure of the Arbitration & Conciliation Act 1996, of India unless the Consultant is a foreign national/firm, where arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract

### 9.2.3 Substitute Arbitrators

If for any reason an arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.

### 9.2.4 Qualifications of Arbitrators

The sole arbitrator or the third arbitrator appointed pursuant to paragraphs (a) to (c) of Clause 9.2.1 hereof shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute.

### 9.2.5 Miscellaneous

In any arbitration proceeding hereunder:

- (a) Proceedings shall, unless otherwise agreed by the Parties, be held in DELHI
- (b) the English language shall be the official language for all purposes; and [Note: English language may be changed to any other Language, with the agreement of both the Parties.]
- (c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.
- (d) The maximum amount payable per Arbitrator in Arbitration clauses shall be as under

S.No	Particulars	Maximum amount payable per
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		<b>Arbitrator/ per case</b>
1	Arbitrator fee	Rs 15,000/- per day subject to a maximum of Rs 4 lacs or Rs 2.5 lacs (lump sum) subject to publishing the award within 12 months.
2	Reading charges	Rs 15,000/-
3	Secretarial Assistance and Incidental charges (telephone, fax, postage etc)	Rs 20,000/-
4	Charges for publishing/ declaration of the award	Rs 20,000/-
5	Other expenses (As per actual against bills subject to maximum of the prescribed ceiling given below)	
	Traveling expenses	Economy class (by air), First class AC
	Lodging and Boarding	(by train) and AC Car (by road) a) Rs 15,000/- per day (in metro cities) b) Rs 7,000/- per day (in other cities)
		c) Rs 3,000/- per day if any Arbitrator makes their own arrangements.
6	Local travel	Rs 1,500/- per day
7	Extra charges for days other than hearing/ meeting days (maximum for 2 days)	Rs 3,500/- per day
Note:-	1. Lodging boarding and traveling expenses shall be allowed only for those members who are residing 100 kms. away from place of meeting. 2. Delhi, Mumbai, Chennai, Kolkata, Bangalore and Hyderabad shall be considered as	

In exceptional cases, such as cases involving major legal implications/ wider ramifications/ higher financial stakes etc., a special fee structure could be fixed in consultation with the Contractor/ Supervision Consultants and with the specific approval of the Managing Director NHIDCL before appointment of the Arbitrator.

10. The indicative length for the project is 5 Km.

## 2. TERMS OF REFERENCE (TOR)

### 2.1. General

2.1.1. The National Highways & Infrastructure Development Corporation Ltd. (NHIDCL) has been entrusted for carrying out Feasibility Study, Preparation of Detailed Project Report and providing pre-construction services in respect of **Construction of Moreh Bypass from NH-39 near Indo-Myanmar Border to Land Custom Port of India to bypass the Moreh Town (Length=less than 5 Km approx)** on Engineering, Procurement and Construction mode in the state of Manipur for proper structuring and implementation of projects on EPC mode until declaration of Appointed Date of projects.

2.1.2. NHIDCL will be the employer and executing agency for the Consultancy Services sought and the standard of output required from the appointed Consultants are expected to be of international level both in terms of quality and adherence to the agreed time schedules.

### 2.2. Objective

2.2.1. The main objective of the consultancy service is to establish the technical, economical and financial viability of the project and prepare detailed project reports for construction of the road to 2 lane NH with paved shoulder configuration. So the selected Consultant would also have to interact with other agencies of State & Central government.

2.2.2. The viability of the project shall be established taking into account the requirements with regard to rehabilitation, upgrading and improvement based on highway design, pavement design, provision of service roads wherever necessary, types of intersections, rehabilitation and widening of existing and/or construction of new bridges and structures, road safety features, quantities of various items of works and cost estimates and economic analysis.

2.2.3. The Detailed Project Report would, inter-alia, include detailed highway design, design of pavement and overlay with options for flexible or rigid pavements, design of bridges and cross drainage structures and grade separated structures, design of service roads, quantities of various items, detailed working drawings, detailed cost estimates, economic and financial viability analyses, environmental and social feasibility, social and environmental action plans as appropriate and documents required for tendering the project on commercial basis for international / local competitive bidding.

2.2.4. The Consultant should ensure detailed project preparation incorporating aspects of value engineering, quality audit and safety audit requirement in design and implementation. Consultant should also ensure to include additional points for hill roads (wherever required) also supplementary points for Safety Audit and Signs. Consultant should also provide technology options with respective costs in their report.

2.2.5. **The Consultant should give cost estimates and tender documents along with Feasibility Report/ Detailed Project Report.**

2.2.6. If at feasibility stage, employer desires to terminate the contract, the contract will be **terminated after payment upto that stage.**

**3. Scope of Services**

- 3.1 The Consultant shall furnish land acquisition details as per revenue records/maps for further processing of land acquisition. Consultant shall also submit 3a, 3A and 3D draft notification or equivalent for acquisition of land. Scope of services includes all activities up to completion of the Land Acquisition process till 3G Notification as per LA Act of acquisition of land either under NH Act or State Act, as applicable.
- 3.2 The Consultant shall study the possible locations and design of toll plaza in consultation with LPC Department. The local and slow traffic may need segregation from the main traffic and provision of service roads and fencing may be considered, wherever necessary to improve efficiency and safety.
- 3.3 The general scope of services is given in the sections that follow. However, the entire scope of services would, inter-alia, include the items mentioned in the Letter of Invitation and the TOR. The Consultants shall prepare documents for EPC contracts for each DPR assignment.
- 3.4 All ready to implement 'good for tender drawings and designs' shall be prepared.
- 3.5 Environmental Impact Assessment, Environmental Management Plan and Rehabilitation and Resettlement Studies shall be carried out by the Consultant meeting the requirements of the lending agencies like ADB/ World Bank/JICA, etc.
- 3.6 *a. As regards Railway ROB/RUB, the Consultant will liaise with concerned authorities, wherever required and arrange all clarifications. Approval of all drawings including GAD and detailed engineering drawings will be obtained from the Railways by the Consultant. However, if Railways require proof checking of the drawings prepared by the Consultants, the same will be got done by NHIDCL and payment to the proof Consultant shall be made by NHIDCL directly.*
- b. Consultant will also obtain 'NO Objection Certificate' from Ministry of Environment and Forest and also facilitate to obtain the estimates for shifting of utilities of all types involved from concerned local authorities in the DPR. Consultant will also be required to prepare all Land Acquisition papers (i.e. all necessary schedule and draft 3a, 3A, and 3D, 3G notification as per L.A. act) for acquisition of land either under NH Act or State Act(as applicable).*
- 3.7 Preparation of the Bid Documents, based on the feasibility report, due to exigency of the project for execution if desired by NHIDCL.
- 3.8 Consultant shall obtain all types of necessary clearances required for implementation of the project on the ground from the concerned agencies. The client shall provide the necessary supporting letters and any official fees as per the demand note issued by such concerned agencies from whom the clearances are being sought to enable implementation.
- 3.9 deleted;
- 3.10 The Consultant shall prepare the bid documents including required schedules as per EPC mode. For that, it is suggested that Consultant should also go through the EPC documents of ministry before bidding the project. The Consultant shall assist the NHIDCL and its Financial Consultant and the Legal Adviser by furnishing clarifications as required for the financial appraisal and legal scrutiny of the project highway and bid documents.
- 3.11 The Consultant shall be guided in its assignment by the Model Agreement for Engineering, Procurement and Constructions (EPC) and the Manual of Specifications and Standards for two lane of highways through Engineering, Procurement and

Constructions (EPC) published by IRC (IRC:SP:73) (the “**Manual**”) along with relevant IRC codes for design of long bridges.

#### 4. Primary Tasks

##### 4.1 General Scope of Services shall cover but be not limited to the following major tasks :

- i. *Review of all available reports and published information about the project road and the project influence area;*
- ii. *Environmental and social impact assessment, including such as related to cultural properties, natural habitats, involuntary resettlement etc.*
- ii (a). ***public consultation, including consultation with Communities located along the road, NGOs working in the area, other stake-holders and relevant Govt. department at different stages of assignment (such as inception stage, feasibility stage, preliminary design stage and final design stage).***
- iii. *detailed reconnaissance;*
- iv. *identification of possible improvements in the existing alignment and bypassing congested locations with alternatives, evaluation of different alternatives comparison on techno-economic and other considerations and recommendations regarding most appropriate option;*
- v. *inventory and condition surveys for road;*
- vi. *inventory and condition surveys for bridges, cross-drainage structures, other Structures, river Bank training/Protection works and drainage provisions;*
- vii. **Detailed topographic surveys using Total Stations, GPS and LIDAR /any other equivalent technology.;**
- viii. *pavement investigations;*
- ix. *sub-grade characteristics and strength: investigation of required sub-grade and sub-soil characteristics and strength for road and embankment design and sub soil investigation; including scope for slope protection (wherever required) and remedial measures.*
- x. *identification of sources of construction materials;*
- xi. ***detailed design of road, its x-sections, horizontal and vertical alignment and design of embankment of height more than 6m and in poor soil conditions where density consideration requires, even lesser height embankment. Detailed design of structures preparation of GAD and construction drawings and cross-drainage structures and underpasses etc.***
- xiii. ***identification of the type and the design of intersections;***
- xiv. ***design of complete drainage system and disposal point for storm water;***
- xv. ***value analysis / value engineering and project costing;***
- xvi. *deleted;*
- xvii. *contract packaging and implementation schedule;*
- xviii. *strip plan indicating the scheme for carriageway widening, location of all existing utility services (both over- and underground) and the scheme for their relocation, trees to be felled, transplanted and planted and land acquisition requirements including schedule for LA: reports documents and drawings arrangement of estimates for cutting/ transplanting of trees and shifting of utilities from the concerned department;*
- xix. ***deleted;***
- xx. ***preparation of detailed project report, cost estimate, good for tender drawings and designs, rate analysis, detailed bill of quantities, bid documents for execution of civil works through budgeting resources;***
- xxi. *design of toll plaza and identification of their numbers and location and office cum residential complex including working drawings;*

- xxii. *design of weighing stations, parking areas and rest areas;*
  - xxiii. *any other user oriented facility, enroute toll facility;*
  - xxiv. *Tie-in of on-going/sanctioned works of MORT&H/NHIDCL/other agencies;*
  - xxv. *preparation of social plans for the project affected people as per policy of the lending agencies/ Govt. of India R & R Policy;*
  - xxvi. *safety Audit and signage;*
  - xxvii. *technology options with respective costs.*
- 4.2 While carrying out the field studies, investigations and design, the development plans being implemented or proposed for future implementation by the local bodies, should be taken into account. Such aspect should be clearly brought out in the reports and drawings.
- 4.3 The Consultant shall study the possible locations and design of toll plaza, wayside amenities required and plan for arboriculture along the highway.
- 4.4 The local and slow traffic may need segregation from the main traffic and provision of service roads and physical barrier including fencing may be considered, wherever necessary to improve efficiency and safety.

## 5 Reports and Documents to be submitted by the Consultant to NHIDCL

- a. All reports, documents and drawings are to be submitted separately for each of the traffic homogenous link of the Project Road. The analysis of data and the design proposals shall be based on the data derived from the primary surveys and investigations carried out during the period of assignment. The sources of data and model relationships used in the reports shall be indicated with complete details for easy reference
- b. Project preparation activities will be split into three stages as brought out below. Preliminary design work should commence without waiting for feasibility study to be completed and submitted in four copies each  
**Stage 1: Inception Report**  
**Stage 2: Feasibility Report**  
**Stage 3: Detailed Project Report (DPR)**
- c. Time schedule in respect of all such stages has been indicated in the next para. Consultant shall be required to complete, to the satisfaction of the client, all the different stages of study within the time frame indicated in the schedule of submission in para 10 pertaining to Reports and Documents for becoming eligible for payment for any part of the next stage
- d. The Consultant shall submit to the client the reports and documents in bound volumes (and not spiral binding form) after completion of each stage of work as per the schedule and in the number of copies as given in Clause 16. Further, the reports shall also be submitted in floppy diskettes / CD's in addition to the hard copies as mentioned in Clause 16. Consultant shall submit all other reports mentioned specifically in the preceding paras of the TOR.
- e. The time schedule for various submissions prescribed in clause 16 (c) above shall be strictly adhered to. No time-over-run in respect of these submissions will normally be permitted. Consultant is advised to go through the entire terms of reference carefully and plan his work method in such a manner that various activities followed by respective submissions as brought out at in clause 16 (c) above are completed as stipulated. Consultant is, therefore, advised to deploy sufficient number of

supporting personnel, both technical and administrative, to undertake the project preparation activities in construction package (Section) simultaneously. As far as possible, the proposal should include complete information such as number of such persons, name, position, period of engagement, remuneration rate etc. The Consultant is also advised to start necessary survey works from the beginning so as to gain time in respect of various other activities in that stage.

## **STAGE 1**

### **5.1 Quality Assurance Plan (QAP) Document**

1. Immediately upon the award, the Consultants shall submit four copies of the QAP document covering all aspects of field studies, investigations design and economic financial analysis. The quality assurance plans/procedures for different field studies, engineering surveys and investigation, design and documentation activities should be presented as separate sections like engineering surveys and investigations, traffic surveys, material geo-technical and sub-soil investigations, road and pavement investigations, investigation and design of bridges & structures, environment and R&R assessment, economic & financial analysis, drawings and documentation; preparation, checking, approval and filing of calculations, identification and traceability of project documents etc. Further, additional information as per format shall be furnished regarding the details of personnel who shall be responsible for carrying out/preparing and checking/verifying various activities forming part of feasibility study and project preparation, since inception to the completion of work. The field and design activities shall start after the QAP is approved by NHIDCL.
2. The data formats proposed by the Consultants for use in field studies and investigations shall be submitted within 14 days after the commencement of services and got approved by NHIDCL.

### **5.2 Inception Report (IR)**

1. The report shall cover the following major aspects:
  - i. *Project appreciation;*
  - ii. *Detailed methodology to meet the requirements of the TOR finalised in consultation with the NHIDCL officers; including scheduling of various sub activities to be carried out for completion of various stages of the work; stating out clearly their approach & methodology for project preparation after due inspection of the entire project stretch and collection/ collation of necessary information;*
  - iii. *Task Assignment and Manning Schedule;*
  - iv. *Work programme;*
  - v. *Proforma for data collection;*
  - vi. *Design standards and proposed cross-sections;*
  - vii. *Key plan and Linear Plan;*
  - viii. *Development plans being implemented and / or proposed for implementation in the near future by the local bodies and the possible impact of such development plans on the overall scheme for field work and design for the study;*
  - ix. *Quality Assurance Plan (QAP) finalised in consultation with NHIDCL;*
  - x. *Draft design standards; and*
  - xi. *Study of three options for alignment.*

2. The requirements, if any, for the construction of bypasses should be identified on the basis of data derived from reconnaissance and traffic studies. The available alignment options should be worked out on the basis of available maps. The most appropriate alignment option for bypasses should be identified on the basis of site conditions and techno-economic considerations. Inception Report should include the details regarding these aspects concerning the construction of bypasses for approval by NHIDCL.

## **STAGE 2:**

### **5.3 Feasibility Report**

1. The Consultant shall commence the Feasibility Study of the project in accordance with the accepted IR and the report shall contain the following:
  - *Executive summary*
  - *Overview of MORTH/NHIDCL organization and activities, , and project financing and cost recovery mechanisms*
  - *Project description including possible alternative alignments/bypasses and technical/engineering alternatives*
  - *Methodology adopted for the feasibility study*
  - *Socioeconomic profile of the project areas*
  - *Indicative design standards, methodologies and specifications*
  - *Traffic surveys and analysis*
  - *Environmental screening and preliminary environmental assessment*
  - *Initial social assessment and preliminary land acquisition/resettlement plan*
  - *Cost estimates*
  - *Economic and financial analysis*
  - *Conclusions and recommendations*
2. In view of para 1 above the Consultant has to submit the following documents in six sets :
  - i. **Technical Specifications:** *The MORTH's Technical Specifications for Road and Bridge works shall be followed for this study. However, Volume - IV: Technical Specifications shall contain the special technical specifications which are not covered by MORTH Specifications for Roads and Bridges (latest edition / revision) and also specific quality control norms for the construction of works.*
  - ii. **Rate Analysis:** *This volume will present the analysis of rates for all items of works. The details of unit rate of materials at source, carriage charges, any other applicable charges, labour rates, machine charges as considered in arriving at unit rates will be included in this volume.*
  - iii. **Cost Estimates:** *This volume will present the each item of work as well as a summary of total cost.*
  - iv. **Bill of Quantities :** *This volume shall contain the detailed Bill of Quantities for all items of works*
  - v. **Civil Work Contract Agreement:** *A civil works contract agreement shall be submitted.*
3. The basic data obtained from the field studies and investigations shall be

submitted in a separate volume as an Appendix to Feasibility Report.

4. The Final Feasibility Study Report incorporating comments, revisions and modifications suggested by NHIDCL shall be submitted within 15 days of receipt of comments from NHIDCL on draft feasibility study report.

## 5.4 Strip Plan and Clearances

1. The Consultants shall submit the following documents:
  - i. *Details of the centre line of the proposed widened of road along with the existing and proposed right-of-way limits to appreciate the requirements of land acquisition;*
  - ii. *The information concerning the area including ownership of land to be acquired for the implementation of the project shall be collected from the revenue and other concerned authorities and presented along with the strip plans;*
  - iii. *Strip plans showing the position of existing utilities and services indicating clearly the position of their relocation;*
  - iv. *Details for various clearances such as environment and forest clearances;*
  - v. *Separate strip plan showing shifting / relocation of each utility services in consultation with the concerned local authorities;*
  - vi. *The utility relocation plans should clearly show existing right-of-way and pertinent topographic details including buildings, major trees, fences and other installations such as water-mains, telephone, telegraph and electricity poles, and suggest relocation of the services along with their crossings the highway at designated locations as required and prepare necessary details for submission to the Service Departments;*
  - vii. *Detail schedules for acquisition of additional land and additional properties in consultation with the revenue authorities; and*
  - viii. *Land Acquisition Plan.*
2. The strip plans and land acquisition plan shall be prepared on the basis of data from reconnaissance and detailed topographic surveys.
3. The Report accompanying the strip plans should cover the essential aspects as given under:
  - i. *Kilometre-wise Land Acquisition Plan (LAP) and schedule of ownership thereof and Costs as per Revenue Authorities and also based on realistic rates.*
  - ii. *Details of properties, such as buildings and structures falling within the right-of-way and costs of acquisition based on realistic rates.*
  - iii. *Kilometre-wise Utility Relocation Plan (URP) and costs for relocation per civil construction package as per concerned authorities.*
  - iv. *Kilometre-wise account in regard to felling of trees of different type and girth and value estimate of such trees based on realistic rates obtainable from concerned District forest office.*
4. The strip plans shall clearly indicate the scheme for widening. The views and suggestions of the concerned State PWDs should be duly taken into account while



working out the widening scheme (left, right or symmetrical). The widening scheme shall be finalised in consultation with NHIDCL.

5. Kilometre-wise Strip Plans for section (Package) shall be prepared separately for each concerned agency and suggested by NHIDCL.

## 5.5 Land Acquisition Report

1. The Land acquisition report shall be prepared and submitted for the entire stretches under the Assignment. The report shall include detailed schedules about acquisition of landholdings as per revenue records and their locations in a strip plan and also the costs as per district authorities. Details shall be submitted in land acquisition proforma to be supplied by NHIDCL. The land acquisition report shall be submitted in both Hindi and English languages.
2. The land acquisition report should be prepared in consultation with affected persons, non-governmental organisations and concerned government agencies and should cover land acquisition and resettlement plans and costs of resettlement and rehabilitation of such affected persons. It should also include plans of compensatory afforestation, its land requirements with specific locations and cost involved for undertaking all such activities in this regard. The Land Acquisition report shall cover all submissions as required for issuance of Notification u/s 3(a), 3(A), 3(D) & 3 (G) alongwith all details as necessary for Forest / Environmental / Wild Life clearances.

## **STAGE: 3**

### 5.6 Draft Detailed Project Report (DPR)

1. The draft DPR Submission shall consist of construction package-wise Main Report, Design Report, Materials Report, Engineering Report, Drainage Design Report, Economic and Financial Analysis Report, Environmental Assessment Report including Resettlement Action Plan (RAP), Package-wise bid Documents and Drawings.
2. The Report volumes shall be submitted as tabulated in para 10 above.
3. The Documents and Drawings shall be submitted for the Package and shall be in the following format:

#### **Reports**

- i. **Volume-I, Main Report:** *This report will present the project background, social analysis of the project, details of surveys and investigations carried out, analysis and interpretation of survey and investigation data, traffic studies and demand forecasts designs, cost estimation, environmental aspects, economic and commercial analyses and conclusions. The report shall include Executive Summary giving brief accounts of the findings of the study and recommendations.*

*The Report shall also include maps, charts and diagrams showing locations and details of existing features and the essential features of improvement and upgrading.*

The Environmental Impact Assessment (EIA) Report for contract package shall be submitted as a part of the main report.

The basic data obtained from the field studies and investigations and input data used for the preliminary design shall be submitted in a separate volume as an Appendix to Main Report.

- ii. **Volume - II, Design Report:** This volume shall contain design calculations, supported by computer printout of calculations wherever applicable. The Report shall clearly bring out the various features of design standards adopted for the study. The design report will be in two parts. Part-I shall primarily deal with the design of road features and pavement composition while Part-II shall deal with the design of bridges, tunnels and cross-drainage structures. The sub-soil exploration report including the complete details of boring done, analyses and interpretation of data and the selection of design parameters shall be included as an Appendix to the Design Report.
- The detailed design for all features should be carried out as per the requirements of the Design Standards for the project. However, there may be situations wherein it has not been possible to strictly adhere to the design standards due to the existing site conditions, restrictions and other considerations. The report should clearly bring out the details of these aspect and the standards adopted.
- iii. **Volume - III, Materials Report:** The Materials Report shall contain details concerning the proposed borrow areas and quarries for construction materials and possible sources of water for construction purposes. The report shall include details on locations of borrow areas and quarries shown on maps and charts and also the estimated quantities with mass haul diagram including possible end use with leads involved, the details of sampling and testing carried out and results in the form of important index values with possible end use thereof.
- The materials Report shall also include details of sampling, testing and test results obtained in respect physical properties of sub grade soils. The information shall be presented in tabular as well as in graphical representations and schematic diagrams. The Report shall present soil profiles along the alignment.
- The material Report should also clearly indicate the locations of areas with problematic soils. Recommendations concerning the improvement of such soils for use in the proposed construction works, such as stabilisation (cement, lime, mechanical) should be included in the Report.
- iv. **Volume - IV, Environmental Assessment Report including Environmental Management Plan (EMP) & Resettlement Action Plan (RAP):** The Report shall be prepared conforming to the Guidelines of the Government of India, State Government and World Bank / ADB as appropriate for construction package.
- v. **Volume - V, Technical Specifications:** The MoRT&H's Technical Specifications for Road and Bridge works shall be followed for this study. However, Volume - IV: Technical Specifications shall contain the special technical specifications which are not covered by MOST Specifications for Roads and Bridges (latest edition / revision) and also specific quality control norms for the construction of works.
- vi. **Volume - VI, Rate Analysis:** This volume will present the analysis of rates for all items of works. The details of unit rate of materials at source, carriage charges, any other applicable charges,

- labour rates, machine charges as considered in arriving at unit rates will be included in this volume.
- vii. **Volume - VII, Cost Estimates:** This volume will present the contract package wise cost of each item of work as well as a summary of total cost.
- viii. **Volume - VIII, Bill of Quantities:** This volume shall contain the package-wise detailed Bill of Quantities for all items of works.
- ix. **Volume - IX, Drawing Volume:** All drawings forming part of this volume shall be '**good for tender**' drawings. All plan and profile drawings will be prepared in scale of 1:250V and 1:2500H to cover one km in one sheet. In addition this volume will contain 'good for construction' drawings for the following:
- a. Horizontal Alignment and Longitudinal Profile.
  - b. Cross-section @ 50m interval along the alignment within ROW
  - c. Typical Cross-Sections with details of pavement structure.
  - d. Detailed Working Drawings for individual Culverts and Cross-Drainage Structures.
  - e. Detailed Working Drawings for individual Bridges, tunnels and Structures.
  - f. Detailed Drawings for Improvement of At-Grade and Grade-Separated Intersections and Interchanges.
  - g. Drawings for Road Sign, Markings, Toll Plazas, and other Facilities.
  - h. Schematic Diagrams (linear chart) indicating but be not limited to be following:
    - Widening scheme;
    - Locations of median openings, intersections, interchanges, underpasses, overpasses, bypasses;
    - Locations of service roads;
    - location of traffic signals, traffic signs, road markings, safety features; and,
    - Locations of toll plaza, parking areas, weighing stations, bus bays, rest areas, if any.
  - i. Drawings for toll plaza, Bus Bays, Parking areas, Rest areas, weighing stations etc.  
All drawings will be prepared in A2 size sheets. The format for plan, cross section and profile drawings shall be finalised in consultation with the concerned NHIDCL officers. The drawings shall also include details of all BM and reference pillars, HIP and VIP. The co-ordinates of all points should be referenced to a common datum, preferably, GTS referencing system. The drawings shall also include the locations of all traffic safety features including traffic signals, signs, markings, crash barriers delineators and rest areas, bus-bays, parking areas etc.
  - j. The typical cross-section drawings should indicate the scheme for future widening of the carriageway. The proposed cross-sections of road segment passing through urban areas should indicate the provisions for pedestrian movements and suitable measures for surface and sub-surface drainage and lighting, as required.
  - x. **Volume - X, Civil Work Contract Agreement:** A civil works contract agreement shall be submitted.
  - xi. **Volume-XI, Project Clearances** – All the necessary(project related) clearances (such as from MOEF, Railways in respect of ROB/ RUBs, Irrigation Deptt. and any other concerned agencies) shall be obtained by the Consultant and submitted to NHIDCL so that

*project implementation can straight away proceed without any hold up.*

## 5.7 Final Detailed Project Report, Documents and Drawings (4 Sets)

The Final DPR consisting of Main Report, Design Report, Drainage Design Report and Materials Report, incorporating all revisions deemed relevant following receipt of the comments from NHIDCL on the draft DPR shall be submitted as per the schedule given in Clause 16 alongwith the Land Acquisition Report as mentioned under para 5.

## 6. Interaction with NHIDCL

- (i) During entire period of services, the Consultant shall interact continuously with NHIDCL and provide any clarification as regards methods being followed and carryout modification as suggested by NHIDCL. A programme of various activities shall be provided to NHIDCL and prior intimation shall be given to NHIDCL regarding start of key activities such as boring, survey etc. so that inspections of NHIDCL officials could be arranged in time.
- (ii) The NHIDCL officers and other Government officers may visit the site at any time, individually or collectively to acquaint/ supervise the field investigation and survey works. **NHIDCL may also appoint a Proof Consultant to supervise the work of the DPR Consultant including inter-alia field investigation, survey work, Design work and preconstruction activities.**
- (iii) The Consultant shall be required to send 3 copies of concise monthly Progress Report by the 5th day of the following month to the designated officer at his Head Quarter so that progress could be monitored by the NHIDCL. These reports will indicate the dates of induction and de-induction of various key personnel and the activities performed by them. Frequent meetings with the Consultant at site office or in Delhi are foreseen during the currency of project preparation.
- (iv) All equipment, software and books etc. required for satisfactory services for this project shall be obtained by the Consultant at their own cost and shall be their property.

## 7. Payment Schedule

The Consultant will be paid consultancy fee as a percentage of the contract values as per the schedule given in the Draft Contract Agreement.

## 8. Data and Software

1. The floppy diskettes/CD's/hard Disk containing all basic as well as the processed data from all field studies and investigations, report, appendices, annexure, documents and drawings shall be submitted to NHIDCL at the time of the submission of the Final Report. The data can be classified as follows:
  - i. **Engineering Investigations and Traffic Studies** : Road Inventory, Condition, Roughness, Test Pit (Pavement composition), Benkelman Beam Deflection, Material Investigation including test results for sub grade soils, Traffic Studies(traffic surveys), axle load surveys, Sub-soil Exploration, Drainage Inventory, Inventory data for bridge

- and culverts indicating rehabilitation, new construction requirement etc. in MS EXCEL or any other format which could be imported to widely used utility packages.*
- ii. **Topographic Surveys and Drawings:** All topographic data would be supplied in (x, y, z) format along with complete reference so that the data could be imported into any standard highway design software. The drawing files would be submitted in dxf or dwg format.
  - iii. **Rate Analysis:** The Consultant shall submit the rate analysis for various works items including the data developed on computer in this relation so that it could be used by the Authority later for the purpose of updating the cost of the project.
  - iv. **Economic and Financial Analysis.**
2. **Software:** The Consultant shall also hand-over to NHIDCL floppies/CD's/hard Disks containing any general software including the financial model which has been specifically developed for the project.
  3. The floppy diskettes/CD's/hard Disk should be properly indexed and a catalogue giving contents of all floppies/CD's/Hard Disk and print-outs of the contents (data from field studies topographic data and drawings) should be handed over to NHIDCL at the time of submission of the Final Report.

## 9. Requirement of suitable Key Personnel:

Required as per scope of work. Consultant shall engage required Key Personnel as per Standard Engineering Practice with minimum ten years of experience.

**9.1 Time Duration: Total 4 Months** (Initial 2 Months for Submission of DPR and total four months for land clearance etc).

**9.2 Costing:** Total Cost including all:

Type of Expenditure	
<b>Manpower</b>	Required as per Scope of Work
<b>Miscellaneous</b>	Field Investigation and Surveys Office, Accommodation, Travel, Consumables, and other miscellaneous expenses.
<b>Total</b>	<b>Manpower + Miscellaneous</b>

## 10. Consultancy Fee:

NHIDCL agrees to pay the Consultant firm fee for the professional services to be rendered by them as herein after described at SC Clause 6.(The above fee is inclusive of fee payable by the Consultant to any other Consultant/Associate(s) and nothing extra shall be payable by NHIDCL for this purpose. The Consultant shall be reimbursed the service tax subject to submission of proof of payment of service tax).

**11. Additions, Alterations and Variation:**

- i. NHIDCL shall have the right to request in writing for additions alterations, modifications or deletions in the design and drawing of any part of the work and to request in writing for additional work in connection therewith and the consultants shall comply with such requests without any extra cost.
- ii. The Consultant shall not make any material deviation, alteration, addition to or omission from the work except without first obtaining the written consent of NHIDCL.

**12** If any additional works are awarded by NHIDCL, and if NHIDCL desires, the consultant shall carry out additional work and it shall be completed proportionally. However this will be considered subject to the satisfactory performance of the consultant and the consultancy fee shall be calculated as per payments decided by NHIDCL and the consultant shall have no further claim whatsoever on this account from NHIDCL.

**13. Taxes**

- a) All taxes, income tax and any other leviable tax (except Service Tax) in connection with the execution of the contract levied by the statutory Authorities/State/Central Govt. of India/State Govt. or any local authorities on the consultant in accordance with the applicable law shall be borne by the consultant and are deemed to be included in their bid price. The bidders shall note that the Tax Deduction at Source (TDS) as per applicable law shall be made from the payments due/made to the consultants which shall not be reimbursed.
- b) The Service tax as applicable shall be reimbursed by NHIDCL on actual production of receipt of deposit duly authenticated by Chartered Accountant. However, consultant has to mention Service Tax Number in the invoice, and amount of Service Tax should be shown separately in the bill.
- c) Any enhancement of taxes/duties by the authorities/Government of India/State Government, during currency of this contract shall be borne by the Consultant only, which shall not be reimbursed by NHIDCL.

**14.0 Performance Security/Guarantee**

**14.1** For the due performance of the contract in accordance with the terms and conditions specified, the consultant shall on the day of, or before signing the contract which shall not be later than 10 (ten) days from the issue of the Letter of Award, furnish performance security/Guarantee on the Proforma prescribed by NHIDCL from a Nationalized/Scheduled Bank to the extent of 5% of the value of total consultancy fees of consultant. The Bank Guarantee shall remain valid till stipulated time for completion of work plus 200 days. The Bid Security paid by the Consultant shall be returned to the consultant after receipt of Performance Guarantee.

**14.2** The Bank Guarantee shall be in favour of NHIDCL, payable at New Delhi. The Bank Guarantee should be (in the prescribed format of NHIDCL as per Section-6) issued from any Nationalized Bank and shall be transmitted online through SFMS gateway to NHIDCL banker.

- 14.3 It is expressly understood and agreed that the performance security is intended to secure the performance of entire contract. It is also expressly understood and agreed that the performance security is not to be construed to cover any damages detailed/ stipulated in various clauses in the Contract document.
- 14.4 The performance security will be discharged by NHIDCL and returned to the Consultancy firms after 100 days of successful completion of the services to NHIDCL and statutory bodies.
- 14.5 NHIDCL reserves the right of forfeiture of the performance guarantee in addition to other claims and penalties in the event of the consultant's failure to fulfill any of the contractual obligations or in the event of termination of contract as per terms and conditions of contract.
- 14.6 Should the stipulated time for completion of work for whatever reason get extended, the consultant, shall at his own cost, get the validity period of Bank Guarantee in respect of performance security furnished by him extended and shall furnish the extended / revised Bank Guarantee to NHIDCL before the expiry date of the Bank Guarantee originally furnished.

**15. deleted**

**16. Completion period:**

- a. The overall completion period for the execution of this project from the date of commencement of work shall be mentioned in NIT.
- b. If at any stage, the Project has been delayed by the acts of authorities or by the deployed contractor for the work, nothing extra shall be payable to the consultant. However suitable extension of time for completion of work shall be granted accordingly.
- c. Escalation/Price Variation  
No claim / additional fees on account of any price variation/Escalation on whatsoever ground shall be entertained at any stage of works. Quoted fees shall be firm and fixed for entire contract period as well as extended period for completion of the works.

Stage No.	Activity	No. of copies	Time Period in days from date of Commencement
	<b>Monthly Reports</b>	3	by 10 <sup>th</sup> day of every month
1	<b>Inception Report</b>		
	Inception Report including QAP document and option study report	3	15
3	<b>F.S. REPORT</b>		
	Feasibility Study Report incorporating compliance of comments of Client.	4	30
4	<b>Technical Schedules for EPC projects</b>	4	45

5	<b>Detailed Project Report</b>		
	i) Draft DPR	4	<b>50</b>
	ii) Comments of client	4	55
	iii) Final DPR incorporating compliance of comments of Client	6	<b>60</b>
6	<b>Project clearances</b> from concerned agencies e.g. from MOEF; Rly for approval of GAD and detail engineering drawing of ROB/RUB; Irrigation Dept., Land Acquisitions- 3(a) ,3(A), 3(D)& 3G Notifications	Original letters from the concerned agencies and 5 photocopies of each. 3 copies each	<b>120</b>

d. In addition, services for consultancies till appointed date of civil work shall be available to NHIDCL as per their requirement.

### 17. Number of Drawing Sets etc. and Copyright:

The Consultant shall supply free of charge to the NHIDCL, the adequate no. as specified elsewhere of following documents in soft as well as hard copy.

- Detailed Project Reports with coloured drawings.
- All the Drawings and estimates to be submitted to NHIDCL.
- Complete detailed design calculations (structural and other services) including supply of drawings incorporating subsequent modifications.
- All working drawings for all the components (Good for Construction Drawings).
- Detailed estimates and rate analysis of all works.
- Completion drawings and detailed documents.
- Tender documents/tender drawings as per NHIDCL requirements.

The Consultant shall supply free of charge to the NHIDCL all the estimates, details of quantities (BOQ) detailed designs, reports and any other details envisaged under this agreement, Including drawings would be supplied by the consultants as indicated above. Any extra sets of drawings will become the property of the NHIDCL.

The drawing cannot be issued to any other person, firm or authority or used by the consultants for any other project. No copies of any drawing or document shall be issued to anyone except the NHIDCL and authorized representative of NHIDCL.

### 18. Determination or Rescission of Agreement:

The NHIDCL without any prejudice to its right against the Consultant in respect of any delay by notice in writing absolutely may determine the contract in any of the following cases:

- If the consultants being a company shall pass a resolution or the court shall make an order that the company shall be wound up or if a receiver or a manager on behalf of the



creditor shall be appointed or if circumstances shall arise which entitle the court or creditor to appoint a receiver or a manager which entitles the court to make up a winding order.

- ii. If the consultants commit breach of any of the terms of agreement. When the consultants have made themselves liable for action under any of the clauses aforementioned, the NHIDCL shall have powers:
  - a) to determine or rescind the agreement.
  - b) to engage another consultant(s) to carry out the balance work at the risk and cost of the consultant and debiting the consultant(s) the excess amount, if any, so spent.

In case contract of consultant is determined, the Performance Guarantee and Security Deposit of the consultant shall stand forfeited. The decision of NHIDCL in this regard shall be final and binding on the consultant.

## **19. Withholding and Lien of Payment**

Whether any claim or claims for payment of money arises out of or under the contract against the Consultant, the NHIDCL shall be entitled to withhold and also to have a lien to retain in whole or in part, the security deposit, performance guarantee and or to withhold and have a lien to retain in part or in full the payments due to the consultant, or any claims of the consultant, so as to cover the claimed amount till the claim arising out of or under the contract is determined by the competent court.

## **20 Jurisdiction**

The agreement shall be governed by the Indian Law for the time being in force and the Courts in Delhi alone will have jurisdiction to deal with matter arising there from.

## **21 General:**

1. The scrutiny of the drawing, and designs by the NHIDCL's own supervisory staff, if any, does not absolve the Consultant of their responsibility under the agreement. The Consultant shall remain solely responsible for structural soundness of the design and other services for all provisions of the contract so as to satisfy the particular requirement of the specifications.
2. The Consultancy firms shall supply to the NHIDCL copies of all documents, instructions issued to Consultancy firms, if any, relating to the work, drawings, specifications, bill of quantities and also other documents as may be required.
3. The Consultant hereby agree that the fees to be paid as provided herein (clause 3.0) will be in full discharge of function to be performed by him and no claim whatsoever shall be against the NHIDCL in respect of any proprietary rights or copy rights on the part of any party relating to the plans, models and drawings.
4. While providing consultancy services, the consultant shall ensure that there is no infringement of any patent or design rights and he shall be fully responsible for

consequences/any actions due to any such infringement. Consultant shall keep NHIDCL indemnified at all times and shall bear the losses suffered by NHIDCL in this regard.

5. Consultant shall appoint and notify a team of two senior officials of his organization as nodal officers to represent the consultant in all the Meetings /presentations with Local Municipal Corporation Authorities/ State/ NHIDCL/Central Govt. or any other agency.
6. All designs and drawings shall be the property of NHIDCL. The name and logo of NHIDCL shall be pre-dominantly displayed on all the drawings and documents. The consultant shall not put his name or firms name on any of the documents/drawings on the DPR. The name of Consultant shall be written as Associate Consultant on all drawings/documents only after DPR is approved from all the concerned authorities.
7. The originals of approved completion drawings shall be on good quality reproducible tracing paper and soft copy of all the drawings & design shall have to be given on compact disc (CD). The proprietary rights of all the design shall remain with NHIDCL.
8. The Consultant shall be required to sign an Agreement with NHIDCL within 10 days of the receipt of letter to proceed, based on these terms & conditions.
9. Recovery/Penalties can be recovered from the Consultancy Fee/BID SECURITY/BG of the other works that the consultant is doing or would be doing for NHIDCL at that time.

## **Section-5**

### **FINANCIAL PROPOSAL**

(As per BOQ uploaded on CPP portal i.e. eprocure.gov.in)

## **Section-6**

### **FORMATS**

- 1. Form of Bank Guarantee of BID SECURITY**
- 2. Proforma of Performance Guarantee**
- 3. Agreement Form**
- 4. Integrity Pact**
- 5. LOA**
- 6. Undertaking from Key Personnel**

**Bank Guarantee of BID SECURITY**

B.G. No.

Dated:

1. In consideration of you, Managing Director , National Highways and Infrastructure Development Corporation Limited (NHIDCL) having its office at 3<sup>rd</sup> Floor, PTI Building, 4, Parliament Street, New Delhi – 110001, (hereinafter referred to as the “Authority”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the BID of ..... and having its registered office at ..... (and acting on behalf of its JV) (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the **“Short Tender for “Specialised Consultancy Services for ‘Good for Tender’ design based on detailed investigations, estimation, survey, costing, preparation of Technical Schedules of EPC documents and Land Acquisition Survey for Construction of Moreh Bypass from NH-39 near Indo-Myanmar Border to Land Custom Port of India to bypass the Moreh Town (Length=less than 5 Km approx) in the State of Manipur”** through an Engineering, Procurement and Construction (EPC) Contract (hereinafter referred to as “the Project”) pursuant to the RFP Document dated ..... issued in respect of the Project and other related documents including without limitation the draft contract Agreement (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at ..... and one of its branches at ..... (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 2.1.6 read with Clause 2.1.7 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of Rs. \*\*\*\*\* (Rupees \*\*\*\*\*only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand

from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its BID open during the BID validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. \*\*\*(Rupees.\*\*\*\* only)

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the BID Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its BID open during the BID validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the BIDs or the BID validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters

aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to name of Bank along with branch address and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. \*\*\*\* ( Rupees \*\*\*\*\* only). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before\*\*\* (indicate date falling 180 days after the BID Due Date).
14. Notwithstanding anything contained herein before, our liability under this Bank Guarantee is restricted to Rs. \_\_\_\_\_(Rs. \_\_\_\_\_in words) and the bank guarantee shall remain valid till \_\_\_\_\_. Unless a claim or a demand in writing is served upon us on or before \_\_\_\_\_ all our liability under this Bank Guarantee shall cease.

15. This guarantee shall also be operatable at our..... Branch at New Delhi, from whom, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment thereunder claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.
16. Bank Guarantee has been sent to authority's bank through SFMS gateway as per the details below:-

S.no.	Particulars	Details
1	Name of Beneficiary	National Highways & Infrastructure Development Corporation Limited
2	Beneficiary Bank Account No.	90621010002659
3	Beneficiary Bank Branch	IFSC SYNB0009062
4	Beneficiary Bank Branch Name	Transport Bhawan, New Delhi
5	Beneficiary Bank Address	Syndicate Bank transport Bhawan, 1st Parliament Street, New Delhi- 110001

Signed and Delivered by ..... Bank

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

(Signature of the Authorised Signatory)

(Official-Seal)



**FORM OF BANK GUARANTEE FOR PERFORMANCE SECURITY**

To  
**Managing Director, NHIDCL**  
National Highway & Infrastructure Development Corporation Ltd.  
PTI Building, 3rd Floor,  
4, Parliament Street  
**New Delhi-110001**

WHEREAS.....(name and address of Contractor ) hereinafter called “the contractor” has undertaken, in pursuance of LOA No. .... Dated ..... to execute..... (Name of Contract and brief description of Works) (hereinafter called “the contract”).

AND WHEREAS it has been stipulated by you in the said contract that the Contractor shall furnish you with a Bank Guarantee by a Nationalized /Scheduled bank of India for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee:

NOW THEREOF we hereby affirm that we are the guarantor and responsible to you on behalf of the Contractor, up to a total of Rs..... (amount of guarantee) (Rupees..... (in words), such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of ..... (amount of guarantee) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the contract or of the works to be performed there under or of any of the contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Bank Guarantee, and we hereby waive notice of any such change, addition or modification.

This Bank Guarantee shall also be operable at our ....., New Delhi office, from whom, confirmation regarding the issue of this Bank Guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment there under claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.

The liability of Bank under this Bank Guarantee shall not be affected by any change in the constitution of the contractor or of the Bank.

This Bank Guarantee shall be valid until 28 days from the date of expiry of the Defects Liability Period.

Notwithstanding anything contained herein before, our liability under this Bank Guarantee is

restricted to Rs. \_\_\_\_\_ (Rs. \_\_\_\_\_ in words) and the Bank Guarantee shall remain valid till \_\_\_\_\_. Unless a claim or a demand in writing is served upon us on or before \_\_\_\_\_ all our liability under this Bank Guarantee shall cease.

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

13. Bank Guarantee has been sent to Authority's Bank through SFMS gateway as per the details below:

Sno	Particulars	Details
1	Name of Beneficiary	National Highways & Infrastructure Development Corporation Limited
2	Beneficiary Bank Account No.	90621010002659
3	Beneficiary Bank Branch	IFSC SYNB0009062
4	Beneficiary Bank Branch Name	Transport Bhawan, New Delhi
5	Beneficiary Bank Address	Syndicate Bank transport Bhawan No.1, Parliament Street, New Delhi-110001

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

SIGNED, SEALED AND DELIVERED

For and on behalf of the Bank by:

(Signature)

(Name)

(Designation)

\$

Insert date being 2 (two) years from the date of issuance of this Guarantee (in accordance with Clause 7.2 of Section 4 of the RFP)

54

(Code Number)

(Address)

NOTES:

(i)

(ii)

The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.

The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.

(iii) THE USE OF STRUCTURED FINANCIAL MESSAGING SYSTEM (SFMS) HAS BEEN MADE MANDATORY BY I.B.A FOR BANK GUARANTEE TRANSACTIONS. WITH IMMEDIATE EFFECT.

BANK GUARANTEES WILL BE CONTINUED TO BE ISSUED IN PAPER FORM AND DELIVERED TO THE BENEFICIARY/APPLICANT HOWEVER IN ADDITION TO THIS A SEPARATE ADVISE OF THE BG IS TO BE SENT BY ISSUING BANK TO ADVISING BANK THROUGH SFMS, ONLY AFTER WHICH PAPER BG WOULD BECOME OPERATIVE

**FORM OF AGREEMENT**

This agreement made the \_\_\_\_\_ day of \_\_\_\_\_ 2016 between the National Highway Infrastructure Development Corporation Ltd, New Delhi (hereinafter called “the Employer” of the one part and \_\_\_\_\_ (here in after called “the Contractor”) of the other part.

AND WHEREAS the Employer invited bids from eligible bidders of the execution of certain works, viz **Specialised Consultancy Services for ‘Good for Tender’ design based on detailed investigations, estimation, survey, costing and preparation of Technical Schedules of EPC documents for construction of Moreh Bypass on NH-39 near Indo-Myanmar Border in the State of Manipur**

AND WHEREAS pursuant to the bid submitted by the Contractor, vide \_\_\_\_\_ (here in after referred to as the “BID” or “ÖFFER”) for the execution of works, the Employer by his letter of acceptance dated \_\_\_\_\_ accepted the offer submitted by the Contractor for the execution and completion of such works and the remedying of any defects thereon, on terms and conditions in accordance with the documents listed in para 2 below.

AND WHEREAS the Contractor by a deed of undertaking dated \_\_\_\_\_ has agreed to abide by all the terms of the bid, including but not limited to the amount quoted for the execution of Contract, as stated in the bid, and also to comply with such terms and conditions as may be required from time to time.

AND WHEREAS pursuant to the bid submitted by the Contractor vide \_\_\_\_\_ (hereinafter referred to as the “the Offer”), the employer has by his letter of acceptance no. \_\_\_\_\_ - dated \_\_\_\_\_ accepted the offer submitted by the Contractor for the execution and completion of such works and the remedying of any defects therein, on terms and conditions in accordance in the conditions of particular application and condition included hereinafter;

AND WHEREAS the Contractor has agreed to undertake such works and has furnished a Performance Security pursuant to clause 14 of TOR in Section-3.

NOW THIS AGREEMENT WITNESSED as follows:

1. In this Agreement works and expressions shall have the same meanings as are respectively assigned to them in the conditions of contract hereinafter referred to;
2. The following documents shall be deemed to form and be read and constructed as part of this Agreement viz.
  - a) Notice inviting e-Tender
  - b) RFP
  - c) Technical Proposal.
  - d) Financial Proposal.
  - e) Integrity pact

- f) Corrigendum, if any
- g) Other documents, if any

3. The foregoing documents shall be constructed as complementary and mutually explanatory one with another. Should any ambiguities or discrepancy be noted then the order of precedence of these documents shall subject to the condition of particular applications be as listed above.
4. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the works and remedy any defects therein in conformity in all respect with the provisions of the contract.
5. the Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the works and the remedying of defects therein the contract price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS WHEREOF the parties here to have caused this Agreement to be executed the day and year first before written.

Signed, sealed and delivered by the said Employer through his Authorized Representative and the said Contractor through his Power of Attorney holder in the presence of:

**Binding Signature of Employer** \_\_\_\_\_ **Binding Signature of Contractor** \_\_\_\_\_

For and on behalf of National Highway &  
Infrastructure Development Corporation Ltd.

(Name of Consultancy Firm)

In the presence of

1. Name:  
Address:

2. Name:  
Address:

In the Presence  
of

1. Name:  
Address:

2. Name:  
Address:

**INTEGRITY PACT**

BETWEEN

**NATIONAL HIGHWAYS & INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED**

(NHIDCL) hereinafter referred to as "**The Principal**" (which expression, unless repugnant to the context thereof, shall mean and include its legal representatives, heirs and assigns)

AND

..... hereinafter referred to as "**The Bidder/Contractor**" (which expression, unless repugnant to the context thereof, shall mean and include its legal representatives, heirs and assigns)

**Preamble**

The Principal intends to award, under laid down organizational procedures, contract(s) for (**Name of the contract**) (hereinafter referred to as the '**Project**'). The Principal necessarily requires full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and/or Contractor(s).

In order to achieve these goals, the Principal may appoint an Independent External Monitor (IEM), who will monitor the tender process and the execution of the contract for compliance with the Integrity Pact by all parties concerned, for all works covered in the Project.

**Section 1 - Commitments of the Principal**

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles: -
  - a. No employee of the Principal, personally or through family members or through any other channel, will in connection with the tender for or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit, which the person is not legally entitled to.
  - b. The Principal will, during the tender process treat all Contractor(s)/Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Contractor(s)/Bidder(s) the same information and will not provide to any Contractor(s)/Bidder(s), confidential/additional information through which the Contractor(s)/Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
  - c. The Principal will exclude from the process all known prejudiced persons. **The Principal shall** obtain bids from **only** those parties who have been short-listed or pre qualified or through a process of open advertisement/web publishing or any combination thereof.
- (2) If the Principal obtains information on the conduct of any of its employees, Contractor(s) and/or Bidder(s), which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and **subject to its discretion**, can **additionally** initiate disciplinary actions.

- (3) The Principal will enter into agreements with identical conditions with all Contractor(s)/Bidder(s) **for the different Work Packages in the aforesaid Project.**
- (4) The Principal will disqualify from the tender process all Contractor(s)/Bidder(s) in the range of Rs 50 Crore and above, who do not sign this Pact or violate its provisions.

## **Section 2 - Commitments of the Bidder(s) / Contractor(s)**

- (1) The Bidder(s) / Contractor(s) commit(s) itself/themselves to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
  - (a) The Bidder(s)/Contractor(s) will not, directly or through any other person or firm offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage, of any kind whatsoever, during the tender process or during the execution of the contract.
  - (b) The Bidder(s)/Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
  - (c) The Bidder(s)/Contractor(s) will not use improperly, for purpose of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - (d) The Bidder(s)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Bidder(s)/Contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is annexed and marked as Annex-"A".
  - (e) The Bidder(s)/Contractor(s) will, when submitting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

## **Section 3: Disqualification from tender process and/ or exclusion from future contracts.**

- (1) If the Bidder(s)/Contractor(s), before awarding the Project or during execution has committed a transgression by violating Section 2 above or in any other form so as to put his reliability or credibility in question, the Principal, at its sole discretion, is entitled to disqualify the Bidder(s)/ Contractor(s) from the tender process or terminate the contract, if already awarded, for that reason, without prejudice to any other legal

rights or remedies available to the Principal under the relevant clauses of GCC /SCC of the tender/contract.

- (2) If the Contractor(s)/Bidder(s) has committed a transgression through a violation of any of the terms under Section 2 above or in any other form such as to put his reliability or credibility into question, the Principal will also be entitled to exclude such Contractor(s)/Bidder(s) from future tenders/contract award processes. The imposition and duration of the exclusion will be determined by the Principal, keeping in view the severity of the transgression. The severity will be determined by the circumstances of the case, in particular, the number of transgressions and/or the amount of the damage.
- (3) If it is observed after payment of final bill but before the expiry of validity of Integrity Pact that the contractor has committed a transgression, through a violation of any of the terms under Section 2 above or any other term(s) of this Pact, during the execution of contract, the Principal will be entitled to exclude the contractor from further tender/contract award processes.
- (4) The exclusion will be imposed for a minimum period of six (6) months and a maximum period of three (3) years.
- (5) If the Contractor(s)/Bidder(s) can prove that he has restored/recouped the damage to the Principal caused by him and has installed a suitable corruption prevention system, the Principal may, at its sole discretion, revoke or reduce the exclusion period before the expiry of the period of such exclusion.

#### **Section 4: Compensation for Damages**

- (1) If the Principal has disqualified the Bidder(s)/Contractor(s) from the tender process prior to the awarding of the Project according to Section 3, the Earnest Money Deposit (BID SECURITY)/Bid Security furnished, if any, along with the offer, as per terms of the Invitation of Tender, shall also be forfeited. The Bidder(s)/Contractor(s) understands and agrees that this will be in addition to the disqualification and exclusion of the Contractor (s)/Bidder(s) as may be imposed by the Principal, in terms of Section 3 above.
- (2) If, at any time after the awarding of the Project, the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Security Deposit/Performance Bank Guarantee furnished by the contractor, if any, as per the terms of the NIT/Contract shall be forfeited without prejudice to any other legal rights and remedies available to the Principal under the relevant clauses of General/ Special Conditions of Contract.

The Contractor(s)/Bidder(s) be in addition to the Bidder(s)/Contractor(s), as terms of Section 3 *above*. understands and agrees that this will disqualification and exclusion of the may be imposed by the Principal in

#### **Section 5: Previous transgression**

- (1) The Bidder(s)/Contractor(s) herein declares that it has committed no transgressions in the last 3 years with any other Company in any country conforming to the anti corruption approach as detailed herein or with government/ any other Public Sector Enterprise in India that could justify its exclusion from the tender process.



- (2) If at any point of time during the tender process or after the awarding of the Contract, it is found that the Bidder(s)/Contractor(s) has made an incorrect statement on this subject, he can be disqualified from the tender process or if, as the case may be, that the Contract, is already awarded, it will be terminated for such reason and the Bidder(s)/Contractor(s) can be black listed in terms of Section 3 above.

## **Section 6: Independent External Monitor / Monitors**

- (1) The Principal shall, in case where the Project Value is in excess of Rs 50 Crore and above, appoint competent and credible Independent External Monitor(s) with clearance from Central Vigilance Commission. The Monitor shall review independently, the cases referred to it to assess whether and to what extent the parties concerned comply with the obligations under this Integrity Pact.
- (2) In case of non-compliance of the provisions of the Integrity Pact, the complaint/non-compliance is to be lodged by the aggrieved party with the Nodal Officer only, as shall be appointed by the MD, NHIDCL. The Nodal Officer shall refer the complaint/non-compliance so received by him to the aforesaid Monitor.
- (3) The Monitor will not be subject to any instructions by the representatives of the parties and will perform its functions neutrally and independently. The Monitor shall report to the Managing Director, NHIDCL.
- (4) The Bidder(s)/Contractor(s) accepts that the Monitor shall have the right to access, without restriction, all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his/her request and demonstration of a valid interest, unrestricted and unconditional access to its project documentation. The Monitor is under contractual obligation to treat the information and documents of the Bidder (s) /Contractor(s) with confidentiality.
- (5) The Principal will provide to the Monitor, sufficient information about all meetings among the parties related to the Project, provided such meetings could have an impact on the contractual relations between the Principal and the Contractor.
- (6) As soon as the Monitor notes, or believes to note, a violation of this Pact, he will so inform the Principal and request the Principal to discontinue and/or take corrective action, or to take other relevant action (s). The Monitor can in this regard submit non-binding recommendations. However, beyond this, the Monitor has no right to demand from the parties that they act in a specific manner and/or refrain from action and/or tolerate action.
- (7) The Monitor will submit a written report to the MD, NHIDCL within 4 to 6 weeks from the date of reference or intimation to it and, should the occasion arise, submit proposals for corrective actions for the violation or the breaches of the provisions of the agreement noticed by the Monitor.
- (8) If the Monitor has reported to the MD, NHIDCL, of a substantiated suspicion of an offence under relevant IPC/PC Act, and the MD, NHIDCL, has not, within the

reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Chief Vigilance Officer, NHIDCL / MD.

- (9) The word 'Monitor' means Independent External Monitor and includes both singular and plural forms.

#### **Section 7 Criminal Contractor(s)/charges against violating Bidder(s) / Subcontractor(s)**

If the Principal obtains knowledge of conduct of a Bidder/Contractor or any employee or a representative or an associate of a Bidder/Contractor, which constitutes a criminal offence under the IPC/PC Act, or if the Principal has substantive suspicion in this regard, the Principal will forthwith inform the same to the Chief Vigilance Officer, NHIDCL/MD.

#### **Section 8 - Duration of the Integrity Pact**

This Pact shall come into force when both parties have legally signed it. The Pact shall expire, in case of the Contractor(s), 3 (three) months after the last payment under the Contract is made and in case of the unsuccessful Bidder(s), 2 (two) months after the contract for the project has been awarded.

If any claims is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by MD of NHIDCL.

The Bidder(s)/Contractor(s), however, understands and agrees that even upon the completion of the Project and/or the last payment under the Contract having been made, if any transgression/violation of the terms of this Pact comes/is brought to the notice of the Principal, it may, subject to its discretion, blacklist and/or exclude such Bidder(s)/Contractor(s) as provided for in Section 3, without prejudice to any other legal right or remedy so available to the Principal.

#### **Section 9 - Other provisions**

- (1) This Agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi.
- (2) Changes and supplements as well as termination notices need to be made in writing.
- (3) If the Bidder/Contractor is a partnership or a consortium, this Agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this Agreement turn out to be invalid, the remainder of this Agreement shall remain valid and binding. In such a case, the parties will strive to come to an Agreement in accordance to their original intentions.
- (5) Wherever he or his as indicated in the above sections, the same may be read as he/she or his/her, as the case may be.

(For & On behalf of the Principal)

(For & On behalf of Bidder/ Contractor)

(Office Seal)

(Office Seal)

Place                      \_

Date                      \_

**Witness 1:**

(Name & Address)

**Witness 2:**

(Name & Address)

## Letter of Acceptance

No. \_\_\_\_\_

Dated: .././2016

To

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Kind Attention: \_\_\_\_\_

**Subject: “Specialised Consultancy Services for ‘Good for Tender’ design based on detailed investigations, estimation, survey, costing and preparation of Technical Schedules of EPC documents for construction of Moreh Bypass on NH-39 near Indo-Myanmar Border in the State of Manipur”- Letter of Acceptance-Reg**

Sir,

This is to notify you that your bid dated \_\_\_\_\_ for **“Specialised Consultancy Services for ‘Good for Tender’ design based on detailed investigations, estimation, survey, costing and preparation of Technical Schedules of EPC documents for construction of Moreh Bypass on NH-39 near Indo-Myanmar Border in the State of Manipur”** for the Contract Price of Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ only), excluding service tax is hereby accepted by National Highways & Infrastructure Development Corporation Ltd.

Accordingly, pursuant to clause 14.0 of TOR of the RFP, you are requested to furnish an unconditional Bank Guarantee towards Performance Security for Rs. \_\_\_\_\_ /- (Rupees \_\_\_\_\_ only) within 10 days from the date of this LOA as per the specified format given under Sec. 6 of RFP.

Further we request that, within 7 days of the date issue of this Letter of Acceptance you prepare the Advisory Services Agreement, in duplicate, on Government Stamp Paper and meet with the undersigned at the address provided during normal office hours on any working day to sign the Agreement.

One copy of the signed Agreement will be provided to you, while the original copy will remain with us.

General Manager (Technical)

**UNDERTAKING FROM THE KEY PERSONNEL**

I, ..... (Name and Address) have not left any assignment with the Consultants engaged by MORT&H/ contracting firm (firm to be supervised now) for any continuing works of MORT&H without completing my assignment. I will be available for the entire duration of the current project (named.....). If I leave this assignment in the middle of the completion of the work, I may be debarred for an appropriate period to be decided by NHIDCL. I have also no objection if my services are extended by NHIDCL for this work in future.

I, the undersigned, certify that to the best of my knowledge and belief, my biodata, information and credentials submitted, correctly describes myself, my qualification and my experience. I am liable for any action, as deemed fit, in case there is any mis-representation in this regard.

Signature of the Key Personnel\_\_\_\_\_

Position under the assignment\_\_\_\_\_

Place:\_\_\_\_\_

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

Signature of Authorised Representative of the Consultant\_\_\_\_\_

Place:\_\_\_\_\_

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

## **Appendix A**

Terms of reference containing, inter-alia, the Description of the Services and Reporting Requirements

## **Appendix B**

### **Consultants' Sub Consultants, Key Personnel and Sub Professional Personnel**

## **Appendix C**

### **Hours of work for Consultants' Personnel**

The Consultant's personnel shall normally work for 8 hours in a day and six days a week. Normally Sundays shall be closed for working. In addition they shall also be allowed to avail holidays as observed by the Client's office in the relevant state without deduction of remunerations. In case any person is required to work on Sunday or Holiday due to exigency of work, he/she shall be given compensatory leave within the next 15 days.



## **Appendix D**

### **Duties of the Client**

## **Appendix E**

### **Cost Estimate**