National Highways & Infrastructure Development Corporation Limited

NHIDCL

BUILDING INFRASTRUCTURE - BUILDING THE NATION

REQUEST FOR PROPOSAL (RFP)

FOR

Construction of Uni-Directional Khellani Tunnel of length 1.574 Km & its approach Road from Km 29.030 to Km 31.449 of total length of 2.419 Km on NH-244 in Union Territory of Jammu & Kashmir on EPC Mode.

.

ON

Engineering, Procurement & Construction (EPC) Mode

NATIONAL HIGHWAYS & INFRASTRUCTURE DEVELOPMENT CORPORATION LTD
(MINISTRY OF ROAD TRANSPORT & HIGHWAYS, GOVT. OF INDIA)

MAY, 2020

NHIDCL, 3RD FLOOR, PRESS TRUST OF INDIA BUILDING, 4, PARLIAMENT STREET, New Delhi – 110001

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राष्ट्रीय राजमार्ग एवं अवसंरचना विकास निगम लिमिटेड

National Highways & Infrastructure Development Corporation Limited

(MINISTRY OF ROAD TRANSPORT & HIGHWAYS, GOVT. OF INDIA)

(Online e-tender through Central Public Procurement Portal)

Notice Inviting Bid

Bid No.NHIDCL/*J&K/* NH-244/Khellani Tunnel (PKG-III)/2020-21 Dated :04/05/2020

RFP for the work of "**Construction of Uni-Directional Khellani Tunnel of length 1.574 Km & its approach Road from Km 29.030 to Km 31.449 of total length of 2.419 Km on NH-244 in Union Territory of Jammu & Kashmir on EPC Mode.**
".

The Ministry of Road Transport & Highways through National Highways & Infrastructure Development Corporation Limited (NHIDCL) is engaged in the development of National Highways and as part of this endeavor,it has been decided to undertake" **Construction of Uni-Directional Khellani Tunnel of length 1.574 Km & its approach Road from Km 29.030 to Km 31.449 of total length of 2.419 Km on NH-244 in Union Territory of Jammu & Kashmir on EPC Mode.** "

The National Highways & Infrastructure Development Corporation Limited represented by its Managing Director now invites bids from eligible contractors for the following project:

State	NH No.	Bid No.	Name of work	Estimated Project Cost (Including GST @12%)	Completion period
Jammu & Kashmir	244	NHIDCL/*J&K/* NH-244/Khellani Tunnel (PKG-III)/2020-21	Construction of Uni-Directional Khellani Tunnel of length 1.574 Km & its approach Road from Km 29.030 to Km 31.449 of total length of 2.419 Km on NH-244 in Union Territory of Jammu & Kashmir on EPC Mode	604.37 Crore	24 Months

The complete BID document can be viewed / downloaded from official portal of theCPPP website https:// eprocure.gov.in/eprocure/appfrom 04/05/2020 to 02/07/2020 (upto 11.00 Hrs.IST). Bidder must submit its Financial bid and Technical Bid at https:// eprocure.gov.in/eprocure/appon or before 02/07/2020 (11:00 hours IST). Bids received online shall be opened on 03/07/2020 (at 11:30 hours IST).

Bid through any other mode shall not be entertained. However, Bid Securing Declaration, Document fee, Power of Attorney and Joint Bidding Agreement etc. shall be submitted physically by the Bidder on or before03/07/2020 (11:30 hours IST), Please note that the NHIDCL reserves the right to accept or reject all or any of the BIDs without assigning any reason whatsoever.

B. Shivprasad
General Manager/Tech
National Highways & Infrastructure Development Corporation Ltd.
Third Floor, PTI Building, 4 Sansad Marg,
New Delhi-110001
Phone: 011-23461674
E-mail: shivprasad.152p@gov.in

As part of the Standard Operating Procedure for adoption of Integrity Pact, Shri Sushil Gupta, CCS (Retd.) has been appointed as Independent External Monitor (IEM) in NHIDCL, as per approval of the Central Vigilance Commission and Ministry of Road Transport & Highways, Govt. of India. The contact details of Shri Sushil ,IEM, NHIDCL, are as under:

B 702, Aravali Heights, Sector 21 C,
Faridabad – 121001, Haryana
Email-id: sushilanitagupta@yahoo.com
Mobile: +91-9999744061

DISCLAIMER

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

This RFP is not an Agreement and is neither an offer nor invitation by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their financial offers (BIDs) pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially the [Feasibility Report], may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

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

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

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

The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder JV or Contractor, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bidders or BIDs without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its BID including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the AuthorityoranyothercostsincurredinconnectionwithorrelatingtoitsBID.AllsuchcostsandexpenseswillremainwiththeBidderandtheAuthorityshallnotbeliableinanymannerwhatsoeverforthesameorforanyothercostsorotherexpensesincurredbyaBidderinpreparationorsubmissionoftheBID,regardlessoftheconductoroutcomeoftheBiddingProcess.

GLOSSARY

Agreement	As defined in Clause1.1.4
Authority	As defined in Clause1.1.1
Bank Guarantee	As defined in Clause2.20.1
BID(s)	As defined in Clause1.2.2
Bidders	As defined in Clause1.2.1
Bidding Documents	As defined in Clause1.1.5
BID Due Date	As defined in Clause1.1.5
Bidding Process	As defined in Clause1.2.1
BID Security	As defined in Clause1.2.4
BID Price or BID	As defined in Clause1.2.6
Contractor	As defined in Clause1.1.2
Construction Period	As defined in Clause1.2.6
Conflict of Interest	As defined in Clause2.2.1(c)
Defect Liability Period	As defined in Clause1.2.6
Eligible Experience	As defined in Clause 2.2.2.5(i)
Eligible Projects	As defined in Clause 2.2.2.5(i)
EPC	As defined in Clause1.1.1
EPC Contract	As defined in Clause1.1.2
Estimated Project Cost	As defined in Clause1.1.3
Feasibility Report	As defined in Clause1.2.3
Financial Capacity	As defined in Clause 2.2.2.3(i)
Government	Government of*********
Joint Venture	As defined in Clause2.2.1
Jt. Bidding Agreement	As defined in Clause2.1.11(f)
Lead Member	As defined in Clause 2.1.11(c)
Lowest Bidder	As defined in Clause1.2.6
LOA	As defined in Clause3.3.4
Net Worth	As defined in Clause 2.2.2.9(ii)
Performance Security	As defined in Clause2.21.1
Additional Performance Security	As defined in Clause2.21.1
Project	As defined in Clause1.1.1
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in the Disclaimer
Selected Bidder	As defined in Clause3.3.1
Technical Capacity	As defined in Clause 2.2.2.2(i)
Tie BIDs	As defined in Clause3.3.2
Threshold Technical Capacity	As defined in Clause 2.2.2.2(i)

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

राष्ट्रीय राजमार्ग एवं अवसंरचना विकास निगम लिमिटेड

National Highways & Infrastructure Development Corporation Limited

(MINISTRY OF ROAD TRANSPORT & HIGHWAYS, GOVT. OF INDIA)

SECTION 1

1.1 Background[3]

INTRODUCTION

1.1.1 The National Highways & Infrastructure Development Corporation Limited (NHIDCL) represented by Managing Director (the **"Authority"**) is engaged in the development of National Highways and as part of this endeavor, the Authority has decided to undertake "Construction of Uni-Directional Khellani Tunnel of length 1.574 Km & its approach Road from Km 29.030 to Km 31.449 of total length of 2.419 Km on NH-244 in Union Territory of Jammu & Kashmir" (the **"Project"**) through an Engineering, Procurement and Construction (the "**EPC**") Contract, and has decided to carry out the bidding process for selection of a Bidder to whom the Project may be awarded. A brief description of the project may be seen in the Information Memorandum of the Project at the CPPP website https://eprocure.gov.in/eprocure/app. Brief particulars of the Project are as follows:

Name of the Work	Length in Km	Estimated Project Cost (Incl. GST @12%) (In Rs. cr.)	No of Years for completion of work
Construction of Uni-Directional Khellani Tunnel of length 1.574 Km & its approach Road from Km 29.030 to Km 31.449 of total length of 2.419 Km on NH-244 in Union Territory of Jammu & Kashmir	2.419	604.37	2 years

1.1.2 The selected Bidder (the"**Contractor**") shall be responsible for designing, engineering, procurement and construction of the Project under and in accordance with the provisions of an engineering, procurement and construction contract (the "**EPC** Contract") to be entered into between the Contractor and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto. The Contractor shall also be responsible for the maintenance of the project during the Defect Liability Period. The scope of work will broadly include rehabilitation, up gradation and augmentation of the existing carriageway to [two-lane with/ without paved shoulders] standards with construction of new pavement, rehabilitation of existing pavement, construction and/or rehabilitation of major and minor bridges, culverts, road intersections, interchanges, drains, etc. as detailed in the Schedules and maintenance of the Project during the Defect Liability Period, which shall be as below:

The Defect Liability Period/Maintenance Period for the development of National Highway shall be as under:

(a) 5 (five) years from the date of completion in case of a road being constructed with

flexible pavement.

(b) 10 (ten) years from the date of completion in case of road being constructed with rigid pavement.

(c) 10 (ten) years from the date of completion in case of road being constructed with flexible pavement using perpetual design

(d) 10 (ten) years from the date of completion in case of all stand-alone structures, e.g. Major Bridges/ and Tunnels

(e) 10(ten) years from the date of completion for the stretches where new technology/ material has been/ is proposed to be used.

(f) 3 (three) years from the date of completion in case of maintenance works.

Note : The categorization whether the project highway is constructed with flexible pavement or rigid pavement shall depend on the basis of major length of the project highway to be covered with that type of pavement.

1.1.3 The estimated cost of the Project (the **"Estimated Project Cost"**) has been specified in the clause 1.1.1 above. The assessment of actual costs, however, will have to be made by the Bidders.

1.1.4 The Agreement sets forth the detailed terms and conditions for award of the project to the Contractor, including the scope of the Contractor's services and obligations.

1.1.5 The Authority shall receive BIDs pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by the Authority pursuant to this RFP (collectively the "**Bidding Documents**"), and all BIDs shall be prepared and submitted in accordance with such terms on or before the BID due date specified in Data Sheet for submission of BIDs (the "**BID Due Date**").

1.2 Brief description of Bidding Process

1.2.1 The Authority has adopted a single stage two part system (referred to as the "**Bidding Process**") for selection of the Bidder for award of the Project. Under this process, the bid shall be invited under two parts. Eligibility and Qualification of the Bidder will be first examined based on the details submitted under first part (Technical Bid) with respect to eligibility and qualifications criteria prescribed in this RFP (the "**Bidder**", which expression shall, unless repugnant to the context, include the members of the Joint Venture). The Financial Bid under the second part shall be opened of only those Bidders whose Technical Bids are responsive to eligibility and qualifications requirements as per this RFP

[GOI has issued guidelines (see Annexure VII of Appendix-1A of RFP) for qualification of Bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply mutatis mutandis to this Bidding Process. The Authority shall be entitled to disqualify any Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process. Bidders must satisfy themselves that they are qualified to bid, and should give an undertaking to this effect in the form at Appendix-IA].

1.2.2 The Bid shall be valid for a period of 120 days from the date specified in Clause 1.3 for submission of BIDs.

1.2.3 The complete Bidding Documents including the draft Agreement for the Project is enclosed for the Bidders. The Feasibility Report / Detailed Project Report prepared by the Authority/ consultants of the Authority (the "**Feasibility Report/Detailed Project Report**") is also enclosed. The Feasibility Report / Detailed Project Report of the Project is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the Feasibility Report/Detailed Project Report shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the Feasibility Report/Detailed Project Report. The aforesaid documents and any addenda issued subsequent to this RFP Document, will be deemed to form part of the Bidding Documents. However, Feasibility Report / Detailed Project Report prepared by the Authority/ consultants of the Authority (the "**Feasibility Report/Detailed Project Report**") shall not be enclosed in case of maintenance works like PR/HIPR to be taken on EPC mode.

1.2.4 A Bidder is required to submit, along with its BID,a bid Securing Declaration as per Clause 2.20 of the RFP. The Bidders shall also submit the cost of RFP document as mentioned in Data Sheet in form of Demand Draft issued from a scheduled Bank in India in favour of "Managing Director, NHIDCL" payable at New Delhi.

The Cost of BID/RFP Document can also be submitted through RTGS/NEFT/Other online mode to the NHIDCL's account, as given below:

Sl No	Particulars	Details
1.	Name of Beneficiary	National Highways & Infrastructure Development Corporation Limited
2.	Beneficiary Bank Account No.	90621010002659
3.	Beneficiary Bank Branch Name and Address	Syndicate Bank, Transport Bhawan, 1st Parliament Street, NewDelhi110001
4.	Beneficiary Bank Branch IFSC	SYNB0009062
5.	SWIFT Code (For Foreign Bidders)	SYNBINBB126

A copy of payment receipt (RTGS/NEFT/Other online mode) must be submitted along with bid.

1.2.5 Bidders are advised to examine the Project in greater detail, and to carryout, at their cost, such studies as may be required for submitting their respective BIDs for award of the contract including implementation of the Project.

1.2.6 BIDs will be evaluated for the Project on the basis of the lowest cost required by a Bidder for implementing the Project (the "**BID Price**"). The total time allowed for completion of construction under the Agreement (the"**Construction Period**") and the period during which the Contractor shall be liable for maintenance and rectification of any defect or deficiency in the Project after completion of the Construction Period (the "**Defect Liability Period**") shall be pre-determined, and are specified in the RFP/Draft

Agreement forming part of the Bidding Documents.

In this RFP, the term **"Lowest Bidder"** shall mean the Bidder who is quoting the lowest BID price.

1.2.7 Generally, the Lowest Bidder shall be the selected Bidder. In case such Lowest Bidder withdraws or is not selected for whatsoever reason except the reason mentioned in Clause 2.1.12 (b) (4), the Authority shall annul the Bidding Process and invite fresh BIDs.

1.2.8 Other details of the process to be followed under this bidding process and the terms thereof are spelt out in this RFP.

1.2.9 Any queries or request for additional information concerning this RFP shall be submitted by e-mail to the officer designated in Data Sheet with identification/ title: "Queries / Request for Additional Information: RFP for "Construction of Uni-Directional Khellani Tunnel of length 1.574 Km & its approach Road from Km 29.030 to Km 31.449 of total length of 2.419 Km on NH-244 in Union Territory of Jammu & Kashmir**."**

1.3 Schedule of Bidding Process

The Authority shall endeavour to adhere to the Bidding Schedule given in the Data Sheet.

SECTION-2
INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1. General terms of Bidding

2.1.1 No Bidder shall submit more than one BID for the Project. A Bidder bidding individually or as a member of a Joint Venture shall not be entitled to submit another BID either individually or as a member of any Joint Venture, as the case maybe.

2.1.2 An International Bidder bidding individually or as a member of a Joint Venture shall ensure that Power of Attorney is a postille by appropriate authority and requirement of Indian Stamp Act is duly fulfilled.

2.1.3 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Agreement. Further, the statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Contractor set forth in the Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the work to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority

2.1.4 The BID shall be furnished in the format exactly as per Appendix-I i.e. Technical Bid as per Appendix IA and Financial Bid as per Appendix IB. BID amount shall be indicated clearly in both figures and words, in Indian Rupees in prescribed format of Financial Bid and it will be signed by the Bidder's authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

2.1.5 The Bidder should submit a Power of Attorney as per the format at Appendix-III, authorizing the signatory of the BID to commit the Bidder.

2.1.6 In case the Bidder is a Joint Venture, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Appendix-IV. And joint bidding agreement in the format at Appendix-V

2.1.7 Any condition or qualification or any other stipulation contained in the BID shall render the BID liable to rejection as a non-responsive BID.

2.1.8 The BID and all communications in relation to or concerning the Bidding Documents and the BID shall be in English language.

2.1.9 This RFP is not transferable.

2.1.10 Any award of Project pursuant to this RFP shall be subject to the terms of Bidding Documents and also fulfilling the criterion as mentioned in clause2.2.

2.1.11 In case the Bidder is a Joint Venture, it shall comply with the following additional requirements:

(a) Number of members in a Joint Venture shall not exceed 3(Three);

(b) subject to the provisions of clause (a) above, the Bid should contain the information required for each Member of the Joint Venture;

(c) Members of the Joint Venture shall nominate one member as the lead member (the "**Lead Member**"). Lead Member shall met at least 60% requirement of Bid Capacity, Technical and Financial Capacity, required as per Clause 2.2.2.1, 2.2.2.2(i) & 2.2.2.3. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-III, signed by all the other Members of the Joint Venture. Other Member(s) shall meet at least 20% requirement of Bid Capacity, Technical and Financial Capacity required as per Clause 2.2.2.1, 2.2.2.2(i) & 2.2.2.3 and the JV as a whole shall cumulatively/collectively fulfill the 100% requirement;

(d) the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and defect liability obligations;

(e) the Lead Member shall itself undertake and perform at least 51(fifty one)percent of the total Contract Amount of the Project Highway,

(f) members of the Joint Venture shall have entered into a binding Joint Bidding Agreement, substantially in the form specified at Appendix V (the "**Jt. Bidding Agreement**"), for the purpose of making the Application and submitting a Bid in the event of being pre-qualified. The Jt. Bidding Agreement, to be submitted along with the Application, shall, *inter alia*:

(i) convey the commitment(s) of the Lead Member in accordance with this RFP, in case the contract to undertake the Project is awarded to the Joint Venture; and clearly outline the proposed roles & responsibilities, if any,of each member;
(ii) commit the approximate share of work to be undertaken by each member conforming to sub-clause 2.1.11 (e) mentioned above;
(iii) include a statement to the effect that all members of the Joint Venture shall be liable jointly and severally for all obligations of the Contractor in relation to the Project until the Defect Liability Period is achieved in accordance with the EPC Contract; and

(g) except as provided under this RFP, there shall not be any amendment to the Jt. Bidding Agreement.

(h) No Joint Venture up to Estimate Project Cost of Rs. 100 crores (One Hundred Crores).However, Joint Venture for any Estimated Project Cost is permissible in case of maintenance works to be taken up on EPC mode.

2.1.12 While bidding is open to persons from any country, the following provisions shall apply:

(a) Where, on the date of the Application, not less than 50% (fifty percent) of the aggregate issued, subscribed and paid up equity share capital in the L-1 Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India, then the eligibility and award of the project to such L-1Bidder shall be subject to approval of the competent authority from national security and public interest perspective as per the instructions of the Government of India applicable at such time. The decision of the authority in this behalf shall be final and conclusive and binding on the Bidder.

Also for a project costing less than **Rs. 500 Crore**, a firm/company having not less than 50% (fifty percent) of the aggregate issued, subscribed and paid up equity share capital is held by persons resident outside India or is controlled by persons resident outside India, is not eligible for the project/Bid.

(b) Further, where the LoA of a project has been issued to an agency, not covered under the category mentioned above, and it subsequently wishes to transfer its share capital in favour of another entity who is a resident outside India or where a Bidder or its Member is controlled by persons resident outside India and thereby the equity capital of the transferee entity exceeds 50% or above, any such transfer of equity capital shall be with the prior approval of the competent authority from national security and public interest perspective as per the instructions of the Government of India applicable at such point in time.

(2) The holding or acquisition of equity control, as above shall include direct or indirect holding, acquisition, including by transfer of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.

(3) The Bidder shall promptly inform the authority of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding process.

(4) In case the L-1 Applicant under (a) above is denied the security clearance, for whatsoever reasons, then the applicants emerging as L-2, L-3 eligible Bidders (in that order) may be given a counter-offer (one by one sequentially) to match the bid of L-1 applicant/preferred Bidder. In the event of acceptance of the counter-offer by another eligible Bidder, the project may be awarded to such Bidder. In case no applicant matches the bid of the L-1 applicant, the bid process shall be annulled and fresh bids invited.

2.1.13 Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 5(five) years or 1(one)year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year

followed by the Bidder in the course of its normal business.

2.1.14 The Bidder, including an individual or any of its Joint Venture member, should not be anon-performing party on the bid submission date. The Bidder, including any Joint Venture Member, shall be deemed to be a non-performing party*(not applicable to the project whose contract is terminated by the Authority) if it attracts any or more of the following parameters:

(i) Fails to complete or has missed more than two milestones in already awarded two or more projects, even after lapse of 6 months from the scheduled completion date, unless Extension of Time has been allowed on the recommendations of the Independent Engineer due to Authority's default;

(ii) Fails to complete a project, as per revised schedule, for which One Time Fund Infusion (OTFI) has been sanctioned by the Authority;

(iii) Physical progress on any project is not commensurate with the funds released (equity+debt+grant) from the escrow account and such variation is more than 25% in last one year as observed by the Independent Engineer in one or more projects;

(iv) Punch List Items in respect of any project are pending due to Bidder's default in two or more Projects even after lapse of the prescribed time for completion of such items;

(v) Fails to fulfil its obligations to maintain a highway in a satisfactory condition in spite of two rectification notices issued in this behalf;

(vi) Fails to attend to Non Conformity Reports (NCRs) issued by the Independent/ Authority’s Engineer on the designs/ works constructed by the Bidder pending for more than one year in two or more projects.

(vii) Fails to make premium payments excluding the current instalment in one or more projects.

(viii) Damages/Penalties recommended by the Independent/Authority’s Engineer on the Bidder during O&M period and the remedial works are not taken up in two or more projects.

(ix) Fails to achieve financial closure in two or more projects within the given or extended period (which shall not be more than six months in any case).

(x) Fails to submit the Performance Security within the permissible period in more than one project(s).

(xi) Rated as an unsatisfactory performing entity/ non-performing entity by an independent third party agency and so notified on the website of the Authority.

(xii) Has Failed to perform for the works of Expressways, National Highways, ISC &EI works in the last 2(two) years, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitral award against the Bidder, including individual or any of its Joint Venture Member,

as the case maybe.

(xiii) Has been expelled or the contract terminated by the Ministry of Road Transport & Highways or its implementing agencies for breach by such Bidder, including individual or any of its Joint Venture Member; Provided that any such decision of expulsion or termination of contract leading to debarring of the Bidder from further participation in bids for the prescribed period should have been ordered after affording an opportunity of hearing to such party.

Note: Sub-clauses (i) to (xi) under this Clause would be applicable only when the Contractor attracts these defaults on the bid submission date. The day the Contractor cures the said defaults and becomes compliant, he would be eligible to participate in bids received after such date.

The Bidder, including individual or each member of Joint Venture, shall give the list of the projects of Expressways, National Highways, ISC and EI works of Ministry of Road Transport & Highways or its implementing agencies (NHAI/ NHIDCL/State PWDs/BRO) and the status of above issues in each project as on the bid submission date and under take that they do not attract any of the above categories (Ref. Sr. No.6, Annex-I of Appendix –IA).

The Bidder including individual or any of its Joint Venture Member may provide

(i) details of all their on-going projects along with updated stage of litigation, if so, against the Authority /Governments;

(ii) details of updated on-going process of blacklisting if so, under any contract with Authority / Government; and

(iii) details of all their on-going projects in the format at Annexure-VIII of Appendix IA (Ref Clause 10.3 (iv) of Draft EPC Agreement).

The Authority reserves the right to reject an otherwise eligible Bidder on the basis of the information provided under this clause 2.1.14. The decision of the Authority in this case shall be final.

2.1.15 The bidder including individual or any of its JV member, who are either having 2 (two) on-going EPC Project(s) in NHIDCL or on-going Project(s) worth of Rs 500 Cr. (Awarded Cost) or more in NHIDCL, as on date of financial bid opening, shall not be eligible to bid for this Project (Issuance of LOA will be considered as on-going project).

2.2. Eligibility and qualification requirements of Bidder

2.2.1 For determining the eligibility of Bidder the following shall apply:

(a) The Bidder may be a single entity or a group of entities (the**" Joint Venture"**),coming together to implement the Project. The term Bidder used herein would apply to both a single entity and a Joint Venture. However, in case the estimated cost of the project for which bid is invited is upto Rs.100Crore, then Joint Venture shall not be allowed.

(b) Bidder may be a natural person, private entity, or any combination of them with a formal intent to enter into a Joint Venture agreement or under an existing agreement

to form a Joint Venture. A Joint Venture shall be eligible for consideration subject to the conditions set out in Clause 2.1.11above.

(c) A Bidder shall not have a conflict of interest **("Conflict of Interest")** that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified and liable for forfeiture of the BID Security or Performance Security as the case may be. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process ,if:

(i) the Bidder, its Joint Venture Member (or any constituent thereof) and any other Bidder, its Member or any Member of its Joint Venture thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, or its Joint Venture Member thereof (or any share holder thereof having a share holding of more than 5%(five percent) of the paid up and subscribed share capital of such Bidder, or its Joint Venture Member, as the case may be), in the other Bidder, its Joint Venture Member is less than 5% (five percent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act 1956. For the purposes of this Clause 2.2.1(c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "**Subject Person**") shall be taken into account for computing the share holding of such controlling person in the Subject Person; and (bb) subject always to sub- clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

(ii) a constituent of such Bidder is also a constituent of another Bidder; or

(iii) such Bidder, or any of its Joint Venture Member thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any of its Joint Venture Member thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any of its Joint Venture Member thereof; or

(iv) such Bidder has the same legal representative for purposes of this Application as any other Bidder; or

(v) such Bidder, or any of its Joint Venture Member thereof has a relationship with another Bidder, or any of its Joint Venture Member thereof, directly or through common third party /parties, that puts either or both of them in a position to have accesstoeachothers'informationabout,ortoinfluencetheApplicationofeither or each other; or

(vi) such Bidder, or any of its Joint Venture Member thereof has participated as a consultant to the Authority in the preparation of any documents, design or

technical specifications of the Project.

(d). Due to strategic importance of the project, the firms or personnel from neighboring countries sharing common land border with India are not eligible to bid for the project.

2.2.2 Qualification requirements of Bidders:

2.2.2.1 BID Capacity

Bidders who *inter alia* meet the minimum qualification criteria will be qualified only if their available BID capacity is more than the total BID value (value as per Clause 1.1.1). The available BID capacity will be calculated as per following, based on information mentioned at Annexure-VI of Appendix-IA:

Assessed Available BID capacity = (A*N*2.5 – B + C), Where

N= Number of years prescribed for completion of work for which Bid is invited.

A = Maximum value of civil engineering works excluding the amount of bonus received, if any, in respect of EPC Projects executed in anyone year during the last five years(updated to the price level of the year indicated in table at Note- 3 below) taking into account the completed as well as works in progress. The **EPC projects** include turnkey project/ Item rate contract/Construction works.

B = Value (updated to the price level of the year indicated in table at Note-3 below) of existing commitments, works for which Appointed Date/ Commencement Date has been declared or on-going works to be completed during the period of completion of the works for which BID is invited. For the sake of clarification, it is mentioned that works for which LOA has been issued but Appointed Date/ Commencement Date not declared as on Bid Due Date shall not be considered while calculating value of B.

C = The amount of bonus received, if any, in EPC Projects during the last 5 years (updated to the price level of the year indicated in table at Note-3 below).

Note:

1. The Statement showing the value of all existing commitments, works for which Appointed Date/ Commencement Date has been declared and ongoing works as well as the stipulated period of completion remaining for each of the works listed should be self certified and verified by Statutory Auditor. In case the information provided is not true or any information not provided for existing commitments, the bidder shall be debarred for a period of one years for participating in future bids.

2. The amount of bonus received, if any, in EPC Projects should be countersigned by the Client or its Engineer-in-charge not below the rank of Executive Engineer or equivalent in respect of EPC Projects.

3. The factor for the year for updation to the price level is indicated asunder:

Year	Year-1	Year-2	Year-3	Year-4	Year-5

Up-dation factor	1.00	1.05	1.10	1.15	1.20

2.2.2.2 Technical Capacity

(i) For demonstrating technical capacity and experience (the **"Technical Capacity"**), the Bidder shall, over the past [5 (five)] financial years preceding the Bid Due Date, have received payments for construction of Eligible Project(s),or has undertaken construction works by itself in a PPP project, such that the sum total thereof, as further adjusted in accordance with clause2.2.2.5 (i) & (ii), is more than the **"Threshold Technical Capacity"** given in the Data Sheet.

(ii) For Normal Highway projects (including Major Bridges/ ROB/ Flyovers/ Tunnels):

Provided that at least one similar work of 25% of Estimated Project Cost ~~[Rs. ***crore (Rs.****)]~~ shall have been completed from the Eligible Projects in Category 1 and/or Category 3 specified in Clause 2.2.2.5. For this purpose, a project shall be considered to be completed, if more than 90% of the value of work has been completed and such completed value of work is equal to or more than 25% of the estimated project cost. If any Major Bridge/ROB/Flyover/Tunnel is (are) part of the project, then the sole Bidder or in case the Bidder being a Joint Venture, any member of Joint Venture shall necessarily demonstrate additional experience in construction of Bridge/ROBs/Flyovers/Tunnel in the last 5 (Five) years preceding the Bid Due Date i.e. shall have completed atleast one similar Bridge/ROB/Flyover having span equal to or greater than 50% of the longest span of the structure proposed in this project and in case of tunnel, if any, shall have completed construction of at least one tunnel consisting of single or twin tubes (including tunnel(s)for roads/Railway/Metrorail/irrigation/hydro-electric projects etc.) having atleast 50% of the cross-sectional area and 25% length of the tunnel to be constructed in this project.

(iii) For Stand-alone specializedprojects:

(a) Major Bridges/ROB/Flyoversprojects:

(a1) In case the cost of specialized project is less than or equal to Rs. 1,000Cr: ThesoleBidderorincasetheBidderbeingaJointVenture,any member of Joint Venture shall have completed atleast one similar Bridge/ROB/Flyover project in the last 5 (Five) years preceding theBidDueDate,havingspanequaltoorgreaterthan50%ofthelongest span of the structure proposed in this project and also the cost of such similarprojectshallbeatleast25%oftheEstimatedProjectCost.Forthis purpose, a project shall be considered to be completed, if more than 90% of the value of work has been completed and such completed value of work is equal to or more than 25%of the Estimated ProjectCost.

(a2) In case the cost of specialized project is more than Rs. 1,000 Cr: The sole Bidder or in case the Bidder being a Joint Venture, any member of Joint Venture shall have completed at least one similar Bridge/ ROB/ Flyover project in the last 07 (seven) years preceding the Bid Due Date, having span equal to or greater than 50% of the longest span of the

structure proposed in this project or 100m, whichever is less, and also the cost of such similar project shall be atleast 25% of the EstimatedProjectCostorRs.1000Cr.whicheverisless.Forthispurpose, a project shall be considered to be completed, if more than 90% of the value of work has been completed and such completed value of work is equal to or more than 25%of the Estimated Project Cost or Rs. 1000 Cr., whichever isless.

(b) **Tunnel project:** The sole Bidder or in case the Bidder being a Joint Venture, anymemberofJointVentureshallhavecompletedatleastonetunnelprojectin thelast7 (Seven) years preceding the Bid Due Date, consisting of single or twin tubes (including tunnel(s) for roads/Railway/Metro rail/irrigation/hydro-electric projects etc.) having at least 50% of the cross-sectionalareaand25%lengthofthetunneltobeconstructedinthisprojectand the cost of such project shall be at least 25% of the Estimated Project Cost. For this purpose, a project shall be considered to be completed, if more than 90% of the value of work has been completed and such completed value of work is equal to or more than 25%of the Estimated ProjectCost or Rs. 1000 Cr., whichever is less.

(iv) The updation factor to update the price of the eligible projects for the year indicated in table below:

Year	Year-1	Year-2	Year-3	Year-4	Year-5
Up-dation factor	1.00	1.05	1.10	1.15	1.20

2.2.2.3 **Financial Capacity**:

(i) The Bidder shall have a minimum Net Worth(the **"Financial Capacity"**) of 5% (five percent) of the Estimated Project Cost at the close of the preceding financial year.

(ii) The Bidder shall have a minimum Average Annual Turnover (updated to the price level of the year based on factors indicated in table below)of 20% (twenty percent) of the Estimated Project Cost for the last 5 (five) financial years.

Year	Year-1	Year-2	Year-3	Year-4	Year-5
Up-dation factor	1.00	1.05	1.10	1.15	1.20

2.2.2.4 In case of a Joint Venture:

(i) The Bid Capacity, Technical Capacity and Financial Capacity of all the Members of Joint Venture would be taken into account for satisfying the above conditions of eligibility. Further, Lead Member shall meet at least 60% requirement of Bid Capacity, Technical and Financial Capacity as per Clause 2.2.2.1,2.2.2.2(i)and2.2.2.3 and each of other JV members shall meet at least 20% requirement of Bid Capacity, Technical and Financial Capacity individually as per Clause 2.2.2.1, 2.2.2.2(i) and 2.2.2.3. For avoidance of doubt it is further clarified that the Joint Venture must collectively and individually satisfy the above qualification criteria i.e. JV shall cumulatively/collectively fulfill the 100%requirement.

(ii) For requirement of 2.2.2.2 (ii), one similar work of 25% of Estimated Project Cost should have been completed from the Eligible Projects in Category1

And /or Category 3 specified in Clause 2.2.2.5 individually by any of the JV members as a single work.

2.2.2.5 Categories and factors for evaluation of Technical Capacity:

(i) Subject to the provisions of Clause 2.2.2 the following categories of experience would qualify as Technical Capacity and eligible experience (the **"Eligible Experience"**)in relation to eligible projects as stipulated in

Clauses2.2.2.6(i) &
(ii) (the **"Eligible Projects"**). In case the Bidder has experience across different categories, the experience for each category would be computed as per weight of following factors to arrive at its aggregated Eligible Experience:

Category	Project / Construction experience on Eligible Projects	Factors
1	Project in highways sector that qualify under Clause 2.2.2.6 (i)	1
2	Project in core sector that qualify under Clause 2.2.2.6 (i)	0.70
3	Construction in highways sector that qualify under Clause 2.2.2.6 (ii)	1
4	Construction in core sector that qualify under Clause 2.2.2.6 (ii)	0.70

(ii) The Technical capacity in respect of an Eligible Project situated in a developed country which is a member of OECD shall be further multiplied by a factor of
0.5 (zero point five) and the product thereof shall be the Experience Score for such Eligible Project.

(iii) For the purpose of this RFP:

(a) highways sector would be deemed to include highways, expressways, bridges, tunnels, runways, railways (construction/re-construction of railway tracks, yards for keeping containers etc.) metro rail and ports (including construction/re-construction cost of Jetties, any other linear infrastructure including bridges etc.);and

(b) core sector would be deemed to include civil construction cost of power sector, commercial setups (SEZs etc.), airports, industrial parks/ estates, logisticparks,pipelines,irrigation,watersupply,sewerageandrealestate development.

(I) In case of projects executed by applicant under category 3 and 4 as a member of Joint Venture, the project cost should be restricted to the share of the applicant in the joint venture for determining eligibility as per provision under clause 2.2.2.2(ii).

(II) Maintenance works are not considered as eligible project for evaluation. As such works with nomenclature like PR, OR, FDR,SR, site/micro grading, surface renewal, resurfacing work, Tarring, B.T. surface work, temporary restoration, urgent works, periodic maintenance, repair & rehabilitation, one time maintenance, permanent protection work of bank, external pre stressing, repair of central hinge ,fabrication work, short term OMT contract of NHAI, any type of work related to border fencing, work of earthwork alone, construction of buildings/ hostels/hospitals, etc, or not specified, shall not be considered. However, such maintenance works shall be considered as eligible projects in case of Maintenance works to be taken up on EPC mode.

(III) The works such as Improvement in Riding Quality work (IRQP/IRQ), shall be considered for Technical Capacity [2.2.2.2 (i)] but not for

single completed works [2.2.2.2 (ii)]. However, such work shall be considered for single completed works [2.2.2.2 (i)] in case of Maintenance works to be taken up on EPC mode.

(IV) Project in Highway sector shall constitute the following for the purpose of consideration under category l or 3 as applicable, if:

(i) Widening / reconstruction / up-gradation works on NH / SH or on any category of road taken up under CRF, ISC/ El, SARDP,LWE
(ii) Widening/ re-construction/up-gradation works on MDRs with loan assistance from multilateral agencies or on BOT basis,
(iii) Widening/reconstruction/up-gradation work of roads in Municipal corporation limits, construction of Bypasses,
(iv) Construction of stand- alone bridges, ROBs, tunnels w.r.t roads/railways.
(v) Long term OMT works of NHAI/MoRT&H.

(V) The projects with the title of RIDF, PMGSY road, link road, city roads, rural road, sector/ municipality road, Bridges for railway line, work of metro rails (bridges/tunnel), real estate projects which demonstrate road development/construction bridges or culverts may be considered under category -4.

(VI) In case both the estimated cost of project and revised cost of project are provided, the revised cost of project shall be considered for evaluation.

2.2.2.6 Eligible Experience on Eligible Projects in respect of each category:

(i) For a project to qualify as an Eligible Project under Categories 1 and2:
(a) It should have been undertaken as a PPP project on BOT, BOLT, BOO, BOOT or other similar basis for providing its output or services to a public sector entity or for providing non-discriminatory access to users in pursuanceofitscharter,concessionorcontract,asthecasemaybe.Forthe avoidance of doubt, a project which constitutes a natural monopoly such as an airport or port should normally be included in this category even if it is not based on a long-term agreement with a public entity;
(b) the entity claiming experience should have held, in the company owning theEligibleProject,aminimumof26%(twenty six percent) equity during the entire year for which Eligible Experience is being claimed;
(c) the capital cost of the project should be more than 10% of the amount specified as the Estimated Project Cost;and
(d) the entity claiming experience shall, during the last 5 (five) financial years preceding the Bid Due Date, have itself undertaken the construction of the project for an amount equal to at least one half of the Project Cost of eligible projects, excluding any part of the project for which any contractor, sub-contractor or other agent was appointed for the purposes of construction.

(ii) For a project to qualify as an Eligible Project under Categories 3 and 4, the

Bidder should have received payments from its client(s) for construction works executed, fully or partially, duringthe5(five)financial years immediately preceding the Bid Due Date, and only the amounts (gross) actually received, during such 5 (five) financial years shall qualify for purposes of computing the Experience Score. However, receipts of or work executed amount less than 10% (ten Percent) of the Estimated Project Cost shall not be reckoned as receipts for Eligible Projects. For the avoidance of doubt, construction works shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract / EPC contract for the project. Further, the cost of land and also cost towards pre- construction activities (like shifting of utilities etc.) shall not be included hereunder.

(iii) The Bidder shall quote experience in respect of a particular Eligible Project under any one category only, even though the Bidder (either individually or along with a member of the Joint Venture) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.

(iv) Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Joint Venture. In other words, no double counting by a Joint Venture in respect of the same experience shall be permitted in any manner whatsoever.

2.2.2.7 Submission in support of Technical Capacity

(i) The Bidder should furnish the details of Eligible Experience for the last 5 (five) financial years immediately preceding the Bid Due Date.

(ii) The Bidder must provide the necessary information relating to Technical Capacity as per format at Annex-II of Appendix-IA.

(iii) The Bidder should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity, as per format at Annex -IV of Appendix-IA.

2.2.2.8 Submission in support of Financial capacity

(i) The Technical Bid must be accompanied by the Audited Annual Reports of the Bidder (of each Member in case of a Joint Venture) for the last 5(five)financial years, preceding the year in which the bid is submitted.

(ii) In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for 5(five)years preceding the year for which the Audited Annual Report is not being provided.

(iii) The Bidder must establish the minimum Net Worth specified in Clause 2.2.2.3, and provide details as per format at Annex-III of Appendix-IA.

2.2.2.9 The Bidder shall enclose with its Technical Bid, to be submitted as per the format at Appendix-IA, complete with its Annexes, the following:

(i) Certificate(s) from its statutory auditors or the concerned client(s) stating the

payments received or in case of a PPP project, the construction carried out by itself, during the past 5 years, in respect of the Eligible Projects. In case a particular job/contract has been jointly executed by the Bidder (as part of a Joint Venture), it should further support its claim for the payments received or construction carried out by itself in PPP Projects as applicable the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or the client; and

(ii) Certificate(s) from its statutory auditors specifying the net worth of the Bidder, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.2.9 (ii). For the purposes of this RFP, net worth (the **"Net Worth"**) shall mean the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

Note : In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause2.2.2.9(i).In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant may provide the certificates required under this RFP.

2.2.2.10 Deleted.

2.3 Proprietary data

All documents and other information supplied by the Authority or submitted by a Bidder totheAuthorityshallremainorbecomethepropertyoftheAuthorityandaretransmitted to the Bidders solely for the purpose of preparation and the submission of a BID inaccordanceherewith.Biddersaretotreatallinformationasstrictlyconfidentialandshall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.3 shall also apply *mutatis mutandis* to BIDs and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any BID, document or any information provided along therewith.

2.4 Cost of Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their BIDs and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regard less of the

conduct or outcome of the Bidding Process.

2.5 Site visit and verification of information

2.5.1 Bidders are encouraged to submit their respective BIDs after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water & other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them. Bidders are advised to visit the site and familiarise themselves with the Project within the stipulated time of submission of the Bid. No extension of time is likely to be considered for submission of

Bids.

2.5.2 It shall be deemed that by submitting a BID, the Bidder has:

(a) made a complete and careful examination of the Bidding Documents, Schedules annexed to EPC agreement Document;
(b) received all relevant information requested from the Authority;
(c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating toanyofthemattersreferredtoinClause2.5.1above.No claim shall be admissible at any stage on this account.
(d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 hereinabove necessary and required for submitting an informed BID, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;
(e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.5.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Agreement by the Contractor;
(f) acknowledged that it does not have a Conflict of Interest; and
(g) agreed to be bound by the undertakings provided by it under and in terms hereof.

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

2.6 Verification and Disqualification

2.6.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification, or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.

2.6.2 The Authority reserves the right to reject any BID and appropriate the BID Security if:

(a) at any time, a material misrepresentation is made or uncovered, or
(b) the Bidder does not provide, within the time specified by the Authority, the supplementalinformationsoughtbytheAuthorityforevaluationoftheBID.

Such misrepresentation/ improper response shalleadto the disqualification of the Bidder. If the Bidder is a Joint Venture, then the entire Joint Venture and each Member of the Joint Venture may be disqualified/ rejected. If such disqualification/rejection occurs after the BIDs have been opened and the lowest Bidder gets disqualified / rejected ,then the Authority reserves the right to annul the Bidding Process and invites freshBIDs.

2.6.3 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of defect liability subsistence thereof, that one or more of the eligibility and /or qualification requirements have not been met by the Bidder, or the Bidder has made material misrepresentation or has

given any materially incorrect or false information, the Bidder shall bed is qualified forthwith if not yet appointed as the contractor either by issue of the LOA or entering into of the Agreement, and if the Selected Bidder has already been issued the LOA or has enteredintotheAgreement,asthecasemaybe,thesameshall,notwithstandinganything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Selected Bidder or the Contractor, as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or the Contractor. In such an event, the Authority shall be entitled to forfeit and appropriate the BID Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and / or the Agreement, or otherwise.

2.6.4. A Bidder shall be liable for disqualification and forfeiture of BID Security, if any legal, financialortechnicaladviseroftheAuthorityinrelationtotheProjectisengagedbythe Bidder, its Member or any Associate thereof, as the case may be, in any manner for mattersrelatedtoorincidentaltosuchProjectduringtheBiddingProcessorsubsequent to the (i) issue of the LOA or (ii) execution of the Agreement. In the event any such adviser is engaged by the selected Bidder or Contractor, as the case may be, after issue oftheLOAorexecutionoftheAgreementformattersrelatedorincidentaltotheproject, then notwithstanding anything to the contrary contained herein or in the LOA or the Agreement and without Prejudice to any other right or remedy or the Authority, including the forfeiture and appropriation of the BID Security or Performance Security, as the case may be, which the Authority may have there under or otherwise, the LOA or theAgreement,asthecasemaybe,shallbeliabletobeterminatedwithouttheAuthority being liable in any manner whatsoever to the Selected Bidder or Contractor for the same. For the avoidance or doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFP. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

B. DOCUMENTS

2.7 Contents of the RFP

2.7.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance withClause2.9.

Part –I

Invitation for BIDs

Section 1. Introduction
Section 2. Instructions to Bidders
Section 3. Evaluation of BIDs
Section 4. Fraud and Corrupt Practices
Section 5. Pre-BID Conference
Section 6. Miscellaneous

Appendices

IA. Letter comprising the Technical BID including Annexure I toVII
IB. Letter comprising the Financial BID

II. BID Securing Declaration
III. Power of Attorney for signing of BID
IV. Power of Attorney for Lead Member of Joint Venture
V. Joint Bidding Agreement for Joint Venture
VI. Integrity Pact Format
VII. Form of Bank Guarantee (For Performance Security)
VIII. Format of LOA

Part –II
Agreement Document with schedules

Part – III
[Feasibility Report / Detailed Project Report provided by the authority]

2.7.2 The draft Agreement and the Feasibility / Detailed Project Report provided by the Authority as part of the BID Documents shall be deemed to be part of this RFP.

2.8 Clarifications

2.8.1 Bidders requiring any clarification on the RFP may notify the Authority in writing by e-mail in accordance with Clause 1.2.9. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the BID Due Date. All the queries and its responses will be will be hosted on the GoI e-Tendering Portal (https://eprocure.gov.in/cppp) and NHIDCL portal without identifying the source of queries.

2.8.2 The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this ClauseshallbetakenorreadascompellingorrequiringtheAuthoritytorespondto any question or to provide any clarification.

2.8.3 The Authority may also on its own motion, if deemed necessary, issue interpretations & clarifications to all Bidders. All clarifications & interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

2.9 Amendment of RFP

2.9.1 At any time prior to the BID Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.

2.9.2 Any Addendum issued hereunder will be hosted on the GoI e-Tendering Portal (https://eprocure.gov.in/cppp).

2.9.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the BID Due Date.

C. PREPARATION AND SUBMISSION OFBIDS

2.10 Format and Signing ofBID

2.10.1 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those BIDs that are received online in the required formats and complete in all respects and Bid Securing Declaration, Copy of online receipt/ original Demand Draft towards payment of cost of Bid document, POA and Joint Bidding Agreement etc. are received in hardcopies.

2.10.2 The BID shall be typed and signed in indelible blue ink by the authorised signatory of the Bidder. All the alterations, omissions, additions or any other amendments made to the BID shall be initialed by the person(s) signing the BID.

2.11 Documents comprising Technical and Financial BID

2.11.1 The Bidder shall first upload all the project details, net worth details, turnover details, bridge and tunnel details and all other details required in this RFP for technical qualification. The Bidder shall ensure that all the details are updated as on the due date of submission of this bid.

The Bidder shall then apply for the RFP on the CPPP website https:// eprocure.gov.in/eprocure/appbysubmittingthedocumentsmentionedbelowalongwith the supporting documents which shall comprise of the Technical BID on the CPPP portal:

Technical Bid

(a) Appendix-IA(LettercomprisingtheTechnicalBid)includingAnnexureI-VIand supporting certificates /documents.
(b) Power of Attorney for signing the BID as per the format at Appendix-III;
(c) if applicable, Power of Attorney for Lead Member of Joint Venture as per the format at Appendix-IV;
(d) if applicable, Joint Bidding Agreement for Joint Venture as per the format at Appendix-V;
(e) Deleted
(f) Bid Securing Declaration in the format at Appendix-II (to be submitted physically as well);
(g) Copy of Online receipt/ original Demand Draft towards payment of cost of Bid document/RFP;
(h) Deleted;
(i) Bidder shall comply with the provisions of Office Memorandum No. RW/NH-37010/4/2010/PIC-EAP(Printing) dated 22.02.2016 and its subsequent amendments if any, issued by MoRT&H (Appendix-VI) regarding Integrity Pact (IP) and the Integrity Pact (IP) duly signed by Authorised signatory shall be submitted by the Bidder with the RFP Bid & shall be part of the Contract Agreement;
(j) AnundertakingfromthepersonhavingPoAreferredtoinSub.Clause-(b)above that they agree and abide by the Bid documents uploaded by NHIDCL and amendments uploaded, if any; and
(k) Annexure-VIII of Appendix – IA showing details of all ongoing project works (Ref Clause 10.3 (iv) of Document for EPC Agreement).
(l) copy of Memorandum and Articles of Association, if the Bidder is a body

corporate, and if a partnership then a copy of its partner shipdeed.

(m) Copies of duly audited complete annual accounts of the Bidder or of each member (in case of Joint Venture) for preceding 5years.

(n) Appendix-IB (Letter comprising the Financial Bid) shall be submitted online along with Technical bid.

2.11.2 The Bidder shall submit the following documents physically:

(a) Original Power of Attorney for signing the BID as per format at Appendix-III;

(b) if applicable, Original Power of Attorney for Lead Member of Joint Venture as per the format at Appendix-IV;

(c) if applicable, Original Joint Bidding Agreement for Joint Venture as per the format at Appendix-V;

(d) BID Securing Declaration in the format at Appendix-II ;

(e) Copy of online receipt/ original Demand Draft towards payment of cost of Bid/RFP document of required amount;

(f) Deleted;

(g) Bidder shall comply with the provisions of Office Memorandum No. RW/NH-37010/4/2010/PIC-EAP(Printing) dated 22.02.2016and its subsequent amendments if any issued by MoRT&H (Appendix-VI) regarding Integrity Pact (IP) and the Original Integrity Pact (IP)duly signed by Authorised signatory shall be submitted by the Bidder with the RFP/Bid & shall be part of the Contract Agreement; and

(h) An undertaking from the person having PoA referred to in Sub. Clause-(a) above that they agree and abide by the Bid documents uploaded by NHIDCL and Addenda/amendments uploaded, if any

(i) Annexure-IX of Appendix –IA showing details of ongoing & awarded (for which LOA has been issued) works in NHIDCL (Ref Clause 2.1.15 of Section -2 of RFP)

2.11.3 The documents listed at clause 2.11.2 shall be placed in an envelope, which shall be sealed. The envelope shall clearly bear the identification "**BID for the "**Up-gradation to Two lane with Paved shoulder from Km. 20+300 to Km.29+030 of 8.730 Km length on Goha-Khellani section on NH-244 in Union Territory of Jammu & Kashmir on EPC mode" and shall clearly indicate the name and address of the Bidder. In addition, the BID Due Date should be indicated on the right hand top corner of the envelope.

2.11.4 The envelope shall be addressed to the officer designated whose Name and Address is given in the Data Sheet.

2.11.5 If the envelope is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or pre mature opening of the contents of the BID submitted and consequent losses, if any, suffered by the Bidder.

2.11.6 BIDs submitted by fax, telex, telegram or e-mail shall not be entertained and shall be summarily rejected.

2.12 BID Due Date

Financial BID comprising of the documents listed at clause 2.11.1 of the RFP shall be submitted online through e-procurement CPPP website https:// eprocure.gov.in/eprocure/app on or before the deadline given in the Data Sheet. Documents listed atclause2.11.2oftheRFPshallbephysicallysubmittedonorbefore the deadline & Address given in the Data Sheet in the manner and form as detailed in this RFP. A receipt there of should be obtained from the person specified at Clause2.11.4..

2.13 Late BIDs

E-procurement portal CPPP website https:// eprocure.gov.in/eprocure/app shall not allow submission of any Bid after the prescribed date and time given in the Data Sheet Physical receipt of documents listed at clause 2.11.2 of the RFP after the prescribed date and time given in the Data Sheet shall not be considered and the bid shall be summarily rejected.

2.14 Procedure for e-tendering

2.14.1 Accessing/ Purchasing of BID documents

2.14.1.1 It is mandatory for all the Bidders to have class-III Digital Signature Certificate (DSC)(in the name of Authorized Signatory / Firm or Organisation / Owner of the Firm or Organisation) from any of the licensed Certifying Agency (Bidders can see the list of licensed CAs from the link www.cca.gov.in) to participate in e-tendering of MoRT&H/ NHAI/NHIDCL/BRO/State PWD.

DSC should be in the name of the authorized signatory as authorized in Appendix III of this RFPorpersonexecuting/delegatingsuchAppendixIIIinfavourofAuthorized Signatory. It should be in corporate capacity (that is in Bidder capacity / in case ofJV in the Lead Member capacity, as applicable). The Bidder shall submit document in support of the class III DSC. In other cases, the bid shall be considered Non-responsive.

2.14.1.2 To participate in the bidding, it is mandatory for the Bidders to get registered their firm / JV with e-procurement portal https:// eprocure.gov.in/eprocure/appto haveuser ID& password which has to be obtained free of cost. Following may kindly be noted:

(a) Registration with e-procurement portal should be valid at least up to the date of submission of BID.
(b) BIDs can be submitted only during the validity of registration.

It is also mandatory for the Bidders to get their firms registered with e-tendering portal. The Bidders shall update their project and other details on the portal on a regular basis and apply to the tenders via the portal.

2.14.1.3 If the firm / Joint Venture is already registered with e-tendering service provider, and validity of registration is not expired, then the firm/Joint Venture is not required a fresh registration.

2.14.1.4 The complete BID document can be viewed / downloaded by the Bidder from e-procurement portal https://eprocure.gov.in/eprocure/app.

2.14.1.5 Deleted

2.14.2 Preparation & Submission ofBIDs:

2.14.2.1 The Bidder may submit his Bid online following the instructions appearing on the screen. The detailed guidelines for e-procurement is also available one-procurement portal.

2.14.2.2 The documents listed at clause 2.11.1 shall be prepared and scanned in different files (in PDF or RAR format such that file size is not more than 30 MB) and

uploaded during the on-line submission of BID.

2.14.2.3 Bid must be submitted online only through e-procurement portal https://eprocure.gov.in/eprocure/app using the digital signature of authorised representative of the Bidder on or before the deadline given in the Data Sheet.

2.14.3 Modifications/ Substitution/ withdrawal of BIDs

2.14.3.1 The Bidder may modify, substitute or withdraw its e-BID after submission prior to the BID Due Date. No BID can be modified, substituted or withdrawn by the Bidder on or after the BID Due Date &Time.

2.14.3.2 For modification of e-BID, Bidder has to detach its old BID from e-procurement portal and upload / resubmit digitally signed modified BID. For withdrawal of BID, Bidder has to click on withdrawal icon at e-procurement portal and can withdraw its e-BID. Before withdrawal of a BID, it may specifically be noted that after withdrawal of a BID for any reason, Bidder cannot re-submit e-BID again.

2.15 Online Opening of BIDs.

2.15.1 Opening of BIDs will be done through online process.

2.15.2 The NHIDCL shall on-line open Technical BIDs on date and time given in Data Sheet, in the presence of the authorized representatives of the Bidders, who choose to attend. Technical BID of only those Bidders shall be online opened whose documents listed at clause 2.11.2 of the RFP have been physically received. The NHIDCL will subsequently examine and evaluate the BIDs in accordance with the provisions of Section 3 of RFP.

2.16 Rejection of BIDs

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

2.16.2 The Authority reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any BID without assigning any reasons.

2.17 Validity of BIDs

The BIDs shall be valid for a period of not less than 120 (one hundred and twenty)days from the BID Due Date. The validity of BIDs may be extended by mutual consent of the respective Bidders and the Authority.

2.18 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor

advising the Authority in relation to,or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of the BID, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

2.19 Correspondence with the Bidder

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any BID. However, the Authority would display the result of technical evaluation on the web portal for7 days including reasons for non- responsiveness, if any**,** and the financial bid will be opened thereafter.

D. BIDSECURITY

2.20 BID Security

2.20.1 The Bidder has to sign a Bid securing declaration accepting that if the bidder withdraw or modify its bid during the period of validity i.e. not less that 180 (one hundred eighty) days from the bid due date or if the bidder is awarded the contract and fail to sign the contract or to submit a performance security before the deadline defined in the request of the bid documents, the bidder will be suspended for participation in the tendering process for the works of NHIDCL and works under other Centrally Sponsored Scheme, for a period of one year from the bid due date of this work. The bid securing declaration shall be submitted as per the format at Appendix-II (Format for Bid Securing Declaration).

*** Forfeiture/Forfeit and/or appropriation/appropriate of bid security** mentioned anywhere in the RFP/Contract Agreement shall mean, “the bidder will be suspended for participation in the tendering process for the works of MoRTH/NHAI/NHIDCL and works under other Centrally Sponsored Schemes, for a period of one year from the bid due date of this work.”

2.20.2 Any BID not accompanied by the BID securing declaration shall be summarily rejected by the Authority asnon-responsive.

2.20.3 Deleted

2.20.4 The Authority shall be entitled to forfeit and appropriate the BID Security (as detailed in clause 2.20.1) as Damages inter alia in any of the events specified in Clause 2.20.5 herein below. The Bidder, by submitting its BID pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its BID or for any other default by the Bidder during the period of BID validity as specified in this RFP.

2.20.5 The BID Security shall be forfeited and appropriated by the Authority (as detailed in clause 2.20.1) as damages payable to the Authority for, inter-alia, time cost and effort of the Authority without prejudice to any other right or remedy that may be available

to the Authority under the bidding documents and / or under the Agreement, or otherwise, under the following conditions:

(a) Deleted
(b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Section 4 of thisRFP;
(c) If a Bidder withdraws its BID during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
(d) In the case of Selected Bidder, if it fails within the specified/extended time limit by Authority-
  (i) to sign and return the duplicate copy of LOA;
  (ii) to furnish the Performance Security /Additional Performance Security (if any) as per Clause 2.21;or
  (iii) to sign the Agreement;

2.21 Performance Security

2.21.1 Within 30 (thirty) days of receipt of Letter of Acceptance, the selected Bidder shall furnish to the Authority an irrevocable and unconditional guarantee from a Bank in the form set forth in Appendix-VII (the "Performance Security") for an amount equalto 5% (five percent) of its Bid Price. In case of bids mentioned below, the Selected Bidder, along with the Performance Security, shall also furnish to the Authority an irrevocable and unconditional guarantee from a Bank in the same form given at Appendix-VII towards an Additional Performance Security (the "Additional Performance Security") for an amount calculated asunder:

(i) If the Bid Price offered by the Selected Bidder is lower than 10% but upto 20% of the estimated Project Cost, then the Additional Performance Security shall be calculated @20% of the difference in the (i) Estimated Project Cost (as mentioned in RFP)-10% of the Estimated Project Cost and (ii) the Bid Price offered by the selected Bidder.

(ii) If the Bid Price offered by the Selected Bidder is lower than 20% of the Estimated Project Cost, then the Additional Performance Security shall be calculated @ 30% of the difference in the (i) Estimated Project Cost (as mentioned in RFP)-10% of the Estimated Project Cost and (ii) the Bid Price offered by the Selected Bidder.

(iii)This Additional Performance Security shall be treated as part of the Performance Security.

2.21.2 The Performance Security shall be valid until 60(sixty) days after the Defects Liability Period. The Additional Performance Security shall be valid until 28 (twenty eight) days after Project Completion Date.

2.21.3 The Selected Bidder has the option to provide 50% of the Performance Security and 50% of the Additional Performance Security, if any, within 30 (thirty) days of receipt of Letter of Acceptance, in any case before signing of the Contract Agreement and the remaining Performance Security and Additional Performance Security,ifany,shallbesubmittedwithin30daysofsigningoftheagreement.

2.21.4 In the event the Selected Bidder fails to provide the remaining Performance Security and Additional Performance Security, if any, as prescribed herein, it may seek

extension of time for a further period upto 60 days by paying the Damages upfront along with the request letter seeking the extension. The Damages shall be the sum calculated at the rate of 0.01% (zero point zero one per cent) of the Bid Price offered by the Selected Bidder for each day until the Performance Security and Additional Performance Security, if any, is provided in full as prescribed herein. The damages at full rate as given above shall be applicable even if a part of the Performance Security and the Additional Performance Security is provided.

2.21.5 For avoidance of any doubt, in case of failure of submission of Performance Security and Additional Performance Security, if any, within the additional 60 days' time period, the award shall be deemed to be cancelled/ withdrawn and the Bid Security shall be encashed/forfeited and the proceeds thereof appropriated by the Authority. Thereupon all rights, privileges, claims and entitlements of the Contractor under or arising out of the Award shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor, and the Award shall be deemed to have been withdrawn by the Authority

2.22 The agreement will be executed within 10 days of receipt of 50% Performance Security and 50% of Additional Performance Security, if any, as per sub-clause 2.21above.

SECTION-3
EVALUATION OF TECHNICAL BIDS AND OPENING &EVALUATION OF FINANCIAL BIDS

3.1 Evaluation of Technical Bids

3.1.1 The Authority shall open the BIDs received physically & online at date, time & place given in Data Sheet, at the place specified in Clause 2.11.4 (i); and in the presence of the Bidders who choose to attend. Technical BID of only those Bidders shall be online opened whose documents listed at clause 2.11.2 of the RFP have been received physically The Authority shall prepare minutes of the BID opening, including information disclosed to those present at the time of BID opening.

3.1.2 Technical Bids of those Bidders who have not submitted their Bid online, shall not be considered for opening and evaluation.

3.1.3 If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant information for consideration of eligibility and qualification of the Bidder.

3.1.4 To facilitate evaluation of Technical BIDs, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Technical BID. Such clarification(s) shall be provided with in the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing. The bids will be examined and evaluated in accordance with the provisions setout in thisSection3.TheAuthoritywill subsequently flag issues, if any with the data updated by the Bidders.

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

3.1.6 Tests of responsiveness

3.1.6.1 As a first step towards evaluation of Technical BIDs, the Authority shall determine whethereachTechnicalBIDisresponsivetotherequirementsofthisRFP.ATechnical BID shall be considered responsive only if:

(a) Technical BID is received online as per the format at Appendix-IA including Annexure I, IV, V and VI(Bid Capacity format);
(b) Documents listed at clause 2.11.2 are received physically;
(c) Technical Bid is accompanied by the BID securing declaration as specified in Clause 1.2.4 and 2.20;
(d) The Power of Attorney is uploaded on e-procurement portal as specified in Clauses2.1.5;
(e) Technical Bid is accompanied by Power of Attorney for Lead Member of Joint Venture and the Joint Bidding Agreement as specified in Clause 2.1.6, if so required;
(f) Technical Bid contains all the information (complete in all respects);

(g) Technical Bid does not contain any condition or qualification; and

(h) Copy of online receipt/ original Demand Draft towards payment of cost of Bid document/RFP of required amount is received;

3.1.6.2 TheAuthorityreservestherighttorejectanyTechnicalBIDwhichisnon-responsiveand no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such BID.

3.1.7 In the event that a Bidder claims credit for an Eligible Project, and such claim is determined by the Authority as incorrect or erroneous, the Authority may reject/correct such claim for the purpose of qualification requirements.

3.1.8 The Authority will evaluate the Technical BIDs for their compliance to the eligibility and qualification requirementspursuanttoclause2.2.1&2.2.2ofthisRFP.

3.1.9 After evaluation of Technical Bids, the Authority will publish a list of Technically ResponsiveBidderswhosefinancialbidsshallbeopened.TheAuthorityshallnotifyother Bidders that they have not been technically responsive. The Authority will not entertain any query or clarification from Applicants who fail to qualify.

3.2 Opening and Evaluation of Financial Bids

The Authority shall inform the venue and time of online opening of the Financial Bids to the technically responsive Bidders through e-procurement portal and e-mail. The Authority shall open the online Financial Bids of the technically responsive Bidders only on scheduled date and time in the presence of the authorised representatives of the Bidders who may choose to attend. The Authority shall publicly announce the Bid Prices quoted by the technically responsive Bidder. Thereafter, the Authority shall prepare a record of opening of Financial Bids.

3.3 Selection of Bidder

3.3.1 Subject to the provisions of Clause 2.16.1, the Bidder whose BID is adjudged as responsive in terms of Clause 3.1.6 and who quotes lowest price shall be declared asthe selected Bidder (the "**Selected Bidder**").

3.3.2 In the event that two or more Bidders quote the same BID Price (the "**Tie BIDs**"), the Authority shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.

3.3.3 In the event that the Lowest Bidder is not selected for any reason except the reason mentioned in Clause 2.1.12 (b) (4), the Authority shall annul the Bidding Process and invite fresh BIDs. In the event that the Authority rejects or annuls all the BIDs, it may, in its discretion, invite all eligible Bidders to submit fresh BIDs hereunder.

3.3.4 After selection, a Letter of Acceptance (the "**LOA**") shall be issued in the format set forth in Appendix-VIII, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7(seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the BID Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA.

3.3.5 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Bidder to submit Performance Security and Additional Performance Security (ifany) within the period prescribed/extended by Authority and then execute the Agreement within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Agreement.

3.3.6 **Deleted**

3.4 Contacts during BID Evaluation

BIDs shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ rejection to the Bidders. While the BIDs are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Authority and/ or their employees/ representatives on matters related to the BIDs under consideration.

3.5 Correspondence with Bidder

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

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

SECTION-4

FRAUD AND CORRUPT PRACTICES

4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent tothe issue of the LOA and during the subsistence of the Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Agreement, the Authority may reject a BID, withdraw the LOA, or terminate the Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the BID Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Agreement, or otherwise.

4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, or otherwise if a Bidder or Contractor, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Agreement, such Bidder shall not be eligible to participate in any tenderorRFPissuedbytheAuthorityduringaperiodof2(two)yearsfromthedatesuch Bidder, or Contractor, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

4.3 ForthepurposesofthisSection4,thefollowingtermsshallhavethemeaninghereinafter respectively assigned to them:

(a) "corruptpractice"meanstheoffering,giving,receivingorsolicitingofanythingofvalue, pressurizing to influence the action of a public official in the process of tendering and execution of the project;

(b) "fraudulent practice" means a misrepresentation or omission of facts or suppression of factsordisclosureofincompletefacts,inordertoinfluencetheBiddingProcess;

(c) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;

(d) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

(e) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

SECTION-5

PRE-BID CONFERENCE

5.1 Pre-BID conference of the Bidders shall be convened at the designated date, time and place. A maximum of two representatives of prospective Bidders shall be allowed to participate on production of authority letter from the Bidder.

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

SECTION-6

MISCELLANEOUS

6.1 The Bidding Process shall be governed by, and construed in accordance with, the lawsofIndiaandtheCourtsatNewDelhishallhaveexclusivejurisdictionoverall disputes arising under, pursuant to and / or in connection with the Bidding Process.

6.2 TheAuthority,initssolediscretionandwithoutincurringanyobligationorliability, reserves the right, at any time,to;

(a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;

(b) consult with any Bidder in order to receive clarification or further information;

(c) retain any information and/ or evidence submitted to the Authority by, on behalf of ,and/or in relation to any Bidder; and/or

(d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.

6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

Section-7

DATASHEET

(As Mentioned in RFP)

1 Bidding Schedule(Refer Clauses 1.1.5, 1.3, 2.11.4(i), 2.12, 2.13, 2.14.2.3, 2.15.2 & 3.1.1)

Sl. No.	Event Description	Date
1.	Invitation of RFP (NIT)	04.05.2020
2.	Last date for receiving queries	29.05.2020 at 1100 Hrs
3.	Pre-BID meeting at venue 2.11.4 (i)	29.05.2020 at 1500 Hrs
4.	Authority response to queries latest by	05.06.2020 at 1100 Hrs
5.	Last date of Request for BID Document	02.07.2020up to 1100 Hrs
6	BID Due Date	02.07.2020 up to11.00 AM
7.	Physical Submission of Bid documents ~~Security~~/POA etc	Upto 1100 hrs on bid Opening Date
8.	Opening of Technical BIDs at venue 2.11.4 (i)	03.07.2020 upto1100 Hrs
9.	Declaration of eligible / qualified Bidders	The dates will be hosted on the GOI e-Tendering Portal (http:// eprocure.gov.in/cppp) and NHIDCL portal
10.	Opening of Financial BID	
11.	Letter of Acceptance (LOA)	
12.	Return of signed duplicate copy of LOA	
13.	Validity of BID	120 days from Bid Due Date
14.	Submission of Performance Security (PS) and Additional Performance Security (APS), if any	Within 30 days of receipt of LOA.(The bidder has the option to provide 50% of PS and APS , if any within 30days of receipt of LOA and the remaining PS and APS , if any to be provided within 30days of signing of agreement)
15.	Signing of Agreement	Within 10 days of receipt of 50% of Performance Security and 50% OF Additional Performance Security, if any.

2. Cost of BID/RFP document including GST @18% : Rs. 82,600/-
(Refer Clauses No. 1.2.4,2.11.1(g),2.11.2(e) &3.1.6.1(h)**) (Rupees Twenty three thousand six hundred only)**

3. Officer Designated (Refer Clauses No. 1.2.9 & 2.11.4) :

Name : B. Shivprasad
Designation: General Manager (Tech)
Address : 2nd floor, PTI Building, 4-Parliament Street, New Delhi.
Contact No : 011-23461674
Email ID : shivprasad.152p@gov.in/sanjeev.malik@gov.in

4. Threshold Technical Capacity : > Rs. 1208.74 Cr.
(Refer Clause 2.2.2.2(i)) **(Rupees One thousand two hundred & Eight Crore & Seventy Four lakh only)**

5. Data for Similar work (Technical Capacity)
(Refer Clause No. 2.2.2.2 (ii) , (iii))

a. Estimated `Project Cost (including GST @ 12 %) :**604.37 Cr.**

b. Major Bridge
Longest Span of the Proposed Bridge : **25 m**
c. Length of tunnel : **1.574 Km.**
d. Cross sectional Area of Tunnel (in Sqm.) :**105.62 Sqm**

APPENDIX -IA

LETTER COMPRISING THE TECHNICAL BID

(Refer Clause 2.1.4, 2.11 and 3.1.6)

The General Manager (Tech.),
NHIDCL, 3rd Floor,
PTI Building, 4, Parliament Street,
New Delhi-110001

Sub: BID for"Construction of Uni-Directional Khellani Tunnel of length 1.574 Km & its approach Road from Km 29.030 to Km 31.449 of total length of 2.419 Km on NH-244 in Union Territory of Jammu & Kashmir on EPC Mode."

Dear Sir,

With reference to your RFP document dated xx/xx/2020, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our BID for the aforesaid Project. The BID is unconditional and unqualified.

2. I/ We acknowledge that the Authority will be relying on the information provided in the BID and the documents accompanying the BID for selection of the Contractor for the aforesaid Project, and we certify that all information provided in the Bid and its the Annexure I to VI along with the supporting documents are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the BID are true copies of their respectiveoriginals.

3. This statement is made for the express purpose of our selection as EPC Contractor for the development, construction, rehabilitation and augmentation of the aforesaid Project and maintenance of the Project during the Defect Liability Period.

4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the BID.

5. I/ We acknowledge the right of the Authority to reject our BID without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. I/ We certify that in the last two years, we/ any of the JV partners have neither failedto perform for the works of Expressways, National Highways, ISC & EI works,, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncementorarbitrationawardagainstus,norbeenexpelledorterminated byMinistryofRoadTransport&Highwaysoritsimplementingagenciesforbreachon our

part.

7. I/ We declare that:
   (a) I/We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority; and
   (b) I/We do not have any conflict of interest in accordance with Clauses 2.2.1 (c) and2.6.4oftheRFPdocument;and
   (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practiceorrestrictivepractice,asdefinedinClause4.3oftheRFPdocument,in respect of any tender or request for proposal issued by or any Agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
   (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice;and
   (e) the undertakings given by us along with the Application in response to the RFP for the Project and information mentioned for the evaluation of the BID Capacity in Annexure VI were true and correct as on the date of making the Application and are also true and correct as on the BID Due Date and I/we shall continue to abide by them.

8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any BID that you may receive nor to invite the Bidders to BID for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.16.2 of the RFP document.

9. I/We believe that we/our Joint Venture satisfy(s) the Threshold Technical Capacity, Net Worth criteria and meet(s) the requirements as specified in the RFP document.

10. I/ We declare that we/ any Member of the Joint Venture or our/Joint Venture member, are not a Member of any other Joint Venture submitting a BID for the Project.

11. I/ We certify that in regard to matters other than security and integrity of the country, we/anyMemberoftheJointVentureoranyofour/theirJointventurememberhavenot been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.

12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Joint Venture or any of our /their Joint venture member have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.

13. I/We further certify that no investigation by a regulatory authority is pending either against us/ any member of Joint Venture or against our CEO or any of no ur directors/ managers/employees.

14. I/ We further certify that we are not disqualified in terms of the additional criteria specified by the Department of Disinvestment in their OM No. 6/4/2001-DD-II dated

13.7.01, a copy of which forms part of the RFP at Annexure VII of Appendix-IA thereof.

15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.

16. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Agreement upto its validity. It would, not withstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.

17. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

18. Intheeventofmy/ourbeingdeclaredastheSelectedBidder,I/weagreetoenterintoa Agreement in accordance with the draft that has been provided to me/us prior to the BID Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by thesame.

19. I/ We have studied all the Bidding Documents carefully and also surveyed the [project highway and the traffic]. We understand that except to the extent as expressly set forth in the Agreement, we shall have noclaim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Agreement.

20. I/ We submit a BID Securing Declaration to the Authority in accordance with the RFP Document.

21. The BID Securing Declaration in the prescribed format as per Appendix-II is attached.

22. The documents accompanying the Technical BID, as specified in Clause 2.11.1 of the RFP, have been submitted in separate files.

23. I/ We agree and understand that the BID is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project/Contractisnotawardedtome/usorourBIDisnotopenedorrejected.

24. The BID Price has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.

25. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.

26. {We, the Joint Venture agree and undertake to be jointly and severally liable for. all

the obligations of the EPC Contractor under the Contract Agreement}.

27. I/ We shall keep this offer valid for 120 (one hundred and twenty) days from the BID Due Date specified in the RFP.

28 I/ We hereby submit our BID and offer a BID Price as indicated in Financial Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the Agreement.

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

Yours faithfully,

Date:
Place:

(Signature, name and designation of the Authorised signatory)

Name &seal of Bidder/Lead Member

APPENDIX - IB

Letter comprising the Financial BID (Refer Clauses 2.1.4, 2.11 and 3.1.6)

The General Manager (Tech.),
NHIDCL, 3rd Floor,
PTI Building, 4, Parliament Street,
New Delhi-110001

Dated:

Sub: BID for "Construction of Uni-Directional Khellani Tunnel of length 1.574 Km & its approach Road from K 29.030 to Km 31.449 of total length of 2.419 Km on NH-244 in Union Territory of Jammu & Kashmir on El Mode".

Dear Sir,

With reference to your RFP document dated xx/xx/2020, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our BID for the aforesaid Project. The BID is unconditional and unqualified.

2. I/ We acknowledge that the Authority will be relying on the information provided in the BID and the documents accompanying the BID for selection of the Contractor for the aforesaid Project, and we certify that all information provided in the Bid are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the BID are true copies of their respective originals.

3. The BID Price has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.

4. I/ We acknowledge the right of the Authority to reject our BID without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

5. In the event of my/ our being declared as the Selected Bidder, I/ we agree to enter in to a Agreement in accordance with the draft that has been provided to me/us prior to the BID Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.

6. I/ We shall keep this offer valid for 120 (one hundred and twenty) days from the BID Due Date specified in the RFP.

7. I/ We hereby submit our BID and offer a BID Price mentioned in the Financial Bid submitted online for undertaking the aforesaid Project in accordance with the Bidding Documents and the Agreement.

Yours faithfully,

Date:
the
Place:

(Signature, name and designation of
Authorised Signatory)
Name &seal of Bidder/Lead Member:.....
Class III DSC ID of Authorised Signatory:.....

APPENDIX – II

Bid Securing Declaration
(Refer Clauses 2.20)

I hereby submit a declaration that the bid submitted by the undersigned, on behalf of the bidder, **[Name of the bidder]**, either sole or in JV, shall not be withdrawn or modified during the period of validity i.e. not less than 180 (one hundred eighty) days from the bid due date.

I, on behalf of the bidder, **[Name of the bidder]**, also accept the fact that in case the bid is withdrawn or modified during the period of its validity or if we fail to sign the contract in case the work is awarded to us or we fail to submit a performance security before the deadline defined in clause 2.21 of the Request for Proposal (RFP), then **[Name of the bidder]** will be suspended for participation in the tendering process for the works of NHIDCL and works under other Centrally Sponsored Schemes, for a period of one year from the bid due date of this work.

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

APPENDIX-III

Format for Power of Attorney for signing of BID *(Refer Clause 2.1.5)*

Know all men by these presents, We **(name of the firm and address of the registered office)** do hereby irrevocably constitute, nominate, appoint and authorize Mr./Ms (name), son/daughter/wife of**(Name)** and presently residing at **(Address)**, who is presently employed with us/ the Lead Member of our Joint Venture and holding the position of**(Designation),**as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our BID for the Project proposed or being developed by the National Highways & Infrastructure Development Corporation Ltd. (the "Authority") including but not limited to signing and submission of all applications, BIDs and other documents and writings, participate in Pre-BID and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the agreement and undertakings consequent to acceptance of our BID, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our BID for the said Project and/ or upon award thereof to us and/or until the entering into of the EPC Contract with the Authority.

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

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

For……..
Signature, name, designation and address of
person authorized by Board Resolution
(in case of Firm/ Company)/ partner in case of
Partnership firm

Witnesses:
1.
2.

Accepted
……
(Signature)
(Name, Title and Address of the Attorney)

(Notarised)
Person identified by me/ personally appeared before me/
Attested/Authenticated*(
*Notary to specify as applicable)(Signature
Name and Address of the Notary)

Seal of the Notary
Registration No. of the Notary

Date:……

Notes:

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

APPENDIX-IV

Format for Power of Attorney for Lead Member of Joint Venture

(Refer Clause 2.1.6)

Whereas the National Highways & Infrastructure Development Corporation Ltd. ("the Authority") has invited BIDs for the (Name of the Project) (the "Project").

Whereas, ……..,……..,and.....(collectively the "Joint Venture") being Members of the Joint Venture are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal (RFP) and other BID documents including agreement in respect of the Project, and

Whereas, it is necessary for the Members of the Joint Venture to designate one of them as the Lead Member withallnecessarypowerandauthoritytodoforandonbehalfoftheJointVenture, all acts, deeds and things as may be necessary in connection with the Joint Venture's BID for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, …… having our registered office at ……., M/s. …….. having our registered at …,M/s…..…havingourregisteredofficeat…..,and…..havingourregisteredofficeat ,(hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorize M/S ……. having its registered office at ……., being one of the Members of the Joint Venture, as the Lead Member and true and lawful attorney of the Joint Venture (hereinafter referred to as the "Attorney"). We hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Joint Venture and any one of us during the bidding process and, in the event the Joint Venture is awarded the contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Joint Venture, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Joint Venture and submission of its BID for the Project, includingbutnotlimitedtosigningandsubmissionofallapplications,BIDsandotherdocuments and writings, participate in pre BID and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the BID of the Joint Venture and generally to represent the Joint Venture in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Joint Venture's BID for the in all respect Project and/ or upon award thereof till the EPC Contract is entered into with the Authority & Compelled.

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

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ……. DAY OF …….2020

For ……..	For ……..	For ……..
(Signature)	(Signature)	(Signature)
……..	……..	……..
(Name & Title)	(Name & Title)	(Name & Title)

(Executants)

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

Witnesses:

1.

2.

Notes:

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

APPENDIX V

Format for Joint Bidding Agreement for Joint Venture

(Refer Clause 2.1.11)

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the …… day of …… 2020

AMONGST

1. {…… Limited, and having its registered office at.....} (herein after referred to as the "**First Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {…… Limited, having its registered office at .....} and (herein after referred to as the "**Second Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {…… Limited, and having its registered office at..... } (hereinafter referred to as the "**Third Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST, {SECOND and THIRD} PART are collectively referred to as the **"Parties"** and each is individually referred to as a **"Party**"

WHEREAS,

(A) **NATIONAL HIGHWAYS & INFRASTRUCTURE DEVELOPMENT CORPORATION LTD**., established under the Company Act, represented by its Managing Director and having its principal office at 3rd Floor, PTI Building, 4-Parliament Street, New Delhi-110001 (hereinafter referred to as the "**Authority**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited bids (the **Bids**") by its Request for Proposal No.……dated …. (the "**RFP**") for award of contract for rehabilitation and augmentation of***** Project (the "**Project**") through an EPC Contract.

(B) The Parties are interested in jointly bidding for the Project as members of a Joint Venture and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and

(C) It is a necessary condition under the RFP document that the members of the Joint Venture shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. JointVenture

2.1 The Parties do hereby irrevocably constitute a Joint Venture (the "**Joint Venture**") for the purposes of jointly participating in the Bidding Process for theProject.

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Joint Venture and not individually and/ or through any other Joint Venture constituted for this Project, either directly orindirectly.

3. Covenants

The Parties hereby undertake that in the event the Joint Venture is declared the selected Bidder and awarded the Project, it shall enter into an EPC Contract with the Authority for performing all its obligations as the Contractor in terms of the EPC Contract for the Project.

4. Role of the Parties

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

(a) Party of the First Part shall be the Lead member of the Joint Venture and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Joint Venture during the Bidding Process and for performing all its obligations as the Contractor in terms of the EPC Contract for the Project;

(b) Party of the Second Part shall be {the Member of the Joint Venture; and}

(c) Party of the Third Part shall be {the Member of the Joint Venture.}

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the EPC Contract, till such time as the completion of the Project is achieved under and in accordance with the EPC Contract.

6. Share of work in the Project

The Parties agree that the proportion of construction in the EPC Contract to be allocated among the members shall be as follows:

First Party:
Second Party:
{Third Party:}
Further, the Lead Member shall itself undertake and perform at least 51 (fifty one) per cent of the total length of the project highway if the Contract is allocated to the Joint Venture.

7. Representation of the Parties

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

(a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

(b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Joint Venture MemberisannexedtothisAgreement,andwillnot,tothebestofitsknowledge:

(i) require any consent or approval not already obtained;

(ii) violate any Applicable Law presently in effect and having applicability to it;

(iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;

(iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or

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

(c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

(d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until Project completion (the "Defects Liability Period") is achieved under and in accordance with the EPC Contract, in case the Project is awarded to the Joint Venture. However, in case the Joint Venture is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Applicant is not pre-qualified or the work not awarded to JV, as the case may be.

9. Miscellaneous

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

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

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

For and on behalf of

LEAD MEMBER by:	SECOND PART	THIRD PART
(Signature)	(Signature)	(Signature)
(Name)	(Name)	(Name)
(Designation)	(Designation)	(Designation)
(Address)	(Address)	(Address)

In the presence of:

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the requiredprocedure.

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

APPENDIX VI

INTEGRITY PACT FORMAT

(To be executed on plain paper and submitted along with Technical Bid/Tender documents for tenders having a value of Rs. 5 cr or above for Consultancy projects and 100 cr. or above for Construction projects. To be signed by the Bidder and same signatory competent/ authorized to sign the relevant contract on behalf of the MoRTH)

This integrity Pact ismadeat_____onthis_____dayof_____2020.

BETWEEN

[President of India through NATIONAL HIGHWAYS & INFRASTRUCTURE DEVELOPMENT CORPORATION LTD., established under the Company Act, represented by its Managing Director and having its principal office at 3 rd Floor, PTI Building, 4-Parliament Street, New Delhi-110001, (hereinafter referred to as the "**Principal/Owner**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors andassigns)

AND

{Name and address of the Firm/Company}, (hereinafter referred to as "The Bidder(s)/Contractor(s)/Concessionaire(s)/Consultant(s)" and which expression shall unless repugnant to be meaning or context thereof include its successors and permittedassigns.)

Preamble

Whereas, the Principal has floated the Tender {NITNo…….dtd..... }(hereinafter referred to as "Tender/Bid") and intends to award, under laid down organizational procedure, contract/s for {Name of the work} (hereinafter referred to as the "Contract").

AndWhereasthePrincipalvaluesfullcompliancewithallrelevantlawsoftheland,rulesofland, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and/ orContractor(s)/Concessionaire(s)/Consultant(s).

Andwhereastomeetthepurposeaforesaid,boththepartieshaveagreedtoenterintothisIntegrity Pact (hereafter referred to as "Integrity Pact" or "Pact") the terms and conditions of which shall also be read as integral part and parcel of the Tender documents and contract between the parties. Now, therefore, in consideration of mutual covenants contained in this pact, the parties hereby agree as follows and this pact witnesses asunder:

Article-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, 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 of immaterial benefit which the person is not legally entitled to.

(b) The Principal will, during the Tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the Tender process, provide to all Bidder(s)the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

(c) The Principal will exclude all known prejudiced persons from the process, whose conduct in the past has been of biased nature.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act or any other Statutory Acts or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions as per its internal laid down Rules/Regulations.

Article – 2: Commitments of the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s). The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) commit himself 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)/ Concessionaire(s)/ Consultant(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 or to any third person 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)/ Concessionaire(s)/ Consultant(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 contract, submission or non submission or bids or any other actions to restrict competitiveness or to introduce cartelization in the biddingprocess.

(c) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) will not commit any offence under the relevant IPC/PC Act and other Statutory Acts; further the Bidder(s)/Contractor(s)/Concessionaire(s)/Consultant(s) will not use improperly, for purposes of completion 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)/ Concessionaire(s)/ Consultant(s) of foreign origin shall disclose the name and address of the Agents/ Representatives in India, if any. Similarly, the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) of Indian Nationality shall furnish the name and address of the foreign principle, ifany.

(e) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) will, when presenting 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. He shall also disclose the details of services agreed upon for such payments.

(f) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

(g) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) will not bring any outside influence through any Govt. bodies/quarters directly or indirectly on the bidding process in furtherance of his bid.

Article - 3 Disqualification from tender process and exclusion from future contracts.

(1) If the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s), before award or during execution has committed a transgression through a violation of any provision of Article-2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) from the tender process.

(2) If the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) has committed a transgression through a violation of Article-2 such as to put his reliability or credibility into question, the Principal shall be entitled to exclude including blacklist and put on holiday the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) for any future tenders/ contract award process. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the Principal taking into consideration the full facts and circumstances of each case particularly taking into account the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) and the amount of the damage. The exclusion will be imposed for a maximum of 3years.

(3) A transgression is considered to have occurred if the Principal after due consideration of the available evidence concludes that "On the basis of facts available there are no material doubts".

(4) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) with its free consent and without any influence agrees and undertakes to respect and uphold the Principal's absolute rights to resort to and impose such exclusion and further accepts and undertakes not to challenge or question such exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legaladvice.

(5) The decision of the Principal to the effect that a breach of the provisions of this Integrity Pact has been committed by the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s)shall be final and binding on the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s), however, the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) can approach IEM(s) appointed for the purpose of this Pact.

(6) On occurrence of any sanctions/ disqualification etc arising out from violation of integrity pact, the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) shall not be entitled for any compensation on thisaccount.

(7) Subject to full satisfaction of the Principal, the exclusion of the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) could be revoked by the Principal if the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s)can prove that he has restored/ recouped the damage caused by him and has installed a suitable corruption prevention system in his organization.

Article – 4: Compensation for Damages.

(1) If the Principal has disqualified the Bidder(s) from the tender process prior to the award

according to Arcticle-3, the Principal shall be entitled to forfeit the Earnest Money Deposit/ Bid Security or demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security apart from any other legal right that may have accrued to the Principal.

(2) In addition to 1 above, the Principal shall be entitled to take recourse to the relevant provisions of the contract related to Termination of Contract due to Contractor/ Concessionaire/Consultant's Default. In such case, the Principal shall be entitled to forfeit the Performance Bank Guarantee of the Contractor/ Concessionaire/ Consultant and/ or demand and recover liquidated and all damages as per the provisions of the contract/concession agreement against Termination.

Article – 5: Previous Transgressions

(1) The Bidder declares that no previous transgressions occurred in the last 3 years immediately before signing of this Integrity Pact with any other Company in any country conforming to the anti corruption/ Transparency International (TI) approach or with any other Public Sector Enterprise/ Undertaking in India or any Government Department in India that could justify his exclusion from the tender process.

(2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tenderprocessoractionforhisexclusioncanbetakenasmentionedunderArticle-3above for transgressions of Article-2 and shall be liable for compensation for damages as per Article-4 above.

Article – 6: Equal treatment of all Bidders/ Contractors/ Concessionaires/ Consultants/ Subcontractors.

(1) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) undertake(s) to demand from all sub-contractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.

(2) The Principal will enter into agreements with identical conditions as this one with all Bidders/ Contractors/ Concessionaires/ Consultants and subcontractors.

(3) The Principal will disqualify from the tender process all Bidders who do not sign this Pact or violate its provisions.

Article – 7: Criminal charges against violating Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s)/ Sub-contractor(s).

If the Principal obtains knowledge of conduct of a Bidder/ Contractor/ Concessionaire/ Consultant or subcontractor, or of an employee or a representative or an associate of a Bidder/ Contractor/ Concessionaire/ Consultant or Subcontractor, which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

Article- 8: Independent External Monitor (IEM)

(1) The Principal has appointed Shri. Shushil Gupta as Independent External Monitor (herein after referred to as "Monitor") for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

(2) The Monitor is not subject to instructions by the representatives of the parties and

performs his functions neutrally and independently. He reports to the Director General (Road Development) & SpecialSecretary.

(3) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s)accepts that the Monitor has the right to access without restriction to all project documentation of the Principal including that provided by the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s). The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s)will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/Contractor(s)/Subcontractor(s) withconfidentiality.

(4) The Principal will provide to the Monitor sufficient information about all meetingsamong the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in suchmeetings**.**

(5) As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand fromthepartiesthattheyactinaspecificmanner,refrainfromactionortolerateaction.

(6) The Monitor will submit a written report to the Director General (Road Development) & Special Secretary within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.

(7) If the Monitor has reported to the Director General (Road Development) & Special Secretary, a substantiated suspicion of an offence under relevant IPC/PC Act, and the Director General (Road Development) & Special Secretary 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 Central Vigilance Commissioner.

(8) The word 'Monitor' would include both singular and plural.

Article – 9 Pact Duration

This Pact begins when both parties have legally signed it (in case of EPC i.e. for projects funded by Principal and consultancy services). It expires for the Contractor/ Consultant 12 months after his Defect Liability Period is over or 12 months after his last payment under the contract whichever is later and for all other unsuccessful Bidders 6 months after this Contract has been awarded. (In case of BOT Projects) It expires for the concessionaire 24 months after his concession period is over and for all other unsuccessful Bidders 6 months after this Contract has been awarded.

If any claim is made/ lodged during his 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 Director General (Road Development) & Special Secretary.

Article - 10 Other Provisions.

(1) This pact 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/Concessionaire/Consultant is in a partnership or a Joint Venture partner, this pact must be signed by all partners or members.

(4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

(5) Any disputes/ differences arising between the parties with regard to term of this pact, any action taken by the Principal in accordance with this Pact or interpretation thereof shall not be subject to any Arbitration.

(6) The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provision of the extent law in force relating to any civil or criminal proceedings.

In witness whereof the parties have signed and executed this Pact at the place and date first done mentioned in the presence of following witness:-

(For & On behalf of the Principal)	(For & On behalf of the Bidder/ Contractor/ Concessionaire/ Consultant)

(Office Seal)

Place_____
Date_____
Witness 1 : (Name & Address):

Witness 2 : (Name & Address):

{COUNTERSIGNED and accepted by:

JV Partner}

Appendix-VII

(See Clauses2.21)

FORM OF BANK GUARANTEE

[Performance Security/Additional Performance Security]

To

_____ [name of Authority]

_____ [address of Authority]

WHEREAS_____[name and address of Contractor] (here after called the "Contractor")has under taken, in pursuance of Letter of Acceptance(LOA) No. _____Dated_____ for construction of _____[name of the Project] (hereinafter called the "Contract").

AND WHEREAS the Contract requires the Contractor to furnish an {Performance Security/ Additional Performance Security} for due and faithful performance of its obligations, under and in accordance with the Contract, during the {Construction Period/ Defects Liability Period and Maintenance Period} in a sum of Rs….. cr. (Rupees ……..….. crore) (the "**Guarantee Amount**"[15]).

AND WHEREAS we, …….. through our branch at..... (the"**Bank**") have agreed to furnish this Bank Guarantee (hereinafter called the **"Guarantee**") by way of Performance Security.

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

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Contractor's obligations during the {Construction Period/ Defects Liability Period and Maintenance Period} under and in accordance with the Contract, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from the Authority, under the hand of an officer not below the rank of [Superintending Engineer of Ministry of Road Transport & Highways], that the Contractor has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Contract shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and under the Contract and its decision that the Contractor is in default shall be final and binding on the Bank, notwithstanding any differences between the Authority and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Contractor for any reason whatsoever.

[15] Guarantee Amount for Performance Security and Additional Performance Security shall be calculated as per Contract.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Contractor and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Contract or to extend the time or period for the compliance with, fulfillment and/ or performance of all or any of the obligations of the Contractor contained in the Contract or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Contractor, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Contract and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any suchlaw.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Contract or for the fulfillment, compliance and/or performance of all or any of the obligations of the Contractor under the Contract.

7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Guarantee shall cease to be in force and effect on ****[$]. Unless a demand or claim under this Guarantee is made in writing before expiry of the Guarantee, the Bank shall be discharged from its liabilities hereunder.

9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorized to receive such notice and to effect payment thereof forthwith, and if sent by post it shallbedeemedtohavebeengivenatthetimewhenitoughttohavebeendeliveredinduecourse

$Insert date atleast 2 (two) years from the date of issuance of this Guarantee (in accordance with Clause 2.21 of the RFP).The Contractors can submit the BG for periods of two years at one time and keep on renewing thesametillthe DLP is over if they have problems in getting the BG in one go for the entire DLP.

of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.

10. This Guarantee shall come into force with immediate effect and shall remain in force and effect for up to the date specified in paragraph 8 above or until it is released earlier by the Authority pursuant to the provisions of the Contract.

11. This Guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

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 thereunder claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.

13. The guarantor/bank hereby confirms that it is on the SFMS (Structural Finance Messaging System) platform & shall invariably send an advice of this Bank Guarantee to the designated bank of [Ministry/NHAI/NHIDCL/State PWD/BRO], details of which is as under:

Sl No	Particulars	Details
1.	Name of Beneficiary	National Highways & Infrastructure Development Corporation Limited
2.	Beneficiary Bank Account No.	90621010002659
3.	Beneficiary Bank Branch	IFSCSYNB0009062
4.	Beneficiary Bank Branch Name	Transport Bhawan, New Delhi
5.	Beneficiary Bank Address	Syndicate Bank, Transport Bhawan, 1st Parliament Street, NewDelhi110001

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

SIGNED, SEALED AND DELIVERED

For and on behalf of the Bank by:

(Signature)
(Name)
(Designation)
(Code Number)
(Address)

Appendix-VIII
(See Clauses3.3.4)

Format of LOA

No.

National Highways & Infrastructure Development Corporation Ltd.

Dated,

To,

{Name of selected Bidder}

Subject: {project description}- Letter of Acceptance (LOA)-Reg.

Reference: Your bid for the subject work dated ……..

Sir,

This is to notify you that your Bid dated …… for execution of the{project description}, at your quoted bid price amounting toRs. ..... /- {amount in words} has been determined to be the lowest evaluated bid and is substantially responsive and has been accepted.

3. You are requested to return a duplicate of the LOA as an acknowledgement and sign the Contract Agreement within the period prescribed in Clause 1.3 of the RFP.

4. YouarealsorequestedtofurnishPerformanceSecurityforanamountof……. {and Additional Performance Security for an amount of …….} as per Clause 2.21 of the RFP within 30 (thirty) days of receipt of this Letter of Acceptance (LOA). IncaseofdelayinsubmissionofPerformanceSecurityandAdditionalPerformanceSecurity, if any, you may seek extension of time for a period not exceeding 60 (Sixty) days in accordance with Clause 2.21 ofRFP.

5. In case of failure of submission of Performance Security, Additional Performance Security (if any) and Security against Damages (if any) within the additional 60 (Sixty) days time period, the award shall be deemed to be cancelled and Bid security shall be **Forfeited and/or appropriated** and you will be debarred for participation in the tendering process for the works of NHIDCL, for a period of one year from the bid due date of this work.

Yours faithfully,

{authorized signatory}

Appendix IA
Annex-I

ANNEX-I
Details of Bidder

1. (a) Name:
   (b) Country of incorporation:
   (c) Address of the corporate headquarters and its branch office(s), if any, in India:
   (d) Date of incorporation and/ or commencement of business:

2. Brief description of the Bidder including details of its main lines of business and proposed role and responsibilities in this Project:

3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
   (a) Name:
   (b) Designation:
   (c) Company:
   (d) Address:
   (e) Telephone Number:
   (f) E-Mail Address:
   (g) Fax Number:

4. Particulars of the Authorised Signatory of the Bidder:
   (a) Name:
   (b) Designation:
   (c) Address:
   (d) Phone Number:
   (e) Fax Number:
   (f) Class III Digital Signature Certificate ID number

5. In case of a Joint Venture:
   (a) The information above(1-4) should be provided for all the Members of the Joint Venture.
   (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.1.11(f) should be attached to the Application.
   (c) Information regarding the role of each Member should be provided as per table below:

Sl.	**Name of Member**	**Role*** {Refer Clause 2.1.11(d)}$^{\$}$	**Share of work in the Project**{Refer Clauses 2.1.11(a), (f) & (g)}
1.			
2.			
3.			

* The role of each Member, as may be determined by the Applicant, should be indicated in accordance with instruction 4 at Annex-IV.

……contd

[$] All provisions contained in curly parenthesis shall be suitably modified by the Applicant to reflect the particulars relating to such Applicant.

Appendix IA
Annex-I

(d) The following information shall also be provided w.r.t para 2.1.14 for each Member of the Joint Venture:

Name of Applicant/ member of Joint Venture:

Sl. No.	Criteria	Yes/No
1.	Has the Bidder/ constituent of the Joint Venture been barred by the Ministry of Road Transport &Highways or its implementing agencies for the works of Expressways, National Highways, ISC and El works,from participating in bidding.	
2	If the answer to1 is yes, does the bar subsist as on BID due date.	

6(a) I/ We certify that in the last two years, we/ any of the JV partners have neither failed toperformfortheworksofExpressways,NationalHighways,ISC&EIworks,asevidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitral award against us, nor been expelled or terminated by Ministry of Road Transport & Highways or its implementing agencies for breach on our part.

(b) I/ We certify that we/ any of the JV partners do not fall in any of the categories of being a Non-Performing entity given at Clause 2.1.14 of Instructions to Bidders in the projects of Expressways, National Highways, ISC and EI works of Ministry of Road Transport & Highways or its implementing agencies and furnished the complete details.

7(a) I/ We further certify that no investigation by a regulatory authority is pending either against us/any member of Joint Venture or our sister concern or against our CEO or any of our directors/managers/employees.

(b) I/ We further certify that no investigation by any investigating agency in India or outside is pending either against us/ any member of Joint Venture or our sister concern or against our CEO or any of our directors/managers/employees.

A statement by the Bidder and each of the Members of its Joint Venture (where applicable) disclosing material non-performance or contractual non-compliance in current projects, as on bid due date is given below (attach extra sheets, if necessary) w.r.t. para 2.1.14.

Name of the Bidder /Member of JV:_____

Sr. No.	Categories of Non-Performer	Project 1	Project 2

(i)	Fails to complete or has missed more than two milestones in already awarded two or more projects, even after lapse of 6 months from the scheduled completion date, unless Extension of Time has been allowed on the recommendations of the Independent Engineer due to Authority's default;		
(ii)	Fails to complete a project, as per revised schedule, for which One Time Fund Infusion (OTFI) has been sanctioned by the Authority;		
(iii)	Physical progress on any project is not commensurate with the funds released (equity+ debt+grant) from the escrow account and such variation is more than 25% in last one year as observed by the Independent Engineer in one or more projects;		
(iv)	Punch List Items in respect of any project are pending due to Bidder's default in two or more Projects even after lapse of the prescribed time for completion of such items;		
(v)	Fails to fulfil its obligations to maintain a highway in a staisfactory condition inspite of two rectification notices issued in this behalf;		
(vi)	Fails to attend to Non Conformity Reports (NCRs) issued by the Independent/ Authority's Engineer on the designs/ works constructed by the Bidder pending for more than one year in two or more projects.		
(vii)	Fails to make premium payments excluding the current in stalment in one or more projects.		
(viii)	Damages/Penalties recommended by the Independent/ Authority's Engineer on the Bidder during O&M period and the remedial works are not taken up in two or more projects.		
(ix)	Fails to achieve financial closure in two or more projects within the given or extended period (which shall not be more than six months in any case).		
(x)	Fails to submit the Performance Security within the permissible period in more than one project(s).		
(xi)	Rated as an unsatisfactory performing entity/ non- performing entity by an independent third party agency and so notified on the website of the Authority.		

I/ We certify that the list is complete and covers all the projects of Expressways, National Highways,ISCandEIworksofMinistryofRoadTransport&Highwaysoritsimplementing agencies and that we/ any of the JV partners do not fall in any of the above categories of being a Non-Performing entity.

(Signature, name and designation of the authorised signatory)

For and on behalf of……..

Annex-II

ANNEX-II

Technical Capacity of the Bidder[@]

(*Refer to Clauses 2.2.2.2, 2.2.2.5 and 2.2.2.7 of the RFP*)

Applicant type	**Project Code***	**Cate-gory[$]**	**Experience[**] (Equivalent Rs. crore)[$$]**		**Technical Experience[£]**
			Payments received for construction of Eligible Projects in Categories 3 & 4	Value of self-construction inEligible Projects in Categories 1 and 2	
(1)	(2)	(3)	(4)	(5)	(6)
Single entity Bidder or Lead Member including other members of the JointVenture	a				
	b				
	c				
	d				
	e				
	f				
Aggregate Technical Experience =					

[@] *Provide details of only those projects that have been undertaken by the Applicant, or its Lead member including members in case of joint venture, under its own name separately and/ or by a project company eligible under Clause 2.2.2.6(i)(b). In case of Categories 1 and 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 2.2.2.6(i)(c) and for Categories 3 and 4, include only those projects where the payments received exceed the amount specified in Clause 2.2.2.6(ii). In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.1.13.*

** Refer Annex-IV of this Appendix-I. Add more rows if necessary.*

[$] *Refer Clause 2.2.2.5(i)*

*** Construction shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. In no case shall the cost of maintenance and repair, operation of Highways and land be included while computing the Experience Score of an Eligible Project.*

[$$] *For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees ** (**)*[14] *to a US Dollar.*

[£] *.InthecaseofanEligibleProjectsituatedinanOECDcountry,theExperienceScoresoarrived at shall be further multiplied by 0.5, in accordance with the provisions of Clause 2.2.2.5(ii) and the product thereof shall be the Experience Score for such Eligible Projects.*

[14] *The conversion rate of USD into Rupees shall be the daily representative exchange rates published by the Reserve Bank of India for the relevant date. Where relevant date should be as on the date 28 (twenty eight) days prior to the Application Due Date.*

NOTE: In case of a Joint Venture, information in Annex-II and Annex-IV of Appendix-I shall be provided separately for other Members so as to establish that each such Member has 20 percent or more of the Threshold Technical Capacity. *(Refer Clause2.2.2.4)*.

Annex-III

ANNEX-III

Financial Capacity of the Bidder

(*Refer to Clauses 2.2.2.3, 2.2.2.9(i), 2.2.2.8(iii) of the RFP*)

(In Rs. crore[$])

Bidder type	**Net Cash Accruals**					**Net Worth[£]**
	Year 1	**Year 2**	**Year 3**	**Year 4**	**Year 5**	**Year 1**
Single entity Bidder or Lead Member including other members of the Joint Venture						
TOTAL						

Bidder type	**Annual Turnover**										**Average Annual Turnover (InRs. crore[$])**
	Year 1		**Year 2**		**Year 3**		**Year 4**		**Year 5**		
	(Rs.)	Updation factor	(Rs.)	Updation factor	(Rs.)	Updation factor	(Rs.)	Updation factor	(Rs.)	Updation factor	
1	2	3	4	5	6	7	8	9	10	11	(2x3+4x5+6x7+8x9+10x11)/5
Single entity Bidder or Lead Member including other members of the Joint Venture		**1.00**		**1.05**		**1.10**		**1.15**		**1.20**	

Name & address of Bidder's Bankers:

[$] For conversion of other currencies into rupees, see note below Annex-II of Appendix-I.

[£]The Bidder should provide details of its own Financial Capacity.

Instructions:

1. The Bidder shall attach copies of the balance sheets, financial statements and Annual Reportsfor5(five)yearsprecedingtheBidDueDate.Thefinancialstatementsshall:
   (a) reflect the financial situation of theBidder;
   (b) be audited by a statutoryauditor;
   (c) be complete, including all notes to the financial statements;and
   (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested oraccepted).
2. Net Cash Accruals shall mean Profit After Tax +Depreciation.

3. Net Worth (the "Net worth") shall meansthe aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

4. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Bid Due Date falls within3(three)monthsofthecloseofthelatestfinancialyear,refertoClause2.1.13.

5. In the case of a Joint Venture, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.1.15 (g) of the RFPdocument.

6. The Bidder shall also provide the name and address of the Bankers to theBidder.

7. TheBiddershallprovideanAuditor'sCertificatespecifyingthenetworthoftheBidder and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.2.9 (ii) of the RFPdocument.

Appendix IA
Annex-IV

ANNEX-IV

Details of Eligible Projects

(*Refer to Clauses 2.2.2.2, 2.2.2.5 and 2.2.2.7of the RFP*)

ProjectCode: **Entity:Self/Members:**

Item	Refer Instruction	Particulars of the Project
Title & nature of the project		
Category	5	
Year-wise (a) payments received for construction or work executed and certified by the Engineer-in-charge/Independent Engineer/Authority's Engineer, and/or (b) revenues appropriated for self constructionunder PPP projects	6	
Entity for which the project was constructed	7	
Location		
Project cost	8	
Date of commencement of project/ contract		
Date of completion/ commissioning	9	
Equity shareholding (with period during which equity was held)	10	

Instructions:

1. Bidders are expected to provide information in respect of each Eligible Projects in this Annex.TheprojectscitedmustcomplywiththeeligibilitycriteriaspecifiedinClause 2.2.2.6 (i) and 2.2.2.6 (ii) of the RFP, as the case may be. Information provided in this section is intended to serve as a back up for information provided in the Application. Applicants should also refer to the Instructions below.
2. The Project Codes would be a, b, c, d etc.
3. A separate sheet should be filled for each Eligible Project.
4. In case the Eligible Project relates to other Members, write "Member".
5. Refer to Clause 2.2.2.5 of the RFP for category number.
6. The total payments received and/or revenues appropriated for self construction for each Eligible Project are to be stated in Annex-II of this Appendix-I. The figures to be provided here should indicate the break-up for the past 5 (five) financial years. Year 1 refers to the financial year immediately preceding the Bid Due Date; Year 2 refers to the year before Year 1, Year 3 refers to the year before Year 2, and so on (Refer Clause 2.1.13). For Categories 1 and 2, expenditure on construction of the project by the Applicant itself should be provided, but only in respect of projects having an estimated capital cost exceeding the amount specified in Clause 2.2.2.6(i)(c). In case of Categories 3 and 4, payments received only in respect of construction should be provided, but only if the amount received exceeds the minimum specified in Clause 2.2.2.6(ii). Receipts for construction works should only include capital expenditure, and should not include expenditure on maintenance & repair and operation of Highways.
7. In case of projects in Categories 1and 2, particulars such as name, address and contact details of owner/ Authority/ Agency (i.e. concession grantor, counter party to concession,

etc.) may be provided. In case of projects in Categories 3 and 4, similar particulars of the client need to be provided.

8. Provide the estimated capital cost of Eligible Project. Refer to Clauses 2.2.2.6(i) and 2.2.2.6(ii)
9. For Categories 1 and 2, the date of commissioning of the project, upon completion,should be indicated. In case of Categories 3 and 4, date of completion of construction should be indicated. In the case of projects under construction, the likely date of completion or commissioning, as the case may be, shall beindicated.
10. For Categories 1 and 2, the equity shareholding of the Bidder, in the company owning the Eligible Project, held continuously during the period for which Eligible Experience is claimed, needs to be given (Refer Clause2.2.2.6(i)).
11. Experience for any activity relating to an Eligible Project shall not be claimed twice. In other words, no double counting in respect of the same experience shall be permitted in any manner whatsoever.
12. Certificate from the Bidder's statutory auditor[$] or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidder may provide the requisite certification.
13. If the Bidder is claiming experience under Categories 1 & 2[£], it should providea certificate from its statutory auditor in the format below as per Clause 2.2.2.6 (i) (d) :

Certificate from the Statutory Auditor regarding PPP projects

Based on its books of accounts and other published information authenticated by it, this is to certify that …….. *(name of the* Bidder*)* is/ was an equity shareholder in …….. *(title of the project company)* and holds/held Rs. …… cr.(Rupees …….. crore) of equity (which constitutes..... %[€] of the total paid upand subscribed equity capital) of the project company from ……... *(date)* to…….. *(date)*[¥]The project was/is commenced on ……(date) and likely to be commissioned on ……. *(date of commissioning of the project)*.

We further certify that the total estimated capital cost of the project is Rs. ..... cr.(Rupees ……crore), of which the applicant has itself undertaken the construction of project of Rs.……(Rupees..... Crores) excluding any part of the project for which any contractor,

sub-contractor or other agent was appointed for the purpose of construction ~~as per Clause 2.2.2.6(i)(d)~~by the afore said Applicant itself, during the past five financial years as per year-wise details noted below:

……

……

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation

[$] In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.

[£] Refer Clause 2.2.2.5 of the RFP.

 Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

[€] Refer instruction no. 10 in this Annex-IV.

[¥] In case the project is owned by the Applicant company, this language may be suitably modified to read: "It is certified that …….. (name of Applicant) constructed and/ orownedthe..... (name of project)from

……..(date)to.....(date)."

14. If the Bidder is claiming experience under Category 3 & 4[1], as per Clauses 2.2.2.5 and 2.2.2.6(ii) of the RFP, it should provide a certificate from its Statutory Auditor/client/ Engineer-in charge/ Independent Engineer/Authority's Engineer in the formatbelow:

Certificate regarding construction works[2]

Based on its books of accounts and other published information authenticated by it, This is to certify that ……..(name of the Bidder) was engaged by ……..(title of the project company)to execute .....(name of project) for.....(nature of project). The construction of the project commenced on ……..(date) and the project was/ is likely to be commissioned on .....(date, if any). It is certified that Bidder received payments from its Clients for Construction Works executed by them or work executed and certified by the Engineer-in-charge/Independent Engineer/Authority's Engineer, in the aforesaid construction works. We further certify that the total estimated capital cost of the project is Rs. .....cr.(Rupees ……crore), of which the Applicant received or has executed the work as certified by the Engineer-in-charge/Independent Engineer/Authority's Engineer Rs. ……cr.(Rupees ..... crore), during the past five financial years as per year-wise details noted below:

……

……

It is further certified that the receipts indicated above are restricted to the share of the Applicant who undertook these works as a partner or a member of joint venture.[3]
We further certify that applicant has a share of_____% in the Joint Venture/Consortium.

(Authorized Signatory)

15. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in computation of Experience.

16. To satisfy the qualification requirement under clause 2.2.2.2 (ii) & (iii), the bidder is required to submit a certificate from project owning department/corporations.

---

[1] ReferClauses2.2.2.5and2.2.2.6(ii)oftheRFP.

[2] Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company. However, in case the work of other member(s) is also executed by the applicant, then this fact should also be certified by the Statutory Auditor and accordingly the language may be suitablymodified.

[3] This certification should be strike out in case of jobs/ contracts, which are executed a sole firm. The payments indicated in the certificate should be restricted to the share of Applicant in such partnership/ joint venture. This portion may be omitted if the contract did not involve a partnership/ joint venture. In case where work is not executed by partnership/ joint venture, this paragraph may bedeleted.

Appendix-IA
Annex-V

ANNEX-V
Statement of Legal Capacity

(To be forwarded on the letterhead of the Applicant/ Lead Member of Joint Venture)

Ref. Date:

To,
****
****

Dear Sir,

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

We have agreed that.....(insert member's name) will act as the Lead Member of our Joint Venture.*

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

Thanking you,

Yours

faithfully,(Signature, name and designation of the authorised

signatory)For and on behalf of……..

**Please strike out whichever is not applicable.*

Appendix –IA
Annexure-VI

Information required to evaluate the BID Capacity under clause 2.2.2.1:

To calculate the value of "A" and "C"

1. A table containing value of Civil Engineering Works in respect of EPC Projects (Turnkey projects / Item rate contract/ Construction works) undertaken by the Bidder during the last 5 years is as follows (the amount of bonus received, if any, shall be indicated separately):

2.

Sl. No.	Year	Value of Civil Engg.Works undertaken w.r.t. EPC Projects including bonus,if any (Rs. in Crores)	Amount of bonus (Rs. inCrores)	Net Value excluding bonus (Rs.in Crores)
1	2019-20/2019			
2	2018-19/2018			
3	2017-18/2017			
4	2016-17/2016			
5	2015-16/2015			

3. Maximum value of projects that have been undertaken during the F.Y._____out of the last 5 years and value excluding amount of bonus thereof is Rs. Crores (Rupees). Further, value updated to the price level of the year indicated in Appendix is asfollows:

Rs._____Crores x_____(*Updation Factor as per Appendix*)=Rs._____Crores (Rupees_____)

4. Amount of bonus received, if any, in EPC Projects during the last 5 years (updated to the price level of the year indicated inAppendix):

Sl. No.	F.Y. / Calendar Year	Amount of Bonus (Rs. in Crores)	Updation Factor	Updated Amount of Bonus (Rs. in Crores)
1	2019-20/2019		1.00	
2	2018-19/2018		1.05	
3	2017-18/2017		1.10	
4	2016-17/2016		1.15	
5	2015-16/2015		1.20	
			Total (C)=	

…… ……. Name of the Statutory Auditor's firm: Seal of the audit firm: (Signature, name and designation and Membership No. of authorised signatory)	…….. …….. Signature, name and designation of Authorised Signatory For and onbehalfof.....(*Name ofthe*

Date:
Place:

To calculate the value of "B"

A table containing value of all the existing commitments and on-going works to be completed during the next ** years is as follows:

Sl. No.	Name of Project/ Work	Percentage of participation of Bidder in the project	Dater of start / appointed date of project	Construction period as per Agreement/ LOA	Value of contract as per Agreement /LOA[β]	Value of work completed	Balance value of work to be completed	Anticipated date of completion	Balance value of work at 2019-20/2019 price level
					Rs.in Crore	Rs. in Crore	Rs. in Crore		Rs. in Crore
1	2	3	4	5	6	7	8= (6-7)	9	10(3x 8x #)

Updation Factor as given below:

For Year	F.Y. / Calendar Year	Updation Factor
1	2019-20/2019	1.00
2	2018-19/2018	1.05
3	2017-18/2017	1.10
4	2016-17/2016	1.15
5	2015-16/2015	1.20

The Statement showing the value of all existing commitments, anticipated value of work to be completed in the period of construction of the project for which bid is invited and ongoing works as well as the stipulated period of completion remaining for each of the works mentioned above is verified from the certificate issued that has been countersigned by the Client or its Engineer- in-charge not below the rank of Executive Engineer or equivalent in respect of EPC Projects **or** Concessionaire / Authorised Signatory of SPV in respect of BOT Projects. No awarded / ongoing works has been left in the aforesaid statement which has been awarded to M/s……individually / and other member M/s …….. andM/s ……., as on bid due date of this RFP.

……..
……..
Signature, name and designation of Authorised Signatory

For and onbehalfof..... (*Name of the Bidder)*

……
……
Name of the Statutory Auditor's firm:
Seal of the audit firm: (Signature, name and designation and Membership No. of authorised signatory)

Date:
Place:

[β] In case balance period of construction is less than the value of period of construction of the project for which bid is invited, then full value of contract as per Agreement/LOA to be mentioned, else, anticipated value of work to be completed in the period of construction of the project for which bid is invited is to be mentioned. In the absence of the anticipated value of work to be completed, the proportionate value shall be considered while evaluating the Assessed Available BidCapacity.

APPENDIX-IA
AnnexureVII

Guidelines of the Department of Disinvestment
(Refer Clause1.2.1)

No. 6/4/2001-DD-II
Government of India
Department of Disinvestment

Block 14, CGOComplex
NewDelhi.
Dated 13th July,2001.

OFFICE MEMORANDUM

Sub: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment

Government has examined the issue of framing comprehensive and transparent guidelines defining the criteria for Bidders interested in PSE-disinvestment so that the parties selected through competitive bidding could inspire public confidence. Earlier, criteria like net worth, experience etc. used to be prescribed. Based on experience and in consultation with concerned departments, Government has decided to prescribe the following additional criteria for the qualification/ disqualification of the parties seeking to acquire stakes in public sector enterprises through disinvestment:

(a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory authority that casts a doubt on the ability of the Bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case to case basis after considering the facts of the case and relevant legal principles, by the Government ofIndia.

(b) In regard to matters relating to the security and integrity of the country, any charge-sheet by an agency of the Government/ conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.

(c) In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.

(d) Any entity, which is disqualified from participating in the disinvestment process, wouldnotbeallowedtoremainassociatedwithitorgetassociatedmerelybecause ithaspreferredanappealagainsttheorderbasedonwhichithasbeendisqualified. The mere pendency of appeal will have no effect on the disqualification.

(e) The disqualification criteria would come into effect immediately and would apply to all Bidders for various disinvestment transactions, which have not been completed asyet.

(f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.

(g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The Bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors/ Managers/ employees, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along withEOI.

sd/-
(A.K.Tewari)
Under Secretary to the Government ofIndia

Appendix IA
Annexure-VIII

Details of ongoing works (Ref Clause 10.3 (iv) of Draft EPC Agreement)

S. No.	Name of the work	Contract Price (INR Cr)	Appointed Date	Original Scheduled Completion Date	Likely Date of Completion	Reason for Delay[#]
1						
2						
3						
…						

(In the event that the Bidder had failed to achieve the Completion of any project within a period of 90 (ninety) days from the Schedule Completion Date of the project, unless such failure had occurred due to Force Majeure or for reasons solely attributable to the Authority, the Bidder shall be deemed to be ineligible for bidding this project (under bidding), both as the sole party or as one of the parties of Joint Venture/ Consortium, if any, during the period from Scheduled Completion Date to issuance of Completion Certificate for that project. This restriction is applicable if the contract value of the delayed project was not less than Rs. 300Crore.)

[#]To be supported with valid certificate issued from Independent Engineer / Authority's Engineer / Supervision Consultant / Engineer-in-charge

I / We certify that all the information furnished above is true in all respects.

…… Name of the Bidder

Signature of the authorized signatory: _____

Name of the Authorised Signatory**:**_____

Date: _____

Place: _____