



Infrastructure Corporation of Andhra Pradesh Limited (INCAP)
REQUEST FOR QUALIFICATION CUM PROPOSAL (RFQCP)
(International Competitive Bidding)

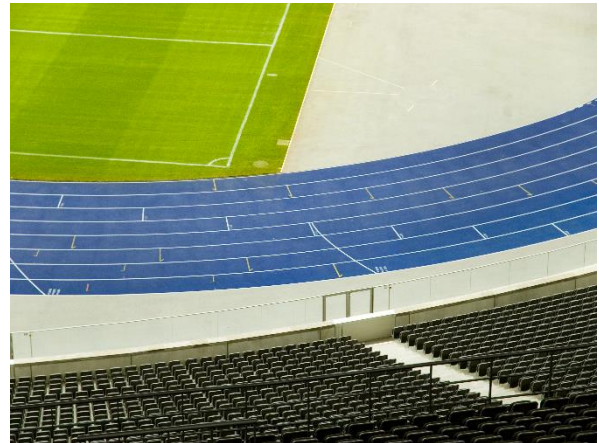
Volume I: Instructions to the Bidders

**SELECTION OF DEVELOPER FOR INTEGRATED SPORTS
COMPLEX AT TIRUPATI IN ANDHRA PRADESH ON PUBLIC
PRIVATE PARTNERSHIP (PPP) BASIS**

(September 2015)

(BID DUE DATE: 30-OCT-2015)

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Vice Chairman and Managing Director,
Infrastructure Corporation of Andhra Pradesh Limited (INCAP)
10-2-1, III Floor, FDC Complex, AC Guards,
Hyderabad – 500 028, India

Selection of Developer for an Integrated Sports Complex at Tirupati in Andhra Pradesh on PPP Basis

NOTICE NO. INCAP /P/ INFRASTRUCTURE PROJECTS/146/2015 DT: 15-09-2015

REQUEST FOR QUALIFICATION CUM PROPOSAL DOCUMENT

Bids in the prescribed format are invited for the project

1	Name of the Project	Integrated Sports Complex at Tirupati in Andhra Pradesh on PPP Basis
2	Last date and time for submission of bid (Bid Due Date)	30 th October 2015 1500 Hrs. IST
3	Time and place of pre bid conference	7 th October 2015 1100 Hrs. IST Venue: in the Board Room of Infrastructure Corporation of Andhra Pradesh, #10-2-1, 3rd FLOOR, FDC COMPLEX, AC GUARDS, HYDERABAD – 500028, India
4	Date & time for opening of Technical Bids	30 th October 2015 1600 Hrs. IST Venue: in the Board Room of Infrastructure Corporation of Andhra Pradesh, #10-2-1, 3rd FLOOR, FDC COMPLEX, AC GUARDS, HYDERABAD – 500028, India
5	Date & time for opening of Financial Bids	To be intimated later Venue: in the Board Room of Infrastructure Corporation of Andhra Pradesh, #10-2-1, 3rd FLOOR, FDC COMPLEX, AC GUARDS, HYDERABAD – 500028, India
6	RFQCP processing fee	INR 50,000 (Rupees Fifty Thousand Only) – Non Refundable

Acknowledgement:

This document shall be returned duly signing each page by the authorized person accepting the terms and conditions.

It is expressly understood that the party has subscribed to this document with an express understanding that they will use this document only for the sole purpose of participating in the Selection process for the **Selection of the Developer for an Integrated Sports Complex at Tirupati in Andhra Pradesh on PPP basis** and must not be used for any other purpose. This document must not be passed to a third party except professional advisers assisting with this Bid submission. The document may not be reproduced or communicated, in whole or in part, and its contents may not be distributed in written or oral form without written permission from the issuing authority.

Signature of the issuing Authority

Vice Chairman & Managing Director
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DISCLAIMER

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

This RFQCP is not an agreement and is neither an offer nor invitation by the Transaction Authority to the prospective Bidders or any other person. The purpose of this RFQCP is to provide interested parties with information that may be useful to them in the formulation of their Bid for qualification pursuant to this RFQCP (the “**Bid**”). This RFQCP includes statements, which reflect various assumptions and assessments arrived at by the Transaction 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 RFQCP may not be appropriate for all persons, and it is not possible for the Transaction Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFQCP. The assumptions, assessments, statements and information contained in this RFQCP 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 RFQCP and obtain independent advice from appropriate sources.

Information provided in this RFQCP 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 Transaction Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

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

The Transaction 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 RFQCP.

The Transaction 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 RFQCP.

The issue of this RFQCP does not imply that the Transaction Authority is bound to select and short-list Bids for Financial Bid Opening Stage or to appoint the selected Bidder or Concessionaire, as the case may be, for the Project and the Transaction Authority reserves the right to reject all or any of the Bids without assigning any reasons 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 Transaction Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Transaction Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by the Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

GLOSSARY

Annuity	As defined in Clause 1.2.8
Associate	As defined in Clause 2.2.9
Authority	As defined in Clause 1.1.2
Transaction Authority	As defined in Clause 1.1.1
Bank Guarantee	As defined in Clause 2.19.1
Bids	As defined in the Disclaimer
Bid Due Date	As defined in Clause 1.1.7
Bid Security	As defined in Clause 1.2.4
Bidders	As defined in Clause 1.2.2
Bidding Documents	As defined in Clause 1.2.3
Bidding Process	As defined in Clause 1.2.1
Concession	As defined in Clause 1.1.5
Concessionaire	As defined in Clause 1.1.2
Concession Agreement	As defined in Clause 1.1.2
Conflict of Interest	As defined in Clause 2.2.1(c)
Consortium	As defined in Clause 2.2.1(a)
Damages	As defined in Clause 2.2.1(c)
Demand Draft	As defined in Clause 1.2.1
DBOT	Design, Build, Operate and Transfer
Eligible Experience	As defined in Clause 3.2.1
Eligible Projects	As defined in Clause 3.2.1
Estimated Project Cost	As defined in Clause 1.1.4
Experience Score	As defined in Clause 3.2.6
Financial Bid	As defined in Clause 2.13.3
Financial Bid Opening Stage	As defined in Clause 3.5.2
Financial Capacity	As defined in Clause 2.2.2 (B)
Government	Government of Andhra Pradesh
Information Memorandum	As defined in Clause 1.1.1
Jt. Bidding Agreement	As defined in Clause 2.2.6 (g)
Lead Member	As defined in Clause 2.2.6 (c)
LOA	Letter of Award
Lowest Bidder	As defined in Clause 1.2.8
Member	Member of a Consortium
Net Worth	As defined in Clause 2.2.4 (ii)
O&M	Operation and Maintenance
Presentation score	As defined in clause 3.2.9
PPP	Public Private Partnership
Project	As defined in Clause 1.1.1
Re. or Rs. or INR	Indian Rupee
RFQCP	As defined in the Disclaimer
Selected Bidder	As defined in Clause 3.7.1
SPV	As defined in Clause 2.2.6
Technical Capacity	As defined in Clause 2.2.2 (A)
Threshold Technical Capacity	As defined in Clause 2.2.2 (A)

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 above.

Infrastructure Corporation of Andhra Pradesh

1. INTRODUCTION

1.1 Background

1.1.1 The Government of Andhra Pradesh's vision is to be amongst the top 3 states in India by 2022, the top state by 2029 and the most preferred global destination by 2050. The state is a progressive state and the government is taking steps to provide an environment conducive to economic and social growth. These include formulation of investment friendly policies; creating world-class infrastructure; improving governance and taking necessary steps to attract investments into the state. Promotion of social infrastructure is one amongst the many initiatives taken up by the government on a priority basis.

A thriving sports sector has a positive socio-economic benefit to the nation, as it is instrumental in improving the physical health and mental agility of a nation's human resources, and in promoting unity and national pride. In fact, sports as an activity has positive repercussions across many areas of the economy.

While, the contribution of sports and related economic activity in India is low, it is expected to increase gradually with the corresponding growth in the overall economy and improvement in quality of life of its citizens. Andhra Pradesh aims to be the top state in India by 2029 and is keen to promote sports to help develop the state in a holistic manner. Having quality sports facilities, training academies, and other facilitating infrastructure shall play a critical role in realizing this aim.

As a step towards this endeavour, the government plans to develop Integrated Sports Complexes on PPP mode. The state of Andhra Pradesh is determined to develop an Integrated Sports Complexes that will encourage sporting activities and healthy lifestyle in the region. The facility would act as a venue for national and international sporting events and would also promote sports/sportspersons across the country by means of academies. The local population would substantially benefit from this complex as it would encourage them to enrol in sports via membership schemes and thus promote healthy living. People with inclination to take up professional sports would have adequate opportunities to get trained via experienced and reputed coaches. Thus, Integrated Sports Complexes is being developed as flagship project in Tirupati.

The Infrastructure Corporation of Andhra Pradesh (INCAP or the “**Transaction Authority**”) is a nodal agency under the GoAP engaged in the conceptualizing and development of infrastructure in the state of Andhra Pradesh through various development models. INCAP, as part of this endeavour and in the role of transaction advisor to the Government in this instance, is in the process of selection of a private developer to undertake development and operation & maintenance of the Integrated Sports Complex Project at Tirupati (the “**Project**”) through Public-Private Partnership (the “**PPP**”) on Annuity basis, and has, therefore, decided to carry out the bidding process for selection of the bidder to whom the Project may be awarded. A brief description of the Project may be seen in the Information

Memorandum (the “**Information Memorandum**”) of the Project that is an integral part of the Bidding Documents and is also available at the Transaction Authority’s website www.incap.co.in. Brief particulars of the Project are as follows:

Name of the Project	Area in Acres	Indicative Project Cost (In INR cr.)
Integrated Sports Complex Project at Tirupati	87.7	310

The Transaction Authority intends to qualify and short-list suitable Bidders (the “**Bidders**”) who will be eligible for participation in the Financial Bid Opening Stage, for awarding the Project through an open competitive bidding process in accordance with the procedure set out herein.

1.1.2 The Selected Bidder, who is either a company incorporated under the Companies Act, 2013 (the “**Concessionaire**”) shall be responsible for designing, engineering, financing, procurement, construction, operation and maintenance of the Project under and in accordance with the provisions of a long - term concession agreement (the “**Concession Agreement**”) to be entered into between the Concessionaire and Tirupati Urban Development Authority (TUDA) (the “**Authority**”) in the form provided by the Transaction Authority as part of the Bidding Documents pursuant hereto.

1.1.3 The scope of work will broadly include design, build, finance an integrated sports complex and the management, operation and maintenance thereof. The sports complex is expected to have the following sporting facilities and transfer back at the end of the Concession period.

1. Outdoor facilities

- a) Football (FIFA Standard) cum Cricket stadium (ICC Standard) with gallery of 2600 capacity
- b) Athletic (IAAF Standard) with gallery of 900 capacity
- c) Aquatic Complex with 2200 capacity
- d) Tennis Complex with 1000 capacity
- e) Rock Climbing
- f) Volley ball – 3 courts
- g) Kabaddi fields – 8 Nos
- h) Jogging Track – 7M Width
- i) Skating Rink

2. Indoor facilities

Indoor Stadium 1 – 2000 gallery capacity

- a) Badminton Courts – 14 Nos
- b) Basketball/Volleyball court – 1 No

Indoor Stadium 2 – 2100 gallery capacity

- a) Kabaddi – 2 Nos
 - b) Boxing – 2 Nos
 - c) Badminton courts – 6 Nos
 - d) Squash court – 2 Nos
 - e) Gymnasium – 1 No
3. Other facilities
- a) Academy building including Dormitories
 - b) Food Courts
 - c) Amphitheatre
 - d) Guest House Complex - 22 units
 - e) Studio Apartments – 50 units
 - f) Shopping Arena and club house
 - g) Parking area

- 1.1.4 The estimated cost of the Project (the “**Estimated Project Cost**”) has been specified in Clause 1.1.1 above. The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.5 The Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire’s services and obligations (the “**Concession**”).
- 1.1.6 The statements and explanations contained in this RFQCP are intended to provide a better understanding to the Bidders about the subject matter of this RFQCP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Concession Agreement .The Transaction Authority has rights to amend, alter, change, supplement or clarify the scope of work the Concession to be awarded pursuant to this RFQCP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFQCP 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 Transaction Authority.
- 1.1.7 The Transaction Authority shall receive Bids pursuant to this RFQCP in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by the Transaction Authority, and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Bids (the “**Bid Due Date**”).

1.2 Brief description of Bidding Process

- 1.2.1 The Transaction Authority has adopted a single-stage bidding process (referred to as the “**Bidding Process**”) for selection of the Bidder for award of the Project. Prior to making the Bid, the Bidder shall pay to the Transaction Authority a non-refundable sum of INR 50,000 (Rupees fifty thousand) as the cost of the RFQCP process. The cost of the RFQCP shall be in the form of a demand draft issued by a

Scheduled Bank in India, drawn in favour of the Vice chairman and Managing Director at INCAP Limited and payable at Hyderabad (the “**Demand Draft**”).

- 1.2.2 In the Bid, Bidders would be required to furnish all the information specified in this RFQCP. The Bidders are, therefore, advised to visit the site and familiarise themselves with the Project. The aforesaid Bidders, including their successors, (the “**Bidders**”, which expression shall, unless repugnant to the context, include the Members of the Consortium) are being called upon to submit their financial offers (the “**Bids**”) in accordance with the terms specified in the Bidding Documents. The Bid shall be valid for a period of not less than 120 (one hundred and twenty) days from the Bid Due Date.
- 1.2.3 The Bidding Documents include the draft Concession Agreement for the Project which is enclosed. The Information Memorandum prepared by the Transaction Authority (the “**Information Memorandum**”) is also enclosed. Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued subsequent to this RFQCP Document, will be deemed to form part of the Bidding Documents (the “**Bidding Documents**”).
- 1.2.4 Bidder is required to deposit, along with its Bid, a bid security of Rs. 3,10,00,000 (Rs. Three crore and Ten Lakhs), (the “**Bid Security**”), refundable no later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bid shall be summarily rejected if it is not accompanied by the Bid Security in line with Clause 2.19.
- 1.2.5 Generally, the Lowest Bidder shall be the Selected Bidder. However the procurer at its liberty to undertake the process of negotiation with the bidders and to select the most suitable bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the Clause 3.7 of this RFQCP, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Lowest Bidder, the Transaction Authority may, in its discretion, invite fresh Bids from the remaining Bidders or annul the Bidding Process, as the case may be. The Transaction Authority may at its discretion annul or cancel the bid and invite fresh bids the bidding process at any time
- 1.2.6 Bidders are also invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the concession including implementation of the Project.
- 1.2.7 As part of the Bidding Documents, the Transaction Authority will provide a draft Concession Agreement and information memorandum prepared by the Transaction Authority and other information pertaining/ relevant to the Project available with it.
- 1.2.8 (a) Bids are invited for the Project on the basis of the lowest annuity (the “**Annuity**”) required by a Bidder for implementing the Project. The concession period and other terms are pre-determined, and indicated in the draft Concession

Agreement forming part of the Bidding Documents. The Annuity amount will constitute the criteria for evaluation of Bids. The Project will be awarded to the Bidder seeking the lowest Annuity.

(b) In this RFQCP, the term “**Lowest Bidder**” shall mean the Bidder who quotes the lowest Annuity, shall be the Lowest Bidder. Subject to the provisions of Clause 2.7, the Project will be awarded to the selected Bidder.

- 1.2.9 The Concessionaire shall, in consideration of its investment and services, be entitled to levy and collect a user fee and / or receive a unitary charge.
- 1.2.10 Details of the process to be followed at the Financial Bid Opening Stage and the terms thereof are spelt out in the Bidding Documents.
- 1.2.11 Any queries or request for additional information concerning this RFQCP shall be submitted in writing by speed post/ courier/ special messenger and by e-mail so as to reach the officer designated in Clause 2.13.5 by the specified date. The envelopes/ communications shall clearly bear the following identification/ title:

“Queries/ Request for Additional Information: RFQCP for Selection of Developer for Integrated Sports Complex at Tirupati in Andhra Pradesh on Public Private Partnership (PPP) Project”.

1.3 Schedule of Bidding Process

The Transaction Authority shall endeavour to adhere to the following schedule:

	Event Description	Date
<u>Qualification Stage</u>		
1.	Last date for receiving queries	7 th October 2015
2.	Pre-Bid Conference	7 th October 2015 1100 Hrs. IST
3.	Transaction Authority response to queries latest by	16 th October 2015
4.	Bid Due Date	30 th October 2015 1500 Hrs. IST
5.	Opening of Bids	30 th October 2015 1600 Hrs. IST
6.	Financial Bid Opening Date	To be intimated later
7.	Letter of Award (LOA)	Within 15 days of Financial Bid Opening Date
8.	Validity of Bids	120 days of Bid Due Date
9.	Signing of Concession Agreement	Within 30 days of award of LOA

1.4 Pre-Bid Conference

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

Date: 7-Oct-2015

Time: 1100 hrs. IST

Venue: Board Room, III Floor, Infrastructure Corporation of Andhra Pradesh,

#10-2-1, FDC Complex, A.C. Guards, Hyderabad – 500028, India

All communications shall be addressed to

Vice Chairman & Managing Director,

Infrastructure Corporation of Andhra Pradesh

#10-2-1, 3rd Floor, FDC Complex, A.C. Guards,

Hyderabad – 500028, India

2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1 Scope of Bid and General Terms of Bidding

- 2.1.1 The Transaction Authority wishes to receive Bids for Selection of Developer for Integrated Sports Complex at Tirupati in Andhra Pradesh on Public Private Partnership (PPP) Project.
- 2.1.2 No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.
- 2.1.3 The Information Memorandum 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 Information Memorandum shall be binding on the Transaction Authority nor confer any right on the Bidders, and the Transaction Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the Information Memorandum.
- 2.1.4 Notwithstanding anything to the contrary contained in this RFQCP, the detailed terms specified in the draft Concession 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 Concession Agreement.
- 2.1.5 The Financial Bid should be furnished in the format at Appendix–VII, clearly indicating the annuity amount in both figures and words, in Indian Rupees, and 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.
- 2.1.6 The Bid shall consist of an Annuity, to be quoted by the Bidder. Annuity shall be payable by the Authority to the Concessionaire, as per the terms and conditions of this RFQCP and the provisions of the Concession Agreement and as indicated in Clause 1.2.8.
- 2.1.7 The Bidder shall deposit a Bid Security of Rs. 3, 10, 00,000 (Rupees Three crores and Ten lakhs only) in accordance with the provisions of this RFQCP. The Bidder has to provide the Bid Security in the form of a Bank Guarantee acceptable to the Transaction Authority, as per format at Appendix–II and as per Clause 2.19
- 2.1.8 The validity period of the Bank Guarantee shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Transaction Authority and the Bidder. The Bid shall be summarily rejected if it is not

accompanied by the Bid Security. The Bid Security shall be refundable no later than 60 (sixty) days from the Bid Due Date except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement.

- 2.1.9 The Bidder should submit a Power of Attorney as per the format at Appendix–III, authorising the signatory of the Bid to commit the Bidder.
- 2.1.10 In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Appendix–IV.
- 2.1.11 Any condition or qualification or any other stipulation contained in the Financial Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.12 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.13 The documents including this RFQCP and all attached documents, provided by the Transaction Authority are and shall remain or become the property of the Transaction Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.13 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Transaction Authority will not return to the Bidders any Bid, document or any information provided along therewith.
- 2.1.14 This RFQCP is not transferable.
- 2.1.15 Any award of Concession pursuant to this RFQCP shall be subject to the terms of Bidding Documents.

2.2 Eligibility of Bidders

- 2.2.1 For determining the eligibility of Bidders for their qualification hereunder, the following shall apply:
- (a) The Bidder for qualification may be a single entity or a group of entities (the “**Consortium**”), coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium.
- (b) A Bidder may be a natural person, private entity, legal entity like company incorporated under companies act, a partnership firm, registered under partnership act, society registered under societies act, government-owned entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.6 below.

(c) A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Transaction Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Transaction Authority and not by way of penalty for, inter alia, the time, cost and effort of the Transaction Authority, including consideration of such Bidder’s proposal (the “**Damages**”), without prejudice to any other right or remedy that may be available to the Transaction Authority under the Bidding Documents and/ or the Concession Agreement or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- (i) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate 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, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. 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 shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% 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 Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or

- (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
- (v) such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or
- (vi) such Bidder, or any Associate thereof has participated as a consultant to the Transaction Authority in the preparation of any documents, design or technical specifications of the Project.

(d) The Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Transaction Authority in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder or Concessionaire, as the case may be, after issue of the LOA or execution of the Concession Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of the Transaction Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Transaction Authority may have thereunder or otherwise, the LOA or the Concession Agreement, as the case may be, shall be liable to be terminated without the Transaction Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same. For the avoidance of 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 prior to the Bid Due Date. 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.

Explanation: In case a Bidder is a Consortium, then the term Bidder as used in this Clause 2.2.1, shall include each Member of such Consortium.

2.2.2 To be eligible for Bidding, a Bidder shall fulfil the following conditions of eligibility:

- (A) **Technical Capacity:** For demonstrating technical capacity and experience (the “**Technical Capacity**”), the Bidder shall subject to clauses 3.2.1, 3.2.2, 3.2.3 and 3.2.4 have:
 - (i) paid for, or received payments for, construction of Eligible Project(s); and/or
 - (ii) paid for development of Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.2.1; and/ or

- (iii) collected and appropriated revenues from Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.2.1,

such that the sum total of the above is more than Rs.620 crore (Rs. Six Hundred and Twenty crore) (the “**Threshold Technical Capacity**”).

- (B) **Financial Capacity:** The Bidder shall have a minimum Net Worth (the “**Financial Capacity**”) of Rs. 77.5 crore (Rs. Seventy Seven crores and Fifty lakhs) at the close of the preceding financial year.

In case of a Consortium, the combined technical capacity and Net Worth of those Members, who shall have an equity share of at least 26% (twenty six per cent) each in the SPV, should satisfy the above conditions of eligibility; provided that each such Member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity of the SPV; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement.

The Bidder further acknowledges and agrees that the aforesaid obligation shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such thereunder.

By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of selection under and in accordance with the RFQCP, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Transaction Authority forthwith along with all relevant particulars about the same and the Transaction Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall be liable to be terminated without the Transaction Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Transaction 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 Transaction Authority under the Bidding Documents and/ or the Concession Agreement or otherwise.

- 2.2.3 **O&M Experience:** In the event that the Bidder does not have the requisite O&M experience, it shall either enter into an agreement, from COD, with an entity having the aforesaid experience relating to the performance of O&M obligations, or engage experienced and qualified personnel for discharging its O&M obligations in

accordance with the provisions of the Concession Agreement, failing which the Concession Agreement shall be liable to termination.

2.2.4 The Bidder shall enclose with its Bid, to be submitted as per the format at Appendix-I, complete with its Annexes, the following[§]:

- (i) Certificate(s) from statutory auditors of the Bidder or its Associates or the concerned client(s) stating the payments made/ received or works commissioned, as the case may be, during the past 5 (five) years in respect of the projects specified in paragraph 2.2.2 (A) above. In case a particular job/ contract has been jointly executed by the Bidder (as part of a consortium), it should further support its claim for 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 statutory auditors of the Bidder or its Associates 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 2.2.4 (ii). For the purposes of this RFQCP, net worth (the “**Net Worth**”) shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity share holders.

2.2.5 The Bidder should submit a Power of Attorney as per the format at Appendix-III, authorising the signatory of the Bid to commit the Bidder. In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member as per format at Appendix-IV.

2.2.6 Where the Bidder is a single entity, it may be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 2013 (the “**SPV**”), to execute the Concession Agreement and implement the Project. In case the Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

- (a) Number of members in a consortium shall not exceed 6 (six), but information sought in the Bid may be restricted to 4 (four) members in the order of their equity contribution;
- (b) subject to the provisions of sub-clause (a) above, the Bid should contain the information required for each member of the Consortium;
- (c) members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share holding of at least

[§] In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.2.4. In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant or its Associate may provide the certificates required under this RFQCP.

26% (twenty six per cent) of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-IV, signed by all the other members of the Consortium;

- (d) the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
- (e) an individual Bidder cannot at the same time be member of a Consortium applying for qualification. Further, a member of a particular Bid Consortium cannot be member of any other Bid Consortium applying for qualification;
- (f) the members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;
- (g) members of the Consortium shall enter into a Joint Bidding Agreement, substantially in the form specified at Appendix-V (the “**Jt. Bidding Agreement**”), for the purpose of making the Bid. The Jt. Bidding Agreement, to be submitted along with the Bid, shall, *inter alia*:
 - (i) convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this RFQCP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;
 - (ii) clearly outline the proposed roles and responsibilities, if any, of each member;
 - (iii) commit the minimum equity stake to be held by each member;
 - (iv) commit that each of the members, whose experience will be evaluated for the purposes of this RFQCP, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement;
 - (v) members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPV at all times until the second anniversary of the commercial operation date of the Project; and
 - (vi) include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the

Concessionaire in relation to the Project until the Financial Close of the Project is achieved in accordance with the Concession Agreement; and except as provided under this RFQCP and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Transaction Authority.

- 2.2.7 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a Consortium.
- 2.2.8 A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder, Consortium Member or Associate. Provided, however, that where a Bidder claims that its disqualification arising on account of any cause or event specified in this Clause 2.2.8 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any wilful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Transaction Authority for seeking a waiver from the disqualification hereunder and the Authority may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.
- 2.2.9 In computing the Technical Capacity and Net Worth of the Bidder / Consortium Members under Clauses 2.2.2, 2.2.4 and 3.2, the Technical Capacity and Net Worth of their respective Associates would also be eligible hereunder.

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

- 2.2.10 The following conditions shall be adhered to while submitting a Bid:

- (a) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is

insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;

- (b) information supplied by a Bidder (or other constituent Member if the Bidder is a Consortium) must apply to the Bidder, Member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms;
- (c) in responding to the qualification submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below; and
- (d) in case the Bidder is a Consortium, each Member should substantially satisfy the qualification requirements to the extent specified herein.

2.2.11 While Bidding is open to persons from any country, the following provisions shall apply:

- (a) Where, on the date of the Bid, 25% (twenty five per cent) or more of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of 25% (twenty five per cent) or more of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bid or its Member;

then the Bid of such Bidder or in the event described in sub clause (b) above, the continued Bid of the Bidder shall be subject to approval of the Transaction Authority from national security and public interest perspective. The decision of the Transaction Authority in this behalf shall be final and conclusive and binding on the Bidder.

The holding or acquisition of equity or 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 Transaction 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.

The Bidder shall promptly inform the Transaction 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.

2.2.12 Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within 3 (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.

2.3 Change in composition of the Consortium

2.3.1 No change in the consortium members is allowed.

2.4 Number of Bids and costs thereof

2.4.1 No Bidder shall submit more than one Bid for the Project. A Bidder applying individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be.

2.4.2 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 Transaction Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.5 Site visit and verification of information

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 and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.

2.6 Acknowledgement by Bidder

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

- (a) made a complete and careful examination of the Bidding Documents;
- (b) received all relevant information requested from the Transaction 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 Transaction Authority relating to any of the matters referred to in Clause 2.5 above; and
- (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5 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 thereunder;
- (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 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 Transaction Authority, or a ground for termination of the Concession Agreement by the Concessionaire;

- (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.

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

2.7 Right to accept or reject any or all Bids

2.7.1 Notwithstanding anything contained in this RFQCP, the Transaction Authority reserves the right to accept or 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 therefor. In the event that the Transaction Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.7.2 The Transaction 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 Transaction Authority, the supplemental information sought by the Transaction Authority for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium may be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified/ rejected, then the Transaction Authority reserves the right to:

- (i) invite the remaining Bidders to match the Lowest Bidder/ submit their Bids in accordance with the Clauses 3.7.3 and 3.7.4 of the RFQCP; or
- (ii) take any such measure as may be deemed fit in the sole discretion of the Transaction Authority, including annulment of the Bidding Process.

2.7.3 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by the Transaction Authority, that

one or more of the qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Bidder / SPV has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQCP, be liable to be terminated, by a communication in writing by the Transaction Authority to the Bidder or the Concessionaire, as the case may be, without the Transaction Authority being liable in any manner whatsoever to the Bidder and without prejudice to any other right or remedy which the Transaction Authority may have under this RFQCP, the Bidding Documents, the Concession Agreement or under applicable law. In such an event, the Transaction 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 Transaction Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise.

- 2.7.4 The Transaction Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFQCP. Any such verification or lack of such verification by the Transaction Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Transaction Authority thereunder.

B. DOCUMENTS

2.8 Contents of the RFQCP

This RFQCP comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.10.

Request for Qualification cum Proposal

- Section 1. Introduction
- Section 2. Instructions to Bidders
- Section 3. Criteria for Evaluation of Bids
- Section 4. Fraud & Corrupt Practices
- Section 5. Pre Bid Conference
- Section 6. Miscellaneous

Appendices

- I. Letter comprising the Bid
- II. Bank Guarantee for Bid Security
- III. Power of Attorney for signing of Bid
- IV. Power of Attorney for Lead Member of Consortium
- V. Joint Bidding Agreement for Consortium
- VI. Guidelines of the Department of Disinvestment

VII. Letter comprising the Financial Bid

The draft Concession Agreement and the Information Memorandum provided by the Transaction Authority as part of the Bidding Documents shall be deemed to be part of this RFQCP.

2.9 Clarifications

- 2.9.1 Bidders requiring any clarification on the RFQCP may notify the Transaction Authority in writing by speed post/ courier/ special messenger and by e-mail in accordance with Clause 1.2.11. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3. The Transaction 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. The responses will be sent by e-mail. The Transaction Authority will forward all the queries and its responses thereto, to all purchasers of the RFQCP / Bidders without identifying the source of queries. Any clarification thus issued will be posted on the website of the Transaction Authority.
- 2.9.2 The Transaction Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Transaction Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Transaction Authority to respond to any question or to provide any clarification.
- 2.9.3 The Transaction Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Transaction Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Transaction Authority or its employees or representatives shall not in any way or manner be binding on the Transaction Authority.

2.10 Amendment of RFQCP

- 2.10.1 At any time prior to the deadline for submission of Bid, the Transaction Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFQCP by the issuance of Addenda.
- 2.10.2 Any Addendum thus issued will be posted on the website of the Transaction Authority.
- 2.10.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Transaction Authority may, in its sole discretion, extend the Bid Due Date.

C. PREPARATION AND SUBMISSION OF BID

2.11 Language

The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Bid may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

2.12 Format and signing of Bid

- 2.12.1 The Bidder shall provide all the information sought under this RFQCP. The Transaction Authority will evaluate those Bids that are received in the required formats and complete in all respects. Incomplete and /or conditional Bids may be liable for rejection.
- 2.12.2 The Bidder shall prepare 1 (one) original set of the Technical Bid (together with the documents required to be submitted pursuant to this RFQCP) and clearly marked as "ORIGINAL". In addition, the Bidder shall submit 1 (one) copy of such Bid and documents, which shall be marked as "COPY". The Bidder shall also provide 2 (two) soft copies thereof on a Compact Disc (CD). In the event of any discrepancy between the original and the copy, the original shall prevail.
- 2.12.3 The Bid and its copy shall be typed or written in indelible ink. It shall be signed by the authorised signatory of the Bidder who shall also initial each page of the Bid (including each Appendix and Annex) in blue ink. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid. The Bid shall contain page numbers and shall be bound together in a manner that does not allow replacement of any page.

2.13 Sealing and Marking of Bids

- 2.13.1 The Bidder shall submit the Technical and Financial Capacity in the format specified at Appendix-I, together with the documents specified in Clause 2.13.2, and seal it in an envelope and mark the envelope as "TECHNICAL BID". The Bidder shall seal the original and the copy of the Bid, together with their respective enclosures, in separate envelopes duly marking the envelopes as "ORIGINAL" and "COPY". The envelopes shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.13.2 , 2.13.3 and 2.13.4.
- 2.13.2 The documents accompanying the Bid shall be placed in the Technical Bid envelope. Each envelope shall contain:

- (i) Bid in the prescribed format (Appendix-I) along with Annexes and supporting documents;
- (ii) Bid Security in the format at Appendix–II;
- (iii) Power of Attorney for signing the Bid as per the format at Appendix-III;
- (iv) if applicable, the Power of Attorney for Lead Member of Consortium as per the format at Appendix-IV;
- (v) copy of the Jt. Bidding Agreement, in case of a Consortium, substantially in the format at Appendix-V;
- (vi) copy of Memorandum and Articles of Association, if the Bidder is a body corporate, and if a partnership then a copy of its partnership deed;
- (vii) copies of Bidder’s duly audited balance sheet and profit and loss account for the preceding five years; and
- (viii) A copy of the Concession Agreement with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (iii) hereinabove.
- (ix) 2 (two) soft copies of the Technical Bid on a Compact Disc (CD); and
- (x) any other sector or project-specific requirement that may be specified by the Transaction Authority.

Each of the envelopes shall clearly bear the following identification:

“Bid for the Selection of Developer for Integrated Sports Complex at Tirupati in Andhra Pradesh on Public Private Partnership (PPP) Project”

and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand corner of each of the envelopes.

2.13.3 The Bidder shall submit the Financial Bid (the “**Financial Bid**”) in the format specified at Appendix – VII, seal it in an envelope and mark the envelope as “Financial Bid for Selection of Developer for Integrated Sports Complex at Tirupati in Andhra Pradesh on Public Private Partnership (PPP) Project” and in accordance with Clause 2.13.4. The financial model in the form of an unlocked, editable Microsoft® Excel workbook / similar software shall be furnished in a Compact Disc. The financial model shall contain the justification of the annuity quoted and shall be used by the Transaction Authority to seek any clarifications, if required.

2.13.4 The envelopes specified in Clause 2.13.2 and 2.13.3 shall be placed in an outer envelope, which shall be sealed. The outer envelope shall clearly bear the following identification: “Bid for Selection of Developer for Integrated Sports Complex at Tirupati in Andhra Pradesh on Public Private Partnership (PPP) Project” 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 each of the envelopes.

2.13.5 Each of the envelopes shall be addressed to:

DESIGNATION: Vice Chairman & Managing Director
ADDRESS: Infrastructure Corporation of Andhra Pradesh Limited (INCAP)
10-2-1, III Floor, FDC Complex, AC Guards,
Hyderabad – 500 028, India
TELEPHONE NO: +91-40-2332 1771/2
E-MAIL ADDRESS: incap@incap.co.in

2.13.6 If the envelopes are not sealed and marked as instructed above, the Transaction Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid and consequent losses, if any, suffered by the Bidder.

2.13.7 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.14 Bid Due Date

2.14.1 Bids should be submitted before 1500 hours IST on the Bid Due Date, at the address provided in Clause 2.13.5 in the manner and form as detailed in this RFQCP. A receipt thereof should be obtained from the person specified in Clause 2.13.5.

2.14.2 The Transaction Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Bidders.

2.15 Late Bids

Bids received by the Transaction Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

2.16 Modifications/ substitution/ withdrawal of Bids

2.16.1 The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the Transaction Authority prior to the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bid on or after the Bid Due Date.

2.16.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.13, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

2.16.3 Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Transaction Authority, shall be disregarded.

2.17 Contents of the Financial Bid

2.17.1 The Financial Bid shall be furnished in the format at Appendix–VII and shall consist of an Annuity, to be quoted by the Bidder. The Bidder shall specify (in Indian Rupees) the Annuity, required by him, to undertake the Project in accordance with this RFQCP and the provisions of the Concession Agreement.

2.17.2 Generally, the Project will be awarded to the Lowest Bidder.

2.17.3 The opening of Financial Bids and acceptance thereof shall be substantially in accordance with this RFQCP.

2.17.5 The financial bid shall also include the financial model in the form of an unlocked, editable Microsoft® Excel workbook / similar software shall be furnished in a Compact Disc. The financial model shall contain the justification of the annuity quoted.

2.18 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 Transaction Authority.

2.19 Bid Security

2.19.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 1.2.4 and 2.1.7 hereinabove in the form of a bank guarantee issued by a nationalized bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crore (Rs. one thousand crore), in favour of the Transaction Authority in the format at Appendix–II (the “**Bank Guarantee**”) and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Transaction Authority and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934. The Transaction Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

2.19.3 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Transaction Authority as non-responsive.

2.19.4 Save and except as provided in Clauses 1.2.4 and 1.2.5 above, the Bid Security of unsuccessful Bidders will be returned by the Transaction Authority, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or

when the Bidding process is cancelled by the Transaction Authority, and in any case within 60 (sixty) days from the Bid Due Date.

- 2.19.5 The Selected Bidder's Bid Security will be returned, without any interest, upon the Concessionaire signing the Concession Agreement and furnishing the Performance Security in accordance with the provisions thereof. The Transaction Authority may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Concession Agreement.
- 2.19.6 The Transaction Authority shall be entitled to forfeit and appropriate the Bid Security as Damages inter alia in any of the events specified in Clause 2.19.7 herein below. The Bidder, by submitting its Bid pursuant to this RFQCP, shall be deemed to have acknowledged and confirmed that the Transaction 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 RFQCP. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.19.7 The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Transaction Authority under the Bidding Documents and/ or under the Concession Agreement, or otherwise, if
- (a) a Bidder submits a non-responsive Bid;
 - (b) a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFQCP;
 - (c) a Bidder withdraws its Bid during the period of Bid validity as specified in this RFQCP and as extended by mutual consent of the respective Bidder(s) and the Transaction Authority;
 - (d) the Selected Bidder fails within the specified time limit -
 - (i) to sign and return the duplicate copy of LOA; or
 - (ii) to sign the Concession Agreement; or
 - (iii) to furnish the Performance Security within the period prescribed therefor in the Concession Agreement.
 - (e) the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security.

D. EVALUATION PROCESS

2.20 Opening and Evaluation of Bids

- 2.20.1 The Transaction Authority shall open the Bids at 1600 hours IST on the Bid Due Date, at the place specified in Clause 2.13.5 and in the presence of the Bidders who choose to attend.
- 2.20.2 Bids for which a notice of withdrawal has been submitted in accordance with Clause 2.16 shall not be opened.
- 2.20.3 The Transaction Authority will subsequently examine and evaluate Bids in accordance with the provisions set out in Section 3.

- 2.20.4 Bidders are advised that selection of Bidders will be entirely at the discretion of the Transaction Authority. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 2.20.5 Any information contained in the Bid shall not in any way be construed as binding on the Transaction Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.
- 2.20.6 The Transaction Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.
- 2.20.7 If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Transaction Authority may, in its sole discretion, exclude the relevant project from computation of the Experience Score of the Bidder.
- 2.20.8 In the event that a Bidder claims credit for an Eligible Project, and such claim is determined by the Transaction Authority as incorrect or erroneous, the Transaction Authority shall reject such claim and exclude the same from computation of the Experience Score, and may also, while computing the aggregate Experience Score of the Bidder, make a further deduction equivalent to the claim rejected hereunder. Where any information is found to be patently false or amounting to a material misrepresentation, the Transaction Authority reserves the right to reject the Bid in accordance with the provisions of Clause 2.7.

2.21 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 Transaction Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Transaction Authority will treat all information, submitted as part of Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Transaction 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 Transaction Authority or as may be required by law or in connection with any legal process.

2.22 Tests of responsiveness

- 2.22.1 Prior to evaluation of Bids, the Transaction Authority shall determine whether each Bid is responsive to the requirements of the RFQCP. A Bid shall be considered responsive if:

- (a) it is received as per format at Appendix-I;
- (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.14.2;
- (c) it is signed, sealed, bound together in hard cover, and marked as stipulated in Clauses 2.12 and 2.13;
- (d) it is accompanied by the Power of Attorney as specified in Clause 2.2.5, and in the case of a Consortium, the Power of Attorney as specified in Clause 2.2.6 (c);
- (e) it contains all the information and documents (complete in all respects) as requested in this RFQCP;
- (f) it contains information in formats same as those specified in this RFQCP;
- (g) it contains certificates from its statutory auditors in the formats specified at Appendix-I of the RFQCP for each Eligible Project;
- (h) it contains the Demand Draft towards the cost of the RFQCP process as specified in Clause 1.2.1;
- (i) it is accompanied by the Jt. Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.2.6(g);
- (j) it does not contain any condition or qualification; and
- (k) it is not non-responsive in terms hereof.

2.22.2 The Transaction Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Transaction Authority in respect of such Bid. Provided, however, that the Transaction Authority may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Bid.

2.23 Clarifications

2.23.1 To facilitate evaluation of Bids, the Transaction Authority may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by the Transaction Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.23.2 If a Bidder does not provide clarifications sought under Clause 2.23.1 above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Transaction 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 Transaction Authority.

E. QUALIFICATION AND BIDDING

2.24 Short-listing and notification

After the evaluation of Bids, the Transaction Authority would announce a list of short-listed Bidders who will be eligible for participation in the Financial Bid Opening Stage. At the same time, the Transaction Authority would notify the other Bidders that they have not been short-listed. The Transaction Authority will not entertain any query or clarification from Bidders who fail to qualify. The Transaction Authority shall return unopened the Financial Bids of non-qualified bidders.

2.25 Deleted

2.26 Proprietary data

All documents and other information supplied by the Transaction Authority or submitted by the Bidder to the Transaction Authority shall remain or become the property of the Transaction Authority. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Transaction Authority will not return any Bid or any information provided along therewith.

2.27 Correspondence with the Bidder

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

3. CRITERIA FOR EVALUATION

3.1 Evaluation parameters

- 3.1.1 Only those Bidders who meet the eligibility criteria specified in Clauses 2.2.2 and 2.2.3 shall qualify for evaluation under this Section 3. Bidders of firms/ consortia who do not meet these criteria shall be rejected.
- 3.1.2 The Bidder's competence and capability is proposed to be established by the following parameters:
- (a) Technical Capacity; and
 - (b) Financial Capacity.

3.2 Technical Capacity for purposes of evaluation

- 3.2.1 Subject to the provisions of Clause 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 Clauses 3.2.3 and 3.2.4 (the “**Eligible Projects**”):

- Category 1: Project experience on Eligible Projects in Social sector that qualify under Clause 3.2.3
- Category 2: Project experience on Eligible Projects in core sector that qualify under Clause 3.2.3
- Category 3: Construction experience on Eligible Projects in Social sector that qualify under Clause 3.2.4
- Category 4: Construction experience on Eligible Projects in core sector that qualify under Clause 3.2.4

For the purpose of this RFQCP:

- (i) Social sector would be deemed to include sports stadia (both outdoor and indoor), schools, colleges, Universities, hospitals and health care centres; and
 - (ii) core sector would be deemed to include highways / expressways / bridges / tunnels, power, telecom, ports, airports, airfields, railways, metro rail, industrial parks / estates, logistic parks, pipelines, irrigation, golf courses, theme parks, hotels / convention centres, water supply, sewerage, solid waste management and real estate development.
- 3.2.2 Eligible Experience in respect of each category shall be measured only for Eligible Projects.
- 3.2.3 For a project to qualify as an Eligible Project under Categories 1 and 2:
- (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

pursuance of its charter, concession or contract, as the case may be. For the 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 the Eligible Project, a minimum of 26% (twenty six per cent) equity during the entire year for which Eligible Experience is being claimed;
- (c) the capital cost of the project should be more than Rs. 62 crore (Rs. Sixty two crores); and
- (d) the entity claiming experience shall, during the last 10 (ten) financial years preceding the Bid Due Date, have (i) paid for development of the project (excluding the cost of land), and/ or (ii) collected and appropriated the revenues from users availing of non-discriminatory access to or use of fixed project assets, such as revenues from highways, airports, ports and railway infrastructure, but shall not include revenues from sale or provision of goods or services such as electricity, gas, petroleum products, telecommunications or fare/freight revenues and other incomes of the company owning the Project.

- 3.2.4 For a project to qualify as an Eligible Project under Categories 3 and 4, the Bidder should have paid for execution of its construction works or received payments from its client(s) for construction works executed, fully or partially, during the 5 (five) financial years immediately preceding the Bid Due Date, and only the payments (gross) actually made or received, as the case may be, during such 5 (five) financial years shall qualify for purposes of computing the Experience Score. However, payments/receipts of less than Rs. 62, 00,00,000 (Rs. Sixty two crores) shall not be reckoned as payments/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 shall not be included hereunder.
- 3.2.5 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 Consortium) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.
- 3.2.6 Subject to the provisions of Clause 3.2.7, a Bidder's experience shall be measured and stated in terms of a score (the "**Experience Score**"). The Experience Score for an Eligible Project in a given category would be the eligible payments and/or receipts specified in Clause 2.2.2 (A), divided by one crore and then multiplied by the applicable factor in Table 3.2.6 below. In case the Bidder has experience across different categories, the score for each category would be computed as above and then aggregated to arrive at its Experience Score.

Table 3.2.6: Factors for Experience across categories

Categories	Factor
Category 1	1.25
Category 2	1.00
Category 3	0.75
Category 4	0.50

- 3.2.7 The Experience Score determined in accordance with Clause 3.2.6 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. The experience score thus computed as per clauses 3.2.6 and 3.2.7 would be assigned a weightage of 80% for the overall evaluation. The bidder with the highest experience score would be awarded 80 marks and the scores of the remaining bidders would be adjusted proportionately on the scale of 80. For example, if the highest bidder's experience score is 400, then 80 marks would be awarded to that bidder and for a bidder with experience score of 280, the corresponding score would be $(80/400*280=56)$
- 3.2.8 Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.
- 3.2.9 The bidders shall make a presentation on the proposed means and ways of using the facilities and generating revenue streams backed up by the market study and financial model. The following aspects of the presentation would be evaluated as per the weightages given below (“**Presentation Score**”).

Table 3.2.7: Presentation Evaluation

Categories	Factor
Means of promoting and conducting Sporting events in the facilities	15%
Plans for Non – sporting/commercial events	5%

3.3 Details of Experience

- 3.3.1 The Bidder should furnish the details of Eligible Experience for the last 10 (ten) financial years immediately preceding the Bid Due Date.
- 3.3.2 The Bidders must provide the necessary information relating to Technical Capacity as per format at Annex-II of Appendix-I.

- 3.3.3 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-I.

3.4 Financial information for purposes of evaluation

- 3.4.1 The Bid must be accompanied by the Audited Annual Reports of the Bidder (of each Member in case of a Consortium) for the last 5 (five) financial years, preceding the year in which the Bid is made.
- 3.4.2 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.
- 3.4.3 The Bidder must establish the minimum Net Worth specified in Clause 2.2.2 (B), and provide details as per format at Annex-III of Appendix-I.

3.5 Short-listing of Bidders

- 3.5.1 The credentials of eligible Bidders shall be measured in terms of their Experience Score and Presentation Score. The sum total of the Experience and Presentation Scores for all Eligible Projects and the presentation shall be the 'Aggregate Experience Score' of a particular Bidder. In case of a Consortium, the Aggregate Experience Score of each of its Members, who have an equity share of at least 26% in such Consortium, shall be summed up for arriving at the combined Aggregate Experience Score of the Consortium.
- 3.5.2 The Bidders shall then be ranked on the basis of their respective Aggregate Experience Scores and short-listed for opening of Financial Bids. The Transaction Authority expects to short-list up to 6 (six) Qualified Bidders (the "**Qualified Bidders**") for participation in the Financial Bid Opening Stage (the "**Financial Bid Opening Stage**"). The Transaction Authority, however, reserves the right to increase the number of short-listed qualified Bidders by adding additional Bidder(s).
- 3.5.3 The Transaction Authority may, in its discretion, maintain a reserve list of qualified Bidders who may be invited to substitute the short-listed Bidders in the event of their withdrawal from the Bidding Process or upon their failure to conform to the conditions specified herein; provided that a substituted Bidder shall be given at least 30 (thirty) days to submit its Bid.

3.6 Opening of Financial Bids

- 3.6.1 The Transaction Authority shall open the Financial Bids at 1600 hours on the date intimated separately to all the Qualified Bidders, at the place specified in Clause 2.13.5 and in the presence of the Qualified Bidders who choose to attend.

- 3.6.2 The Transaction Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.
- 3.6.3 To facilitate evaluation of the Financial Bids, the Transaction Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.7 Evaluation of Financial Bids

- 3.7.1 Subject to the provisions of Clause 2.7, the Bidder whose Bid is adjudged as responsive in terms of Clause 2.22 and who quotes the lowest Annuity sought from the Authority, shall ordinarily be declared as the Selected Bidder (the “**Selected Bidder**”). In the event that the Transaction Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 3.7.2 In the event that two or more Bidders quote the same amount of Annuity, (the “**Tie Bidders**”), the Transaction Authority shall identify the Selected Bidder who scores the maximum in the Aggregate Experience Score.
- 3.7.3 In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance (the “**first round of bidding**”), the Transaction Authority may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Lowest Bidder (the “**second round of bidding**”). If in the second round of bidding, only one Bidder matches the Lowest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Lowest Bidder in the second round of bidding, then the Bidder whose Bid was lower as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth lowest Bidders in the first round of bidding offer to match the said Lowest Bidder in the second round of bidding, the said third lowest Bidder shall be the Selected Bidder.
- 3.7.4 In the event that no Bidder offers to match the Lowest Bidder in the second round of bidding as specified in Clause 3.3.3, the Transaction Authority may, in its discretion, invite fresh Bids (the “**third round of bidding**”) from all Bidders except the Lowest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are lower than the Bid of the second Lowest Bidder in the first round of bidding.
- 3.7.5 After selection, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Transaction 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 Transaction 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, and the next eligible Bidder may be considered.

- 3.7.6 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Concessionaire to execute the Concession 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 Concession Agreement.

3.8 Contacts during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Transaction 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 Transaction Authority and/ or their employees/ representatives on matters related to the Bids under consideration.

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 to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Transaction Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, 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 Transaction 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 Transaction Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise.
- 4.2 Without prejudice to the rights of the Transaction Authority under Clause 4.1 hereinabove and the rights and remedies which the Transaction Authority may have under the LOA or the Concession Agreement, or otherwise, if a Bidder or Concessionaire, as the case may be, is found by the Transaction 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 Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFQ or RFP or RFQCP issued by the Transaction Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be, is found by the Transaction 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, as the case may be.
- 4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the Transaction Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Transaction Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as

permitted under sub clause (d) of Clause 2.2.1, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Transaction Authority in relation to any matter concerning the Project;

- (b) “**fraudulent practice**” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- (c) “**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 Transaction 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.

5. PRE-BID CONFERENCE

- 5.1 A Pre-Bid Conference of the interested parties shall be convened at the designated date, time and place. Interested bidders shall participate in the Pre-Bid Conference on producing a letter from their organization attesting their representation. A maximum of three representatives of each Bidder shall be allowed to participate.
- 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 Transaction Authority. The Transaction 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.

6. MISCELLANEOUS

- 6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the courts in the State in which the Transaction Authority has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2 The Transaction Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) qualify or not to qualify any Bidder and/ or to consult with any Bidder in order to receive clarification or further information;
 - (d) retain any information and/ or evidence submitted to the Transaction Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Transaction Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

APPENDICES

APPENDIX-I
Letter Comprising the Bid
(Refer Clause 2.13.2)

Dated:

To,

.....
.....
.....

Sub: Bid for the selection of developer for an integrated sports complex at Tirupati in Andhra Pradesh on PPP basis.

Dear Sir,

1. With reference to your RFQCP document dated, I/we, having examined the RFQCP document and understood its contents, hereby submit my/our Bid for the aforesaid project. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Transaction Authority will be relying on the information provided in the Bid and the documents accompanying such Bid for selection of the Concessionaire for the aforesaid project, and we certify that all information provided in the Bid and in Annexes I to V is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Concessionaire for the development, construction, operation and maintenance of the aforesaid Project.
4. I/ We shall make available to the Transaction Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/ We acknowledge the right of the Transaction 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 three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the RFQCP document, including any Addendum issued by the Transaction Authority;
 - (b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) and 2.2.1(d) of the RFQCP document;

- (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFQCP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Transaction 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 RFQCP document, 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.
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 2.7 of the RFQCP document.
9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(s) the Technical Eligibility and Net Worth criteria and meet(s) all the requirements as specified in the RFQCP document and am/ are qualified to submit a Bid.
10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium submitting a Bid for the Project.
11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a court 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 Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a court.
13. I/ We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Consortium or against our/ their Associates or against our CEO or any of our directors/ managers/ employees.
14. I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GOI vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply *mutatis mutandis* to the Bidding Process. A copy of the aforesaid guidelines form part of the RFQCP at Appendix-VI thereof.

15. I/We further certify that we/ any Member of the Consortium or any of our/ their Associates are not barred by the Central Government/ State Government or any entity controlled by it, from participating in any project (BOT or otherwise), and no bar subsists as on the date of Bid.

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

17. I/ We acknowledge and undertake that our Consortium and those of its Members who shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid-up equity of the Concessionaire; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.

18. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of Bid under and in accordance with the RFQCP, I/We shall inform the Transaction Authority forthwith along with all relevant particulars and the Transaction Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Transaction Authority being liable to us in any manner whatsoever.

19. I/ We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 2013, or shall incorporate as such prior to execution of the Concession Agreement.

20. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-I of the RFQCP document, and duly signed, is enclosed. The power of attorney for signing of Bid and the power of attorney for Lead Member of consortium, as per format provided at Appendix III and IV respectively of the RFQCP, are also enclosed.

21. I/ We understand that the selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 2013, or shall incorporate as such prior to execution of the Concession Agreement.

22. I/ We hereby confirm that we shall comply with the O&M requirements specified in Clause 2.2.3.

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23. 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 Transaction Authority in connection with the selection of Bidders, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

24. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Concession 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.

25. I/ We have studied all the Bidding Documents carefully and also surveyed the project site. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Transaction Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.

26. I/ We agree and undertake to abide by all the terms and conditions of the RFQCP document. 27. I/ We certify that in terms of the RFQCP, my/our Net Worth is Rs. (Rupees) and the Aggregate Experience Score is (in figures) (in words).

28. We agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.

29. I/ We offer a Bid Security of Rs..... (Rupees only) to the Transaction Authority in accordance with the RFQCP Document.

30. The Bid Security in the form of a Bank Guarantee is attached.

31. The documents accompanying the Bid, as specified in Clause 2.13.2 of the RFQCP, have been submitted in a separate envelope and marked as "Enclosures of the Bid".

32. 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 / Concession is not awarded to me/us or our Bid is not opened or rejected.

33. The Annuity has been quoted by me/us in the Financial Bid after taking into consideration all the terms and conditions stated in the RFQCP, draft Concession Agreement, our own estimates of costs and revenues and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.

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

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

Yours faithfully,

Date: (Signature, name and designation of the Authorised Signatory)

Place: Name and seal of the Bidder/ Lead Member

ANNEX-I
Particulars of the 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 Company including details of its social sector facilities and proposed role and responsibilities in this Project:
3. Particulars of individual(s) who will serve as the point of contact/ communication for the Bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:
4. Particulars of the Authorised Signatory of the Bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number:
5. In case of a Consortium:
 - (a) The information above (1-4) should be provided for all the Members of the Consortium.
 - (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.2.6(g) should be attached to the Bid.
 - (c) Information regarding the role of each Member should be provided as per table below:

Appendix I
Annex-I

Sl. No.	Name of Member	Role ^{\$}	Percentage of equity in the Consortium ^{\$\$}
1.			
2.			
3.			
4.			

^{\$} The role of each Member, as may be determined by the Applicant, should be indicated in accordance with Clause 2.2.6 (d) and instruction 4 at Annex-IV.

^{\$\$}The percentage of equity should be in accordance with Clause 2.2.6 (a), (c) and (g).

6. The following information shall also be provided for the Bidder, including each Member of the Consortium:

Name of Bidder/ member of Consortium:

No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the Consortium been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise)?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid?		
3.	Has the Bidder/ constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

7. A statement by the Bidder and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary):

ANNEX-II
Technical Capacity of the Bidder®
(Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the RFQCP)

Bidder type [#]	Member Code [¥]	Project Code ^{¥¥}	Cate- gory ^{\$}	Experience [£] (Equivalent Rs. crore) ^{\$\$}			Experience Score ^{££}
				Payments made/ received for construction of Eligible Projects in Categories 3 and 4 (5)	Payments made for developme nt of Eligible Projects in Categories 1 and 2 (6)	Revenues appropriated from Eligible Projects in Categories 1 and 2 (7)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Single entity Bidder		A					
		B					
		C					
		D					
Consortium Member 1		1a					
		1b					
		1c					
		1d					
Consortium Member 2		2a					
		2b					
		2c					
		2d					
Consortium Member 3		3a					
		3b					
		3c					
		3d					
Consortium Member 4		4a					
		4b					
		4c					
		4d					
Aggregate Experience Score =							

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Annex-II

[@] Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate specified in Clause 2.2.9 and/ or by a project company eligible under Clause 3.2.3(b). In case of Categories 1 and 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 3.2.3(c) and for Categories 3 and 4, include only those projects where the payments made/received exceed the amount specified in Clause 3.2.4. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.

[#]A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Member. In case of a Consortium, the row titled Single entity Bidder may be ignored. In case credit is claimed for an Associate, necessary evidence to establish the relationship of the Bidder with such Associate, in terms of Clause 2.2.9, shall be provided.

[¥]Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member, OM means Other Member.

^{¥¥}Refer Annex-IV of this Appendix-I. Add more rows if necessary.

^{\$} Refer Clause 3.2.1.

[£]In the case of Eligible Projects in Categories 1 and 2, the figures in columns 6 and 7 may be added for computing the Experience Score of the respective projects. In the case of Categories 3 and 4, 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 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 60 (sixty) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

^{££}Divide the amount in the Experience column by one crore and then multiply the result thereof by the applicable factor set out in Table 3.2.6 to arrive at the Experience Score for each Eligible Project. In the case of an Eligible Project situated in an OECD country, the Experience Score so arrived at shall be further multiplied by 0.5, in accordance with the provisions of Clause 3.2.7, and the product thereof shall be the Experience Score for such Eligible Projects.

ANNEX-III
Financial Capacity of the Bidder

(Refer to Clauses 2.2.2(B), 2.2.4 (ii) and 3.4 of the RFQCP)

(In Rs. crore[§])

Bidder type \$\$	Member Code [£]	Net Cash Accruals					Net Worth ^{££}
		Year 1 (3)	Year 2 (4)	Year 3 (5)	Year 4 (6)	Year 5 (7)	
(1)	(2)						
Single entity Bidder							
Consortium Member 1							
Consortium Member 2							
Consortium Member 3							
Consortium Member 4							
TOTAL							

Name & address of Bidder's Bankers:

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

^{§§}A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Bidder may be ignored.

[£]For Member Code, see instruction 4 at Annex-IV of this Appendix-I.

^{££}The Bidder should provide details of its own Financial Capacity or of an Associate specified in Clause 2.2.9.

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Annex-III

Instructions:

1. The Bidder/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 5 (five) years preceding the Bid Due Date. The financial statements shall:
 - (a) reflect the financial situation of the Bidder or Consortium Members and its/ their Associates where the Bidder is relying on its Associate's financials;
 - (b) be audited by a statutory auditor;
 - (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 or accepted).
2. Net Cash Accruals shall mean Profit After Tax + Depreciation.
3. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
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 within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.
5. In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.2.6 (g) of the RFQCP document.
6. The Bidder shall provide an Auditor's Certificate specifying the Net Worth of the Bidder and also specifying the methodology adopted for calculating such Net Worth in accordance with Clause 2.2.4 (ii) of the RFQCP document.

ANNEX-IV
Details of Eligible Projects*(Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the RFQCP)***Project Code:****Member Code:**

Item	Refer Instruction	Particulars of the Project
(1)	(2)	(3)
Title & nature of the project		
Category	5	
Year-wise (a) payments received/ made for construction, (b) payments made for development of PPP projects and/ or (c) revenues appropriated	6	
Entity for which the project was constructed/ developed	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	
Whether credit is being taken for the Eligible Experience of an Associate (Yes/ No)	15	

Instructions:

- Bidders are expected to provide information in respect of each Eligible Project in this Annex. The projects cited must comply with the eligibility criteria specified in Clause 3.2.3 and 3.2.4 of the RFQCP, as the case may be. Information provided in this section is intended to serve as a back up for information provided in the Bid. Bidders should also refer to the Instructions below.
- For a single entity Bidder, the Project Codes would be a, b, c, d etc. In case the Bidder is a Consortium then for Member 1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and so on.
- A separate sheet should be filled for each Eligible Project.

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Annex-IV

4. Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member; and OM means Other Member. In case the Eligible Project relates to an Associate of the Bidder or its Member, write “Associate” along with Member Code.
5. Refer to Clause 3.2.1 of the RFQCP for category number.
6. The total payments received/ made and/or revenues appropriated 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) or ten (10) financial years in accordance to the clause 3.2.3 and 3.2.4 . 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 2.2.12). For Categories 1 and 2, expenditure on development of the project and/or revenues appropriated, as the case may be, should be provided, but only in respect of projects having an estimated capital cost exceeding the amount specified in Clause 3.2.3(c). In case of Categories 3 and 4, payments made/ received only in respect of construction should be provided, but only if the amount paid/received exceeds the minimum specified in Clause 3.2.4. Payment for construction works should only include capital expenditure, and should not include expenditure on repairs and maintenance.
7. In case of projects in Categories 1 and 2, particulars such as name, address and contact details of owner/ Transaction Authority/ Agency (i.e. concession grantor, counter party to PPA, 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 the Eligible Project. Refer to Clauses 3.2.3 and 3.2.4
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 be indicated.
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 Clause 3.2.3).
11. Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner whatsoever.

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Annex-IV

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/ Member/Associate may provide the requisite certification.
12. If the Bidder is claiming experience under Categories 1 & 2[£], it should provide a certificate from the statutory auditor of the Bidder, or its Associate, in the format below:

Certificate from the Statutory Auditor regarding PPP projectsΦ

Based on its books of accounts and other published information authenticated by it, this is to certify that (name of the Bidder/Member/Associate) 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 up and subscribed equity capital) of the project company from (date) to (date)[¥]. The project was/is 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 Rs. cr. (Rupees crore) of capital expenditure was incurred during the past five financial years as per year-wise details noted below:

.....
.....

We also certify that the eligible annual revenues collected and appropriated by the aforesaid project company in terms of Clauses 3.2.1 and 3.2.3 (d) of the RFQCP during the past five financial years were Rs. cr. as per year-wise details noted below:

.....
.....

Name of the audit firm:

Seal of the audit firm:

Date:

(Signature, name and designation
of the authorised signatory)

[§] 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 3.2.1 of the RFQCP.

Φ Provide Certificate as per this format only. Attach explanatory notes to the Certificate, if necessary. In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant or its Associate may provide the certificates required under this RFQCP.

[€] 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/ or owned the (name of project) from (date) to (date)."

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Annex-IV

14. If the Bidder is claiming experience under Category 3 & 4*, it should provide a certificate from its statutory auditors or the client in the format below:

Certificate from the Statutory Auditor/ Client regarding construction works^Φ

Based on its books of accounts and other published information authenticated by it, {this is to certify that (name of the Bidder/Member/Associate) was engaged by (title of the project company) to execute (name of project) for (nature of project)}^Ψ. 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 (name of the Bidder/ Member/ Associate) received/paid Rs. cr. (Rupees crore) by way of payment for the aforesaid construction works.

We further certify that the total estimated capital cost of the project is Rs. cr. (Rupees crore), of which the Bidder/Member/Associate received/paid Rs. cr. (Rupees crore), in terms of Clauses 3.2.1 and 3.2.4 of the RFQCP, during the past five financial years as per year-wise details noted below:

.....
.....

{It is further certified that the payments/ receipts indicated above are restricted to the share of the Bidder who undertook these works as a partner or a member of joint venture/ consortium.}[▲]

Name of the audit firm:

Seal of the audit firm:

(Signature, name and designation of the authorised signatory).

Date:

* Refer Clauses 3.2.1 and 3.2.4 of the RFQCP.

Φ Provide Certificate as per this format only. Attach explanatory notes to the Certificate, if necessary. In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant or its Associate may provide the certificates required under this RFQCP.

Ψ In case the Applicant owned the Eligible Project and engaged a contractor for undertaking the construction works, this language may be modified to read: “this is to certify that (name of Applicant/ Member/ Associate) held 26% or more of the paid up and subscribed share capital in the..... (name of Project company) when it undertook construction of the (name of Project) through (name of the contractor).

▲ This certification should only be provided in case of jobs/ contracts, which are executed as part of a partnership/ joint venture/ consortium. The payments indicated in the certificate should be restricted to the share of Applicant in such partnership/ joint venture/ consortium. This portion may be omitted if the contract did not involve a partnership/ joint venture/ consortium. In case where work is not executed by partnership/ joint venture/ consortium, this paragraph may be deleted.

Appendix I
Annex-IV

15. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.2.9, the Bidder should also provide a certificate in the format below:

Certificate from the Statutory Auditor/ Company Secretary regarding Associate[§]

Based on the authenticated record of the Company, this is to certify that more than 50% (fifty per cent) of the subscribed and paid up voting equity of (name of the Applicant/ Consortium Member/ Associate) is held, directly or indirectly[£], by (name of Associate/ Applicant/ Consortium Member). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Associate in terms of Clause 2.2.9 of the RFQCP.

A brief description of the said equity held, directly or indirectly, is given below:

{Describe the share-holding of the Applicant/ Consortium Member and the Associate. In the event the Associate is under common control with the Applicant/ Consortium Member, the relationship may be suitably described and similarly certified herein. }

Name of the audit firm:

Seal of the audit firm:

Date:

(Signature, name and designation of the authorised signatory).

[§] In the event that the Bidder/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

[£] In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% in order to establish that the chain of “control” is not broken.

16. 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 Score[©].

[©] Refer Clause 3.2.6 of the RFQCP.

ANNEX-V
Statement of Legal Capacity

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

Ref. Date:

To,

.....
.....
.....

Dear Sir,

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

We have agreed that (insert member’s name) will act as the Lead Member of our consortium.[§]

We have agreed that (insert individual’s name) will act as our representative/ will act as the representative of the consortium on its behalf[§] and has been duly authorized to submit the RFQCP. 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-II
Bank Guarantee for Bid Security
(Refer Clauses 2.1.7 and 2.19.1)

B.G. No. Dated:

1. In consideration of you,, having its office at, (hereinafter referred to as the “Transaction Authority”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of (a company registered under the Companies Act, 2013) and having its registered office at (and acting on behalf of its Consortium) (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the Project on Annuity basis (hereinafter referred to as “the Project”) pursuant to the RFQCP Document dated issued in respect of the Project and other related documents including without limitation the draft concession agreement (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at and one of its branches at (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of the RFQCP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFQCP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Transaction Authority an amount of Rs. (Rupees only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Transaction Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Transaction Authority is disputed by the Bidder or not, merely on the first demand from the Transaction Authority stating that the amount claimed is due to the Transaction Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including

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failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. (Rupees only)

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

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

Signed and Delivered by Bank

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

(Signature of the Authorised Signatory)

(Official Seal)

APPENDIX-III
Power of Attorney for signing of Bid[§]
(Refer Clause 2.2.5)

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr/ Ms (name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for pre-qualification and submission of our bid for the Project proposed or being developed by the (the "Transaction Authority") including but not limited to signing and submission of all applications, bids and other documents and writings, participate in Pre-Bids and other conferences and providing information/ responses to the Transaction Authority, representing us in all matters before the Transaction Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Transaction Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Concession Agreement with the Transaction Authority.

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

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

For
.....

(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

(Notarised)

[§] To be submitted in original.

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Accepted

.....

(Signature)

(Name, Title and Address of the Attorney)

Notes:

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

APPENDIX-IV
Power of Attorney for Lead Member of Consortium[§]
(Refer Clause 2.2.5)

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

Whereas,,, and (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Qualification cum Proposal document (RFQCP) and other connected documents in respect of the Project, and

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

[§] To be submitted in original.

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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/ Consortium.

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

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

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

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

Witnesses:

1.

2.

.....

(Executants)

(To be executed by all the Members of the Consortium)

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
Joint Bidding Agreement
(Refer Clause 2.13.2)

(To be executed on Stamp paper of appropriate value)

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

AMONGST

1. Limited, a company incorporated under the Companies Act, 2013[¥] and having its registered office at (hereinafter referred to as the “**First Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. Limited, a company incorporated under the Companies Act, 2013 and having its registered office at (hereinafter referred to as the “**Second Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {..... Limited, a company incorporated under the Companies Act, 2013 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)}

AND

4. {..... Limited, a company incorporated under the Companies Act, 2013 and having its registered office at (hereinafter referred to as the “**Fourth Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)}[§]

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

WHEREAS,

(A) THE INFRASTRUCTURE CORPORATION OF ANDHRA PRADESH, established by the Government of Andhra Pradesh as part of the Department of Infrastructure and Investment, represented by its

[¥] A Bidder who is registered abroad may substitute the words, viz “a company registered under the Companies Act, 2013” by the words, viz “a company duly organised and validly existing under the laws of the jurisdiction of its incorporation”. A similar modification may be made in Recital 2, as necessary.

[§] The number of Parties will be shown here, as applicable, subject however to a maximum of 6 (six).

Vice-Chairman & Managing Director and having its principal offices at # 10-2-1, III Floor, FDC Complex, AC Guards, Hyderabad - 500 028 A.P. INDIA(hereinafter referred to as the “**Transaction 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 Qualification cum Proposal No. dated (the “**RFQCP**”) for qualification of bidders for development, operation and maintenance of the Project (the “**Project**”) through public private partnership.

- (B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFQCP document and other bid documents in respect of the Project, and
- (C) It is a necessary condition under the RFQCP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

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 RFQCP.

2. Consortium

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

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “**SPV**”) under the Indian Companies Act, 2013 for entering into a Concession Agreement with the Tirupati Urban Development Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

4. Role of the Parties

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

- (a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding

Process and until the Appointed Date under the Concession Agreement when all the obligations of the SPV shall become effective;

- (b) Party of the Second Part shall be {the Technical Member of the Consortium;}

- {(c) Party of the Third Part shall be the Financial Member of the Consortium; and}

- {(d) Party of the Fourth Part shall be the Operation and Maintenance Member/ Other Member of the Consortium.}

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 RFQCP, and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession Agreement.

6. Shareholding in the SPV

- 6.1 The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:

First Party:

Second Party:

{Third Party:}

{Fourth Party:}

- 6.2 The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the date of commercial operation of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and Net Worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the RFQCP.

- 6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed and paid up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.

- 6.4 The Parties undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times until the second anniversary of the commercial operation date of the Project.
- 6.5 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.

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 Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
- (i) require any consent or approval not already obtained;
 - (ii) violate any Applicable Law presently in effect and having applicability to it;
 - (iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

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

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not qualified or upon return of the Bid Security by the Transaction Authority to the Bidder, 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 Transaction Authority.

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

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of
LEAD MEMBER by:

SECOND PART

(Signature)
(Name)
(Designation)
(Address)

(Signature)
(Name)
(Designation)
(Address)

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of
THIRD PART

For and on behalf of
FOURTH PART

(Signature)
(Name)
(Designation)
(Address)

(Signature)
(Name)
(Designation)
(Address)

In the presence of:

1.

2.

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and Transaction Authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

APPENDIX-VI
Guidelines of the Department of Disinvestment
(Refer Clause 2.1.13)

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

Block 14, CGO Complex
New Delhi.
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 Transaction 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 of India.
- (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, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. 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 as yet.
- (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 with EOI.

sd/-

(A.K. Tewari)

Under Secretary to the Government of India

APPENDIX-VII
Letter Comprising the Financial Bid

(On Bidder's letter head)

(Date and Reference)

To,

The Vice chairman & managing director,
Infrastructure Corporation of Andhra Pradesh Ltd. (INCAP),
10-2-1, III Floor, FDC Complex,
AC Guards, Hyderabad – 500 028. A.P. INDIA
Telephone: +91-40-2332 1771/1772
Facsimile: +91-40-2332 1773
Email: incap@incap.co.in

Dear Sir,

Subject: Financial Bid for the Selection of Developer for Integrated Sports
Complex at Tirupati in Andhra Pradesh on Public Private Partnership (PPP) Project

*I/We require an Annuity of Rs. (in words Rupees.....) per
year from the COD of the Project for a duration of 15 years.*

I/We agree that this offer shall remain valid for a period of 120 (One Hundred and
Twenty) days from the BID.

The financial model in the form of a Microsoft® Excel sheet / similar software is
furnished herewith in a Compact Disc.

Yours faithfully, (Signature, name and designation of the authorised signatory)