



**OFFICE OF THE U.P. STATE HIGHWAYS AUTHORITY
(UPSHA)**

Under Public works Department, Govt. of U.P.

RFP Notice No.: 793 / Pravi-18(B.A. O &M Sel.) /2017-18/UPSHA/Lucknow

Dated: 19.07.2019

EXPRESSION OF INTEREST (E-PROCUREMENT)

Uttar Pradesh State Highways Authority (UPSHA) is involved in operation/maintenance of Bareilly-Almora Road (SH-37) on Design, Build, Finance, Operate and Transfer (DBFOT) basis. The details are as given below:-

Details of work	Length (KM)	Total Project Cost (in Crs.)	Name & Address of the Concessionaire	Date of Commercial/Toll Operation	Concession Period
Independent Engineer Services during Operation & Maintenance (O&M) for four laning of Bareilly-Almora of SH-37 from km 0.000 to km 54.000 (Total Length-53.568 Kms.) in the State of Uttar Pradesh on Build, Operate and Transfer BOT basis	53.568	355.00	M/s PNC Bareilly Nainital Highways Pvt. Ltd. having its Registered office at D-57, Vasant Vihar, New Delhi-110057	18.10.2015	25 years

- 1- The Bid documents are available on website:- <http://etender.up.nic.in> from 22-07-2019 to 27-08-2019 up to 14:00 Hours which can be downloaded from the website.
2. Proposal may be uploaded on the above website on or before 27-08-2019 up to 14:00 Hours.
- 3- Technical Bid of bidders will be opened online in the office of UPSHA on 27-08-2019 after 16:00 Hours.
4. Opening of Financial Bid of qualified bidders:- to be notified later on.
5. Scan copy of the Cost of the tender documents and Bid security in the form of bank draft issued by Nationalized bank in the favour of "Chief Executive Officer, Uttar Pradesh State Highways Authority" payable at Lucknow shall be uploaded alongwith tender document.
6. One Copy of the Downloaded tender documents duly sealed & signed including cost of the tender documents/ Bid security as specified in EOI shall be submitted in the office of UPSHA on or before opening of the Technical Bid. For technical Evaluation only documents submitted online will be considered.
7. Registration on above website by consultant is compulsory. For tendering online consultant should have digital signature certificate issued by certifying Authority.
8. Amendments/Corrigendum, if any, will be hosted on the Authority website only.

Office Address:

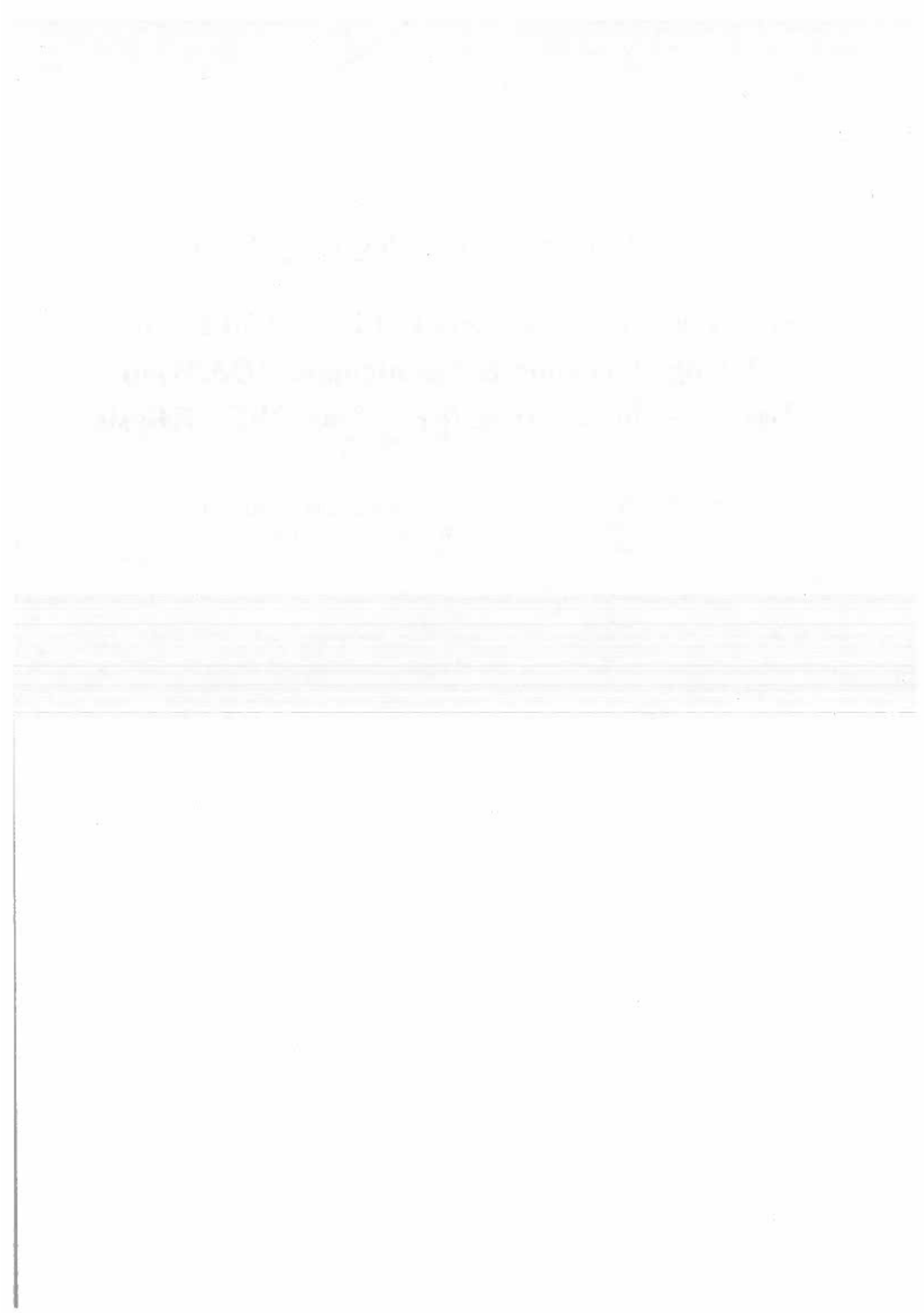
Uttar Pradesh State Highways Authority (UPSHA),
4th floor, Kisan Mandi Bhawan,
Gomtinagar, Lucknow-226010.
Phone: +91-522-4150311
Fax-91-522-4152377,
Website: <http://www.upsha.in>
Email- member@upsha.in


(Awanish Kumar Awasthi)
I.A.S.
Chief Executive Officer

Uttar Pradesh State Highways Authority

**e-Bid Form for Selection of Independent Engineer
during Operation & Maintenance (O&M) of
Bareilly-Almora Road (SH-37) on DBFOT Basis**

eTender Notice No. 793/Pravi-18(B.A. I.E. Sele..-3)June/2017-
18/UPSHA/Lucknow Dated: 19.07.2019



INSTRUCTIONS TO BIDDERS (ITB)

(A) THE BID DOCUMENT

1) Cost of Bid Document/e-Bid Processing Fee

- i) The bidder shall bear all costs associated with the preparation and submission of its e-Bid. UP State Highways Authority hereinafter referred to as "the Authority", will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the e-Bid process.
- ii) This bid document is available on the web site <http://etender.up.nic.in> to enable the bidders to view, download the e-Bid document and submit e-Bids online up to the last date and time mentioned in e-Bid notice / e-bid document against this e-Bid. The bidders shall have to pay cost of bid document / e-Bid processing fee as per e tender Notice through Demand Draft only payable in favor of "Uttar Pradesh State Highways Authority" payable at Lucknow. Scanned copy of which must be enclosed along with the e-Bid. This cost of bid document/ e-Bid processing fee will be non-refundable. Bid without cost of bid document/ e-Bid processing fee will not be accepted.

2) Contents of e-Bid Document

- i) The scope of work, e-Bid procedure and contract terms and conditions are prescribed in the e- Bid document. The e-Bid document includes:
 - (1) Section I : Instruction to bidders;
 - (2) Section II : Conditions of Contract;
 - (3) Section III : Technical e-Bid;
 - (4) Section IV : Financial e-Bid;
- ii) The bidder is expected to examine all instructions, forms, terms and specifications in the e- Bid document. Failure to furnish all information required as per the e-Bid document or submission of e-Bid not responsive to the e-Bid document in every respect will be at the bidder's risk and may result in rejection of the said e-Bid.

3) Amendment of e-Bid Document

- i) At any time prior to the deadline for submission of e-Bid, the Authority may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, modify the e-Bid document by amendments. Such amendments shall be uploaded on the e-Procurement website <http://etender.up.nic.in> through corrigendum and shall form an integral part of e-Bid document. The relevant clauses of the e-Bid document shall be treated as amended accordingly.
- iii) It shall be the sole responsibility of the prospective bidders to check the website <http://etender.up.nic.in> from time to time for any amendment in

the e-bid document. In case of failure to get the amendments, if any, the Authority shall not be responsible for it.

- iv) In order to allow prospective e-Bidders a reasonable time to take the amendment into account in preparing their e-Bids, the Authority, at his discretion, may extend the deadline for the submission of e-Bids. Such extensions shall be uploaded on the e-Procurement website <http://etender.up.nic.in>.

4) **Language of e-Bid**

The e-Bid prepared by the bidder, as well as all correspondence and documents relating to the e- Bid exchanged by the bidder and the Authority shall be written either in English or Hindi language. The correspondence and documents in Hindi must be accompanied by embedded/separate Hindi font files. Only English numerals shall be used in the e-Bid.

5) **Documents Constituting the e-Bid**

The eBid prepared by the bidder shall comprise the following components:

(a) **Prequalification:-**

- (i) **Fee Details** - It will consist of the cost of bid document/ e-Bid processing fee document and prescribed earnest money in prescribed form.
- (ii) **Eligibility Criteria** – It will consist of the details as per the Tender Document.

(b) **Financial e-Bid** - Financial e-Bid will comprise of:

- **Price Schedule/BOQ** - includes Price Schedule/BOQ in XLS/PDF format to be filled in after downloading from the e-Procurement website for this e-bid.

6) **e-Bid Form**

The bidder shall complete the e-Bid Form and the appropriate Price Schedule/BOQ furnished in the e-Bid document.

7) **e-Bid Currencies**

Prices shall be quoted / calculated in Indian Rupees only.

8) **Documents Establishing bidder's Qualification**

- i) The bidder shall furnish, as part of its Technical e-Bid, documents establishing the bidder's qualification to perform the Contract if its e-Bid is accepted. The documentary evidence should be submitted by the bidder electronically in the PDF format.
- (ii) The documentary evidence of bidder's qualification to perform the Contract if its e-Bid is accepted shall be as per Qualification Requirements specified in e-bid document.

9) **e-Bid Security/ Proposal Security /Earnest Money Deposit (EMD)**

- i) The bidder shall furnish, as part of its e-Bid, an e-Bid security/ EMD/Proposal Security ~~as per the e Tender notice in form of Demand Draft only payable in favor~~ of "Chief Executive Officer, Uttar Pradesh State Highways Authority " payable at Lucknow. Scanned copy of which must be enclosed along with the e-Bid. Bid without Earnest Money / Bid Security/ Proposal Security in the prescribed form, will not be accepted.
- ii) Any e-Bid not secured in accordance with above shall be treated as non-responsive and rejected by the Authority.
- iii) Unsuccessful bidder's e-Bid security will be returned promptly as possible after the acceptance of e-Bid.
- iv) The successful bidder's e-Bid EMD/ Proposal Security will be converted into security upon the bidder signing the Contract.
- v) The e-Bid security may be forfeited:
 - (a) if a bidder (i) withdraws its e-Bid during the period of e-Bid validity specified by the bidder on the e-Bid Form; or (ii) does not accept the correction of errors or (iii) modifies its e-Bid price during the period of e-Bid validity specified by the bidder on the e-Bid form or
 - (b) in case of a successful bidder, if the bidder fails:
 - (i) To sign the Contract with the Authority.

10) Period of Validity of e-Bid

- i) e-Bid shall remain valid for 120 days after the date of e-Bid opening prescribed by the Authority. An e-Bid valid for a shorter period shall be rejected by the Authority as non- responsive.
- ii) In exceptional circumstances, the Authority may solicit the bidder's consent to an extension of the period of e-Bid validity. The request and the response thereto shall be made in writing. A bidder may refuse the request without forfeiting its e-Bid security. A bidder granting the request will not be required nor permitted to modify its e-Bid.

11) Format and Signing of e-Bid

- i) The bidder shall prepare one electronic copy each of the Technical e-Bid and Financial e- Bid separately.
- ii) The e-Bid document shall be digitally signed, at the time of uploading, by the bidder or a person or persons duly authorized to bind the bidder to the Contract. The later authorization shall be indicated by a scanned copy of written power-of-attorney accompanying the e-Bid. All the pages/ documents of the e-Bid that are to be uploaded shall be digitally signed by the person authorized to sign the e-Bid.

(B) SUBMISSION of e-Bid

1. Submission of e-Bid The Bid Submission module of e-Procurement website <http://etender.up.nic.in> enables the bidders to submit the e-Bid online in response to this e-bid published by the Authority. Bid Submission can be done only from the Bid Submission start date and time till the Bid Submission end date and time given in the e-bid. Bidders should start the Bid

Submission process well in advance so that they can submit their e-Bid in time. The bidders should submit their e-Bid considering the server time displayed in the e-Procurement website. This server time is the time by which the e-Bid submission activity will be allowed till the permissible time on the last/end date of submission indicated in the e-bid schedule. Once the e-Bid submission date and time is over, the bidders cannot submit their e-Bid. For delay in submission of e-Bid due to any reasons, the bidders shall only be held responsible.

The bidders have to follow the following instructions for submission of their e-Bid:

- i) For participating in e-Bid through the e-bidding system, it is necessary for the bidders, to be the registered users of the e-Procurement website <http://etender.up.nic.in>. The bidders must obtain a User Login Id and Password by registering themselves if they have not done so previously for registration.
- ii) In addition to the normal registration, the bidder has to register with his/her Digital Signature Certificate (DSC) in the e-bidding system and subsequently he/she will be allowed to carry out his/her e-Bid submission activities. Registering the Digital Signature Certificate (DSC) is a onetime activity. Before proceeding to register his/her DSC, the bidder should first log on to the e-bidding system using the User Login option on the home page with the Login Id and Password with which he/ she has registered.

For successful registration of DSC on e-Procurement website <http://etender.up.nic.in> the bidder must ensure that he/she should possess Class-2/ Class-3 DSC issued by any certifying authorities approved by Controller of Certifying Authorities, Government of India, as the e- Procurement website <http://etender.up.nic.in> is presently accepting DSCs issued by these authorities only. The bidder can obtain User Login Id and perform DSC registration exercise above even before e-Bid submission date starts. The Authority shall not be held responsible if the bidder tries to submit his/her e-Bid at the last moment before end date of submission but could not submit due to DSC registration problem.

- iii) The bidder can search for active bids through "Search Active bids" link, select a bid in which he/she is interested in and then move it to 'My Bids' folder using the options available in thee-Bid Submission menu. After selecting and viewing the bid, for which the bidder intends to e-Bid, from "My Bids" folder, the bidder can place his/her e-Bid by clicking "Pay Offline" option available at the end of the view bid details form. Before this, the bidder should download the e-bid document and Price Schedule/Bill of Quantity (BOQ) and study them carefully. The bidder should keep all the documents ready as per the requirements of e-biddocument in the PDF format except the Price Schedule/Bill of Quantity (BOQ) which should be in the XLS format (Excel sheet).
- iv) The bidder should read the Terms & Conditions carefully before proceeding to fill in the cost of bid document/ e-Bid processing fee and EMD payment details. After entering and saving the cost of bid document/ e-Bid processing fee and

- EMD details, the bidder should click "Encrypt & Upload" option given in the ~~payment details form so that "Bid Document Preparation and Submission"~~ window appears to upload the documents as per Technical (Document Cost/Processing Fee details, Qualification details, e-Bid Form and Technical Specification details) and financial (e-Bid Form and Price Schedule/BOQ) schedules/packets given in the bid details. The details available in the scanned copy of bid form cost and of EMD shall be verified by the Authority and in case of any discrepancy the e-bid shall be rejected.
- v) Next the bidder should upload the Technical e-Bid documents for Fee details (Cost of bid document/ e-Bid processing fee and EMD), Qualification details. Before uploading, the bidder has to select the relevant Digital Signature Certificate. He may be prompted to enter the Digital Signature Certificate password, if necessary. For uploading, the bidder should click "Browse" button against each document label in Technical and Financial schedules/packets and then upload the relevant PDF/XLS files already prepared and stored in the bidder's computer. The required documents for each document label of Technical (Fee details, Qualification details, e-Bid Form and Technical Specification details) and financial (e-Bid Form and Price Schedule/BOQ) schedules/packets can be clubbed together to make single different files for each label.
 - vi) The bidder should click "Encrypt" next for successfully encrypting and uploading of required documents. During the above process, the e-Bid documents are digitally signed using the DSC of the bidder and then the documents are encrypted/locked electronically with the DSC's of the bid openers to ensure that the e-Bid documents are protected, stored and opened by concerned bid openers only.
 - vii) After successful submission of e-Bid document, a page giving the summary of e-Bid submission will be displayed confirming end of e-Bid submission process. The bidder can take a printout of the bid summary using the "Print" option available in the window as an acknowledgement for future reference.
 - viii) Authority reserves the right to cancel any or all e-Bids without assigning a any reason.

2) Deadline for Submission of e-Bid

- (i) e-Bid (Technical and Financial) must be submitted by the bidders at e-Procurement website <http://etender.up.nic.in> not later than the time on the prescribed date and time as per NIT (as the server time displayed in the e-Procurement website).
- (ii) The Authority may, at its discretion, extend this deadline for submission of eBid by amending the e-Bid document, in which case all rights and obligations of the Authority and bidders previously subject to the deadline will thereafter be subject to the deadline as extended.

3) **Late e-Bid**

The server time indicated in the Bid Management window on the e-Procurement website <http://etender.up.nic.in> will be the time by which the e-Bid submission activity will be allowed till the permissible date and time scheduled in the e-bid. Once the e-Bid submission date and time is over, the bidder cannot submit his/her e-Bid. Bidder has to start the Bid Submission well in advance so that the submission process passes off smoothly. The bidder will only be held responsible if his/her e-Bid is not submitted in time due to any of his/her problems/faults, for whatsoever reason, during e-Bid submission process.

4) **Withdrawal and Resubmission of e-Bid**

- i) At any point of time, a bidder can withdraw his/her e-Bid submitted online before the bid submission end date and time. For withdrawing, the bidder should first log in using his/ her Login Id and Password and subsequently by his/her Digital Signature Certificate on the e- Procurement website <http://etender.up.nic.in>. The bidder should then select "My Bids" option in the Bid Submission menu. The page listing all the bids submitted by the bidder will be displayed. Click "View" to see the details of the e-Bid to be withdrawn. After selecting the "Bid Withdrawal" option, the bidder has to click "Yes" to the message "Do you want to withdraw this bid?" displayed in the Bid Information window for the selected bid. The bidder also has to enter the bid Withdrawing reasons and upload the letter giving the reasons for withdrawing before clicking the "Submit" button. The bidder has to confirm again by pressing "Ok" button before finally withdrawing his/her selected e-Bid.
- ii) No e-Bid may be withdrawn in the interval between the deadlines for submission of e-Bid and the expiration of period of e-Bid validity. Withdrawal of an e-Bid during this interval shall result in the bidder's forfeiture of his/her e-Bid security.
- iii) The bidder can re-submit his/her e-Bid as and when required till the e-Bid submission end date and time. The e-Bid submitted earlier will be replaced by the new one. The payment made by the bidder earlier will be used for revised e-Bid and the new e-Bid submission summary generated after the successful submission of the revised e-Bid will be considered for evaluation purposes. For resubmission, the bidder should first log in using his/her Login Id and Password and subsequently by his/her Digital Signature Certificate on the e- Procurement website <http://etender.up.nic.in>. The bidder should then select "My Bids" option in the Bid Submission menu. The page listing all the bids submitted by the bidder will be displayed. Click "View" to see the details of the e-Bid to be resubmitted. After selecting the "Bid Resubmission" option, click "Encrypt & Upload" to upload the revised e- Bid documents.

- iv) The bidders can submit their revised e-Bids as many times as possible by ~~uploading their e-Bid documents within the scheduled date & time for~~ submission of e-Bids.
- v) No e-Bid can be resubmitted subsequently after the deadline for submission of e-Bids.

(C) OPENING AND EVALUATION OF e-Bid

1) Opening of e-Bid by the Authority

- i) The Authority will open all e-Bids, in the presence of bidders' representatives who choose to attend at and on the prescribed Date and Time of opening at UPSHA office. The bidder's representatives who are present shall sign evidencing their attendance. In the event of the specified date of e-Bid opening being declared a holiday for the Authority, the e-Bids shall be opened at the appointed time and place on the next working day.
- ii) The bidder's names and the presence or absence of repulsion e-Bid security and such other details as the Authority at its discretion may consider appropriate, will be announced at the opening. The name of such bidders not meeting the requirement shall be notified.

2) Opening of Financial e-Bid

- i) The financial e-Bids of qualified bidders shall be opened on the same day in the presence of bidders. The name of bidders, Price quoted for various items etc will be announced in the process.
- ii) The Authority will prepare the minutes of the e-Bid opening.

3) Clarification of e-Bid

- i) During evaluation of e-Bid, the Authority may, at its discretion, ask the bidder for a clarification of his/her e-Bid. The request for clarification and the response shall be in writing.

4) Evaluation of e-Bid and Evaluation Criteria

The Authority will examine the e-Bid to determine whether they are complete, whether they meet all the conditions of the Contract, whether required cost of bid document/ e-Bid processing fee, e- Bid security and other required documents have been furnished, whether the documents have been properly digitally signed, and whether the e-Bids are generally in order. Any e-Bid or e-Bids not fulfilling these requirements shall be rejected.

5) Contacting the Authority

- i) No bidder shall contact the Authority on any matter relating to his/her e-Bid, from the time of the e-Bid opening to the time the Contract is awarded.

- ii) Any effort by a bidder to influence the Authority in its decisions on e-Bid evaluation, e-Bid comparison or contract award may result in rejection of the bidder's e-Bid.
- iii) In the event of any information furnished by the agency is found false or fabricated the minimum punishment shall be debarred / blacklisting from UPSHA works and the legal proceeding can also be initiated.

(D) AWARD OF CONTRACT

1) Award Criteria

The Authority will award the contract to the lowest evaluated successful Bidder whose bid has been determined to be responsive to all the conditions of the contract of the Bidding Document.

2) Authority's right to accept any e-Bid and to reject any or all e-Bids

The Authority reserves the right to accept or reject any e-Bid, and to annul the e-Bid process and reject all e-Bids at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.

3) Notification of Award

- i) Prior to the expiration of the period of e-Bid validity, the Authority will notify the successful bidder in writing by letter/e-mail/fax, that its e-Bid has been accepted.
- ii) The notification of award will constitute the formation of the Contract.

4) Signing of Contract

At the same time as the Authority notifies the successful bidder that its e-Bid has been accepted, the successful bidder shall have to sign the contract agreement.



RFQ-cum-RFP

For

**Selection of Independent Engineer during Operation &
Maintenance (O&M) of Bareilly-Almora Road
(SH-37) on DBFOT Basis**

UTTAR PRADESH STATE HIGHWAYS AUTHORITY

4th Floor, Kisan Mandi Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow (U.P.)

Ph: 0522-4150377; Fax: 0522-4150377, E-mail: info@upsha.in

Website: <http://www.upsha.in>

1. INTRODUCTION

1.1 Background

- 1.1.1 The Government of Uttar Pradesh through Uttar Pradesh State Highways Authority has undertaken upgradation/maintenance of Four Laning of Bareilly-Almora Road (SH-37) in the State of Uttar Pradesh (the "Project") on Design, Build, Finance, Operate and Transfer (the "DBFOT") basis. Accordingly, UPSHA has awarded the work to Concessionaire, M/s PNC Bareilly Nainital Highways Pvt. Ltd. having its registered office at D-57, Vasant Vihar, New Delhi-110057 with a concession period of 25 years commencing from the appointed date as per Concession Agreement. The Concessionaire has completed the construction work and the project facility is open to traffic. UPSHA, after due consultation with the Concessionaire intends to appoint an Independent Engineer (IE) to oversee the activities of the Concessionaire during Operation and Maintenance of the Project Highway.

The details of the stretch and concessionaire are as given below:

Project Stretch	Length (KM)	Total Project Cost (in Crs.)	Name & Address of the Concessionaire	Date of Commercial Operation / Toll	Concession Period
Independent Engineer Services during Operation & Maintenance (O&M) for four laning of Bareilly-Almora of SH-37 from km 0.000 to km 54.000 (Total Length-53.568 Kms.) in the State of Uttar Pradesh on Build, Operate and Transfer BOT basis	53.568	355.00	M/s PNC Bareilly Nainital Highways Pvt. Ltd. having its Registered office at D-57, Vasant Vihar, New Delhi-110057	18.10.2015	25 years

The Concessionaire has completed the construction work and the project facilities are opened to traffic. UPSHA intend to appoint Independent Engineer Services during Operation & Maintenance (O&M) for four laning of Bareilly-Almora of SH-37 from km 3.500 to km 56.000 (Total Length-53.568 Kms.) in the State of Uttar Pradesh on Build, Operate and Transfer BOT basis through a concessionaire to oversee the activities of the Concessionaire during operation and maintenance period. The remuneration, cost and expenses of the Independent Engineer Services shall be paid by UPSHA. One-half of such remuneration cost and expenses shall be reimbursed by the Concessionaire to UPSHA within 15(fifteen) days of receiving a statement of expenditure from UPSHA.

- 1.1.2 UPSHA intends to appoint an Independent Engineer for the 'Services of Independent Engineer' for comprehensive supervision of the operation & maintenance activities being carried out by the Concessionaire. The consultant is to ensure complete compliance with respect to technical specifications and various stipulations contained in the Concession Agreement with, high standard of quality assurance in supervision of maintenance & operation. Further details of the services to be rendered are provided in the attached Terms of Reference (TOR).

1.2 Request for Proposal

The Authority invites Proposals (the "Proposals") for selection of Independent Engineer (the "Independent Engineer") who shall perform duties as given in the concession agreement between Uttar Pradesh State Highways Authority and the Concessionaire. The Authority intends to select the Independent Engineer through an open competitive bidding process in accordance with the procedure set out herein.

1.2.2 Due diligence by Applicants

~~Applicants are encouraged to inform themselves fully about the assignment and the local~~
conditions before submitting the proposal by paying a visit to the Authority and the Project Site, sending written queries to the Authority, and attending a pre-proposal conference on the date and time specified in **Clause 1.7**.

1.3 Availability of RFQ-cum-RFP Document

"RFQ-CUM-RFP" document can be obtained from the date of issue of notice till Proposal Due Date (the "PDD") on e-procurement platform <https://etender.up.nic.in> . A payment of a non refundable document cost of Rs. 10000.00 (Rupees Ten Thousand only) + GST per package in the form of a demand draft or banker's cheque of any scheduled Bank in India in favour of Chief Executive Officer, Uttar Pradesh State Highways Authority, payable at Lucknow, shall have to be made by the Applicant before Proposal Due Date .

1.4 Validity of the Proposal

The Proposal shall be valid for a period of not less than 90 days from the proposal due date (the "PDD").

1.5 Brief description of the Selection Process

The Authority shall adopt 'Single Stage Two e Envelopes Selection Process' (collectively the "Selection Process") in evaluating the Proposals. In the First Stage, a technical evaluation will be carried out as specified in Clause 3.1. Based on this technical evaluation, a list of short-listed (qualified) applicants shall be prepared as specified in Clause 3.2. In the Second Stage, a financial evaluation will be carried out of only Short-listed Applicants as specified in Clause 3.3 and the Proposals will be ranked in terms of their financial quoted cost. The least cost proposal will be ranked as L-1 and the next higher and so on will be ranked as L-2, L-3 etc. The least cost proposal (L-1) will be considered for award of contract (the "Selected Applicant")

1.6 Schedule of Selection Process

The Authority would endeavor to adhere to the following schedule:-

Event Description	Date
Date of Advertisement	22-07-2019
Last Date for receiving queries/ clarifications	05-08-2019
Authority response to queries	08-08-2019
Proposal due date	27-08-2019 upto 14:00 Hrs.
Opening of Proposals	27-08-2019 upto 16:00 Hrs.

1.7 Pre-Proposal Visit to the Site and Inspection of Data

Prospective applicants may visit the site and review the available data at any time prior to PDD at his own risk and cost.

1.8 Pre-Proposal Conference

Deleted.

1.9 Communications

1.9.1 All communications including the submission of proposal should be addressed to:

Name of Officer	Address	Phone/Fax/E-mail
Chief Executive Officer	Uttar Pradesh State Highways Authority, 4 th floor, Mandi Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow-226010.	Phone: 0522-4150377 Fax: 0522-4150377 Email: info@upsha.in

1.9.2 The **Official Website** of the Authority is: <http://www.upsha.in>

1.9.3 All communication, including the envelope, should contain the following information, to be marked at the top in bold letters:

RFQ cum RFP Notice No:

**Selection of Independent Engineer during Operation & Maintenance (O&M) of Bareilly-
Almora Road (SH-37) on DBFOT Basis**

2. INSTRUCTIONS TO APPLICANTS

A. GENERAL

2.1 Scope of Proposal

- 2.1.1 Detailed description of the objectives, scope of services, deliverables and other requirements relating to this Consultancy are specified in this RFQ cum RFP. In case the applicant firm possesses the requisite experience and capabilities required for undertaking the consultancy, it may participate in the selection process either individually or (the "**Sole Firm**") or as lead member of a consortium/joint ventures of firms of not more than three partners (the "**Lead Member**") in response to this invitation. The term Applicant (the "**Applicant**") means the Sole Firm or the Lead Member, as the case may be. The Applicant applying in consortium/joint ventures shall have to submit information regarding technical and financial capacities as per clause 2.2.2 (A), 2.2.2 (B) & 2.2.2 (C) individually as well as for the consortium as a whole. The manner in which the proposal is required to be submitted, evaluated and accepted is explained in this RFP. The bidding firm/consortium shall have to attach legal documents regarding registration of company/firm/MOU among the members of consortium.
- 2.1.2 Applicants are advised that the selection of applicant shall be on the basis of an evaluation by the Authority through the selection process specified in this RFP. Applicants shall be deemed to have understood and agreed that no explanation or justification for any aspect of the selection process will be given and that the Authority's decisions or without any right of appeal whatsoever.
- 2.1.3 The Applicant shall submit its proposal in the form and manner specified in Part-II of this RFP. The technical proposal shall be submitted in the form at Appendix- I and the financial proposal shall be submitted in the form at Appendix- II. Upon selection, the applicant shall be required to enter in to an agreement with the Authority in the form specified at Schedule-2.
- 2.1.4 **Key Personnels and Sub-Professional Staff**
- 2.1.4.1 **Key Personnels**
The Consultancy Team shall consist of the following key personnel (the "**Key Personnel**") who shall discharge their respective responsibilities as specified below:

Key Personnel	Responsibilities
Team Leader cum Senior Highway Engineer (the " Team Leader ")	This is the senior-most position and the expert who is designated, as Team Leader shall be responsible for reviewing all the operation and maintenance activities of the Concessionaire. He shall check all the Designs being prepared by the Concessionaire, ensure execution of works on site as per specification and standards, and continuously interact with the UPSHA and the Concessionaire. He shall undertake project site visits and shall guide, supervise, co-ordinate and monitor the work of other experts in his team as well as those of the Concessionaire. He shall also inspect the construction / maintenance of structure and monitor bridge maintenance / repair works to be undertaken by Concessionaire. The candidate should have a proven record of supervising, organizing and managing of project preparation and construction / maintenance of highway projects of large magnitudes, as defined below, financed by international lending agencies and

others. Knowledge of project management shall be an added advantage.

This position requires a Senior Highway Engineer who shall be a graduate in Civil Engineering. Higher qualifications and specialization in Highway Engineering shall be preferred. He should have a minimum 20 years of experience of Highway Engineering including 10 years of experience in developing countries. The candidate should have thorough understanding and experience in modern bridge construction technology. He should have handled as Team Leader or similar capacity at least one Project Preparation and Construction / maintenance Supervision work of major highway project of four laning / six laning / expressway costing more than Rs. 2100 million or of at least 50 km length. Alternatively, he should have handled as Deputy Team Leader or similar capacity Project Preparation and Construction / maintenance Supervision of at least two projects of four laning / six laning / expressway costing more than Rs. 1250 million total cost, each of at least 30 km length. The maximum age at the time of submission of proposal shall be 65 years at the time of submission of proposal.

Senior Pavement Specialist

The expert shall be interacting with the Concessionaire, to ensure viable design of overlay including appropriate strengthening of the existing pavement. He shall also be responsible for ensuring complete adherence to maintenance standards during operation and maintenance period. Thus, the position requires, a pavement specialist with thorough knowledge and understanding of international best practices in the field of Design, Construction and maintenance of flexible/rigid type of pavements including latest code stipulations and specifications.

The candidate should be a graduate in Civil Engineering. Post Graduate Degree in Highway Engineering and specialization in Pavement Design shall be preferred. He should have a minimum of 15 years of professional experience of Pavement Design, Construction and its maintenance. The minimum experience of 15 years should include assignments of at least 3 years in developed countries or at least 3 years on major highway projects funded by international funding agencies in developing countries in Senior Expert capacity. The maximum age at the time of submission of proposal shall be 65 years at the time of submission of proposal.

Bridge Engineer

The Bridge Engineer shall be responsible for supervising the work of bridges, interchanges and any other structures to be constructed by the concessionaire for this project. He shall also inspect the bridge rehabilitation and repair work

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to be undertaken by the concessionaire. He shall ~~review and suggest modifications to the~~ maintenance manual/programme relating to his duties.

He will be a qualified Civil Engineer preferably with Master's degree in the field of structural engineering. He will have relevant professional experience of about 15 years. Out of his total experience, he should have worked for at least 10 years on bridge/culvert construction / rehabilitation and repair works. The candidate must be familiar with modern methods of construction of bridges, design standards, technical specifications and statistical Quality Control/Assurance procedures for construction of different component of bridges. He should have executed at least two projects in similar capacity. He should not be more than 65 years of age.

Quality/Material expert

He should be well acquainted with the quality control testing requirements for flexible/rigid type of pavements including other geo-technical/material tests for Highway Construction /maintenance. He will be responsible for supervising all the tests to be done in different stages of construction / maintenance, besides ensuring that specified tests are done as per codal stipulations and as per the specifications laid down in the contract for all the different stages of construction / maintenance. He will be coordinating and controlling the support personnel placed with him and will report to the Team Leader/Employer's representative as and when required.

The candidate should be a qualified Civil Engineer preferably with additional qualifications in Geo-technical Engineering. Relevant work experience will, however, be given higher weightage. He should have about 10 years of relevant professional experience, out of which he should have worked for at least 4 years on road/bridge construction / maintenance projects or on related works of similar projects and he should have worked as Quality Control Engineer for minimum 4 years in road/bridge projects. The candidate must be familiar with material properties of road construction materials, technical specifications and procedures of material tests and testing equipment. He should have experience as material Engineer in any developing countries. He should not be more than 65 years of age.

Traffic And Transportation Engineer

He shall review performance of operation and maintenance activities including equipments services, traffic operation and safety, toll plaza and fee collection system etc. He should undertake audit of the traffic using the Project

Quantity Surveyor

Highway. He shall also review type and locations of traffic control (e.g. signal) and safety measures. He shall also study and comment on safety audit report prepared by the Concessionaire.

He should be Graduate or equivalent in Civil Engineering having Min. 5 years of professional experience in preparation of highway project estimates. He should have Min. 3 years experience in Preparation of Bill of Quantities/estimates for major highway projects costing Rs.100 Crore or above.

Financial Expert

Financial Expert should be a Chartered Accountant/MBA (Finance) over 8 to 10 years as a Financial Advisor particularly in the field of project financing. Advisory experience in transportation project would be desirable. The maximum age at the time of submission of proposal shall be 65 years.

Legal Expert

This position requires a graduate in Law with over 8 years experience in contracts and financial documentation related to project financing. Advisory experience in transportation would be desirable. The maximum age at the time of submission of proposal shall be 65 years

2.1.4.2 Sub-Professional Staff**Sub-Professional Staff****Responsibilities****Asst. Highway Engineer**

The candidates should be Graduate in Civil Engineering with five years' experience in road projects. He should have handled atleast one road project. He should be not more than 65 years of age

Asst. Bridge Engineer

The candidates should be Graduate in Civil Engineering with three years experience. He should have handled atleast one major bridge project

HTMS/Toll Expert

The candidate should be a Systems Engineer having experience of at least 10 years. He should be an expert in preparation of standards for systems of toll collection and HTMS. He should be a graduate in Electronics/Computer Science or equivalent. He should have experience of international latest technology/systems in the field of HTMS and tolling. He should have work experience of at least one in establishing HTMS and one in tolling systems.

Horticulture cum Landscaping Specialist

He should be a Graduate in Agriculture with specialization in Horticulture/Arboriculture

having minimum 5 year experience in Horticulture/Arboriculture and landscaping. He should have minimum 5 years field experience.

2.2 Conditions of Eligibility of Applicants

2.2.1 Applicants must read carefully the minimum conditions of eligibility (the "**Conditions of Eligibility**") provided therein. Proposals of only those applicants who satisfy the conditions of eligibility will be considered for evaluation.

2.2.2 To be eligible for evaluation of its proposal, the applicant shall fulfill the following:

(A) **Technical Capacity:** The Applicant shall have, over the past 5 (Five) years preceding the PDD undertaken a minimum of four eligible assignments out of which at least two should be for highway project. The information must have been given in prescribed form-8 of RFP supported with certificate from client/employer.

(B) Eligible Assignments:

- (i) Upgradation/Maintenance/Construction of a highway on BOT/Annuity/ DBFOT basis having an estimated capital cost (excluding land) of at least Rs. 150 crores; or
- (ii) Any project involving construction having an estimated capital cost (excluding land) of at least Rs. 200 crores.

(C) **Financial Capacity:** The Applicant shall have received a minimum income of Rs. 5 Crores per annum average of the three financial years preceding the PDD (FY- 2015-16, 2016-17, & 2017-18) from professional fees. The information has to be submitted on Form-5 duly signed and certified by authorised signatory and Chartered Accountant/Statutory Auditor. **Information in any other format other than on Form-5 shall not be accepted.**

(D) **Availability of Key Personnel/Sub-Professional Staff:** The Applicant shall offer and make available all Key Personnel/Sub-Professional Staff/Support Staff as given in the table below, meeting the requirements as mentioned in Clause No.- 2.1.4.1 & 2.1.4.2.

MAN - DAYS INPUT FOR KEY PROFESSIONAL STAFF & SUB-PROFESSIONAL STAFF INDEPENDENT ENGINEERS (refer clause No.- 2.1.4.1 & 2.1.4.2 of RFP)

S. No.	Key Personnel	Suggested Man-days during O&M Stage (O&M for 1095 days)
A: Key Personnel		
1.	Team Leader cum Senior Highway Engineer	1095
2.	Senior Pavement Specialist	180
3.	Bridge Engineer	180
4.	Quality / Material Engineer	180
5.	Traffic and Transportation Engineer	180
6.	Quantity Surveyor	270

7.	Financial Expert	90
8.	Legal Expert	90
B: Sub Professional Staff		
(a)	Asst. Highway Engineer	1095
(b)	Asst. Bridge Engineer	1095
(c)	HTMS/Toll Expert	180
(d)	Horticulture cum Landscaping Expert.	180

Support Staff

No.	Position	Name	Staff days
1.	Office Manager cum Accountant (1 no)	TBN	1095
2.	Secretary cum Computer Operator (1nos)	TBN	1095
3.	Office Boy cum Photocopier (1 nos)	TBN	1095

TBN = To Be Named

- 2.2.3 The Applicant shall enclose with its proposal, certificate(s) from its Statutory Auditors/Chartered Accountants stating its revenues from professional fees during the past three financial years (FY-2015-16, 2016-17, & 2017-18) in Form-5 of RFP.
- 2.2.4 The Applicant should submit a Power of Attorney as per the format at Form-4 of Appendix-I.
- 2.2.5 Any entity which has been barred by the Central / State Government in India or any entity controlled by them, from participating in any project, and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal.
- 2.2.6 An Applicant should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Applicant.
- 2.2.7 While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.
- 2.2.8 Please note that, in order to avoid conflict of interest situations, any firm associated with the Concessionaire of the Project as Design Applicant and/or Construction Supervision Applicant is not eligible to participate in this Proposal.
- 2.2.9 UPSHA/GoUP will not be responsible for any delay, loss or non-receipt of RFP document sent by post/courier. Further, UPSHA/GoUP shall not be responsible for any delay in receiving the Proposal and reserves the right to accept/reject any or all proposals and reserves the right to cancel the invitation, advance or postpone without assigning any reason whatsoever by UPSHA/GoUP.
- 2.2.10 Applicants should familiarize themselves with local conditions relevant to the Services and take them into account in preparing their Proposals. To obtain first-hand information on the assignment and local conditions, Applicants are encouraged to visit the Client before submitting a

Proposal and to attend a Pre-proposal conference. Attending the Pre-proposal conference is optional

- 2.2.11 The Client will provide at no cost to the Applicants the inputs and facilities specified in the Data Sheet, assist the firm in obtaining licenses and permits needed to carry out the Services, and make available relevant project data and reports.
- 2.2.12 Applicants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The Client is not bound to accept any Proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Applicants.
- 2.2.13 For the purpose of submitting a proposal, a Applicant may enhance its expertise for the assignment by associating and forming either Consortium or Joint Ventures with other consultancy firms/companies, in which case the Applicant and the Consortium/Joint Venture Partners shall be jointly and severally liable under the Contract.

2.2.14 Additional information on the Technical Proposal includes:

- (a) in case of a Joint Venture or an association, one of the partners shall be nominated as being in charge; and this authorization shall be evidenced by submitting a notarized or registered Power-of-Attorney signed by legally authorized signatories of all the partners and the Power of Attorney referred to herein, shall be attached to Form-4.
- (b) attested copy of the Contact Agreement, defining role of each partner, entered into by the joint venture / association partners shall be submitted with the Proposal;
- (c) the partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture and the entire execution of the contract, including payment, shall be done exclusively with the partner in charge;
- (d) all partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a statement to this effect shall be included in the documents mentioned under (a) and (b) above;
- (e) An undertaking by the Consultant (and each partner of a JV/Association and Sub-Consultant, if any) that no penalty or other form of sanction has been imposed by GoUP or NHAI or other employer for a period of 12 months. Where such penalty or sanction has been applied, details should be provided; and
- (f) Any proposal that is not accompanied by such attested copies of documents will be considered as non-responsive and shall be summarily rejected.

2.3 Conflict of Interest

- 2.3.1 An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the "**Conflict of Interest**"). Any Applicant found to have a conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, the time, cost and effort of the Authority including consideration of such Applicant's Proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.
- 2.3.2 The Authority requires that the Applicant provides professional, objective, and impartial advice and at all times hold the Authority's interests paramount, avoid conflicts with other assignments or its own corporate interests, and act without any consideration for future work. The Applicant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other employers, or that may place it in a position of not being able to carry out the assignment in the best interests of the Authority.

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

- (i) the Applicant, its consortium/joint venture member (the "**Member**") or Associate (or any constituent thereof) and any other Applicant, its Member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five percent) of the paid up and subscribed share capital of the Applicant, Member or Associate, as the case may be) in the other Applicant, its Member or Associate is less than 1% (one percent) of the paid up and subscribed share capital of such Applicant, Member or Associate; provided further that this disqualification shall not apply to a bank, insurance company, pension fund or a Public Financial Institution referred to in Section 4A of the Companies Act 1956; or

For purposes hereof, Associate means, in relation to the Applicant/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Applicant/Consortium/JV 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, whether by operation of law or by contract or otherwise.

- (ii) a constituent of such Applicant is also a constituent of another Applicant; or
- (iii) such Applicant receives or has received any direct or indirect subsidy from any other Applicant; or
- (iv) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
- (v) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Application of either or each of the other Applicant; or
- (vi) if there is conflict among this and other consulting assignments of the Applicant (including its personnel and sub-Applicant) and any subsidiaries or entities controlled by such Applicant or having common controlling shareholders. The duties of the Applicant depend on the circumstances of each case. While providing consultancy services to the authority for this particular assignment, the Applicant shall not take up any assignment that by its nature will result in conflict with the present assignment; or
- (vii) a firm which has been engaged by the Authority to provide goods or works for a project, and its Associates, will be disqualified from providing consulting services for the same project; conversely, a firm hired to provide consulting services for the preparation of implementation of project, and its members or associates, will be disqualified from subsequently providing goods or works or services related to the same project; or
- (viii) the Applicant, its member or associate (or any constituent thereof) and the Concessionaire, its contractor(s) or sub-contractor(s) (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five percent) of the paid up and subscribed share capital of the Applicant, Member or Associate, as the case may be) in the Concessionaire or its contractor(s) or sub-contractor(s) is less than 1% (one percent) of the paid up and subscribed share capital of such Concessionaire or its contractor(s) or sub-contractor(s); provided further that this disqualification shall not apply to a bank, insurance company, pension fund or a Public Financial Institution referred to in section 4A of the Companies Act 1956.

2.3.4 An Applicant eventually appointed to provide Consultancy for this Project, as well as any of its Associates, shall be disqualified from subsequently providing goods or works or services related to the construction and execution of the same Project and any breach of this obligation shall be construed as Conflict of Interest.

2.3.5 Applicants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.

2.3.6 Relationship with Employer's staff: Applicants (including their personnel and sub-consultants) that have a business or family relationship with such member(s) of the Employer's staff or with the staff of the project implementing agency, who are directly or indirectly involved in any part of ; (i) the preparation of the TOR of the contract, (ii) the selection process for such contract, or (iii) supervision of such contract; may not be awarded a contract unless it is established to the complete satisfaction of the employing authority, for the reason to be recorded in writing, that such relationship would not affect the aspects of fairness and transparency in the selection process and monitoring of consultant's work. Without limitation on the generality of the foregoing, any firm associated with the Concessionaire of the Project as Design Applicant and/or Construction Supervision Applicant is not eligible to participate in this bidding.

2.3.7 Applicants have an obligation to disclose any situation of actual or potential conflict of interest. Failure to disclose said situations may lead to the disqualification of the Applicant or the termination of its Contract.

2.4 Cost of Proposal

The Applicant shall be responsible for all of the costs associated with the preparation of their Proposals and their participation in the Selection Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

2.5 Site visit and verification of information

Applicants are encouraged to submit their respective Proposals after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, access to the site, availability of drawings and other data with the Authority, applicable laws and regulations or any other matter considered relevant by them at his own cost and risk.

2.6 Acknowledgement by Applicant

2.6.1 It shall be deemed that by submitting the Proposal, the Applicant has:

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

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

2.7 Right to reject any or all Proposals

2.7.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligations for such acceptance, rejection or annulment, and without assigning any reasons thereof.

2.7.2 The Authority reserves the right to reject any Proposal if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Applicant does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal.

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

B. DOCUMENTS

2.8 Contents of the RFP

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

Request for Proposal

- 1 Introduction
- 2 Instructions to Applicants
- 3 Criteria for Evaluation
- 4 Fraud and corrupt practice

Schedules

- 1. **Terms of Reference for Independent Engineer**
- 2. **Form of Agreement**

- Annex-1: Terms of Reference
- Annex-2: Deployment of Personnel
- Annex-3: Estimate of Personnel Costs
- Annex-4: Cost of Services
- Annex-5: Payment Schedule
- Annex-6: Bank Guarantee for Performance Security

3. Guidance Note on Conflict of Interest

Appendices

Appendix-I: Technical Proposal

- Form 1: Letter of Proposal
- Form 2: Particulars of the Applicant
- Form 3: Statement of Legal Capacity
- Form 4: Power of Attorney
- Form 5: Financial Capacity of Applicant
- Form 6: Particulars of Key Personnel & Sub-Professional Staff

Form 7:	Proposed Methodology and Work Plan and Team Composition and Task Assignment
Form 8:	Experience of Applicant
Form 9:	Experience of Key Personnel & Sub-Professional Staff
Form 10:	Eligible Assignments of Applicant
Form 11:	Eligible Assignments of Key Personnel & Sub-Professional Staff
Form 12:	CV of Key Personnel & Sub-Professional Staff
Form-13(1)	(Assignment for Experience in DPR preparation for Highway Projects more than 200km length (including widening to 4/6 lane highway projects),
Form-13(2)	(Assignment for Experience in Construction Supervision/ DPR /Design Review of Major structures having length of more than 500 meter) and
Form-13(3)	(Assignment for Experience as Independent Engineer or in Construction Supervision in Highway Projects)

Appendix - II: Financial Proposal

Form 1:	Covering Letter
Form 2:	Financial Proposal
Form 3A:	Summary of Costs
Form 3B:	Break Down of Costs
	I) Remuneration of Key Personnel
	II) Remuneration of Sub-Professional Staff
	III) Remuneration of Support Staff
	IV) Transportation (Fixed Rate on Rental Basis)
	V) Office Rent (Fixed Costs)
	VI) Office Supplies, Utilities & Communication (Fixed Costs)
	VII) Office Furniture and Equipment (Rental)
	VIII) Reports and Document Printing

2.9 Clarifications

Applicants requiring any clarification on the RFP may send their queries to the Authority in writing before the date mentioned in the Schedule of Selection Process at Clause 1.6. The envelopes shall clearly bear the following identification:

"Queries/Request for Additional Information concerning RFP"

The Authority shall endeavour to respond to the queries within the period specified therein. The responses will be sent by fax or e-mail. The Authority will post the reply to all such queries on the Official Website and copies thereof will also be circulated to all Applicants who have purchased the RFP document.

2.10 Amendment of RFP

2.10.1 At any time prior to the deadline for submission of Proposal, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFP document by the issuance of Addendum/Amendment and posting it on the Official Website and by conveying the same to the prospective Applicants (who have purchased the RFP document) by fax or e-mail. The Addendum/Amendment shall be treated as the part of the RFP and contract documents.

2.10.2 All such amendments will be notified in writing through fax or e-mail to all Applicants who have purchased the RFP documents. The amendments will also be posted on the Official Website along the revised RFP containing the amendments and will be binding on all Applicants.

- 2.10.3 In order to afford the Applicants a reasonable time for taking an amendment into account, or for any other reason, the Authority may, in its sole discretion, extend the Proposal Due Date.

C. PREPARATION AND SUBMISSION OF PROPOSAL

2.11 Language

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

2.12 Format and signing of Proposal

- 2.12.1 The Applicant shall provide all the information sought under this RFP. The Authority would evaluate only those Proposals that are received in the specified forms and complete in all respects.
- 2.12.2 The Applicant shall prepare and submit one original set and one copy of the Documents.
- 2.12.3 The Proposal shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant who shall initial each page, in blue/black ink. All the alternations, omissions, additions, or any other amendments made to the Proposal shall be initialed by the person(s) signing the Proposal. The Proposals must be properly signed as detailed below:

- (i) by the proprietor, in case of proprietary firm;
- (ii) by the partner holding the Power of Attorney, in case of a partnership firm;
- (iii) by a duly authorised person holding the Power of Attorney (the "**Authorised Representative**"), in case of a Limited Company or a corporation; or
- (iv) by the Authorised Representative of the Lead Member, in case of consortium.

A copy of the Power of Attorney certified under the hands of a partner or director of the Applicant or a notary public only on the specified format at Form-4 of RFP shall accompany the Proposal.

- 2.12.4 Applicants should note the Proposal Due Date, as specified in Clause 1.6, for submission of Proposals. Applicants are reminded that no supplementary material will be entertained by the Authority, and that evaluation will be carried out only on the basis of Documents received by the closing time of Proposal Due Date as specified in Clause 2.16.1. Applicants will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected.

2.13 Technical Proposal

- 2.13.1 Applicants shall submit the technical proposal in the format at Appendix-I (the "**Technical Proposal**").

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

- (a) CVs of all Key Personnel/Sub-Professional Staff have been submitted;
- (b) Key Personnel/Sub-Professional Staff have been proposed only if they meet the Conditions of Eligibility laid down at Clause 2.1.4.1 & 2.1.4.2 of the RFP;

- (c) no alternative proposal for any Key Personnel/Sub-Professional Staff is being made and only one CV for each position has been furnished;
- (d) the CVs have been recently signed in blue/black ink by the respective Personnel and countersigned by the Applicant. Photocopy or unsigned/countersigned CVs shall be rejected;
- (e) the CVs shall contain an undertaking from the respective Key Personnel/Sub-Professional Staff about his/her availability for the duration specified in the RFP; and
- (f) Key Personnel/Sub-Professional Staff proposed should have good working knowledge of English language.

2.13.3 Failure to comply with the requirements spelt out in this Clause 2.13.2 shall make the Proposal liable to be rejected.

2.13.4 If an individual Key Personnel/Sub-Professional Staff makes an averment regarding his qualification, experience or other particulars and it turns out to be false, or his commitment regarding availability for the Project is not fulfilled at any stage after signing of the Agreement, he shall be debarred for any future assignment of the Authority. The award of this Consultancy to the Applicant shall also be liable to cancellation in such an event.

2.13.5 The Technical Proposal shall not include any financial information.

2.13.6 The proposed team shall be composed of experts and specialists (the "Professional Personnel") in their respective areas of expertise and managerial/ support staff (the "Support Personnel") such that the Independent Engineer should be able to complete the Consultancy within the specified time schedule. The Key Personnel/Sub-Professional Staff specified in Clause 2.1.4 shall be included in the proposed team of Key Personnel/Sub-Professional Staff. Other competent and experienced Professional Personnel in the relevant areas of expertise must be added as required for successful completion of this Consultancy. The CV of each Key Personnel/Sub-Professional Staff should also be submitted in the format at Form-12 of Appendix-I.

2.13.7 The Authority reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFP. Failure of the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority hereunder.

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

2.14 Financial Proposal

2.14.1 Applicants shall submit the financial proposal in the formats at Appendix-II (the "Financial Proposal") clearly indicating the total cost of the Consultancy in both figures and words, in Indian Rupees, and signed by the Applicant's authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account. In the

event of a difference between the arithmetic total in Form-3A & Form-3B and the total shown in the Financial Proposal (Form-2), the lower of the two shall be taken into account.

2.14.2 While submitting the Financial Proposal, the Applicant shall ensure the following:

- (i) All the costs associated with the assignment shall be included in the Financial Proposal. These shall normally cover remuneration of all the Key Personnel, Remuneration of all the Sub-Professional Staff, Remuneration of all the Support Staff, Transportation (Fixed Rate on Rental Basis), Office Rent (Fixed Costs), Office Supplies, Utilities & Communication (Fixed Costs), Office Furniture and Equipment (Rental), Reports and Document Printing. The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected.
- (ii) The Financial Proposal shall take into account all expenses and tax liabilities except service tax. For the avoidance of doubt, it is clarified that all taxes except service tax shall be deemed to be included in the costs shown under different items of the Financial Proposal. Further, all payments shall be subject to deduction of taxes at source as per applicable laws.
- (iii) Costs (including break down of costs) shall be expressed in INR.

2.15 Submission of Proposal

2.15.1 The Applicants shall submit the Proposal through ePortal <https://etender.up.nic>. Each page of the submission shall be signed by the Authorized Representative of the Applicant. The Applicant shall be responsible for its accuracy and correctness as per the version uploaded by the Authority.

2.15.2 The Proposal shall be made in the Forms specified in this "RFQ-CUM-RFP". Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents.

2.15.3 The Financial Proposal shall be firm throughout the period of performance of the assignment upto and discharge of all obligations of the Consultant under the Agreement.

2.15.4 The Financial Proposal shall be submitted for the complete assignment comprising all the works as defined in TOR.

2.16 Proposal Due Date

2.16.1 Proposal should be submitted before 13:30 hrs on the Proposal Due Date by specified at Clause 1.5 at the address provided in Clause 1.8 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified therein.

2.16.2 The Authority may, in its sole discretion, extend the Proposal Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Applicants.

2.17 Late Proposals

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

2.18 Modification/substitution/withdrawal of Proposals

2.18.1 No Proposal shall be modified, substituted, or withdrawn by the Applicant on or after the Proposal Due Date.

2.19 Bid Security

- 2.19.1 The Applicant shall furnish as part of its Proposal, a Bid Security of **Rs. 50,000 (Rs. Fifty Thousand Only) in the form of a Demand Draft issued by one of the Nationalized/ Scheduled Banks in India in favour of the Chief Executive Officer, Uttar Pradesh State Highways Authority payable at Lucknow,** returnable not later than 30 days from PDD except in case of the two highest ranked Applicants as required in Clause 2.23.1. In the event that the first ranked Applicant commences the assignment as required in Clause 2.28, the second ranked Applicant, who has been kept in reserve, shall be returned its Bid Security forthwith, but in no case not later than 120 days from PDD. The Selected Applicant's Bid Security shall be returned, upon the Applicant signing the Agreement and furnishing the first monthly report.
- 2.19.2 **Any Bid not accompanied by the Bid Security shall be rejected by the Authority as non-responsive.**
- 2.19.3 The Authority shall not be liable to pay any interest on the Bid Security and the same shall be interest free.
- 2.19.4 The Applicant, by submitting its Application pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Authority's any other right of remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by the Authority as the mutually agreed pre-estimated compensation and damage payable to the Authority form inter alia, time, cost and effort of the Authority in regard to the RFP including the consideration and evaluation of the Proposal under the following conditions:
- (a) If an Applicant submits a non-responsive Proposal;
 - (b) If an Applicant engages in any of the Prohibited Practices specified in Clause 4 of this RFP;
 - (c) If an Applicant withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Applicant from time to time;
 - (d) In the case of the Selected Applicant, if the Applicant fails to reconfirm its commitments during negotiation as required vide Clause 2.23.1;
 - (e) In the case of a Selected Applicant, if the Applicant fails to sign the Agreement or commence the assignment as specified in Clause 2.27 and 2.28 respectively; or
 - (f) If the Applicant is found to have a Conflict of Interest as specified in Clause 2.3.

2.19.5 Only one Proposal

The Applicants shall only submit one Proposal. If a Applicant (including a partner in any Joint Venture) submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the inclusion of a Sub-Applicant, including individual experts, in more than one proposal

D. EVALUATION PROCESS

2.20 Evaluation of Proposals

- 2.20.1 The Authority shall open the Proposals at 16:00 hours on the Proposal Due Date in the presence of the Applicants who choose to attend. The venue of opening of bids will be posted at our website <http://www.upshta.in>. The envelopes marked "Technical Proposal" shall be opened first. The envelopes marked "Financial Proposal" shall be kept sealed for opening at a later date.
- 2.20.2 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.18 shall not be opened.
- 2.20.3 **Prior to opening of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive if:**

- (i) It is received in the forms as specified at Appendix-I (Technical Proposal).
- (ii) it is received by the Proposal Due Date including any extension thereof pursuant to Clause 2.16;
- (iii) it is accompanied by the Bid Security as specified in Clause 2.19.1;
- (iv) it is signed and marked as stipulated in Clause 2.12 & 2.15;
- (v) it is accompanied by the Power of Attorney only on the specified format given in Form-4 of RFP as mentioned in Clause 2.2.4;
- (vi) it contains all the information (complete in all respects) as requested in the RFP;
- (vii) it does not contain any condition or qualification; and
- (viii) it is non-responsive in terms hereof.

2.20.4 The Authority reserves the right to reject any proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Proposals.

2.20.5 The Authority would subsequently examine Proposals in accordance with the Selection Process specified in Clause 1.5 and the criteria as given in Section 3 of this RFP.

2.20.6 After the technical evaluation, the Authority would prepare a list of all eligible applicants obtaining 80% or more than 80% marks. A date, time and venue will be notified to all Applicants for opening of Financial Proposals. The opening of Financial Proposals shall be done in presence of respective representatives of Applicants who choose to be present. The Authority will not entertain any query or clarification from Applicants who fail to qualify at any stage of Selection Process. The financial evaluation and final ranking of the Proposal would be carried out in terms of Clause 3.2.

2.20.7 Applicants are advised that Selection will be entirely at the discretion of the Authority. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Selection Process or Selection will be given.

2.20.8 Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant if the consultancy is subsequently awarded to it.

2.21 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the selection of Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained Professional Advisor advising the Authority in relation to or matters arising out of, or concerning the selection process. The Authority will treat all information, submitted as part of the Proposal, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or the Authority.

2.22 Clarifications

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

2.22.2 If an Applicant does not provide clarifications sought under Sub-Clause 2.22.1 above within the specified time, its Proposal shall be rejected. In case the Proposal is not rejected, the Authority may proceed to evaluate the Proposal by construing the particulars requiring clarification to the

best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority

E. APPOINTMENT OF CONSULTANT

2.23 Negotiations

- 2.23.1 The first marked Applicant (the "Selected Applicant") may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the Proposal but will be for re-confirming the obligations of the Applicant under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan shall be discussed during negotiations. A Key Personnel who did not score 80% marks as required under Clause 3.1.2 shall be replaced by the Applicant with a better candidate to the satisfaction of the Authority.
- 2.23.2 The Authority will examine the CVs of all other Professional Personnel and those not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.
- 2.23.3 The Authority will examine the credentials of all Sub-Applicants Proposed for this Consultancy and those not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.
- 2.23.4 It is the responsibility of the applicant, before submitting its financial negotiations, to contact the local tax authorities to determine the local tax amount to be paid by the applicant under the Contract. The financial negotiations will include a clarification (if any) of the firm's tax liability in the Client's country, and the manner in which it will be reflected in the Contract; and will reflect the agreed technical modifications in the cost of the services. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.

2.24 Substitution of Key Personnel

- 2.24.1 The Authority will not normally consider any request of the Selected Applicant for substitution of Key Personnel will however be permitted if the Key Personnel is not available for reasons of any incapacity or due to health, subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.
- 2.24.2 The Authority expects all the Key Personnel to be available during implementation of the Agreement. The Authority will not consider substitution of Key Personnel except under exceptional circumstances. Such substitution shall be limited to 33% (Thirty Three Percent) of Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. As condition to such substitution beyond the limit of 33%, a sum equal to 0.1% of total consultancy fee shall be deducted from the payments due to the Applicant.
- 2.24.3 Substitution of the Team Leader will not normally be considered and may lead to disqualification of the Applicant or termination of the Agreement.

2.25 Indemnity

The Applicant shall, subject to the provisions of the Agreement, indemnify the Authority for any direct loss or damage that is caused due to any deficiency in services.

2.26 Award of Consultancy

After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Authority to the Selected Applicant and the applicant shall sign and return the duplicate copy of the LOA in acknowledgement, within 7 (seven) days of the receipt of the LOA thereof. In the event duplicate copy of the LOA duly signed by the Selected Applicant is not received by the authority within the stipulated date, the Authority may, unless it consents to extend the time for submission thereof.

The Bid Security of such Applicant may be forfeited and the next eligible Applicant may be considered.

2.27 Execution of Agreement

After acknowledgement of the LOA as aforesaid by the Selected Applicant, it shall execute the Agreement within the period prescribed in Agreement. The Selected Applicant shall not be entitled to seek any deviation in the Agreement.

2.28 Commencement of Assignment

The Applicant shall commence the Services at the Project site within Fifteen days of the date of effectiveness of the Agreement. If the Applicant fails to either sign the Agreement as specified in Clause 2.27 or commence the assignment as specified herein, the Authority may invite the second ranked Applicant for negotiation. In such an event, the Bid Security of the First ranked Applicant shall be forfeited and appropriated in accordance with the provision of Clause 2.19.4.

2.29 Proprietary data

All documents and other information provided by the Authority or submitted by an Applicant to the Authority shall remain or become the property of the Authority. Applicants are to treat all information as strictly confidential. The Authority will not return any Proposal or any information related thereto. All information collected, analyzed, processed or in whatever manner provided by the Applicant to the Authority in relation to the Consultancy shall be the property of the Authority.

3. CRITERIA FOR EVALUATION

3.1 Evaluation of Technical Proposals

- 3.1.1 In the first stage, the Technical Proposal will be evaluated on the basis of Applicant's experience, its understanding of TOR, proposed methodology and Work Plan, and the experience of Key Personnel. Only those Applicants whose Technical Proposal score is 80 points or more out of 100 shall qualify for further consideration.

The Applicants are required to submit Technical Proposal containing the details regarding their firm, the team of key personnel, financial and technical capacity, details of project handled by them as per Form-5 (Financial Capacity of Applicant), Form-6 (Particulars of Key Personnel & Sub Professional Staff), Form-7 (Proposed methodology and Work Plan), Form-8 (Experience of Applicants), Form-9 (Experience of Key Personnel & Sub Professional Staff), Form-10 (Eligible Assignment of Applicants), Form-11 (Eligible Assignment of Key Personnel & Sub Professional Staff), Form-12 (Curriculum Vitae of Key Personnel & Sub Professional Staff) of Appendix-I, Form-13(1) (Assignment for Experience in DPR preparation for Highway Projects more than 200km length (including widening to 4/6 lane highway projects), Form-13(2)(Assignment for Experience in Construction Supervision/DPR/Design Review of Major structures having length of more than 500 meter) and Form-13(3)(Assignment for Experience as Independent Engineer or in Construction Supervision in Highway Projects)

- 3.1.2 The scoring criteria to be used for evaluation shall be as follows:

Criteria, sub-criteria, and point system for the evaluation of Technical Proposals are.	
Criteria	Points
Relevant Qualifications/Experience of the Firm for the assignment	25
Quality and Adequacy of the proposed Methodology and Work Plan	5
Qualifications and competence of the Key Personnel proposed for the assignment	70
Total	100
Sub-Criteria for Relevant Qualifications/Experience of the firm for the Assignment	
Year of Establishment of the Firm (In case of JV year of establishment of Lead Member shall be considered) (Min 5 Years)	2
Minimum Income of Rs 5 Cr per Annum Average of the 3 financial years preceding the PDD (FY- 2015-16, 2016-17, & 2017-18) from Professional Fees.	2
No. of key personnel with the firm	2
Experience in DPR/Feasibility cum PPR for project length in last 7 years.	5
Experience as Independent Engineer/Supervision consultants in Highway Projects (4/6—laning or more) in last 7 years*	6
Experience as Independent Engineer/Supervision consultants in Highway Projects (4/6—laning or more) in last 7 years* as a Project Supervision/IE of OMT/O&M Projects.	8

Sub Total		25
<p><i>Note:</i></p> <p>(i) Employer's certificate should be submitted substantiating the experience claimed by the firm.</p> <p>(ii) Under this, Consultants should give details of the experience of the firm considering the completed and the on-going highway assignments. Only those assignments which are either complete or substantially (90% of Contract value) complete, will only be considered for evaluation.</p> <p>(iii) In case the firm is claiming experience for a project which is completed as JV, 75% credit shall be considered if it was Lead Member and 50% experience shall be considered if it is JV minor partner.</p>		
Sub-Criteria for Quality and Adequacy of the proposed Methodology and Work Plan		
Comments and Suggestions on TOR		1
Quality of Approach and Methodology		3
Work Programme and Manning Schedule		1
Sub Total		5
Sub-Criteria for Qualifications and competence of the Key Personnel proposed for the assignment		
Team Leader cum Senior Highway Engineer		1x25=25
Senior Pavement Specialist		1x10=10
Bridge Engineer		1x10=10
Quality / Material Engineer		1x7 = 7
Traffic and Transportation Engineer		1x6 = 6
Quantity Surveyor		1x6 = 6
Financial Expert		1x3 = 3
Legal Expert		1x3 = 3
Sub Total		70
The number of points to be assigned to each of the above position or discipline shall be determined considering the following sub criteria and relevant percentage weights:		
General Qualifications	25%	The personnel proposed shall have minimum academic qualification as stipulated in Clause 2.1.4.1.
Adequacy for the assignment	60%	The personnel proposed shall have minimum years of relevant experience in the capacity and type & number of Projects as stipulated

		under Clause 2.1.4.1.
Experience in region and language	10%	The personnel proposed shall have minimum five (05) years of experience in the region and shall have good working knowledge of English language to secure full marks under this sub-criteria.
Permanent Employee of the firm	5%	The personnel proposed should be permanent staff of the consulting firm to secure full marks under this sub-criteria. The permanent staff would be considered those employed with the firm for at least one year at the time of submission of this Proposal.
Total Weight:	100%	

3.2 Short-listing of Applicants

Financial Proposals of only those shortlisted eligible bidders shall be opened who obtain 80% and above marks in technical score. Thereafter these shortlisted eligible bidders shall be treated at par and the bidders/consultants who bid minimum financial value shall be selected.

3.3 Evaluation of Financial Proposal

The Authority will determine whether the total cost of services quoted in Form-2 of Appendix-II of Financial Proposals are complete, unqualified and unconditional. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services which includes Remuneration of all the Key Personnel, Remuneration of all the Sub-Professional Staff, Remuneration of all the Support Staff, Transportation (Fixed Rate on Rental Basis), Office Rent (Fixed Costs), Office Supplies, Utilities & Communication (Fixed Costs), Office Furniture and Equipment (Rental), Reports and Document Printing, etc. In the event of a difference between the arithmetic total in Form-3A & Form-3B and the total shown in the Financial Proposal (Form-2), the lower of the two shall be taken into account. Omissions, if any, in costing any item shall not entitle the firm to be compensated and the consultant has to fulfill its liability and obligations as per the TOR within the total quoted price. The lowest financial proposal shall be ranked as L1. The second lowest financial bid shall be ranked as L2 and will be kept in reserve.

4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Applicants and their respective officers, employers, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the country contained in this RFP, the Authority shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determined that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, undesirable practice or restrictive practice (collectively the "**Prohibited Practices**") in the Selection Process. In such an event, the Authority shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority form inter alia, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Applicant's Proposal.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Applicant or Applicants, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or the Authority during a period of 2 (two) years from the date such Applicant or Applicant, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Clause, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) "corrupt practice" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process; or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any time has been or is a legal, financial or technical applicant/adviser of the Authority in relation to any matter concerning the Project;
 - (b) "fraudulent practice" means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
 - (c) "coercive practice" means impairing or harming or threatening to impair or harm, directly or indirectly any persons or property to influence any person's participation or action in the Selection Process;
 - (d) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process' or (ii) having a Conflict of Interest; and
 - (e) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

4.4 Anticorruption

The Client requires that the Applicants observe the highest standard of ethics during the selection process and in execution of such contracts. In pursuance of this policy, the Client:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

- (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (ii) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (iv) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

- (b) will reject a proposal for award if it determines that the consultant recommended for award has directly, or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract in question;
- (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract; and
- (d) will have the right to require that a provision be included requiring consultants to permit the Client to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by Client.

4.5 Applicants, their Sub-Applicants and their associates shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive, coercive or other prohibited practices issued by the Client. Furthermore, the Applicants shall be aware of the provisions on fraud and corruption stated in the specific clauses in the General Conditions of Contract.

4.6 Applicants shall furnish information on fees, gratuities, rebates, gifts, commissions or other payments if any, paid or to be paid to agents and/or representatives relating to this proposal and during execution of the assignment, as requested in the Financial Proposal.

5. PRE-PROPOSAL CONFERENCE

- 5.1 Pre-Proposal Conference of the Applicant shall be convened at the designated date, time and place. Only one representative of each Applicant shall be allowed to participate on production of an authority letter from the Applicant.
- 5.2 During the course of Pre-Proposal Conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority endeavor to provide clarification and such further information as it may, in its sole discretion, consider appropriate for facilitating fair, transparent and competitive process.

6. MISCELLANEOUS

- 6.1 The Selection shall be governed by, and constitute in accordance with, the law of India and the Courts At Lucknow shall have exclusive jurisdiction over all disputes arising under, pursuant under to and/or in connection with the Selection Process.
- 6.2 The Authority, in its sole discretion and without incurring any obligations or liability, reserves the right, at any time, to:
- (a) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and condition relating thereto;
 - (b) consult with any Applicant in order to receive clarification or further information;
 - (c) retain any information and/or evidence submitted to the Authority by, on behalf of and/or in relation to any Applicant; and/or
 - (d) independently verify, disqualify, reject and/or accept any and all submission or other information and/or evidence submitted by or on behalf of any Applicant.
- 6.3 It shall be deemed that by submitting the Proposal, the Applicant agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, loses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.

SCHEDULES

SCHEDULE-1

Terms of Reference (TOR)

RFQ-cum-RFP for Selection of Independent Engineer during Operation & Maintenance (O&M) of Bareilly-Almora Road (SH-37)

TERMS OF REFERENCE FOR INDEPENDENT ENGINEER

1. Scope

- 1.1 These Terms of Reference for the Independent Engineer (the "TOR") are being specified pursuant to the Concession Agreement dated 11.08.2011 (the "Agreement"), which has been entered into between the Authority and M/s PNC Bareilly Nainital Highways Pvt. Ltd. having its registered office at D-57, Vasant Vihar, New Delhi-110057 (the "Concessionaire") for Four Laning with paved shoulder of Bareilly-Almora Road (SH-37) in the State of Uttar Pradesh on design, build, finance, operate and transfer (DBFOT) basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.
- 1.2 This TOR shall apply to construction, operation and maintenance of the Four-Lane Project Highway.

2. Definitions and interpretation

- 2.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.
- 2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.
- 2.3 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, *mutatis mutandis*, to this TOR.

3. Role and functions of the Independent Engineer

- 3.1 The role and functions of the Independent Engineer shall include the following:
- (i) review of the Drawings and Documents as set forth in Paragraph 4;
 - (ii) review, inspection and monitoring of Construction Works as set forth in Paragraph 5;
 - (iii) conducting Tests on completion of construction and issuing Completion/ Provisional Certificate as set forth in Paragraph 5;
 - (iv) review, inspection and monitoring of O&M as set forth in Paragraph 6;
 - (v) review, inspection and monitoring of Divestment Requirements as set forth in Paragraph 7;
 - (vi) determining, as required under the Agreement, the costs of any works or services and/or their reasonableness;
 - (vii) determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;
 - (viii) assisting the Parties in resolution of disputes as set forth in Paragraph 9; and
 - (ix) undertaking all other duties and functions in accordance with the Agreement.
- 3.2 The Independent Engineer shall discharge its duties in a fair, impartial and efficient manner,

4. Development Period

- 4.1 During the Development Period, the Independent Engineer shall undertake a detailed review of the Drawings to be furnished by the Concessionaire along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and traffic surveys. The Independent Engineer shall complete such review and send its comments/observations to the Authority and the Concessionaire within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.
- 4.2 The Independent Engineer shall review any modified Drawings or supporting Documents sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.
- 4.3 The Independent Engineer shall review the Drawings sent to it by the Safety Consultant in accordance with Schedule-L and furnish its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receiving such Drawings. The Independent Engineer shall also review the Safety Report and furnish its comments thereon to the Authority within 15 (fifteen) days of receiving such report.
- 4.4 The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments within 15 (fifteen) days of receipt thereof.
- 4.5 Upon reference by the Authority, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project Highway, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

5. Construction Period

- 5.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Construction Period, the provisions of Paragraph 4 shall apply, *mutatis mutandis*.
- 5.2 The Independent Engineer shall review the monthly progress report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.
- 5.3 The Independent Engineer shall inspect the Construction Works and the Project Highway once every month, preferably after receipt of the monthly progress report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "Inspection Report") setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the Project Highway. The Inspection Report shall also contain a review of the maintenance of the existing lanes in conformity with the provisions of the Agreement. The Independent Engineer shall send a copy of its Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.
- 5.4 The Independent Engineer may inspect the Project Highway more than once in a month if any lapses, defects or deficiencies require such inspections.

- 5.5 For determining that the Construction Works conform to Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. For purposes of this Paragraph 5.5, the tests specified in the IRC Special Publication-11 (Handbook of Quality Control for Construction of Roads and Runways) and the Specifications for Road and Bridge Works issued by PWD (the "Quality Control Manuals") or any modification/substitution thereof shall be deemed to be tests conforming to Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Concessionaire for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.
- 5.6 The sample size of the tests, to be specified by the Independent Engineer under Paragraph 5.5, shall comprise 10% (ten per cent) of the quantity or number of tests prescribed for each category or type of tests in the Quality Control Manuals; provided that the Independent Engineer may, for reasons to be recorded in writing, increase the aforesaid sample size by up to 10% (ten per cent) for certain categories or types of tests.
- 5.7 The timing of tests referred to in Paragraph 5.5, and the criteria for acceptance/ rejection of their results shall be determined by the Independent Engineer in accordance with the Quality Control Manuals. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.
- 5.8 In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph 5 shall apply to such tests.
- 5.9 In the event that the Concessionaire fails to achieve any of the Project Milestones, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Project Highway is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which the Project Completion Date shall be achieved. Upon receipt of a report from the Concessionaire, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire forthwith.
- 5.10 If at any time during the Construction Period, the Independent Engineer determines that the Concessionaire has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the Users, it shall make a recommendation to the Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.
- 5.11 In the event that the Concessionaire carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Independent Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Independent Engineer shall inspect the suspended works and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.
- 5.12 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the Concessionaire is reasonably entitled, and shall notify the Authority and the Concessionaire of the same.
- 5.13 The Independent Engineer shall carry out, or cause to be carried out, all the Tests specified in

Schedule-I and issue a Completion Certificate or Provisional Certificate, as the case may be. For ~~carrying out its functions under this Paragraph 5-13 and all matters incidental thereto, the~~ Independent Engineer shall act under and in accordance with the provisions of Article 14 and Schedule-I.

- 5.14 Upon reference from the Authority, the Independent Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services as set forth in Article 16 and certify the reasonableness of such costs for payment by the Authority to the Concessionaire.
- 5.15 The Independent Engineer shall aid and advise the Concessionaire in preparing the Maintenance Manual.

6. Operation Period

- 6.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Operation Period, the provisions of Paragraph 4 shall apply, *mutatis mutandis*.
- 6.2 The Independent Engineer shall review the annual Maintenance Programme furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 15 (fifteen) days of receipt of the Maintenance Programme.
- 6.3 The Independent Engineer shall review the monthly status report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.
- 6.4 The Independent Engineer shall inspect the Project Highway once every month, preferably after receipt of the monthly status report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out an O&M Inspection Report setting forth an overview of the status, quality and safety of O&M including its conformity with the Maintenance Requirements and Safety Requirements. In a separate section of the O&M Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in O&M of the Project Highway. The Independent Engineer shall send a copy of its O&M Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.
- 6.5 The Independent Engineer may inspect the Project Highway more than once in a month, if any lapses, defects or deficiencies require such inspections.
- 6.6 The Independent Engineer shall in its O&M Inspection Report specify the tests, if any, that the Concessionaire shall carry out, or cause to be carried out, for the purpose of determining that the Project Highway is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Concessionaire in this behalf.
- 6.7 In respect of any defect or deficiency referred to in Paragraph 3 of Schedule-K, the Independent Engineer shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.
- 6.8 The Independent Engineer shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Agreement, and shall also determine the Damages, if any, payable by the Concessionaire to the Authority for such delay.
- 6.9 The Independent Engineer shall examine the request of the Concessionaire for closure of any lane(s) of the carriageway for undertaking maintenance/repair thereof, keeping in view the need to

minimise disruption in traffic and the time required for completing such maintenance/repair in accordance with Good Industry Practice. It shall grant permission with such modifications, as it may deem necessary, within 3 (three) days of receiving a request from the Concessionaire. Upon expiry of the permitted period of closure, the Independent Engineer shall monitor the re-opening of such lane(s), and in case of delay, determine the Damages payable by the Concessionaire to the Authority under Clause 17.7.

- 6.10 The Independent Engineer shall monitor and review the curing of defects and deficiencies by the Concessionaire as set forth in Clause 19.4.
- 6.11 In the event that the Concessionaire notifies the Independent Engineer of any modifications that it proposes to make to the Project Highway, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire within 15 (fifteen) days of receiving the proposal.
- 6.12 The Independent Engineer shall undertake traffic sampling, as and when required by the Authority, under and in accordance with Article 22 and Schedule-O.

7. Termination

- 7.1 At any time, not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to such Termination, the Independent Engineer shall, in the presence of a representative of the Concessionaire, inspect the Project Highway for determining compliance by the Concessionaire with the Divestment Requirements set forth in Clause 38.1 and, if required, cause tests to be carried out at the Concessionaire's cost for determining such compliance. If the Independent Engineer determines that the status of the Project Highway is such that its repair and rectification would require a larger amount than the sum set forth in Clause 39.2, it shall recommend retention of the required amount in the Escrow Account and the period of retention thereof.
- 7.2 The Independent Engineer shall inspect the Project Highway once in every 15(fifteen) days during a period of 90 (ninety) days after Termination for determining the liability of the Concessionaire under Article 39, in respect of the defects or deficiencies specified therein. If any such defect or deficiency is found by the Independent Engineer, it shall make a report in reasonable detail and send it forthwith to the Authority and the Concessionaire.

8. Determination of costs and time

- 8.1 The Independent Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement.
- 8.2 The Independent Engineer shall determine the period, or any extension thereof, that is required to be determined by it under the Agreement.

9. Assistance in Dispute resolution

- 9.1 When called upon by either Party in the event of any Dispute, the Independent Engineer shall mediate and assist the Parties in arriving at an amicable settlement.
- 9.2 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Independent Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

10. Other duties and functions

The Independent Engineer shall perform all other duties and functions specified in the Agreement.

11. Miscellaneous

- 11.1 The Independent Engineer shall notify its programme of inspection to the Authority and to the Concessionaire, who may, in their discretion, depute their respective representatives to be present during the inspection.
- 11.2 A copy of all communications, comments, instructions, Drawings or Documents sent by the Independent Engineer to the Concessionaire pursuant to this TOR, and a copy of all the test results with comments of the Independent Engineer thereon shall be furnished by the Independent Engineer to the Authority forthwith.
- 11.3 The Independent Engineer shall obtain, and the Concessionaire shall furnish in two copies thereof, all communications and reports required to be submitted, under this Agreement, by the Concessionaire to the Independent Engineer, whereupon the Independent Engineer shall send one of the copies to the Authority along with its comments thereon.
- 11.4 The Independent Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.
- 11.5 Upon completion of its assignment hereunder, the Independent Engineer shall duly classify and list all Drawings, Documents, results of tests and other relevant records, and hand them over to the Authority or such other person as the Authority may specify, and obtain written receipt thereof. Two copies of the said document shall also be furnished in micro film form or in such other medium as may be acceptable to the Authority.
- 11.6 Wherever no period has been specified for delivery of services by the Independent Engineer, the Independent Engineer shall act with the efficiency and urgency necessary for discharging its functions in accordance with Good Industry Practice.

12. PERFORMANCE CLAUSE

Independent Engineers shall be expected to fully comply with all the provisions of the 'Terms of Reference', and shall be fully responsible for supervising the Maintenance and Operation of the facility takes place in accordance with the provisions of the Concession Agreement and other schedules. Any failure of the Independent Consultant in notifying to UPSHA and the Concessionaire on non-compliance of the provisions of the Concession Agreement and other schedules by the Concessionaire, non-adherence to the provision of ToR and non-adherence to the time schedule prescribed under ToR shall amount to non-performance.

The Independent Engineer shall appoint its authorized representative, who shall issue on behalf of the IE, the Provisional Completion Certification and Completion Certificate along with the Team Leader and shall carry out any such task as may be decided by UPSHA. The IE shall take prior approval of UPSHA before issuing Provisional Completion Certification and Completion Certificate. The proposal submitted shall also include the name of the authorized representative along with the authorization letter and power of attorney.

13. CONSULTANT'S PROPOSAL

- 13.1 List of key personnel to be fielded by the Consultants shall be as below:
 - i. Team Leader cum Senior Highway Engineer
 - ii. Senior Pavement Specialist

- iii. Bridge Engineer
- iv. Quality / Material Engineer
- v. Traffic and Transportation Engineer
- vi. Quantity Surveyor
- vii. Financial Expert
- viii. Legal Expert

13.2 Broad job-description and minimum qualification for key personnel mentioned above is given in RFP Clause No.-2.1.4.1. The Applicant should submit their proposal on the basis of the man-days given in RFP document. All the CV's of the personals mentioned in form-12 shall be evaluated at the time of evaluation of technical proposal. The age of the Key Personnel/Sub Professional Staff should not be more than 65 years on the date of submission of proposal. Consultants are advised in their own interest to frame the technical proposal in an objective manner as far as possible so that these could be properly assessed in respect of points to be given as part of evaluation criteria. The bio-data of the key personnel should be signed on every sheet by the personnel concerned and the last sheet of each bio-data should also be signed by the authorised signatory for the Consultant. The key personnel shall also certify at the end of their bio-data proforma that they have not left any of the UPSHA works without completing of their assignment and have not accepted any other offer at the time of signing of the bio-data and as such shall be available to work with the Independent Consultant, if the Project is awarded. In case the key personnel leave the assignment without approval of UPSHA, UPSHA would be at liberty to take any appropriate action against that key personnel including debarment.

13.3 In addition to above, consultants are required to propose sub-professional staff as detailed in **Enclosure-A** and support staff as detailed in **Enclosure-B**.

14 PERIOD OF SERVICES

14.1 The services of an Independent Engineer will be in for 1095 Days. The proposed manpower deployment for this period shall be matching the activities to be performed during the said period. The time frame for services during the deployment of key personnel/Sub-professional staff during this period shall be as shown in **Enclosure A**. For avoidance of doubt, it is clarified that details of deployment given in the agreement (**Enclosure A**) are only indicative. Deployment should be done only as per requirement and matching with activities to be performed. When any resource/key personnel/Sub Professional Staff/other staff is not required, they should be demobilised.

15. PERFORMANCE SECURITY

The successful consulting firm shall have to submit a Bank Guarantee (BG) for an amount of 5.00% of the Contract Value within 15 days of issue of LOA. The BG shall be valid for a period of 1155 days i.e. upto 2 months beyond the expiry of the Contract of 1095 days. The BG shall be in the format specified in Appendix J of draft contract form and furnished from a Nationalised Bank. In case of foreign firm, the BG issued by foreign Bank should be counter guaranteed by any Nationalised Bank in India. In case of JV, the BG shall be furnished on behalf of the JV and not individually by the members.

16. The firms/organizations shall make their own assessment of key Personnel (professional staff) and sub-professional staff to undertake the assignment. Additional staff or personnel if required to complete the assignment in the prescribed time, must be provided, within the total quoted cost only. UPSHA shall not be responsible for any wrong assessment by the firms/organization and shall not in any case bear any additional cost arising there from. The firms should assess the inputs at site and office for each expert and support staff for completing the assignment within the above timelines, which shall be indicated by the firm in the Financial Proposal. The firms should make its own arrangements for office space, equipment, computer hardware/ software etc. A certificate

from the UPSHA shall be furnished about the presence of Key Personnel / Sub-Professional staff and support staff at site for release of payment.

17. INTERACTION WITH UPSHA AND OTHER AUTHORITIES

17.1 Interaction with UPSHA

The Consultant shall interact with the UPSHA on a regular basis. UPSHA shall generally hold meetings every month to review the progress etc. during the phase of Design and Construction, and every second month during the Operation and maintenance stage. Within 30 days of the receipt of the Drawings, the Consultant shall review the same and convey its comments/observations to the Concessionaire with particular reference to the conformity or otherwise with the specifications and standards set forth in the Agreement.

17.2 Interaction with Other Authorities

The Consultant shall interact with other government departments and authorities on a regular basis with intimation to UPSHA. These meetings are to be held every month and as and when required to review the progress, mutual coordination issues, etc. during the phase of Design and Construction, and every second month during the Operation and maintenance stage. Within 5 days of the receipt of the Drawing, the Consultant shall forward the same for comments/ observations to the concerned Authorities.

18. Hours of Work for Key Personnel

The Consultants Key personnel and all other Professional / Sub Professional / Support Staff / -Consultancy personnel shall work 6 days (Mondays through Saturday) every week and observe the Gazetted Holidays of Government of India as Holidays. The Consultant shall work as per the work program of the Concessionaire. The Consultants hours of work normally shall match with that of Contractor's activities on the site. No extra remuneration shall be claimed or paid for extra hours of work required in the interest of *Project completion*. In respect of foreign personnel, one day per trip as travel time from and to the country of the Government shall be allowed.

Enclosure-A

**MAN - DAYS INPUT FOR KEY PROFESSIONAL STAFF & SUB-PROFESSIONAL STAFF
INDEPENDENT ENGINEERS (refer clause No.- 2.1.4.1 & 2.1.4.2 of RFP)**

S. No.	Key Personnel	Suggested Man-days during O&M Stage (O&M for 1095 days)
A: Key Personnel		
1.	Team Leader cum Senior Highway Engineer	1095
2.	Senior Pavement Specialist	180
3.	Bridge Engineer	180
4.	Quality / Material Engineer	180
5.	Traffic and Transportation Engineer	180
6.	Quantity Surveyor	270
7.	Financial Expert	90
8.	Legal Expert	90
B: Sub Professional Staff		
(a)	Asst. Highway Engineer	1095
(b)	Asst. Bridge Engineer	1095
(c)	HTMS/Toll Expert	180
(d)	Horticulture cum Landscaping Expert.	180

Enclosure-B

Support Staff

No.	Position	Name	Staff days
1.	Office Manager cum Accountant (1 no)	TBN	1095
2.	Secretary cum Computer Operator (1nos)	TBN	1095
3.	Office Boy cum Photocopier (1 nos)	TBN	1095

TBN = To Be Named

SCHEDULE-2

AGREEMENT

FOR

**RFQ-cum-RFP for Selection of Independent Engineer during
Operation & Maintenance (O&M) of Bareilly-Almora Road
(SH-37)**

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AGREEMENT

Selection of Independent Engineer during Operation & Maintenance (O&M) of Bareilly-Almora Road (SH-37)

AGREEMENT No. _____

This AGREEMENT (herein called the "Agreement") is made on the _____th day of the month of _____ 2019, between, the Governor of Uttar Pradesh acting through _____ C.E.O, UPSHA, Government of Uttar Pradesh hereinafter referred to as "**the Authority**", which expression shall include their respective successors in office unless the context otherwise requires) of the one part and M/s _____ (hereinafter referred to as the "**Independent Engineer**" which expression shall include their respective successors and permitted assigns) of the second part.

WHEREAS

- (A) The Authority invites its Request for Proposal for selection of Independent Engineer during Operation & Maintenance (O&M) of Bareilly-Almora Road (SH-37) in Uttar Pradesh.
- (B) The Applicant submitted its proposals for the aforesaid work, whereby the Applicant represented to the Authority that it had the required professional skills, and in the said proposal the Applicant also agreed to provide the Services to the Authority on the terms and conditions as set forth in the RFP.
- (C) The Authority, on acceptance of the aforesaid proposals of the Applicant, awarded the Consultancy to the Applicant vide its Letter of Award dated _____ (the "LOA"); and

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. GENERAL

1.1 Definitions and Interpretation

1.1.1 The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

- 1 "Applicable Laws" means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time;
- 2 "Agreement" means this Agreement, together with all the Annexes;
- 3 "Agreement Value" shall have the meaning set forth in Clause 6.1.2;
- 4 "Additional Costs" shall have the meaning set forth in Clause 6.1.2;
- 5 "Confidential Information" shall have the meaning set forth in Clause 3.3;
- 6 "Conflict of Interest" shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
- 7 "Dispute" shall have the meaning set forth in Clause 9.2.1;
- 8 "Effective Date" means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;
- 9 "Expatriate Personnel" means such persons who at the time of being so hired had their domicile outside India;
- 10 "Government" means the [Government of Uttar Pradesh];
- 11 "INR, Re. or Rs." means the Indian Rupees;
- 12 "Member", in case the Applicant consists of a joint venture or consortium of more than one entity, means any of these entities, and "Members" means all of these entities;
- 13 "Personnel" means persons hired by the Applicant as employees and assigned to the performance of the Services or any part thereof;
- 14 "Party" means the Authority or the Applicant, as the case may be, and Parties means both of them;
- 15 "Resident Personnel" means such persons who at the time of being so hired had their domicile inside India;
- 16 "Services" means the work to be performed by the Applicant pursuant to this Agreement, as described in the Terms of Reference hereto;

- 17 "RFP" means the Request for Proposal document in response to which the Applicant's proposal
for providing Services was accepted;
- 18 "Sub-Applicant" means any entity to which the Applicant subcontracts any part of the Services in
accordance with the provisions of Clause 4.7; and
- 19 "Third-Party" means any person or entity other than the Government, the Authority, the Applicant
or a Sub-Applicant;
- 20 "Upgradation" means strengthening, two laning with paved shoulder or four laning with paved
shoulder of the highway.

1.1.2 The following documents along with all addenda issued thereto shall be deemed to form and be
read and construed as integral part of this Agreement and in case of any contradiction between or
among them the priority in which a document would prevail over other would be as laid down
below beginning from the highest priority to the lowest priority:

- (a) Agreement;
- (b) Annexes of Agreement;
- (c) RFP; and
- (d) Letter of Award

1.2 Relation between the Parties

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

1.3 Rights and Obligations

The mutual rights and obligations of the Authority and the Applicant shall be as set forth in the
Agreement, in particular:

- (a) the Applicant shall carry out the Services in accordance with the provisions of the
Agreement; and
- (b) this Authority shall make payment to the Applicant in accordance with the provisions of
this Agreement.

1.4 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws
of India, and the courts at Lucknow shall have jurisdiction over matters arising out of or relating
to this Agreement.

1.5 Language

All notices required to be given by one Party to the other Party and all other communications,
documentation and proceedings which are in any way relevant to this Agreement shall be in
writing and in English language.

1.6 Table of Contents and headings

The tables of contents, headings or sub-headings in this Agreement are for convenience of
reference only and shall not be used in, and shall not affect, the construction or interpretation of
this Agreement.

1.7 Notices

Any notice or other communication to be given by any Party to the other Party under or in
connection with the matters contemplated by this Agreement shall be in writing and shall;

- (a) in the case of the Applicant, be given by facsimile and by letter delivered by hand to the address given and marked for attention of the Applicant's Representative set out below in Clause 1.10 or to such other person as the Applicant may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside Lucknow may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile to the number as the Applicant may from time to time designate by notice to the Authority;
- (b) in the case of the Authority, be given by facsimile and by letter delivered by hand and be addressed to the Authority with a copy delivered to the Authority Representative set out below in Clause 1.10 or to such other person as the Authority may from time to time designate by notice to the Applicant; provided that if the Applicant does not have an office in Lucknow it may send such notice by facsimile and by registered acknowledgement due, air mail or by courier; and
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered.

1.8 Location

The Services shall be performed at the site of the Project in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the Applicant.

1.9 Authority of Member-in-charge

In case the Applicant consists of a consortium of more than one entity, the Parties agree that the Lead Member shall act on behalf of the Members in exercising all the Applicant's rights and obligations towards the Authority under this Agreement, including without limitation the receiving of instructions and payments from the Authority.

1.10 Authorized Representatives

1.10.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Authority or the Applicant, as the case may be, may be taken or executed by the officials specified in Clause 1.10.

1.10.2 The Authority may, from time to time, designate one of its officials as the Authority Representative. Unless otherwise notified, the Authority Representative shall be:

Chief Executive Officer
 Uttar Pradesh State Highways Authority
 4th floor, Kisan Mandi Bhawan, Vibhuti Khand,
 Gomti Nagar, Lucknow-226010.
 Tel: 0522-4150377
 Fax: 0522-4150377

1.10.3 The Applicant may designate one of its employees as Applicant's Representative. Unless otherwise notified, the Applicant's Representative shall be:

 Tel: _____
 Fax: _____

1.11 Taxes and duties

Unless otherwise specified in this Agreement, the Applicant shall pay all such taxes, duties, fees other impositions as may be levied under the Applicable Laws and the Authority shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreement

This Agreement shall come into force and effect on _____, 2019 (the "Effective Date").

2.2 Commencement of Services

The Applicant shall commence the Services within a period of 7 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

2.3 Termination of Agreement for failure to commence Services

If the Applicant does not commence the Services within the period specified in Clause 2.2 above, the Authority may, by not less than 2 (two) weeks' notice to the Applicant, declare this Agreement to be null and void, and in the event of such a declaration, the Bid Security of the Applicant shall stand forfeited.

2.4 Expiration of Agreement

Unless terminated earlier to Clause 2.9 hereof, this Agreement shall expire when the Services have been completed and a period of 90 (ninety) days has elapsed after all payments under this Agreement, have been made.

2.5 Entire Agreement

2.5.1 This Agreement and the Annexes together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Applicant arising out of the provisions of the RFP shall continue to subsist and shall be deemed as part of this Agreement.

2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Agreement, the provisions of RFP shall apply.

2.6 Modifications of Agreement

Modification of the terms and conditions of this Agreement including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause 4.2.3 and 6.1.3 hereof, however, each Party shall give due consideration to any proposal for modification made by the other Party.

2.7 Force Majeure**2.7.1 Definition**

(a) For the purposes of this Agreement, "Force Majeure" means an event which is beyond the reasonable control of Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosions, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.

- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of as Party or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No breach of Agreement

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

2.7.3 Measures to be taken

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

2.7.4 Extension of time

Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as result of Force Majeure.

2.7.5 Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Applicant shall be entitled to be reimbursed for additional costs reasonably and necessarily by it during such period for the purpose of the Services and in reactivating the Services after the end of such period.

2.7.6 Consultation

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

2.8 Suspension of Agreement

The Authority may, by written notice of suspension to the Applicant, suspend all payments to the Applicant hereunder if the Applicant shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Applicant to remedy such breach or failure within a period not exceeding thirty (30) days after receipt by the Applicant of such notice of suspension.

2.9 Termination of Agreement

2.9.1 By the Authority

The Authority may, by not less than thirty (30) days' written notice of termination to the applicant, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

- (a) the Applicant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing;
- (b) the Applicant becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the Applicant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the Applicant submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Applicant knows to be false;
- (e) any document, information, data or statement submitted by the Applicant in its Proposals, based on which the Applicant was considered eligible of successful, is found to be false, incorrect or misleading;
- (f) as the result of Force Majeure, the Applicant is unable to perform a material portions of the Services for a period of not less than sixty (60) days; or
- (g) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

2.9.2 By the Applicant

The Applicant may, by not less than thirty (30) days' written notice to the Authority, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:

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

2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the Applicant's obligation to permit inspection, copying and auditing of its accounts and records set forth in Clause 3.6 (ii) hereof, and any right which a Party may have under the Applicable Law.

2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Applicant shall, immediately upon dispatch or receipt of such notice,

take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Applicant and equipment and materials furnished by the Authority, the Applicant shall proceed as provided respectively by Clauses 3.9 or 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Agreement pursuant to Clause 2.9.1 or 2.9.2 hereof, the Authority shall make the following payments to the Applicant (after offsetting against these payments any amount that may be due from the Applicant to the Authority):

- (i) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- (ii) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and
- (iii) except in the case of termination pursuant to sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement including the cost of the return travel of the Applicant's personnel.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE APPLICANT

3.1 General

3.1.1 Standards of Performance

The Applicant shall perform the Services and carry out its obligation hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Applicant shall always act, in respect of any matter relating this Agreement or to the Services, as a faithful adviser to the Authority, and shall at all times support and safeguard the Authority's legitimate interests in any dealings with Sub-Applicants or Third Parties.

3.1.2 Terms of Reference

The scopes of Services to be performed by the Applicant are specified in the Terms of Reference (the "TOR") at Annex-I of this Agreement. The Applicant shall provide the deliverables specified therein in conformity with the time schedule stated therein.

3.1.3 Applicable Laws

The Applicant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Sub-Applicant, as well as the Personnel and agents of the Applicant and any Sub-Applicant, comply with the Applicable Laws.

3.2 Conflict of Interest

3.2.1 The Applicant shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Agreement

3.2.2 Applicant and Affiliates not to be otherwise interested in the Project

The Applicant agrees that, during the term of this Agreement and after its termination, the Applicant and any entity affiliated with the Applicant shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services and any breach of this obligation shall amount to a Conflict of Interest. For the avoidance of doubt, an entity affiliated with the Applicant shall include a partner in the Applicant's firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Applicant, as the case may be, and any Associate thereof.

3.2.3 Prohibition of conflicting activities

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

- (a) during the term of this Agreement, any business or professional activities which would conflict with the activities assigned to them under this Agreement;
- (b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or
- (c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

3.2.4 Applicant not to benefit from commissions discounts, etc.

The remuneration of the Applicant pursuant to Clause 6 hereof shall constitute the Applicant's sole remuneration in connection with this Agreement or the Services and the Applicant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the Applicant shall use its best efforts to ensure that any Sub-Applicant, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.5 The Applicant and its Personnel shall observe the highest standards of ethics and have not engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices"). Notwithstanding anything to contrary contained in this Agreement, the Authority shall be entitled to terminate this Agreement forthwith by a communication in writing to the Applicant, without, being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the Authority shall forfeit and appropriate the performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time cost and effort of the Authority, without prejudice to the Authority's any other rights or remedy hereunder or in law.

3.2.6 Without prejudice to the rights of the Authority under Clause 3.2.5 above and the other rights and remedies which the Authority may have under this Agreement, if the Applicant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Applicant shall not be eligible to participate in any tender of RFP issued during a period of 2 (two) years from the date the Applicant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.

3.2.7 For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) **"corrupt practice"** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser the Authority in relation to any matter concerning the Project;
- (b) **"fraudulent practice"** means a misrepresentation of omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) **"coercive practice"** means impairing or harming, or threatening of impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the Authority under this Agreement;
- (d) **"undesirable practice"** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) **"restrictive practice"** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

3.3 Confidentiality

The Applicant, its Sub-Applicants and the Personnel of either of them shall not either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that if provided by the Authority to the Applicant, its Sub-Applicants and the Personnel; any information provided by or relating to the Authority, its technology, technical processes, business affairs or finances or any information relating to the Authority's employees, officers or other professionals or suppliers, customers, or contractors of the Authority; and any other information which the Applicant is under an obligation to keep confidential in relation to the Project, the Services or this Agreement ("**Confidential Information**"), without the prior written consent of the Authority.

Notwithstanding the aforesaid, the Applicant, its Sub-Applicants and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- (i) was in the public domain prior to its delivery to the Applicant, its Sub-Applicants and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Applicant, its Sub-Applicants and the Personnel of either of them;
- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed by Law or judicial or administrative or arbitral process or by any Government Instrumentalities, provided that for any such disclosure, the Applicant, its Sub-Applicants and the Personnel of either of them shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment;

- (iv) is provided to the professional advisers, agents, auditors or representatives of the ~~Applicant or its Sub Applicants or Personnel of either or them, as is reasonable under the~~ circumstances; provided, however, that the Applicant or its Sub-Applicants or Personnel of either of them, as the case may be, shall required their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

3.4 Liability of the Applicant

3.4.1 The Applicant's liability under this Agreements shall be determined by the Applicable Laws and the provisions hereof.

3.4.2 Applicant's liability towards the Authority

The Applicant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.

3.4.3 The Parties hereto agree that in case of negligence of willful misconduct on the part of the Applicant or on the part of any person of firm acting on behalf of the Applicant in carrying out the Services, the Applicant, with respect to damage caused to the Authority's property, shall not be liable to the Authority:

- (i) for any indirect of consequential loss or damage; and
- (ii) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.12 of this Agreement, or (b) the proceeds the Applicant may be entitled to receive from any insurance maintained by the Applicant to cover such a liability in accordance with Clause 3.5.2, whichever of (a) or (b) is higher.

This limitation of liability shall not affect the Applicant's liability, if any, for damage of Third Parties caused by the Applicant or any person or firm acting on behalf of the Applicant in carrying out the Services.

3.5 Insurance to be taken out by the Applicant

- 3.5.1**
- (a) The Applicant shall take out and maintain at its own cost but on terms and conditions approved by the Authority, insurance against the risks, and for the coverages, as shall be specified in the Agreement and in accordance with good industry practice.
 - (b) Within 15 (fifteen) days of reviving any insurance policy certificate in respect of insurances required to be obtained and maintained under this clause, the Applicant shall furnish to the Authority, copies of such policy certificates, copies of the insurance policies and evidence that the insurance premia have been paid in respect of such insurance. No insurance shall be cancelled, modified or allowed to expire or lapse during the term of this Agreement.
 - (c) If the Applicant fails to effect and keep in force the aforesaid insurances for which it is responsible pursuant hereto, the Authority shall, apart from having other recourse available under this Agreement, have the option, without prejudice to the obligations of the Applicant, to take out the aforesaid insurance, to keep in force any such insurances, and pay such premia and recover the costs thereof from the Applicant, and the Applicant shall be liable to pay such amounts on demand by the Authority.
 - (d) Except in case of Third Party liabilities, the insurance policies so procured shall mention the Authority as the beneficiary of the Applicant and the Applicant shall procure an undertaking from the insurance company to this effect; provided that in the event the Applicant has a general insurance policy that covers the risks specified in this Agreement and the amount of insurance cover is equivalent to 3 (three) times the cover required hereunder, such insurance policy may not mention the Authority as the sole beneficiary of the Applicant or require an undertaking to that effect.

3.5.2 The Parties agree that the risks and coverages shall include but not be limited to the following:

- (a) Third Party liability insurance as required under Applicable Laws.
- (b) Third Party liability insurance with a minimum coverage of [Rs. 1 Crore] for the period of this Agreement.
- (c) The indemnity limit in terms of "Any One Accident" (AOA) and "Agreement limit on the policy period" (AOP) should not be less than the amount stated in Clause 6.1.2 of the Agreement. In case of consortium, the policy should be in the name of Lead Member and not in the name of individual Members of the consortium.
- (d) Employer's liability and workers' compensation insurance in respect of the Personnel of the Applicant and of any Sub-Applicant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and all insurances and policies should start no later than the date of commencement of Services and remain effective as per relevant requirements of the Agreement.

3.6 Accounting, inspection and auditing
The Applicant shall,

- (i) keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the basis thereof (including the basis of the Applicant's costs and charges), and
- (ii) permit the Authority or its designated representative periodically, and up to one year from the expiration or termination of this Agreement, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Authority.

3.7 Applicant's actions requiring the Authority's prior approval

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

- (a) appointing such members of the Professional Personnel as are not listed in Annex-2.
- (b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-Applicant and the terms and conditions of the subcontract shall have been approved in writing by the Authority prior to the execution of the subcontract, and (ii) that the Applicant shall remain fully liable for the performance of the Services by the Sub-Applicant and its Personnel pursuant to this Agreement; or
- (c) any other action that may be specified in this Agreement.

3.8 Reporting obligations

The Applicant shall submit to the Authority the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

3.9 Documents prepared by the Applicant to be property of the Authority

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

3.9.2 The Applicant shall not use these documents for purposes unrelated to this Agreement without the prior written approval of the Authority.

3.10 Equipment and materials furnished by the Authority

~~Equipment and materials made available to the Applicant by the Authority shall be the property of~~ the Authority and shall be marked accordingly. Upon termination or expiration of this Agreement, the Applicant shall furnish forthwith to the Authority, an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the instructions of the Authority. While in possession of such equipment and materials, the Applicant shall, unless otherwise instructed by the Authority in writing, insure them in an amount equal to their full replacement value.

3.11 Providing access to Project Office and Personnel

The Applicant shall ensure that the Authority, and officials of the Authority having authority from the Authority, are provided unrestricted access to the Project Office and to all Personnel during office hours. The Authority's any such official shall have the right to inspect the Services in progress, interact with Personnel of the Applicant verify the records for his satisfaction.

3.12 Accuracy of Documents

The Applicant shall be responsible for accuracy of the data collected by it directly or procured from other agencies/authorities, the designs, drawings, estimates and all other details prepared by it as part of these services. Subject to the provisions of Clause 3.4, it shall indemnify the Authority against any inaccuracy in its work which might surface during implementation of the Project, if such accuracy is the result of any negligence or inadequate due diligence on part of the Applicant or arises out of its failure to conform to good industry practices. The Applicant shall also be responsible for promptly correcting, at its own cost and risk, the drawings including any re-survey / investigations.

4. APPLICANT'S PERSONNEL AND SUB-APPLICANTS

4.1 General

The Applicant shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

4.2 Deployment of Personnel

4.2.1 The designations, name and the estimated periods of engagement in carrying out the Services by each of the Applicant's Personnel are described in Annex-2 of this Agreement. The estimate of Personnel costs and man day rates are specified in Annex-3 of this Agreement.

4.2.2 Adjustments with respect to the estimated periods of engagement of Personnel set forth in the aforementioned Annex-3 may be made by the Applicant by written notice to the Authority, provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 20% (twenty percent) or one week, whichever is greater, and (ii) that the aggregate of such adjustments shall not cause payments under the Agreement to exceed the Agreement Value set forth in Clause 6.1.2 of this Agreement. Any other adjustments shall only be made with the written approval of the Authority.

4.2.3 If additional work is required beyond the scope of the Services specified in the Terms of Reference, the estimated periods of engagement of Personnel, set forth in the Annexes of the Agreement may be increased by agreement in writing between the Authority and the Applicant, provided that any such increase shall not, except as otherwise agreed, cause payments under this Agreement to exceed the Agreement Value set forth in Clause 6.12.

4.3 Approval of Personnel

4.3.1 The Professional Personnel listed in Annex-2 of the Agreement are hereby approved by the Authority. No other Professional Personnel shall be engaged without prior approval of the Authority.

4.3.2 If the Applicant hereafter proposes to engage any person as Professional Personnel, it shall submit to the Authority its proposal along with a CV of such person in the form provided at Appendix-I (Form-12) of the RFP. The Authority may approve or reject such proposal within 14 (fourteen) days of receipt thereof. In case the proposal is rejected, the Applicant may propose an alternative person for the Authority's consideration. In the event the Authority does not reject a proposal within fourteen (14) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the Authority.

4.4 Substitution of Key Personnel

4.4.1 The Authority will not normally consider any request of the Selected Applicant for substitution of Key Personnel will however be permitted if the Key Personnel is not available for reasons of any incapacity or due to health, subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.

4.4.2 The Authority expects all the Key Personnel to be available during implementation of the Agreement. The Authority will not consider substitution of Key Personnel except under exceptional circumstances. Such substitution shall be limited to 33% (Thirty Three Percent) of Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. As condition to such substitution beyond the limit of 33%, a sum equal to 0.1% of total consultancy fee shall be deducted from the payments due to the Applicant.

4.4.3 Substitution of the Team Leader will not normally be considered and may lead to disqualification of the Applicant or termination of the Agreement.

4.5 Working hours, overtime, leave, etc.

The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in the Agreement, and the cost of services quoted by the Applicant shall be deemed to cover these items. Any taking of leave by any Personnel for a period exceeding 7 days shall be subject to the prior approval of the Authority, and the Applicant shall ensure that any absence on leave will not delay the progress and quality of the Services.

4.6 Resident Team Leader and Project Manager

The person designated as the Team Leader of the Applicant's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel. In addition, the Applicant shall designate a suitable person as Project Manager (the "Project Manager") who shall be responsible for day to day performance of the Services.

4.7 Sub-Applicant

No Sub-Applicant shall be allowed.

5. OBLIGATIONS OF THE AUTHORITY

5.1 Assistance in clearances etc.

Unless otherwise specified in the Agreement, the Authority shall make best efforts to ensure that the Government shall:

- (a) provide the Applicant, its Sub-Applicants and Personnel with work permits and such other documents as may be necessary to enable the Applicant, its Sub-Applicants or Personnel to perform the Services;
- (b) facilitate prompt clearance through customs of any property required for the Services; and

- (c) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

5.2 Access to land and property

The Authority warrants that the Applicant shall have, free of charge, unimpeded access to the site of the project in respect of which access is required for the performance of Services; provided that if such access shall not be made available to the Applicant as and when so required, the Parties shall agree on (i) the time extension, as may be appropriate, for the performance of Services, and (ii) the additional payments, if any, to be made to the Applicant as a result thereof pursuant to Clause 6.1.3.

5.3 Change in Applicable Law

If, after the date of this Agreement, there is any change in Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Applicant in performing the Services, by an amount exceeding Rs. 5 (five) lakh, then the remuneration and reimbursable expenses otherwise payable to the Applicant under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Agreement Value specified in Clause 6.1.2.

5.4 Payment

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

6. PAYMENT TO THE APPLICANT

6.1 Cost estimates and Agreement Value: Ceiling Amount

6.1.1 An abstract of the cost of the Services payable to the Applicant is set forth in Annex-5 of the Agreement.

6.1.2 Except as may be otherwise agreed under Clause 2.6 and subject to Clause 6.1.3, the payments under this Agreement shall not exceed the agreement value specified herein (the "Agreement Value"). The Parties agree that the Agreement Value is Rs. _____ (Rs. _____).

6.1.3 Notwithstanding anything to the contrary contained in Clause 6.1.2, if pursuant to the provisions of Clauses 2.6 and 2.7, the Parties agree that additional payments shall be made to the Applicant in order to cover any additional expenditures not envisaged in the cost estimates referred to in Clause 6.1.1 above, the Agreement Value set forth in Clause 6.1.2 above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.2 Remuneration and Reimbursable Expenditures

- (a) Subject to the ceilings specified in Clause- 6.1.2 hereof, the Client shall pay to the Consultants (i) remuneration as set forth in Clause 6.2(b), and (ii) reimbursable expenditures as set forth in Clause 6.2(c).
- (b) Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause 2.2 (or such other date as the Parties shall agree in writing).

- (c) Reimbursable expenditures actually and reasonably incurred by the Consultants in the performance of the Services.

6.3 Currency of payment

All payments shall be made in Indian Rupees. The Applicant shall be free to convert Rupees into any foreign currency as per Applicable Laws.

6.4 Mode of billing and payment

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

- (a) A Mobilization Advance for an account upto 10% (ten percent) of the Agreement Value shall be paid to the Applicant on request and against a Bank Guarantee from a Scheduled Bank in India in an amount equal to such advance, such Bank Guarantee to remain effective until the advance payment has been fully set off as provided herein. The advance outstanding shall attract simple interest @ 10% (ten percent) per annum and shall be adjusted in three equal installments from the stage payments due and payable to the Applicant, and the accrued interest shall be recovered from the fourth installment due and payable thereafter.
- (b) As soon as practicable and not later than fifteen (15 days) after the end of each calendar month during the period of the Services, the Consultants shall submit to the Client, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to Clauses 6.3 and 6.4 for such month. Each such monthly statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures.
- (c) The Authority shall cause the payment of the Applicants periodically as given in schedule of payment above within thirty (30) days after the receipt by the Authority of bills with supporting documents. Only such portion of a monthly statement that is not satisfactorily supported by deliverables may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultants, the Client may add or subtract the difference from any subsequent payments. Interest at the rate 10 % per annum shall become payable as from the above due date on any amount due by, but not paid on such due date.
- (d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Applicant and approved as satisfactory by the Authority. The Services shall be deemed completed and finally accepted by the Authority and the final report and final statement shall be deemed approved by the Authority as satisfactory upon expiry of 90 (ninety) days after receipt of the final report and final statement by the Authority unless the Authority, within such 90 (ninety) day period, gives written notice to the Applicant specifying in detail, the deficiencies in the Services, the final report or final statement, as the case may be. The Applicant shall thereupon promptly make any necessary corrections and/or additions and upon completion of such corrections or additions, the foregoing process shall be repeated.
- (e) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Applicant to the Authority within 30 (thirty) days after receipt by the Applicant of notice thereof. Any such claim by the Authority for reimbursement must be made within 1 (one) year after receipt by the Authority of a final report and a final statement in accordance with Clause 6.4 (d). Any delay by the Applicant in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.

- (f) All payments under this Agreement shall be made to the account of the Applicant as may be notified to the Authority by the Applicant.
-

7. LIQUIDATED DAMAGES AND PENALTIES

7.1 Performance Security

7.1.1 The Authority shall retain by way of performance security (the "**Performance Security**"), 5% (five per cent) of all the amounts due and payable to the Applicant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2 herein. The balance remaining out of the Performance Security shall be returned to the Applicant at the end of three months after the expiration of this Agreement pursuant to Clause 2.4 hereof.

7.1.2 The Applicant may, in lieu of retention of the amounts as referred to in Clause 7.1.1 above, furnish a Bank Guarantee substantially in the form specified at Annex-6 of this Agreement.

7.2 Liquidated Damages

7.2.1 Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the Applicant and such error or variation is the result of negligence or lack of due diligence on the part of the Applicant, the consequential damages thereof shall be quantified by the Authority in a reasonable manner and recovered from the Applicant by way of liquidated damages, subject to a maximum of 10% (ten per cent) of the Agreement Value.

7.2.2 Liquidated Damages for delay

In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.2% (zero point two per cent) of the Agreement Value per day, subject to a maximum of 10% (ten per cent) of the Agreement Value will be imposed and shall be recovered by appropriation from the Performance Security or otherwise. However, in case of delay due to reasons beyond the control of the Applicant, suitable extension of time shall be granted.

7.2.3 Encashment and appropriation of Performance Security

The Authority shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part. Without notice to the Applicant in the event of breach of this Agreement or for recovery of liquidated damages specified in Clause 7.2.

7.3 Penalty for deficiency in Services

In addition to the liquidated damages not amounting to penalty, as specified in Clause 7.2, warning may be issued to the Applicant for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the Authority, other panel action including debarring for a special period may also be initiated as per policy of the Authority.

8. FAIRNESS AND GOOD FAITH

8.1 Good Faith

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

8.2 Operation of the Agreement

The Parties recognize that it is impractical in this Agreement to provide for every contingency which may arise during life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but failure to agree on any action pursuant to this Clause shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

9. SETTLEMENT OF DISPUTES

9.1 Amicable settlement

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

9.2 Dispute resolution

9.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "**Dispute**") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

9.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

9.3 Conciliation

In the event of any Dispute between the Parties, either Party may call upon ***** and the Chairman of the Board of Directors of the Applicant for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) days period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration on accordance with the provisions of Clause 9.4.

9.4 Arbitration

9.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by a Board of Arbitrators appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "**Rules**"), such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be Office of Uttar Pradesh State Highways Authority, Lucknow.

9.4.2 There shall be a Board of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

9.4.3 The arbitrators shall make a reasoned award (the "**Award**"). Any award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the Applicant and the Government agree and undertake to carry out such Award without delay.

9.4.4 The Applicant and the Government agree that an Award may be enforced against the Applicant and/or the Government, as the case may be, and their respective assets wherever situated.

9.4.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed in their respective names as of the day and year first above written.

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of Independent Engineer:

For an behalf of Government of Uttar Pradesh

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

(Fax No.)

(Fax No.)

In the presence of:

1.

2.

Annex-1

Terms of Reference
(Reproduce Schedule-1 of RFP)

Deployment of Personnel

Annex-3

Estimate of Personnel Costs

(Reproduce as per Form-3A & Form-3B of Appendix-II)

Annex-4

Cost of Services
(Refer Clause 6.1)

(Reproduce as per Form-2 of Appendix-II)

Annex-5
Time and Payment Schedule
(Refer Clause 6.3)

Bank Guarantee for Performance Security

(Refer Clause 7.1.2)

To,

[The Governor of Uttar Pradesh]
Acting through
Uttar Pradesh State Highways Authority,
4th floor, Kisan Mandi Bhawan,
Vibhuti Khand, Gomti Nagar,
Lucknow-226010.

In consideration of Uttar Pradesh State Highways Authority acting of behalf of the [The Governor of Uttar Pradesh] (hereinafter referred as the "Authority",] which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s PNC Bareilly Nainital Highways Pvt. Ltd. having its registered office at D-57, Vasant Vihar, New Delhi-110057(hereinafter referred as the "Applicant" which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority's Agreement no. _____ dated _____ to perform the duties of Independent Engineer for Bareilly-Almora Road (SH-37) in Uttar Pradesh valued at Rs. _____ (Rupees _____), (hereinafter referred to as the "Agreement") and the Applicant having agreed to furnish a Bank Guarantee amounting Rs. _____ (Rupees _____) to the Authority for performance of the said Agreement.

We, _____ (hereinafter referred to as the "Bank") at the request of the Applicant do hereby undertake to pay to the Authority an amount not exceeding Rs. _____ (Rupees _____) against any loss or damage caused to or suffered or would be cause to or suffered by the Authority by reason of any breach by the said Applicant of any of the terms or conditions contained in the said Agreement.

2. We, _____ (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Authority stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the Authority by reason of breach by the said Applicant of any of the terms or conditions contained in the said Agreement or by reason of the Applicant's failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. _____ (Rupees _____).

3. We undertake to pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Applicant in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal.. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Applicant shall have no claim against us for making such payment.

4. We, _____ (indicate the name of the Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the

Authority under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Authority certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Applicant and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before a period of one year from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

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

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Applicant(s).

7. We, _____ (indicate the name of the Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consents of the Authority in writing.

Dated the _____ day of _____ 200*

For _____

NOTES:

- (i) The Bank Guarantee should contain the name, designation and code number of the officer(s) signing the Guarantee.
- (ii) The address, telephone no. and other details of the Head Office of the Bank as well as issuing Branch should be mentioned on the covering letter of issuing Branch.

SCHEDULE-3

(Refer Clause 2.3.3)

Guidance Note on Conflict of Interest

1. This Note further explains and illustrates the provisions of Clause 2.3 of the RFP and shall be read together therewith in dealing with specific cases.
2. Applicants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that there is a business or their personal interest could influence their judgment in the exercise of their duties. The process of selection of applicants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the Authority and a applicant or between applicants and present or future concessionaires/contractors. Some of the situations that would involve conflict of interest are identified below:

(a) Authority and applicants:

- (i) Potential applicant should be privy to information from the Authority which is not available to others.
- (ii) Potential applicant should not have defined the project when earlier working for the Authority.
- (iii) Potential applicant should not have recently worked for the Authority overseeing the project.

(b) Applicants and concessionaires/contractors:

- (i) No Applicant should have an ownership interest or a continuing business interest or relationship with a potential concessionaire/ contractor.
- (ii) No applicant should be involved in owning or operating entities resulting from the project.
- (iii) No applicant should bid for works from the project.

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

4. The normal way to identify conflicts of interest is through self-declaration by applicants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Authority. All conflicts must be declared as and when the applicants become aware of them.
5. Another approach to avoiding a conflict of interest is through the use of "Chinese walls" to avoid the flow of commercially sensitive information from one part of the applicant's company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of "Chinese walls" may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese wall approach than smaller companies. Although, "Chinese walls" have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, "Chinese walls" should be considered as unacceptable and may be accepted in exceptional cases upon full disclosure by a applicant coupled with provision of safeguards to the satisfaction of the Authority.

6. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if applicants drawing up the terms of reference of the proposed documentation are also eligible for the consequent assignment of project.
7. Another form of conflict of interest called "scope-creep" arises when applicants advocate either an unnecessary of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the applicants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for applicants to extend the length of their assignment.
8. Every project contains conflicts of interest. Applicants should not only avoid any conflict of interest, they should report any present/potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

APPENDICES

APPENDIX-I

(Refer Clause 2.1.3)

TECHNICAL PROPOSAL

Form-1

Letter of Proposal

(On Applicant's letter head)

(Date and Reference)

To,

**Chief Executive Officer,
Uttar Pradesh State Highways Authority,
4th floor, Kisan Mandi Bhawan,
Vibhuti Khand, Gomtinagar,
Lucknow-226010.**

**Sub: Selection of Independent Engineer during Operation & Maintenance (O&M) of Bareilly-
Almora Road (SH-37).**

Dear Sir,

With reference to your RFP Document dated _____, I/We, having examined all relevant documents and understood their contents, hereby submit our Proposal for Independent Engineer for Bareilly-Almora Road (SH-37) in Uttar Pradesh. The Proposal is unconditional.

2. All information provided in the Proposal and in the Appendices is true and correct and all documents accompanying such Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of appointment as the Applicant for the aforesaid Project.
4. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
5. I/We acknowledge the right of the Authority to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. We certify that in the last three years, we/any of the consortium members have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, no been expelled from any project or contract nor have had any contract terminated for breach on our part.
7. I/We declare that:
 - (a) I/We have examined and have no reservations to the RFP Documents, including any Addendum issued by the authority.

- (b) I/We do not have any conflict of interest in accordance with Clause 2.3 of the RFP 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 RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central of State; and
- (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RFP, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Applicant, without incurring any liability to the Applicant in accordance with Clause 2.8 of the RFP document.
9. I/We declare that We/any member of the consortium, are/is not a member of a/any other Consortium applying for Selection as a Applicant.
10. I/We certify that in regard to matters others than security and integrity of the country, we have not been convicted by a Court of Law or indicated or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outages the moral sense of the community.
11. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
12. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors/ Managers/Employees.
13. I/We hereby irrevocably waives any right which we may have at any stage at law or howsoever otherwise arising to the challenge or question any decision taken by the Authority [and/or the Government of India] in connection with the selection of Applicant or in connection with the Selection Process itself in respect of the above mentioned Project.
14. The Bid Security of Rs. 50,000 (Rupees Fifty Thousand Only) in the form of a Demand Draft No....., Bank Name....., Dated and Payable at Lucknow is attached, in accordance with the RFP document.
15. I/We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall I/We have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us our proposal is not opened.
16. I/We agree to keep this offer valid for 90 (ninety) days from the Proposal Due Date specified in the RFP.
17. A Power of Attorney in favour of the authorised signatory to sign and submit this Proposal and documents is attached herewith the Form 4.
18. In the event of my/our being selected as the Applicant, I/We agree to enter into an Agreement in accordance with the form at Schedule-II of the RFP. We agree not to seek any changes in the aforesaid form and agree to abide by the same.
19. I/We have studied RFP and all other documents carefully and also surveyed the Project site. We understand that except to the extent as expressly set forth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the authority or

in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.

20. The Financial Proposal is being submitted in a separate cover. This Technical Proposal read with the Financial Proposal shall constitute the application which shall be binding on us.
21. I/We agree and undertake to abide by all the terms and conditions of the RFP Document. In witness thereof, I/We submit this Proposal under and in accordance with the terms of the RFP Document.

Yours faithfully,

(Signature of the Authorised Signatory)

(Name and designation of the Authorised Signatory)

(Name and seal of the Applicant/Lead Manager)

APPENDIX-I

Form-2

Particulars of the Applicant

1.1	Title of Consultancy PREPARATION OF FEASIBILITY REPORT
1.2	Title of Project: [upgradation of project highway]
1.3	State whether applying as Sole Firm or Lead Member of a consortium: Sole Firm or Lead Member of a consortium
1.4	State the following: Name of Company or Firm: Legal status (e.g. incorporated private company, unincorporated business, partnership etc.): Country of incorporation Registered address: Year of Incorporation Year of commencement of business: Principal place of business: Brief description of the Company including details of its main lines of business Name, Designation, Address and Phone Numbers of Authorised Signatory of the Applicant: Name: Designation: Company: Address: Phone No.: Fax No.: E-mail address:
1.5	If the Applicant is Lead Member of a consortium, state the following for each of the other Member Firms: (i) Name of Firm: (ii) Legal Status and country of incorporation (iii) Registered address and principal place of business.
1.6	For the Applicant, (in case of a consortium, for each Member), state the following information: i) In case of non Indian company, does the company have business presence in India? Yes/No If so, provide the office address(es) in India. ii) Has the Applicant or any of the Members in case of a consortium been penalized by any organization for poor quality of work or breach of contract in the last five years? Yes/No iii) Has the Applicant/Member ever failed to complete any work awarded to it by any public authority/entity in last five years? Yes/No iv) Has the Applicant or any member of the consortium been blacklisted by any

	<p>Government department/Public Sector Undertaking in the last five years?</p> <p style="text-align: right;">Yes/No</p>
	<p>v) Has the Applicant or any of the Members, in case of a consortium, suffered bankruptcy/insolvency in the last five years?</p> <p style="text-align: right;">Yes/No</p> <p>Note: If answer to any of the question at ii) to v) is yes, the Applicant is not eligible for this consultancy assignment.</p>
1.7	<p>Does the Applicant's firm/company (or any member of the consortium) combine functions as a applicant or adviser along with the function as a contractor and/or a manufacturer?</p> <p style="text-align: right;">Yes/No</p> <p>If yes, does the Applicant (and other Member of the Applicant's consortium) agree to limit the Applicant's role only to that of a applicant/adviser to the Authority and to disqualify themselves, their Associates/affiliates, subsidiaries and/or parent organization subsequently from work on this Project in any other capacity.</p> <p style="text-align: right;">Yes/No</p>
1.8	<p>Does the Applicant intend to borrow or hire temporarily, personnel from contractors, manufacturers or suppliers for performance of the Consulting Services?</p> <p style="text-align: right;">Yes/No</p> <p>If Yes, does the Applicant agree that it will only be acceptable as Applicant, if those contractors, manufacturers and suppliers disqualify themselves from subsequent execution of work on this Project (including tendering relating to any goods or services for any other part of the Project) other than that of the Applicant?</p> <p style="text-align: right;">Yes/No</p> <p>If Yes, have any undertaking been obtained (and annexed) from such contractors, manufacturers, etc. that they agree to disqualify themselves from subsequent execution of work on this Project and they agree to limit their role to that of applicant/adviser for the Authority only?</p> <p style="text-align: right;">Yes/No</p> <p style="text-align: right;">Authorised Signatory</p> <p style="text-align: right;">For and on behalf of _____</p>

APPENDIX-I

Form-3

Statement of Legal Capacity

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

Ref. Date:

To,

Chief Executive Officer,
Uttar Pradesh State Highways Authority,
4th floor, Kisan Mandi Bhawan,
Vibhuti Khand, Gomti Nagar,
Lucknow-226010.

**Sub: Selection of Independent Engineer during Operation & Maintenance (O&M) of Bareilly-
Almora Road (SH-37).**

Dear Sir,

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

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

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

Yours faithfully,

For and on behalf of _____
Authorised Signatory

**Please strike out whichever is not applicable.*

APPENDIX-I

Form-4

Power of Attorney

Know all men by these presents, We, _____ (name of firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr / Ms _____ son/daughter/wife and presently residing at _____, who is presently employed with us and holding the position of _____ as our true and lawful attorney (hereinafter referred to as the "Authorised Representative") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for Selection of Independent Engineer during Operation & Maintenance (O&M) of Bareilly-Almora Road (SH-37) in Uttar Pradesh, proposed to be developed by the Uttar Pradesh State Highways Authority (the "Authority") including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with the Authority.

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

IN WITNESS WHEREOF WE, _____ THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____, 2012 FOR _____

(Signature)

(Name, Title and Address)

Witness:

- 1.
- 2.

Notarised

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

For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.

APPENDIX-I

Form-5

Financial Capacity of the Applicant

(Refer Clause 2.2.2 (C))

S. No.	Name of assignment	Financial Year	Professional fee received

Name of Authorised Signatory :

Designation :

Name of firm :

Seal of the firm

This is to certify that the above information has been examined by us on the basis of relevant documents and other relevant information and the information submitted above is as per record and as per details annexed.

**Signature, address, seal & membership no.
of chartered accountant**

APPENDIX-I

Form-6(1)

Particulars of Key Personnel

S.No.	Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Eligible Assignments	
					Name of Firm	Employed Since	Highway Projects on PPP basis	Any Other Project
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Team Leader-cum- Senior Highway Engineer							
	Senior Pavement Specialist							
	Bridge Engineer							
	Quality/Material Engineer							
	Traffic And Transportation Engineer							
	Quantity Surveyor							
	Financial Expert							
	Legal Expert							

Refer Form 9 of Appendix I of Experience of Key Personnel

APPENDIX-I

Form-6(2)

Particulars of Sub-Professional Staff

S.No.	Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Eligible Assignments	
					Name of Firm	Employed Since	Highway Projects on PPP basis	Any Other Project
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Asst. Highway Engineer							
	Asst. Bridge Engineer							
	HTMS/Toll Expert							
	Horticulture cum Landscaping Expert							

APPENDIX-I

Form-7

Proposed Methodology and Work Plan Plan and Team Composition and Task Assignment

The proposed methodology and work plan shall be described as follows:

1.) Understanding of TOR (not more than two pages)

The Applicant shall clearly state its understanding of the TOR and also highlight its important aspects. The Applicant may supplement various requirements of the TOR and also make precise suggestions if it considers this would bring more clarity and assist in achieving the Objectives laid down in the TOR.

2.) Methodology and Work Plan (not more than three pages)

The Applicant will submit its methodology for carrying out this assignment, outlining its approach toward achieving the Objectives laid down in the TOR. The Applicant will submit a brief write up on its proposed team and organization of personnel explaining how different areas of expertise needed for this assignment have been fully covered by its proposal. In case the Applicant is a consortium, it should specify how the expertise of each firm is proposed to be utilised for this assignment. The Applicant should specify the sequence and locations of important activities, and provide a quality assurance plan for carrying out the Consultancy Services.

TEAM COMPOSITION AND TASK ASSIGNMENTS

Key Personnel/Sub-Professional Staff

Sr No	Name	Positiona	Task
1			
2			
3			
4			
5			

APPENDIX-I

Form-8

Experience of the Applicant[#]

S.No.	Name of Project	Estimated capital cost of Project (in Rs cr.)	Consultancy Payment ^{##} received by the Applicant (in Rs Crores)
(1)	(2)	(3)	(4)
1. Eligible Assignments of Highway			
1			
2			
3			
4			
5			
2. Eligible Assignments of Any Other Project			
1			
2			
3			
4			
5			

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

* The names and chronology of Eligible Projects included here should confirm to the project-wise details submitted in Form-10 of Appendix-I.

APPENDIX-I

Form-9(1)

Experience of Key Personnel[@]

Name of Key Personnel:

Designation:

S.No.	Name of Project	Estimated capital cost of project (in Rs cr.)	Name of firm for which the Key Personnel worked	Designation of the Key Personnel on the project	Date of completion of project assignment
(1)	(2)	(3)	(4)	(5)	(6)
1. Eligible Assignments of Highway					
1					
2					
3					
4					
5					
2. Eligible Assignments of Any Other Project					
1					
2					
3					
4					
5					

[@] Use separate Form for each Key Personnel.

Experience of Sub-Professional Staff [@]

Name of Key Personnel:

Designation:

S.No.	Name of Project	Estimated capital cost of project (in Rs cr.)	Name of firm for which the Key Personnel worked	Designation of the Key Personnel on the project	Date of completion of project assignment
(1)	(2)	(3)	(4)	(5)	(6)
1. Eligible Assignments of Highway					
1					
2					
3					
4					
5					
2. Eligible Assignments of Any Other Project					
1					
2					
3					
4					
5					

[@] Use separate Form for each Key Personnel.

APPENDIX-I

Form-10

Eligible Assignments of Applicant

1. Highway Projects on PPP basis	
Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Payment received by the Applicant (in Rs. million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	
2. Any Other Project	
Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Payment received by the Applicant (in Rs. million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

Notes:

Use separate sheet for each Eligible Project.

Attach a single page summary containing the brief particular of each project along with certificate from employer/client showing the cost and date of award and date of completion of the project.

APPENDIX-I

Form-11(1)

Eligible Assignments of Key Personnel

(Refer Clause 2.1.4)

1. Highway Projects on PPP basis	
Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	
2. Any Other Project	
Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

Notes:

Use separate sheet for each Eligible Project. Attach a single page summary containing the brief particulars of each project along with a photograph thereof.

APPENDIX-I

Form-11(2)

Eligible Assignments of Sub-Professional Staff (Refer Clause 2.1.4)

1. Highway Projects on PPP basis	
Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	
2. Any Other Project	
Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

Notes:

Use separate sheet for each Eligible Project. Attach a single page summary containing the brief particulars of each project along with a photograph thereof.

APPENDIX-I

Form-12

Curriculum Vitae (CV) of Key Personnel & Sub-Professional Staff

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

Project Name	Description of assignment performed (Including cost of assignment)

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

Signature of Professional _____

Date _____

Place _____

Signature of the Applicant
(Authorised Representative)

Notes: Use separate form for each Professional Personnel.

Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorised Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.

APPENDIX-I

Form-13(1)

Assignment for Experience in DPR/Feasibility cum PPR for project length in last 7 years.

1. Highway Projects on PPP basis	
Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Payment received by the Applicant (in Rs. million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	
2. Any Other Project	
Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Payment received by the Applicant (in Rs. million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

Notes:

Use separate sheet for each Eligible Project.

Attach a single page summary containing the brief particular of each project along with certificate from employer/client showing the cost and date of award and date of completion of the project.

APPENDIX-I

Form-13(2)

Assignment for Experience as Independent Engineer/Supervision consultants in Highway Projects
(4/6—laning or more) in last 7 years*

1. Highway Projects on PPP basis	
Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Payment received by the Applicant (in Rs. million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	
2. Any Other Project	
Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Payment received by the Applicant (in Rs. million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

Notes:

Use separate sheet for each Eligible Project.

Attach a single page summary containing the brief particular of each project along with certificate from employer/client showing the cost and date of award and date of completion of the project.

APPENDIX-I

Form-13(3)

Assignment for Experience as Independent Engineer/Supervision consultants in Highway Projects (4/6—laning or more) in last 7 years* as a Project Supervision/IE of OMT/O&M Projects.

1. Highway Projects on PPP basis	
Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Payment received by the Applicant (in Rs. million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	
2. Any Other Project	
Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr.):	
Payment received by the Applicant (in Rs. million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

Notes:

Use separate sheet for each Eligible Project.

Attach a single page summary containing the brief particular of each project along with certificate from employer/client showing the cost and date of award and date of completion of the project.

APPENDIX-II

FINANCIAL PROPOSAL

Form-I

Covering Letter

(On Applicant's letter head)

(Date and Reference)

To,

**Chief Executive Officer,
Uttar Pradesh State Highways Authority,
4th floor, Kisan Mandi Bhawan,
Vibhuti Khand, Gomti Nagar,
Lucknow-226010.**

Dear Sir,

**Subject: Selection of Independent Engineer during Operation & Maintenance (O&M) of Bareilly-
Almora Road (SH-37).**

I/We, _____ (Applicant's name) herewith enclose the Financial Proposal for selection of my/our firm as Independent Engineer for above.

I/We agree that this offer shall remain valid for a period of 90 (ninety) days from the Proposal Due Date or such further period as may be mutually agreed upon.

Yours faithfully,

(Authorised Representative)

Name:

Designation:

Address:

Note: The Financial Proposal is to be submitted strictly as per forms given in the RFP.

APPENDIX-II

Form-2

FINANCIAL PROPOSAL

Item No	Description	Amount (Rs.)
A	Total Cost of services (including taxes) In Indian Rupees in figures in words	

Note:

1. No escalation on any account will be payable on the above amounts.
2. Insurance and any other charges not shown here are considered included in the rates quoted by the Applicant in Item A.
3. All payments shall be made in Indian Rupees and shall be subject to applicable Indian laws withholding taxes if any.

Form-3

FORM 3-A : SUMMARY OF COSTS

No.	Description	Amount in Indian Rupees
I	Remuneration for Key Personnel Staff	
II	Remuneration for Sub-Professional Staff	
III	Remuneration for Support Staff	
IV	Remuneration for Transportation	
V	Office Rent	
VI	Office Supplies, Utilities and Communication	
VII	Office Furniture and Equipment	
VIII	Reports and Document Printing	
IX	Provisional Sum	Fixed
X	Contingencies	Fixed
	Subtotal	
	Consultancy Services Tax Payable in India	
	Total Costs (Including Service Tax)	

Note: Payments will be made as per stipulations of the Conditions of Contract.

FORM 3-B: BREAKDOWN OF COSTS

I Remuneration of Key Personnel Staff

Sl. No.	Position	Name	Suggested Man-days during O&M Stage (O&M for 1095 days)	Billing Rate (Indian Rupees)	Amount (Indian Rupees)
A. Key Personnel (Professional Staff)					
1.	Team Leader cum Senior Highway Engineer		1095		
2.	Senior Pavement Specialist		180		
3.	Bridge Engineer		180		
4.	Quality / Material Engineer		180		
5.	Traffic and Transportation Engineer		180		
6.	Quantity Surveyor		270		
7.	Financial Expert		90		
8.	Legal Expert		90		

II B. Remuneration of Sub-Professional Staff

Sub-professional staff					
1.	Asst. Highway Engineer	1095			
2.	Asst. Bridge Engineer	1095			
3.	HTMS/Toll Expert	180			
4.	Horticulture cum Landscaping Expert.	180			
	Total "A + B"				

III Remuneration of Support Staff

No.	Position	Name	Staff days	Billing Rate in Indian Rupees	Amount in Indian Rupees
1.	Office Manager cum Accountant (1 no)		1095		
2.	Secretary cum Computer Operator(1 no)		1095		
3.	Office Boy cum Photo Copy operator(1		1095		

IV Transportation (Fixed Rate on Rental Basis)

The vehicles provided by the Consultants shall include the cost for rental, drivers, operation, maintenance, repairs, insurance, etc. for all complete

S. No.	Description of Vehicles	Qty. (No. of vehicle, days)		Rate/Vehicle-Days	Amount in Indian Rupees
		No.	Days		
1.	Bolero/Innova/Scorpio/Tata Sumo or equivalent	1 No.	1095		
2.	Indica or equivalent	1 No.	1095		
	Total				

V Office Rent (Fixed Costs)

The Applicants shall have to rent 1 (one) site office with minimum 100 sqm space. The rent cost shall include electricity and water charges, maintenance, cleaning, security etc. complete.

Description	No. of Days	Rate/Days	Amount in Rs.
Site Office – 01 nos.	1095		
Total			

VI Office Supplies, Utilities and Communication (Reimbursable - Fixed rate)

Item	Nos of days	Rate/Days (Rs.)	Amount (Rs.)
Office Supplies	1095		
Drafting Supplies	1095		
Computer Running Costs	1095		
Communication	1095		
Total			

VII Office Furniture and Equipment (Rental)

No	Description	Unit	Qty.	Rate/Days (Rs.)	Period in Days	Amount (Rs.)
A. Office Furniture (Rental/Hire)						
1	Executive Table (Godrej make, model No. T-108 or equivalent)	Nos.	3		1095	
2	Executive Chairs (Godrej make, model No. PCH-701 or equivalent)	Nos.	3		1095	
3	Tables (Godrej make, model No. T-101 or equivalent)	Nos.	12		1095	
4	Ordinary Chairs Type-1 (Godrej make, model No. T-CHR – 6 or equivalent)	Nos.	15		1095	
5	Steel Almirah 1980mmX915mm X365mm (Godrej make, model No. 1 Storewell plain or equivalent)	Nos.	2		1095	
6	Steel Almirah 1270mmX 765mm X 440mm (Godrej make, model minor plain or equivalent)	Nos.	2		1095	
7	4 Drawer filing cabinet with visafile suspension system (Godrej make, or equivalent)	Nos.	2		1095	
8	Visitors Chairs (Godrej make, model No. DCH7004 or equivalent)	Nos.	10		1095	
9	Tables for computers with 3 drawers, key board/mouse pull out trays size 1664mmX 900 (Godrej make. Or equivalent as per Engineer's design)	Nos.	5		1095	
10	Printer desks (Godrej make or equivalent)	Nos.	2		1095	
11	Revolving Chairs for Computer Room/Drawing room	Nos.	5		1095	
B. Office Equipment (Rental/Hire)						
1	Telephone line for Site Office	Nos.	1		1095	

2	Photocopier cum Printer	Nos.	1		1095	
3	Fax	Nos.	1		1095	
4	Air-Conditioner (1.5 Ton)	Nos.	2		1095	
5	Computer PC (state of the art)	Nos.	05		1095	
6	Laser Jet Printers A4 Size	Nos.	1		1095	
7	Laser Jet Printers A3 Size	Nos.	1		1095	
8	Binding Machines	Nos.	1		1095	
9	Air Cooler (of 24" size fan with suitable pump and shall be of either GEC, khaitan or Cool Home make or equivalent)	Nos.	3		1095	
10	Water Coolers with Purifiers	Nos.	1		1095	
	Total					

VIII Reports and Document Printing

No.	Description	No. of Reports	No. of Copies per Report	Total Nos. of copies	Rate per Copy (Rs.)	Amount
1	Monthly reports (Operation & Maintenance)	36	5	180		
2	Monthly reports on Audit and Traffic	36	5	180		
3	Quarterly Reports	12	5	60		
4	Various others reports as provided in the Concession Agreement such as Completion Report	10	2	20		
	Total					

IX Provisional Sums

A fixed sum of Indian Rupees 20 Lacs shall be included in the Financial Proposal. The Provisional Sum is meant for any Survey Equipment, Computers Hardwares & Softwares, Special Investigations etc to be procured under the Project. The Provisional Sums shall be expended only after specific approval of the Client and the Concessionaire.

X Contingencies

A fixed sum of Indian Rupees 20 Lacs shall be included in the Financial Proposal. The contingencies are meant for any unforeseen additional requirement of Consultant's key and other Personnel. Further, the amount required for payment to Consultants pursuant to Clause 6.2(a) of the Conditions of Contract. Further, the contingencies shall be expended only after the specific approval of the Client and the Concessionaire.