



Development of Bus Port on Design, Finance, Build, Operate and Transfer (DFBOT) Basis at Ramnagar

Request for Proposal Document

January, 2021

National Highways & Infrastructure Development Corporation Limited
PTI Building, 4 Parliament Street,
Sansad Marg Area, New Delhi, Delhi 110001

National Highway and Infrastructure Development Corporation Ltd.**Notice Inviting Tender****NHIDCL/Bus Port/Uttarakhand/Ramnagar/2021****Dated 14 January, 2021**

RFP for **“Development of Bus Port at Ramnagar in the State of Uttarakhand on DFBOT”**.

The Ministry of Road Transport & Highways intends to develop modern bus ports in India. MoRTH has also issued scheme for Development of Bus Port in India under DFBOT basis. Thereafter, NHIDCL has been nominated as Central Executing Agency for implementation of the scheme. As part of this endeavour, it has been decided to undertake **“Development of Bus Port at Ramnagar in the State of Uttarakhand on DFBOT Mode”**.

NHIDCL invites bids from eligible bidders in the form of proposal in accordance with Request for Proposal Document, in order to identify suitable entity (the “Concessionaire”) through an open, transparent and competitive bidding process for the Project. NHIDCL intends to follow a single stage two part bidding process for selection of the Concessionaire for the Project.

State/UT	Location	Name of work	Estimated Cost excluding GST (Rs. in Crore)	Completion period
Uttarakhand	Ramnagar	Development of Bus Port at Ramnagar in the State of Uttarakhand on DFBOT Mode	22.53	18 months

The complete Proposal document can be viewed/ downloaded from official website of NHIDCL <http://www.nhidcl.com> and www.eprocure.gov.in from 14.01.2021. Proposal must be submitted online only at www.eprocure.gov.in from 14.01.2021 to 15.02.2021 (upto 1100 Hrs IST). Proposals received online shall be opened on 16.02.2021 (at 1130 Hrs IST).

Proposal through any other mode shall not be entertained. However, Bid Security, document fee, Power of Attorney and Joint Bidding Agreement etc. shall be submitted physically by the Bidder on or before Proposal Due Date. Please note that the NHIDCL reserves the right to accept or reject all or any of the Proposals without assigning any reason whatsoever.

Officer In-charge

Sh. A K Singh

General Manager (Technical)

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As part of the Standard Operating Procedure for adoption of Integrity Pact, Independent External Monitor (IEM) has been appointed in NHIDCL, as per approval of the Central Vigilance Commission and Ministry of Road Transport & Highways, Govt. of India. The contact details of IEM can be seen on NHIDCL website.

Disclaimer

The information contained in this Request for Proposal (“RFP”) Document, or subsequently provided, whether verbally or in documentary or in any other form, by or on behalf of National Highways & Infrastructure Development Corporation Limited (“NHIDCL” or “Authority”), or any of their employees or advisors, on the terms and conditions set out in this RFP Document and such other terms and conditions as Authority may prescribe in this behalf, has been prepared solely to assist prospective Bidders in making their decision of whether or not to submit a proposal.

This RFP Document is not an agreement and is not an offer or invitation by NHIDCL, to any other party. As mentioned above, the purpose of this RFP Document is to provide the Bidder with information to assist in the formulation of their proposals. This RFP Document does not purport to contain all the information each Bidder may require. This RFP Document may not be appropriate for all persons, and it is not possible for NHIDCL, their employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP Document. Each Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the information in this RFP Document and where necessary obtain independent advice from appropriate sources.

NHIDCL, their employees and advisors make no representation or warranty and shall incur no liability under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment for any loss, damage, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP Document or otherwise including the accuracy, reliability or completeness of the RFP Document or any assessment, assumption, statement or information contained therein or deemed to form part of the RFP Document or arising in any way at this stage of the Bidding Process.

The designs, drawings, technical data and any other information if provided in this RFP Document is only indicative and NHIDCL, their employees and advisors have not made, will not make and will not be deemed to have made any current or future representation, promise or warranty, express or implied, as to the accuracy, reliability or completeness of the information contained herein or in any document or information, whether written or oral, made available to a Bidder, whether or not the aforesaid parties know or should have known of any errors or omissions or were responsible for its inclusion in or omission from this RFP Document.

This RFP Document is provided for information purposes only and upon the express understanding that such parties will use it only for the purpose set forth above. It does not purport to be all-inclusive or contain all the information about the Development Bus Port at Ramnagar in relation to which it is being issued.

The information and statements made in this RFP Document have been made in good faith. Interested parties should rely on their own judgments in participating in the said Project. Any liability of any nature whatsoever whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements and information contained in this RFP Document is accordingly expressly disclaimed.

This RFP Document has not been filed or registered in any jurisdiction. Recipients of this document should inform themselves of and observe any applicable legal requirements. Information provided in this RFP Document to the Bidders is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. NHIDCL, their employees and advisors accept no responsibility for the accuracy or otherwise for any interpretation of law expressed herein.

NHIDCL, may in their absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP Document. Any change to the RFP Document will be notified to all those who have purchased the RFP Document and to those who have downloaded the RFP Document from the website and have duly intimated this fact to NHIDCL, giving their particulars including address for communication by fax/post (Registered Bidder). No part of this RFP Document and no part of any subsequent correspondence by NHIDCL, their employees and advisors shall be taken neither as providing legal, financial or other advice nor as establishing a contract or contractual obligation. Contractual obligations would arise only if and when definitive agreements have been approved and executed by the appropriate parties having NHIDCL to enter into and approve such agreements. NHIDCL, reserves the right to reject all or any of the Proposal submitted in response to this RFP Document at any stage without assigning any reasons whatsoever and the issue of this RFP Document does not imply that NHIDCL is bound to select a Bidder or to appoint a Concessionaire.

All Bidders are responsible for all costs and expenses incurred by them when evaluating and responding to this RFP Document in connection with or relating to or in making their Proposal including any negotiation or other costs incurred by the Bidder thereafter. All such costs and expenses will remain solely with the Bidder. NHIDCL, their employees and advisors shall not be liable in any manner whatsoever for the same or for any other costs or expenses incurred by a Bidder in preparation or submission of its Proposal, regardless of the conduct or outcome of the Bidding Process. NHIDCL, may in its sole discretion proceed in the manner it deems appropriate which may include deviation from its expected evaluation process, the waiver of any requirements, and the request for additional information. Unsuccessful bidders will have no claim whatsoever against NHIDCL, their employees and advisors.

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GLOSSARY

Associate	As defined in Clause 2.1.17
Authority	As defined in Disclaimer
Bidding Process	As defined in Clause 1.2.1
DFBOT	As defined in Clause 1.1.1
Concession	As defined in Clause 1.1.5
Concessionaire	As defined in Clause 1.1.3
Concession Agreement	As defined in Clause 1.1.3
Conflict of Interest	As defined in Clause 2.2.1(c)
Consortium	As defined in Clause 2.2.1(a)
Damages	As defined in Clause 2.2.1(c)
Eligible Experience	As defined in Clause 3.4.1
Eligible Projects	As defined in Clause 3.4.1
Evaluation Criteria	As defined in Clause 1.2.2
Experience Score	As defined in Clause 3.4.6
Financial Capacity	As defined in Clause 2.2.2(B)(i)
Price Proposal Phase	As defined in Clause 1.2.2 (c)
Joint. Bidding Agreement	As defined in Clause 2.1.14 (g)
Lead Member	As defined in Clause 2.1.14 (c)
LOA	As defined in Clause 3.8.6
Member	Member of a Consortium
Preferred Bidder	As defined in Clause 3.8.3
Project	As defined in Clause 1.1.1
Project Capital Outlay	As defined in Appendix 14
Proposal Due Date	As defined in Clause 1.2.1
Re. or Rs. or INR `	Indian Rupee
RFP or Request for Proposal	As defined in Disclaimer
SPC	As defined in Clause 2.1.14
Successful Bidder	As defined in Clause 1.1.2
Technical Capacity	As defined in Clause 2.2.2(A)
Qualified Bidders	As defined in Clause 1.2.2 (b)
Premium	As defined in Clause 3.8.1 & Appendix 3 – Format of Price Proposal

The words and expressions beginning with capital letter and defined in this document shall, unless repugnant to context, have the meaning ascribed thereto herein. The words and expressions beginning with capital letter and not defined herein, but defined in the Concession Agreement, shall unless repugnant to context, have the meaning ascribed thereto herein.

Section 1: Instructions to Bidders

1. INTRODUCTION

1.1. Background

- 1.1.1. National Highways & Infrastructure Development Corporation Limited (the "NHIDCL" or "Authority") has decided to undertake Development of Bus Port at Ramnagar (the "Project") through Design, Finance, Build, Operate and Transfer ("DFBOT") basis.
- 1.1.2. It is envisaged that the concessionaire selected through this RFP process ("Successful Bidder") will develop Bus Port on DFBOT basis with the Concession Period of 30 (thirty) years commencing from the date of execution of the Concession Agreement. The Commercial Facilities will have a Concession Period of 30 (thirty) years, as per the provisions of the Concession Agreement.
- 1.1.3. The Successful Bidder shall incorporate a company under the Companies Act, 2013 prior to execution of the concession agreement (the "Concessionaire"), who shall be responsible for designing, engineering, financing, procurement, construction, operation and maintenance of the Project under and in accordance with the provisions of the concession agreement (the "Concession Agreement") to be entered into between the Concessionaire and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto.
- 1.1.4. The estimated cost of the Project (the "Estimated Project Cost") is Rs.22.53 Cr (Rupees Twenty Two Crores and Fifty Three Lakhs only). The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.5. The draft Concession Agreement sets out the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire's services and obligations (the "Concession") for the development of the Project.
- 1.1.6. The statements and explanations contained in this Request for Proposal ("RFP") Document are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the draft Concession Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the Concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority.
- 1.1.7. The Authority shall receive Proposals pursuant to and in accordance with the terms set forth in this RFP and other documents to be provided by the Authority pursuant to this RFP (collectively the "Bidding Documents"), and all Proposals shall be prepared and submitted in accordance with such terms on or before the Proposal due date specified in Clause 1.3 for submission of Proposals (the "Proposal Due Date").

1.2. Brief Description of Bidding Process

- 1.2.1. Authority intends to follow a single stage two envelop bidding process (the “Bidding Process”) for selection of concessionaire for the Project. Prior to or along with the Proposal, the Bidder shall pay to the Authority a non-refundable sum of Rs.11,800 (Rupees Eleven Thousand Eight Hundred only) (inclusive of GST @ 18%) as the cost of bid document. The cost of bid document may be furnished in the form of a Demand Draft issued by one of the Nationalized/Scheduled Banks in India in favour of the “Managing Director, National Highways and Infrastructure Development Corporation Ltd.” payable at New Delhi OR pay online through RTGS/NEFT/Other online mode to the NHIDCL’s account given below. The Demand Draft in original or copy of payment receipt (RTGS/NEFT/Other online mode) must be furnished in a separate envelop while submitting the proposal alongwith soft copy. As a part the Bidding Process, the business entities and interested parties (the “Bidders”) will be required to submit (i) Qualification Proposal, and (ii) Price Proposal as part of their proposal package. (The “Bidder”, which expression shall, unless repugnant to the context, include the members of the Consortium). The Proposal shall be valid for a period of 120 days from the date specified in Clause 1.3 for submission of Proposals (the “Proposal Due Date”).

SN	Particulars	Details
1.	Name of Beneficiary	MD-NHIDCL
2.	Beneficiary Bank Account No.	90621010002610
3.	Beneficiary Bank Branch Name and Address	Canara Bank (erstwhile Syndicate Bank), Transport Bhawan, 1st Parliament Street, New Delhi - 110001
4.	Beneficiary Bank Branch IFSC	SYNB0009062

GOI has issued guidelines (see Appendix 17) for qualification of Bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply mutatis mutandis to this Bidding Process. The Authority shall be entitled to disqualify any Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process. Bidders must satisfy themselves that they are qualified to Proposal, and should give an undertaking to this effect in the form at Appendix 2.

- 1.2.2. RFP Document follows a three stepped approach comprising:

- Test of responsiveness:** This involve a test of responsiveness of the key submissions. Those Proposals found to be substantially responsive would be evaluated in the Qualification Phase.
- Qualification Phase:** Shortlisting of technically Qualified Bidders based on eligibility criteria (the “Qualified Bidders”)
- Price Proposal Phase:** Evaluation of Price Proposals received from technically Qualified Bidders (the “Successful Bidder”)

In the Qualification Phase, Proposals of only the responsive Bidders will be evaluated for the technical capability, financial capability and other such

compliances in accordance with the evaluation criteria set out in this RFP Document (hereinafter referred to as the "Evaluation Criteria"). At the end of the Qualification Phase, Authority intends to prepare and release a list of Qualified Bidders.

Price Proposal of only technically Qualified Bidders shall be opened. The Price Proposals of those Bidders who do not qualify as Qualified Bidders shall be returned unopened.

1.2.3. The Bidding Documents include the draft Concession Agreement for the Project which is enclosed as Part II to this RFP Document. Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued subsequent to this RFP Document, will be deemed to form part of the Bidding Documents.

1.2.4. A Bidder is required to deposit, along with its Proposal, a Bid Security of Rs.22.53 Lakhs (Rupees Twenty Two Lakhs and Fifty Three Thousand only) (the "Bid Security"), refundable not later than 90 (ninety) days from the Proposal Due Date, except in the case of the Successful Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Agreement. The Bidders will have an option to provide Bid Security in the form of bank guarantee acceptable to the Authority issued by one of the Nationalized/Scheduled Banks in India in favour of the "National Highways and Infrastructure Development Corporation Ltd. payable at New Delhi, and in such event, the validity period of the bank guarantee, shall not be less than 120 (one hundred and twenty) days from the Proposal Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid security may also be furnished in the form of a Demand Draft issued by one of the Nationalized/Scheduled Banks in India in favour of the "Managing Director, National Highways and Infrastructure Development Corporation Ltd." payable at New Delhi OR pay online through RTGS/NEFT/Other online mode to the NHIDCL's account given below. The Proposal shall be summarily rejected if it is not accompanied by the Bid Security. The Demand Draft in original or copy of payment receipt (RTGS/NEFT/Other online mode) must be furnished in a separate envelop while submitting the proposal alongwith soft copy.

SN	Particulars	Details
1.	Name of Beneficiary	National Highways & Infrastructure Development Corporation Limited
2.	Beneficiary Bank Account No.	90621010002659
3.	Beneficiary Bank Branch Name and Address	Canara Bank (erstwhile Syndicate Bank), Transport Bhawan, 1st Parliament Street, New Delhi - 110001
4.	Beneficiary Bank Branch IFSC	SYNB0009062
5.	SWIFT Code (For Foreign Bidders)	SYNBINBB126

1.2.5. Subject to Clause 3.8.1, the Highest Bidder shall be the Successful Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with

the process specified in this RFP document, be invited to match the Proposal submitted by the Highest Bidder in case such Highest Bidder withdraws or is not selected for any reason. The Successful Bidder would then be required to enter into a Concession Agreement with the Authority.

- 1.2.6. Any queries or request for additional information concerning this RFP document shall be submitted by e-mail to the officer designated in Clause 2.11.4 below with identification/ title: "Queries/ Request for Additional Information:

“RFP Document for Development of Bus Port at Ramnagar”

1.3. Schedule of Bidding Process

- 1.3.1. Schedule of Bidding Process is set out in Appendix 1 to this RFP Document.

2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1. General terms of Bidding

- 2.1.1. No Bidder shall submit more than one Proposal for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another proposal either individually or as a member of any Consortium, as the case may be.
- 2.1.2. The Detailed Project Report (DPR) is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Proposals. Nothing contained in the Project Information Memorandum shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the Project Information Memorandum.
- 2.1.3. Notwithstanding anything to the contrary contained in this RFP document, the detailed terms specified in the draft concession agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 2.1.4. The Proposal shall be furnished in the format exactly as per Appendices. The amount shall be indicated clearly in both figures and words, in Indian Rupees, in prescribed format of Price Proposal and shall be signed by the Bidder's authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- 2.1.5. The Bidder shall deposit a Bid Security of Rs.22.53 Lakhs (Rupees Twenty Two Lakhs and Fifty Three Thousand only) in accordance with the provisions of this RFP. The Bidder has the option to provide the Bid Security either as a Demand Draft or in the form of a Bank Guarantee acceptable to the Authority as per format at Appendix 12 or pay online through RTGS/NEFT/Other online mode to NHIDCL's account as mentioned in table referred in Clause 1.2.4 of RFP. The Bidders shall also submit demand draft of Rs.11,800 (Rupees Eleven Thousand Eight Hundred Only) (inclusive of GST @ 18%) towards cost of bid document or pay online through RTGS/NEFT/Other online mode to NHIDCL's account as mentioned in table referred in Clause 1.2.1 of RFP.
- 2.1.6. The validity period of the Bank Guarantee or Demand Draft, as the case may be, shall not be less than 120 (one hundred and twenty) days from the Proposal Due Date inclusive of a claim period of 60 (Sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder. The Proposal shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 90 (ninety) days from the Proposal Due Date except in the case of the Successful Bidder

whose Bid Security shall be retained till it has provided a Performance Security under the Agreement.

- 2.1.7. The Bidder should submit a Power of Attorney as per the format at Appendix 9, authorising the signatory of the Proposal to commit the Bidder.
- 2.1.8. In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Appendix 10.
- 2.1.9. Any condition or qualification or any other stipulation contained in the Proposal not in conformity with this RFP document shall render the Proposal liable to rejection as a non-responsive Proposal.
- 2.1.10. The Proposal and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Proposal may be in any other language provided that they are accompanied by appropriate authenticated and certified translations of the pertinent passages in the English language. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Proposal, the English language translation shall prevail.
- 2.1.11. The documents including this RFP Document and all attached documents, provided by Authority are and shall remain or become the property of Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Proposal in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Proposal. The provisions of this Clause 2.1.11 shall also apply mutatis mutandis to Proposals and all other documents submitted by the Bidders, and Authority will not return to the Bidders any Proposal, document or any information provided along therewith.
- 2.1.12. This RFP Document is not transferable.
- 2.1.13. Any award of Concession shall be in terms of this RFP Document.
- 2.1.14. The Successful Bidder shall incorporate Special Purpose Company, incorporated under the Indian Companies Act, 2013 (the “SPC”), to execute the Concession Agreement and implement the Project. In case the Bidder is a Consortium, it shall, in addition to forming an SPC, comply with the following additional requirements:
 - (a) number of members in a Consortium shall not exceed 3 (three). However, none of the members in a Consortium should be under any sort of ineligibility under the Bid documents;
 - (b) subject to the provisions of sub-clause (a) above, the Proposal should contain the information required for each member of the Consortium;
 - (c) members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share holding

of at least 26% of the paid up and subscribed equity of the SPC. The nomination(s) shall be supported by a Power of Attorney, as per the format at **Appendix 10**, signed by all the other members of the Consortium;

- (d) the Proposal should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
- (e) an individual Bidder cannot at the same time be member of a Consortium applying for the Project. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium applying for the Project;
- (f) the members of a Consortium shall form an appropriate SPC to execute the Project, if the Project is awarded to the Consortium;
- (g) members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at **Appendix 11** (the “**Joint Bidding Agreement**”) for the purpose of making the Proposal. The Joint Bidding Agreement, to be submitted along with the Proposal, shall, inter alia:
 - (i) convey the intent to form a SPC with shareholding/ ownership equity commitment(s) in accordance with this RFP Document, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;
 - (ii) clearly outline the proposed roles and responsibilities, if any, of each member;
 - (iii) commit the minimum equity stake to be held by each member;
 - (iv) commit that each of the members, whose experience will be evaluated for the purposes of this RFP Document, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPC and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPC; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement;
 - (v) members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPC at all times until the second anniversary of the commercial operation date of the Project; and
 - (vi) include a statement to the effect that all members of the Consortium shall, shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close of the Project is achieved, in accordance with the Concession Agreement; and

- (h) except as provided under this RFP Document, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of Authority.

2.1.15. Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on Proposal Due Date, would not be eligible to submit the Proposal, either individually or as member of a Consortium.

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

- (i) Fails to complete or has missed more than two milestones in already awarded two or more projects, even after lapse of 6 months from the scheduled completion date, unless extension of time has been allowed on the recommendations of the Independent Engineer due to Authority's default;
- (ii) Fails to complete a project, as per revised schedule, for which One Time Fund Infusion (OTFI) has been sanctioned by the Authority;
- (iii) Physical progress on any project is not commensurate with the funds released (equity+debt+grant) from the escrow account and such variation is more than 25% in last one year as observed by the Independent Engineer in one or more projects;
- (iv) Punch List Items in respect of any project are pending due to Bidder's default in two or more Projects even after lapse of the prescribed time for completion of such items;
- (v) Fails to fulfil its obligations to maintain a highway in a satisfactory condition inspite of two rectification notices issued in this behalf;
- (vi) Fails to attend to Non Conformity Reports (NCRs) issued by the Independent/ Authority's Engineer on the designs/ works constructed by the Bidder pending for more than one year in two or more projects.
- (vii) Fails to make premium payments excluding the current instalment in one or more projects.
- (viii) Damages/ Penalties recommended by the Independent/ Authority's Engineer on the Bidder during O&M period and the remedial works are not taken up in two or more projects.

- (ix) Fails to achieve financial closure in two or more projects within the given or extended period (which shall not be more than six months in any case).
- (x) Fails to submit the Performance Security within the permissible period in more than one project(s).
- (xi) Rated as an unsatisfactory performing entity/ non-performing entity by an independent third party agency and so notified on the website of the Authority.
- (xii) Has Failed to perform for the works of Ports, IWT Terminals, Expressways, National Highways, ISC & EI works in the last 2(two) years, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitral award against the Bidder, including individual or any of its Joint Venture Member, as the case may be.
- (xiii) Has been expelled or the contract terminated by Ministry of Ports, Shipping & Waterways or the Ministry of Road Transport & Highways or its implementing agencies for breach by such Bidder, including individual or any of its Consortium Member; Provided that any such decision of expulsion or termination of contract leading to debarring of the Bidder from further participation in bids for the prescribed period should have been ordered after affording an opportunity of hearing to such party.

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

The Bidder including individual or any of its Consortium Member may provide

- (i) Details of all their on-going projects along with updated stage of litigation, if so, against the Authority/ Governments;
- (ii) Details of updated on-going process of blacklisting if so, under any contract with Authority/ Government; and
- (iii) Stand debarred from the Authority as a natural consequence of termination of any project/ contract of the Authority.
- (iv) Has been placed in the Negative List of firms by the Authority for any reason including failure to deliver contract in time bound manner, abandoning the project without permission of the Authority, poor performance, penalties, missing targets or milestones, missing interim targets, clumsy execution of works, unethical practices,

failure to abide by Integrity Pact or failure to follow any lawful directions given by the Authority.

The Authority reserves the right to reject an otherwise eligible Bidder on the basis of the information provided under this clause 2.1.16. The decision of the Authority in this case shall be final.

2.1.17. A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder, Consortium Member or Associate.

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

2.1.18. The following conditions shall be adhered to while submitting a Proposal:

- (a) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;
- (b) information supplied by a Bidder (or other constituent Member if the Bidder is a Consortium) must apply to the Bidder, Member or Associate named in the Proposal and not, unless specifically requested, to other associated companies or firms;
- (c) in responding to the RFP submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below; and
- (d) in case the Bidder is a Consortium, each Member should substantially satisfy the RFP requirements to the extent specified herein.

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

2.1.20. Capitalised terms used in this RFP Document which have not been defined herein shall have the meaning ascribed thereto in the draft Concession Agreement.

2.2. Eligibility and Qualification Requirements of Bidders

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

- (a) The Bidder may be a single entity or a group of entities (the "Consortium"), coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium.
- (b) Bidder is a Business Entity which shall be a company incorporated under the Companies Act, 1956 or 2013, but excluding companies covered under section 617 of the Companies Act, 1956 or group of such entities with a formal intent to enter into a Joint Bidding Agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.1.14.
- (c) A Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, Authority shall be entitled to forfeit and appropriate 5% of the value of the Bid Security or equivalent amount from the Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Authority and not by way of penalty for, inter alia, the time, cost and effort of Authority, including consideration of such Bidder's proposal (the "Damages"), without prejudice to any other right or remedy that may be available to Authority hereunder or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
 - (i) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of not more than 25% (twenty five percent) of the paid up and subscribed share capital; of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, is not more than 25% (twenty five percent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act, 1956/2013. For the purposes of this Clause 2.2.1(c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where

- any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or
- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
 - (iii) such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
 - (iv) such Bidder has the same legal representative for purposes of this Proposal as any other Bidder; or
 - (v) such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each others' information about, or to influence the Proposal of either or each other; or
 - (vi) such Bidder or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project; or
 - (vii) Such Bidder or any Associate thereof has appointed any official of the Authority, Ministry of Road Transport & Highways, Technical Advisors of Authority for the Project, Legal Advisors of Authority for the Project, Financial Advisors of Authority for the Project, dealing with the Project, within a period of 1 year from the date of award of the Project to that Bidder.
 - (viii) Any change in the composition of a Consortium shall not be permitted during the bidding process.

Explanation:

In case a Bidder is a Consortium, then the term Bidder as used in the Clause 2.1.10, shall include each Member of such Consortium.

- (d) A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of Authority in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters

related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Successful Bidder or Concessionaire, as the case may be, after issue of the LOA or execution of the Concession Agreement for matters related to or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which Authority may have thereunder or otherwise, the LOA or the Concession Agreement, as the case may be, shall be liable to be terminated without Authority being liable in any manner whatsoever to the Successful Bidder or Concessionaire for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of RFP Document for the Project. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

Notwithstanding anything to the contrary contained in sub-clause (c) (i) of Clause 2.2.1, a Bidder may, within 10 (ten) days after the Proposal Due Date remove from its Consortium, any Member who suffers from a Conflict of Interest, and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof. However his price proposal shall not be opened.

Provided further, in case the Authority seeks information/ clarification from a Bidder related to occurrence/ non-occurrence of Conflict of Interest and the Bidders fail to provide such information within a reasonable time, the Authority shall disqualify the Bidders. Encash its Bid Security as per provision of Clause 2.21.7 (a) and further debar it from participation in any future procurement process for a minimum period of 1 year.

2.2.2. To be eligible for this RFP Document, a Bidder shall fulfil the following conditions of eligibility:

(A) **Technical Capacity:** For demonstrating technical capacity and experience (the “**Technical Capacity**”), the Bidder shall, over the past 5 (five) financial years preceding the Proposal Due Date, have:

- (i) paid for, or received payments for, construction of Eligible Project(s) in Category 3 and/or Category 4; and/ or
- (ii) paid for development of Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.4.1; and/ or
- (iii) collected and appropriated revenues from Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.4.1,

such that the sum total of the above, as further adjusted in accordance with clause 3.4.6, is more than **Rs.45.06 Crores (Rupees Forty Five Crores and Six Lakhs only) (the “Threshold Technical Capacity”)**. Provided that at least one fourth of the Threshold Technical Capacity shall be from the Eligible

Projects in Category 1 and/ or Category 3 specified in Clause 3.4.1.

(B) Financial Capacity:

- (i) The Bidder shall have a minimum Net Worth (the “**Financial Capacity**”) of **Rs.5.63 Crores (Rupees Five Crores and Sixty Three Lakhs Only)** at the close of the preceding financial year[§].
- (ii) Bidder firm’s (all members in case of Consortium) Profit After Tax (PAT) must be positive in at least 3 out of last 5 financial years.
- (iii) The bidder (any members in case of Consortium) shall not be in Corporate Insolvency Resolution Process (CIRP)/ Liquidation/ Winding up/ CDR/ SDR/ S4A/ Flexible Structuring/ or any other restructuring scheme due to financial stress and shall not be in a default on any debt obligations on the Proposal Due Date. An undertaking of bidder (all members in case of Consortium) duly certified by the Statutory Auditor of the bidder must be submitted along with the proposal.

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

Provided further that each member of the Consortium shall have a minimum Net Worth of 12.5% of Estimated Project Cost in the immediately preceding financial year.

2.2.3. The Bidders shall enclose with its proposal, to be submitted as per the format at Appendix 2, the following:

- (i) Certificate(s) from its statutory auditors^ξ or the concerned client(s) stating the payments made/ received or works commissioned, as the case may be, during the past 5 years in respect of the projects

[§] In case a Bidder has issued any fresh Equity Capital during the current financial year, the same shall be permitted to be added to the Bidder’s Net Worth subject to the Statutory Auditor of the Bidder certifying to this effect.

[£] The Authority may, in its discretion, impose further obligations in the Concession Agreement, but such obligations should provide sufficient mobility for partial divestment of equity without compromising the interests of the Project.

^ξ In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.2.3 (i). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Bidder may provide the certificates required under this RFP Document.

- specified in Clause 2.2.2 (A) above. In case a particular job/ contract has been jointly executed by the Bidder (as part of a Consortium), it should further support its claim for the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or the client; and
- (ii) Certificate(s) from its statutory auditors specifying the net worth of the Bidder, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.3 (ii). For the purposes of this RFP Document, net worth (the “**Net Worth**”) shall mean the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.

2.3. Proprietary Data

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

2.4. Cost of Bidding

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

2.5. Site Visit and Verification of Information

- 2.5.1. Bidders are encouraged to submit their respective Proposals after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them. Bidders are advised to visit the site and familiarise themselves with the Project with in the stipulated time of submission of the Proposal. No extension of time is likely to be considered for submission of Proposals.
- 2.5.2. It shall be deemed that by submitting the Proposal, the Bidder has:
- (a) made a complete and careful examination of the RFP Document;
 - (b) received all relevant information requested from Authority;
 - (c) accepted the risk of inadequacy, error or mistake in the information provided in the RFP Document or furnished by or on behalf of Authority relating to any of the matters referred to in Clause 2.5.1

- above;
 - (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 hereinabove necessary and required for submitting an informed Proposal, execution of the Project in accordance with the RFP Document and performance of all of its obligations thereunder;
 - (e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the RFP Document or ignorance of any of the matters referred to in Clause 2.5.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from Authority, or a ground for termination of the Concession Agreement by the Concessionaire;
 - (f) acknowledged that it does not have a Conflict of Interest;
 - (g) agreed to be bound by the undertakings provided by it under and in terms hereof; and
- 2.5.3. Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFP Document or the Bidding Process, including any error or mistake therein or in any information or data given by Authority.
- 2.5.4. After Financial Opening of Proposal, the Successful Bidder as per clause 3.8 of RFP Document, will be allowed (if he desires so) to take over the project site.

2.6. Verification and Disqualification

- 2.6.1. Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP Document and the Bidder shall, when so required by Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification, or lack of such verification by Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of Authority thereunder.
- 2.6.2. Authority reserves the right to reject any Proposal and appropriate the Bid Security if:
- (a) at any time, a material misrepresentation is made or uncovered, or
 - (b) the Bidder does not provide, within the time specified by Authority, the supplemental information sought by Authority for evaluation of the Proposal.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified/ rejected. If such disqualification/ rejection occurs after the Price Proposals have been opened and the Highest Bidder gets disqualified/ rejected, then Authority reserves the right to take any such measure as may be deemed fit in the sole discretion of Authority, including annulment of the bidding process.

- 2.6.3. In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the Concession thereby granted by Authority, that one or more of the qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Successful Bidder has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP Document, be liable to be terminated, by a communication in writing by Authority to the Successful Bidder or the Concessionaire, as the case may be, without Authority being liable in any manner whatsoever to the Successful Bidder or Concessionaire. In such an event, Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to Authority under the RFP Document and/ or the Concession Agreement, or otherwise.

B. DOCUMENTS

2.7. Content of the RFP Document

- 2.7.1. This RFP Document comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.9.

Part I	RFP
Part II	Draft Concession Agreement

2.8. Clarifications

- 2.8.1. Bidders requiring any clarification on the RFP Document may notify Authority in writing or by fax and e-mail in accordance with Clause 1.2.6. They should send in their queries before the date specified in the schedule of Bidding Process specified in Clause 1.3. Authority shall endeavour to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the Proposal Due Date. All the queries and its responses will be hosted on the GoI e-Tendering Portal (<https://eprocure.gov.in/eprocure/app>) and NHIDCL portal (<https://nhidcl.com>) without identifying the source of queries.
- 2.8.2. Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring Authority to respond to any question or to provide any clarification.
- 2.8.3. Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and

interpretations issued by Authority shall be deemed to be part of the RFP Document. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on Authority.

2.9. Amendment of RFP Document

- 2.9.1. At any time prior to the Proposal Due Date, Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP Document by the issuance of Addenda.
- 2.9.2. Any Addendum thus issued will be posted on the website <https://nhidcl.com> and/or <https://eprocure.gov.in/eprocure/app>.
- 2.9.3. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, Authority may, at its own discretion, extend the Proposal Due Date[§].

C. PREPARATION AND SUBMISSION OF PROPOSAL

2.10. Format and Signing of Proposal

- 2.10.1. The Proposal shall provide all the information sought under this RFP Document. Authority will evaluate only those Proposals that are received online in the required formats and complete in all respects and Copy of online receipt/ original Demand Draft towards payment of cost of Bid document, Bid Security, POA and Joint Bidding Agreement etc. as specified in Clause 2.11.2 are received in hard copies.
- 2.10.2. The Proposal shall be typed and signed in indelible ink by the authorised signatory of the Bidder. All the alterations, omissions, additions or any other amendments made to the Proposal shall be initialled by the person(s) signing the Proposal.

2.11. Documents comprising Technical and Price Proposal

- 2.11.1. The Bidder shall submit the Technical & Price Proposal online through e-procurement portal <https://eprocure.gov.in/eprocure/app> comprising of the following documents along with supporting documents as appropriate:

Part I: Technical Proposal

Technical Proposal should include the following:

[§] While extending the Proposal Due Date on account of an addendum, the Authority shall have due regard for the time required by Bidders to address the amendments specified therein. In the case of significant amendments, at least 15 (fifteen) days shall be provided between the date of amendment and the Proposal Due Date, and in the case of minor amendments, at least 7 (seven) days shall be provided.

i.)	Covering Letter cum Project undertaking in the prescribed format (Appendix 2)
ii.)	Details of Bidders as set out in Appendix 4
iii.)	Completed format of Technical Capacity of the Bidder as in Appendix 5
iv.)	Completed format of Financial Capacity of the Bidder as in Appendix 6
v.)	Details of Eligible Projects as per Appendix 7
vi.)	Statement of Legal Capacity in terms of Appendix 8
vii.)	Power of Attorney for signing the Proposal as per the format at Appendix 9
viii.)	if applicable, the Power of Attorney for Lead Member of Consortium as per the format at Appendix 10
ix.)	Joint Bidding Agreement, in case of a Consortium, substantially in the format at Appendix 11
x.)	Copy of Online receipt (of payment made through RTGS/ NEFT/ Other online mode)/ original Bank Guarantee towards Bid Security as per Appendix 12
xi.)	Copy of Memorandum and Articles of Association, if the Bidder/ Consortium member is a body corporate
xii.)	Copies of Bidder's duly audited balance sheet and profit and loss account for the preceding five years
xiii.)	A copy of the draft Concession Agreement with each page initialled by the authorised signatory of the Bidder in pursuance of the Power of Attorney referred to in sub-clause (vii) hereinabove.
xiv.)	Copy of Online receipt (of payment made through RTGS/ NEFT/ Other online mode)/ original Demand Draft (DD) towards the cost of RFP Document for an amount Rs.11,800/- (inclusive of GST @ 18%) in favour " Managing Director, National Highways and Infrastructure Development Corporation Limited, New Delhi ", payable at New Delhi
xv.)	Non-Collusion Certificate as per Appendix 13 .
xvi.)	Completed format of Facilities Compliance Statement in terms of Appendix 14
xvii.)	Integrity Pact as per Appendix 15 along with the RFP Document duly signed by the Authorised signatory & shall be part of the Concession Agreement.

Part II: Price Proposal

Price Proposal should include the following:

- i.) Price Proposal as per format set out below shall be submitted online through e-procurement portal in the BoQ on or before 1100 hours IST on the Proposal Due Date

Validate Print Help [Item Rate BoQ](#)

Tender Inviting Authority: MD, NHIDCL

Name of Work: Development of Bus Port on Design, Finance, Build, Operate and Transfer (DFBOT) Basis at Ramnagar

Contract No: NHIDCL/Bus Port/Uttarakhand/Ramnagar/2021

Name of the Bidder/
Bidding Firm /

PRICE SCHEDULE
(This BOQ template must not be modified/replaced by the bidder and the same should be uploaded after filling the relevant columns, else the bidder is liable to be rejected for this tender. Bidders are allowed to enter the Bidder Name and Values only)

NUMBER	TEXT	NUMBER	TEXT	TEXT	NUMBER	NUMBER	TEXT
Sl. No.	Item Description	Quantity	Units	Premium (Excess)/ Grant (Less)	Premium (Excess)/ Grant (Less) quoted by the bidder in figures (Excluding GST) in Rs. P	Total Premium (Excess)/ Grant (Less) quoted by the bidder in figures (Excluding GST) in Rs. P	Total Premium (Excess)/ Grant (Less) quoted by the bidder (Excluding GST) in Rs. P In Words
1	2	4	5	9	13	54	55
101	Development of Bus Port on Design, Finance, Build, Operate and Transfer (DFBOT) Basis at Ramnagar	1000	Lump Sum	Excess(+)		0.00	INR Zero Only
Total in Figures						0.00	INR Zero Only
Quoted Rate in Words						INR Zero Only	

The bidder has to quote the lumpsum premium/ grant amount by selecting the excess (+)/ less (-) from the dropdown button in cell I14 and quote the amount in the highlighted cell M14. For the purpose of this RFP and in the BoQ, the premium or excess or (+) and grant or less or (-) has the same meaning.

2.11.2. The Bidder shall submit the following documents physically:

- Original Power of Attorney for signing the Proposal as per format at Appendix 9;
- if applicable, Original Power of Attorney for Lead Member of Consortium as per the format at Appendix 10;
- if applicable, Original Joint Bidding Agreement for Consortium as per the format at Appendix 11;
- if applicable, Bid Security in the form of Original Bank Guarantee in the format at Appendix 12 from a Scheduled Bank;
- Integrity Pact as per Appendix 15;
- If applicable, Attested copy of the receipt of the payment in the form of Demand Draft (DD) towards the cost of RFP Document;

2.11.3. The documents listed at Clause 2.11.2 shall be placed in an envelope, which shall be sealed. The envelope shall clearly bear the following identification:

“Proposal for Development Bus Port on DFBOT Basis at Ramnagar”

and shall clearly indicate the name and address of the Bidder. In addition, the Proposal Due Date should be indicated on the right hand top corner of the envelope.

2.11.4. The envelope shall be addressed to:

ATTN. OF:	Sh. A K Singh General Manager (Tech)
ADDRESS:	NHIDCL, 2nd Floor, PTI Building, 4, Parliament Street,

	New Delhi – 110 001
E-mail ID :	gm.infra@nhidcl.com

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

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

2.12. Proposal Due Date

Technical & Price Proposal comprising of the documents listed at clause 2.11.1 of the RFP Document shall be submitted online through e-procurement portal <https://eprocure.gov.in/eprocure/app> on or before 1100 hrs IST on 15/02/2021. Documents listed at clause 2.11.2 of the RFP Document shall be physically submitted on or before 1100 hours IST on 15/02/2021 at the address provided in Clause 2.11.4 in the manner and form as detailed in this RFP Document. A receipt thereof should be obtained from the person specified at Clause 2.11.4.

2.13. Late Proposals

E-procurement portal <https://eprocure.gov.in/eprocure/app> shall not allow submission of any Proposal after the prescribed date and time at Clause 2.12. Physical receipt of documents listed at Clause 2.11.2 after the prescribed date and time at Clause 2.12 shall not be considered and the Proposal shall be summarily rejected.

2.14. Procedure for e-tendering

2.14.1. Accessing/ Purchasing of RFP document

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

DSC should be in the name of the authorized signatory as authorized in Appendix 9 of this RFP Document. It should be in corporate capacity (that is in Bidder capacity/ in case of Consortium in the Lead Member capacity, as applicable). The Bidder shall submit document in support of the class III DSC.

The Authorized Signatory holding Power of Attorney (POA) or the person executing/ delegating such POA shall only be the Digital Signatory. In other cases, the Proposal shall be considered non –responsive.

2.14.1.2 To participate in the bidding, it is mandatory for the Bidders to register their

firm/ consortium with e-procurement portal <https://eprocure.gov.in/eprocure/app> to have user ID & password which has to be obtained free of cost. Following may kindly be noted:

- i.) Registration with e-procurement portal should be valid at least up to the date of submission of Proposal.
- ii.) Proposal can be submitted only during the validity of registration.

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

2.14.1.4 The complete RFP document can be viewed/ downloaded by the Bidder from e- procurement portal (<https://eprocure.gov.in/eprocure/app>) and NHIDCL website (<https://nhidcl.com>) as per the schedule set out in Appendix 1.

2.14.2. Preparation & Submission of Proposals

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

2.14.2.2 The documents listed at clause 2.11.1 shall be prepared and scanned in different files (in PDF or RAR format such that file size is not more than 30 MB) and uploaded during the online submission of Proposal. The Bidders can upload a single file of 30 MB only but can upload multiple files during the on- line submission of Proposal.

2.14.2.3 Proposal must be submitted online only through e-procurement portal <https://eprocure.gov.in/eprocure/app> using the digital signature of authorised representative of the Bidder on or before Proposal Due Date.

2.14.3. Modifications/ Substitution/ Withdrawal of Proposals

2.14.3.1 The Bidder may modify, substitute or withdraw its Proposal after submission prior to Proposal Due Date. No Proposal shall be modified, substituted or withdrawn by the Bidder on or after the Proposal Due Date.

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

2.15. Online Opening of Proposals

2.15.1. Opening of Proposals will be done through online process.

2.15.2. The Authority shall online open Technical Proposals as per the schedule set out in Appendix 1, in the presence of the authorized representatives of the

Bidders, who choose to attend. Technical Proposal of only those Bidders shall be online opened whose documents listed at clause 2.11.2 of the RFP Document have been physically received. The Authority will subsequently examine and evaluate the Proposals in accordance with the provisions of Section 3 of RFP Document.

2.16. Rejection of Proposals

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

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

2.17. Validity of Proposal

The Proposals shall be valid for a period of not less than 120 (One Hundred Twenty) days from the Proposal Due Date. The validity of Proposal may be extended by mutual consent of the respective Bidders and Authority.

2.18. Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising Authority in relation to, or matters arising out of, or concerning the Bidding Process. Authority will treat all information, submitted as part of Proposal, in confidence and will require all those who have access to such material to treat the same in confidence. 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 authority or as may be required by law or in connection with any legal process.

2.19. Correspondence with the Bidder

Save and except as required in this RFP Document, Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Proposal.

2.20. Consultant(s) or Advisor(s)

- 2.20.1. To assist in the examination, evaluation, and comparison of Proposals, Authority may utilize the services of consultant(s) or advisor(s).
- 2.20.2. No entity including the Bidders can hold and Authority shall not be bound by the opinion or advice given by any consultant or advisor referred to in Clause 2.20.1. The final determination as regards the Proposal shall vest with Authority.

D. BID SECURITY

2.21. Bid Security

- 2.21.1. The Bidder shall furnish as part of its Proposal, a Bid Security referred to in Clauses 2.1.6 and 2.1.7 hereinabove in the form of a bank guarantee issued by nationalised bank, or a Scheduled Bank in India having a net worth of at least Rs.1,000 crore (Rs. One Thousand Crores), in favour of the Authority in the format at Appendix 12 (the “**Bank Guarantee**”) and having a validity period of not less than 120 (one hundred twenty) days from the Proposal Due Date inclusive a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalised bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.
- 2.21.2. Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Authority and payable at Delhi (the “**Demand Draft**”) OR pay online through RTGS/NEFT/Other online mode to the NHIDCL’s account given in clause 1.2.4 of RFP. The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.
- 2.21.3. Any Proposal not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive.
- 2.21.4. Save and except as provided in Clauses 1.2.4 above, the Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Proposal of the Successful Bidder or when the Bidding process is cancelled by the Authority, and in any case within 90 (ninety) days from the Proposal Due Date. Where Bid Security has been paid by Demand Draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Authority give the name and address of the person in whose favour the said demand draft shall be drawn by the Authority for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Proposal.
- 2.21.5. The Successful Bidder’s Bid Security will be returned, without any interest, upon the Concessionaire signing the Concession Agreement and furnishing the Performance Security in accordance with the provisions thereof. The

Authority may, at the Successful Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Concession Agreement.

2.21.6. The Authority shall be entitled to forfeit and appropriate the Bid Security as Damages inter alia in any of the events specified in Clause 2.21.7 herein below. The Bidder, by submitting its Proposal pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Proposal or for any other default by the Bidder during the period of Bid validity as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.

2.21.7. The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or under the Concession Agreement, or otherwise, under the following conditions:

- (a) If a Bidder submits a non-responsive Proposal; Subject however that in the event of encashment of Bid Security occurring due to operation of para 2.21.7 (a), the Damage so claimed by the Authority shall be restricted to 5% of the value of the Bid Security.
- (b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;
- (c) If a Bidder withdraws its Proposal during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
- (d) In the case of Successful Bidder, if it fails within the specified time limit –
 - i) to sign and return the duplicate copy of LOA;
 - ii) to sign the Concession Agreement; or
 - iii) to furnish the Performance Security within the period prescribed thereof in the Concession Agreement; or

In case the Successful Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security.

3. CRITERIA & METHODOLOGY FOR QUALIFICATION & EVALUATION

3.1. Opening and Evaluation of Proposals

- 3.1.1. Authority shall open the Part I of the Proposals received physically and online as per the schedule set forth in Appendix 1, at the place specified in Clause 2.11.4 and in the presence of the Bidders who choose to attend.
- 3.1.2. Authority will subsequently examine and evaluate Technical Proposals in accordance with the provisions set out in Section 3.
- 3.1.3. To facilitate evaluation of Proposals, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Proposal.

3.2. Test of Responsiveness

- 3.2.1. Prior to evaluation of Proposals, Authority shall determine whether each Proposal is responsive to the requirements of the RFP Document. The Proposal shall be considered responsive only if:
 - (a) it is received as per format at **Appendix 2**.
 - (b) it is received by the Proposal Due Date including any extension thereof pursuant to Clause 2.12;
 - (c) it is signed, sealed and marked as stipulated in Clause 2.11.3;
 - (d) it is accompanied by the Power(s) of Attorney as specified in Clause 2.1.6 and in the case of a Consortium, the Power of Attorney as specified in Clause 2.1.7;
 - (e) it contains all the information (complete in all respects) as requested in this RFP Document (in formats as those specified);
 - (f) it contains certificates from its statutory auditors in the formats specified at **Appendix 6** and **Appendix 7** of the RFP Document;
 - (g) it contains format of legal capacity in terms of **Appendix 8**;
 - (h) it contains copy of the receipt for payment made towards the cost of the RFP Document;
 - (i) it is accompanied by the Joint Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.1.14 (g);
 - (j) it contains Non-Collusion Certificate in terms of **Appendix 13**;
 - (k) it contains completed format of Facilities Compliance Statement in terms of **Appendix 14**;
 - (l) it contains Integrity Pact in terms of **Appendix 15**;
 - (m) it is accompanied by the Bid Security as specified in Clause 2.1.6 and 2.1.7;
 - (n) it does not contain any condition or qualification; and
 - (o) it is not non-responsive in terms hereof.
- 3.2.2. 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 Authority in respect of such Proposal.

3.3. Evaluation Parameters

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

3.4. Technical Capacity for purposes of evaluation

- 3.4.1. Subject to the provisions of Clause 2.2, the following categories of experience would qualify as Technical Capacity and eligible experience (the "Eligible Experience") in relation to eligible projects as stipulated in Clauses 3.4.3 and 3.4.4 (the "Eligible Projects"):

- **Category 1:** Project experience on Eligible Projects in real estate sector that qualify under Clause 3.4.3
- **Category 2:** Project experience on Eligible Projects in core sector that qualify under Clause 3.4.3
- **Category 3:** Construction experience on Eligible Projects in real estate sector that qualify under Clause 3.4.4
- **Category 4:** Construction experience on Eligible Projects in core sector that qualify under Clause 3.4.4

For the purpose of this RFP Document:

- (a) Real estate sector would be deemed to include railway station, airport, multi modal transit centres, bus terminals/stand, commercial complex, hotel complex, residential complex, hospitals, schools, colleges; and
 - (b) Core sector would be deemed to include highways, power, telecom, ports, metro rail, industrial parks/ estates, MLCP, logistic parks, pipelines, irrigation, tourism, water supply, and sewerage.
- 3.4.2. Eligible Experience in respect of each category shall be measured only for Eligible Projects.
- 3.4.3. For a project to qualify as an Eligible Project under Categories 1 and 2:
- (a) It should have been undertaken as a PPP project on BOT, BOLT, BOO, BOOT or other similar basis for providing its output or services to a public sector entity or for providing non-discriminatory access to users in pursuance of its charter, concession or contract, as the case may be. For the avoidance of doubt, a project which constitutes a natural monopoly such as an airport or port should normally be

included in this category even if it is not based on a long-term agreement with a public entity;

- (b) the entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 26% (twenty six percent) equity at the time of commissioning of project for which Eligible Experience is being claimed;
 - (c) the capital cost of the project should be more than **Rs.4.51 Cr (Rupees Four Crores and Fifty One Lakhs Only)**; and
 - (d) the entity claiming experience shall, during the last 5 (five) financial years preceding the Proposal Due Date, have (i) paid for development of the project (excluding the cost of land), and/ or (ii) collected and appropriated the revenues from users availing of non-discriminatory access to or use of fixed project assets, such as revenues from bus terminal/stand cum commercial complex, multilevel car parking cum commercial complex, highways, airports, ports and railway infrastructure, but shall not include revenues from sale or provision of goods or services such as electricity, gas, petroleum products, telecommunications or fare/freight revenues and other incomes of the company owning the Project.
- 3.4.4. For a project to qualify as an Eligible Project under Categories 3 and 4, the Bidder should have paid for execution of its construction works or received payments from its client(s) for construction works executed, fully or partially, during the 5 (five) financial years immediately preceding the Proposal Due Date, and only the payments (gross) actually made or received, as the case may be, during such 5 (five) financial years shall qualify for purposes of computing the Experience Score. However, payments/receipts of less than **Rs.4.51 Cr (Rupees Four Crores and Fifty One Lakhs Only)** shall not be reckoned as payments/receipts for Eligible Projects. For the avoidance of doubt, construction works shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. Further, the cost of land shall not be included hereunder.
- 3.4.5. The Bidder shall quote experience in respect of a particular Eligible Project under any one category only, even though the Bidder (either individually or along with a member of the Consortium) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.
- 3.4.6. The Bidder's experience shall be measured and stated in terms of a score (the "Experience Score"). The Experience Score for an Eligible Project in a given category would be the eligible payments and/or receipts specified in Clause 2.2.2(A), divided by one crore and then multiplied by the applicable factor in Table 3.4.6 below. In case the Bidder has experience across different categories, the score for each category would be computed as above and then aggregated to arrive at its Experience Score.

Table 3.4.6: Factors for Experience across categories	
Categories	Factor
Category 1	1.45
Category 2	1.00
Category 3	1.00
Category 4	0.70

- 3.4.7. The Experience Score determined in accordance with Clause 3.4.6 in respect of an Eligible Project situated in a developed country which is a member of OECD shall be further multiplied by a factor of 0.5 (zero point five) and the product thereof shall be the Experience Score for such Eligible Project.
- 3.4.8. Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.
- 3.4.9. (a) The Experience Score of the Bidder shall be computed as a weighted average of the Experience Score of a member and its proposed equity stake (%) in the Consortium,
- (b) Similarly, the Financial Score of the Bidder shall be computed as a weighted average of the Financial Score of a member and its proposed equity stake (%) in the Consortium.

Provided that the financial strength or the experience score taken into assessment will be only of those who contribute a minimum 26% share to the Consortium.

Illustration:

For illustration and avoidance of any doubts, the following method is placed in clarification:

If Company A (Net-Worth: Rs.1000 crores) & Company B (Net-Worth: Rs.500 crores) in a Consortium with shareholding of A as 60% and B as 40% then the Weighted Financial Score of the Consortium shall be:

For Weighted Financial Score

$$1000 \times 60\% + 500 \times 40\% = 800 \text{ Crores}$$

For Weighted Experience Score

If Company A has been assessed to have an Experience Score of 1000 and Company B has been assessed to have an Experience Score of 500, in a Consortium with shareholding of A as 60% and B as 40%, then the Weighted Experience Score of the Consortium shall be

$$1000 \times 60\% + 500 \times 40\% = 800$$

3.5. Details of Experience

- 3.5.1. The Bidder should furnish the details of Eligible Experience for the last 5 (five) financial years immediately preceding the Proposal Due Date.
- 3.5.2. The Bidder must provide the necessary information relating to Technical Capacity as per format at Appendix 5.
- 3.5.3. The Bidder should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity, as per format at Appendix 7.

3.6. Financial information for purposes of evaluation

- 3.6.1. The Proposal must be accompanied by Audited Annual Reports of the Bidder (for each Member in case of Consortium) for the last 5 (five) financial years, preceding the year in which the Proposal is made.
- 3.6.2. In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor or independent auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.
- 3.6.3. The Bidder must establish the minimum Net Worth specified in Clause 2.2.2(B), and provide details as per format at Appendix 6.
- 3.6.4. In case of foreign companies, a certificate from a qualified external auditor who audits the book of accounts of the Bidder or the Consortium Member in the formats provided in the country where the project has been executed shall be accepted, provided it contains all the information as required in the prescribed format of the RFP Document.
- 3.6.5.
 - (i) In the event that a Bidder claims credit for an Eligible Project, and such claim is determined by the Authority as incorrect or erroneous, the Authority may reject/ correct such claim for the purpose of qualification requirements.
 - (ii) The Authority will get the Bid Security verified from the issuing authority and after due verification, the Authority will evaluate the Technical Proposals of Shortlisted Bidders for their compliance to the eligibility and qualification requirements pursuant to clause 2.2.1 & 2.2.2 of this RFP Document.
 - (iii) After evaluation of Technical Proposals, the Authority will publish a list of Shortlisted Bidders whose Price Proposals shall be opened. The

Authority shall notify other Bidders that they have not been technically responsive. The Authority will not entertain any query or clarification from Applicants who fail to qualify.

3.7. Opening and Evaluation of Price Proposals

Authority shall inform the venue and time of online opening of Price Proposals to all Shortlisted Bidders through e-procurement portal and/ or e-mail. Authority shall online open the Price Proposals on date and time to be informed in this clause in the presence of the authorised representatives of the Bidders who may choose to attend. Authority shall prepare a record of opening of Price Proposals.

3.8. Selection of Bidder

- 3.8.1. Subject to the provisions of Clause 2.16.1, the Bidder whose Proposal is adjudged as responsive in terms of Clause 3.2 and who quotes the highest premium (referred to as the “Premium”) payable to Authority and in case, no Bidder offers Premium than Bidder quoting the lowest grant required from the Authority (referred to as the “Grant”), shall be declared as the highest bidder (the “Highest Bidder”) for the Project in terms of the process set out in the following paragraphs.
- 3.8.2. The Proposal of the Bidders for the Project would be evaluated on the basis of the Premium or the Grant, as the case may be, quoted in the Price Proposal. Bidders would be ranked in the descending order of Premium quoted in the Price Proposal and then the ascending order of the Grant. For example, the Bidder quoting the highest Premium would be ranked “H1”, the bidder quoting the next highest Premium, ranked “H2” and so on, set out in the table below:

Name of Bidder	Price Proposal	Rank
	Highest Premium offer	H1
	Second Highest Premium offer	H2
	Third Highest Premium offer	H3
	...	
	...	Hn
	Lowest Grant offer	Hn+1
	Second Lowest Grant offer	Hn+2
	Third Lowest Grant offer	Hn+3
	...	
	...	

- 3.8.3. Generally, Highest Bidder shall be declared as preferred bidder (“Preferred Bidder”).
- 3.8.4. In the event that two or more Bidders, becomes Highest Bidder (the “Tie Bidders”), Authority shall identify the Preferred Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.

- 3.8.5. Upon acceptance of the Proposal of the Preferred Bidder, Authority shall declare the Preferred Bidder as the successful bidder (the “Successful Bidder”).
- 3.8.6. After selection, a Letter of Acceptance (the “LOA”) shall be issued, in duplicate, by Authority to the Successful Bidder and the Successful Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Successful Bidder is not received by the stipulated date, Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Successful Bidder to acknowledge the LOA.
- 3.8.7. After acknowledgement of the LOA as aforesaid by the Successful Bidder, it shall cause the Concessionaire to execute the Concession Agreement within the period prescribed in Clause 1.3 and submit the Performance Security in accordance with the Draft Concession Agreement. The Successful Bidder shall not be entitled to seek any deviation, modification or amendment in the draft Concession Agreement.

3.9. Contacts during Bid Evaluation

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

3.10. Correspondence with Bidder

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

- 3.11 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 Bidder if the Project is subsequently awarded to it on the basis of such information.
- 3.12 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Proposal(s) without assigning any reasons.

4 FRAUD AND CORRUPT PRACTICES

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, Authority may reject the Proposal, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to Authority under the RFP Document and/ or the Concession Agreement, or otherwise.
- 4.2 Without prejudice to the rights of Authority under Clause 4.1 hereinabove and the rights and remedies which Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or Concessionaire, as the case may be, is found by Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFQ/RFP/RFP issued by Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be, is found by Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this Section 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) **“corrupt practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under Clause 2.2.1(d), engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in

respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of Authority in relation to any matter concerning the Project;

- (b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
 - (c) **“coercive practice”** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
 - (d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
 - (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.
- 4.4 Bidder shall comply Model Agreement for Integrity Pact (IP), (format given in Appendix 15) shall be submitted by the Bidder along with the Proposal duly signed by the Authorised signatory of the Bidder and shall be deemed to be a part of the Concession Agreement.

5 PRE-BID CONFERENCE

- 5.1 Pre-Bid conference of the Bidders shall be convened at the designated date, time and place. A maximum of two representatives of prospective Bidders shall be allowed to participate on production of authority letter from the Bidder.
- 5.2 During the course of Pre-Bid conference(s), the Bidders will be free to seek clarifications and make suggestions for consideration of Authority. Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

6 MISCELLANEOUS

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

Appendix 1: Schedule of Bidding Process

SN	Activity Description	Date
1.	Release of RFP Document	14/01/2021
2.	Last Date of Issue of RFP Document	15/02/2021
3.	Last date for receiving queries	27/01/2021
4.	Pre-Proposal meeting	27/01/2021
5.	Reply to Pre-bid queries, if any	03/02/2021
6.	Proposal Due Date	15/02/2021 at 1100 hrs
7.	Opening of Technical Proposals	16/02/2021 at 1130 hrs
8.	Announcement of Technically Qualified Bidders	To be intimated separately
9.	Opening of Price Proposals	To be intimated separately
10.	Letter of Award (LOA)	To be intimated separately

Appendix 2: Format for Covering Letter cum Project Undertaking*(Refer Clause 2.1.5, 2.11 and 3.2)*

Dated:

To,

Executive Director,
National Highways & Infrastructure Development Corporation Limited
PTI Building, 4 Parliament Street,
Sansad Marg Area,
New Delhi, 110001

Sub: Proposal for Development Bus Port on DFBOT Basis at Ramnagar Project

Dear Sir,

With reference to your RFP Document dated _____,

1. I/ We, having examined the RFP Document and understood its contents, hereby submit my/our Proposal for the aforesaid project. The Proposal is unconditional and unqualified.
2. I/ We acknowledge that Authority will be relying on the information provided in the Proposal and the documents accompanying the Proposal for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Concessionaire for the development, construction, operation and maintenance of the aforesaid Project.
4. I/ We shall make available to Authority any additional information it may find necessary or require to supplement or authenticate the Proposal.
5. I/ We acknowledge the right of Authority to reject our Proposal without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/We certify that in the last three years, we/ any of the Consortium Members or our/their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

7. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the RFP Document, including any Addendum issued by Authority; and
 - (b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) and 2.2.1(d) of the RFP Document; and
 - (c) I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable 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 Authority or any other public sector enterprise or any government, Central or State; and
 - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP Document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Proposal that you may receive nor to invite the Bidders to submit Price Proposal for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.16.2 of the RFP Document.
9. I/ We believe that we/ our Consortium satisfy(s) the Net Worth criteria and meet(s) the requirements as specified in the RFP Document.
10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium submitting a Proposal for the Project.
11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
13. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/ managers/ employees.
14. I/ We further certify that we are not disqualified in terms of the additional criteria specified by the Department of Disinvestment in their OM No. 6/4/2001-DD-II dated 13.7.01, a copy of which forms part of the RFP at Appendix 17 thereof.
15. I/ We undertake that in case due to any change in facts or

circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate Authority of the same immediately.

- (a) The Statement of Legal Capacity as per format provided in Appendix 8 of the RFP document, and duly signed, is enclosed. The Power Of Attorney For Signing of Bid and the Power of Attorney for Lead Member of Consortium, as per format provided at Appendix 9 and 10 respectively of the RFP document, are also enclosed.

16. I/We acknowledge and undertake that our Consortium is qualified on the basis of Technical Capacity and Financial Capacity of those of its Members who shall, for the period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six percent) of the subscribed and paid up equity of the Concessionaire; and (ii) 5% (five percent) of the Total Project Cost specified in the Concession Agreement. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.
17. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with the RFP Document, I/We shall inform Authority forthwith along with all relevant particulars and Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without Authority being liable to us in any manner whatsoever.
18. I/ We understand that the Successful Bidder shall incorporate a Special Purpose Company under Indian Companies Act, 2013 prior to execution of the Concession Agreement.
19. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
20. In the event of my/ our being declared as the Successful Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/ us prior to the Proposal Due Date.

We agree not to seek any changes in the aforesaid draft and agree to abide by the same.

21. I/ We have studied the RFP Document carefully and also surveyed the project site and traffic. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
22. I/ We offer a Bid Security of Rs. _____/- (Rupees _____ only) to Authority in accordance with the RFP Document.
23. The Bid Security in the form of a Bank Guarantee/ RTGS/ NEFT/ Other online mode is attached.
24. I/ We agree and understand that the Proposal is subject to the provisions of the RFP Document. In no case, I/ we shall have any claim or right of whatsoever nature if the Project/ Concession is not awarded to me/ us or our Proposal is not opened or rejected.
25. I/ We agree and undertake to abide by all the terms and conditions of the RFP Document.
26. *{We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement.}*^{\$}
27. I/ We shall keep this offer valid for 120 (One Hundred Twenty) days from the Proposal Due Date specified in the RFP Document.
28. I/We certify that in terms of RFP Document, my/our Net Worth is _____ (Rupees in words) and the Aggregate Experience Score is _____ (number in words).

In witness thereof, I/ We submit this Proposal under and in accordance with the terms of the RFP Document.

Yours faithfully,

Date _____ (Signature, name and designation of the
Authorised signatory)

Place: _____ Name and seal of the Bidder/
Lead Member

^{\$} _____
Omit if the Bidder is not a Consortium

Appendix 3: Format of Price Proposal

(Refer Clause 2.1.5, 2.11.1 and 3.2)

Date:

To

Executive Director,
National Highways & Infrastructure Development Corporation Limited
PTI Building, 4 Parliament Street,
Sansad Marg Area,
New Delhi, 110001

Sub: Proposal for Development Bus Port on DFBOT Basis at Ramnagar Project

We are pleased to submit our Price Proposal for the **Development of Bus Port on DFBOT Basis at Ramnagar Project** (the “**Project**”). We have completely understood the scope of work for the Project and have reviewed all the terms and conditions of the Request for Proposal (RFP) Document, including the draft Concession Agreement, and undertake to comply, observe and abide by all the terms and conditions set out in the aforesaid documents. We hereby declare that our Price Proposal is unqualified and unconditional in all respects and there are no deviations from the stated terms in the RFP Document.

We agree to pay a Premium (“Premium”) equal to Rs _____ (Rupees _____ only) for the aforesaid Project to Authority as per the terms of draft Concession Agreement and we do not want any additional Grant from the Authority.

OR

We agree to quote a grant (“Grant”) of Rs _____ (Rupees _____ only) for the aforesaid Project payable by Authority as per the terms of draft Concession Agreement.

(strike out whichever is not applicable)

The aforesaid **Premium/ Grant** *(strike out whichever is not applicable)* have been quoted by us after taking into consideration all the terms and conditions stated in the RFP Document including draft Concession Agreement, our own estimates of costs and revenues and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.

.....Name of the Bidder

.....Signature of the Authorised Person

.....Name of the Authorised Person

Note:

- On the Letterhead of the Bidder or Lead Member of Consortium.
- To be signed by the Lead Member, in case of a Consortium.
- In case of difference in amount quoted in figures and words, the higher value would be considered for evaluation.

Appendix 4: Format for Details of Bidder

Details of Bidder

1.
 - a) Name:
 - b) Country of incorporation:
 - c) Address of the corporate headquarters and its branch office(s), if any, in India:
 - d) Date of incorporation and/ or commencement of business:
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:
3. Details of individual(s) who will serve as the point of contact/ communication for Authority:
 - a) Name:
 - b) Designation:
 - c) Company:
 - d) Address:
 - e) Telephone Number:
 - f) E-Mail Address:
 - g) Fax Number:
4. Particulars of the Authorised Signatory of the Bidder:
 - a) Name:
 - b) Designation:
 - c) Address:
 - d) Phone Number:
 - e) Fax Number:
5. Note:
 - a) In case of a Consortium, the information above (1-4) should be provided for all the Members of the Consortium.
 - b) In case of Consortium the Joint Bidding Agreement, as envisaged in Clause 2.1.14 (g) should be attached to the Proposal.
 - c) Information regarding role of each Member should be provided as per table below:

SN.	Name of Member	Role* {Refer Clause 2.1.14(d)} ^{\$}	Percentage of equity in the Consortium {Refer Clauses 2.1.14(a), (c) & (g)}
1.			

^{\$} All provisions in curly parenthesis shall be suitably modified by the Bidder to reflect the particulars relating to such Bidder.

SN.	Name of Member	Role* {Refer Clause 2.1.14(d)} ^{\$}	Percentage of equity in the Consortium {Refer Clauses 2.1.14(a), (c) & (g)}
2.			
3.			
4.			

*The role of each Member, as may be determined by the Bidder, should be indicated in accordance with instruction 4 at **Appendix 7**.

d) The following information shall also be provided for each Member of the Consortium

Name of Bidder/ Member of Consortium

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

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

Appendix 5: Format for Technical Capacity of the Bidder

Technical Capacity of the Bidder[@]

(Refer to Clauses 2.2.2(A), 3.4 and 3.5 of this RFP Document)

Type of Bidder [#]	Proposed Equity Sharehold- ing in Consortium (%)	Member Code [*]	Project Code ^{**}	Category [§]	Experience [*] (Equivalent Rs. Crore) ^{§§}			Experience Score
					Payments made/received for construction of Eligible Projects in Categories 3 and 4	Payments made for development of Eligible Projects in Categories 1 and 2	Revenue appropriated from Eligible Projects in Categories 1 and 2	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Single entity Bidder			A					
			B					
			C					
			D					
Consortium			1a					
			1b					
			1c					
			1d					
			2a					
			2b					
			2c					
			2d					
			3a					
			3b					
			3c					
			3d					
	Aggregate Experience Score =							

Note:

[@] Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate specified in Clause 2.1.17 and/ or by a project company eligible under Clause 3.4.3 (b). In case of Categories 1 and 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 3.4.3 (c) and for Categories 3 and 4, include only those projects where the payments made/received exceed the amount specified in Clause 3.4.4.

[#] An Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Member. In case of a Consortium, the row titled Single entity Bidder may be ignored. In case credit is claimed for an Associate, necessary

evidence to establish the relationship of the Bidder with such Associate, in terms of Clause 2.1.17, shall be provided.

* Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member and OM means Other Member.

** Refer **Appendix 5**. Add more rows if necessary.

\$ Refer Clause 3.4.1.

¥ In the case of Eligible Projects in Categories 1 and 2, the figures in columns 6 and 7 may be added and for Categories 3 and 4, the figures in columns 5 may be added for computing the Experience Score of the respective projects.

In the case of Categories 3 and 4, construction shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. In no case shall the cost of land be included while computing the Experience Score of an Eligible Project.

\$\$ For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees 60 (sixty) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Proposal Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

Appendix 6: Format for Financial Capacity of the Bidder

Financial Capacity of the Bidder

(Refer to Clauses 2.2.2(B), 2.2.3(ii) and 3.6 of this RFP Document)

(In Rs. Crore)[@]

Type of Bidder ^{\$}	Member Code [£]	Proposed Equity Shareholding in Consortium (%)	Net Cash Accruals (showing separately Profit after Tax and Deprecation)					Net Worth [€]
			Year 1	Year 2	Year 3	Year 4	Year 5	Year 1
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Single entity Bidder								
Consortium Member								
Total								

[@] For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees 60 (sixty) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Proposal Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

^{\$} A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Bidder may be ignored. In case of Consortium only one Member of the Consortium is allowed to put forth its Financial Capacity.

[£] For Member Code, see instruction at Appendix 5.

[€] The Bidder should provide details of its own Financial Capacity or of an Associate specified in Clause 2.1.17.

Instructions:

1. The Bidder/ its constituent Consortium Member shall attach copies of the balance sheets, financial statements and Annual Reports for 5 (five) years preceding the Proposal Due Date. The financial statements shall:
 - a) reflect the financial situation of the Bidder or Consortium Member and its Associates where the Bidder is relying on its Associate's financials;
 - b) be audited by a statutory auditor;
 - c) be complete, including all notes to the financial statements; and
 - d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
2. Net Cash Accruals shall mean Profit After Tax + Depreciation.
3. Net Worth shall mean aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.
4. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on.
5. In the case of a Consortium, Joint Bidding Agreement shall be submitted in accordance with Clause 2.1.14 (g) of this RFP Document.
6. The Bidder shall also provide the name and address of the Bankers to the Bidder.
7. The Bidder shall provide an Auditor's Certificate as set out in this Appendix specifying the Net Worth of the Bidder and also specifying the methodology adopted for calculating such Net Worth in accordance with Clause 2.2.3 (ii) of this RFP Document.

Appendix 7: Format for Details of Eligible Projects

Details of Eligible Projects

(Refer to Clauses 2.2.2(A), 3.4 and 3.5 of this RFP Document)

Project Code:

Member Code:

Item	Refer Instruction	Particulars of the Project
(1)	(2)	(3)
Title & nature of the project		
Category	5	
Year – wise details For Category 1 and 2 Eligible Projects (a) payments made for development of PPP projects and / or (b) revenues appropriated For Category 3 and 4 Eligible Projects (a) payments received / made for construction,	6	
Entity for which the project was constructed / developed	7	
Location		
Project Cost	8	
Date of commencement of project/contract		
Date of completion/commissioning	9	
Equity shareholding (with period during which equity was held) and on the date of commissioning	10	
Whether credit is being taken for the Eligible Experience of an Associate (Yes/No)	15	

Instructions:

1. Bidders are expected to provide information in respect of each Eligible Project in this **Appendix**. The projects cited must comply with the eligibility criteria specified in Clause 3.4.3 and 3.4.4 of this RFP Document, as the case may be. Information provided in this section is intended to serve as a backup for information provided in the Proposal. Bidders should also refer to the Instructions below.
2. For a single entity Bidder, the Project Codes would be a, b, c, d etc. In case the Bidder is a Consortium then for Member 1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and so on.

3. A separate sheet should be filled for each Eligible Project.
4. Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, FM means Financial Member and OM means Other Member. In case the Eligible Project relates to an Associate of the Bidder or its Member, write "Associate" along with Member Code.
5. Refer to Clause 3.4.1 of the RFP Document for category number.
6. The total payments received/ made and/or revenues appropriated for each Eligible Project are to be stated in Appendix 5. The figures to be provided here should indicate the break-up for the past 5 (five) financial years. Year 1 refers to the financial year immediately preceding the Proposal Due Date; Year 2 refers to the year before Year 1, Year 3 refers to the year before Year 2, and so on. For Categories 1 and 2, expenditure on development of the project and/or revenues appropriated, as the case may be, should be provided, but only in respect of projects having an estimated capital cost exceeding the amount specified in Clause 3.4.3 (c). In case of Categories 3 and 4, payments made/ received only in respect of construction should be provided, but only if the amount paid/received exceeds the minimum specified in Clause 3.4.4. Payment for construction works should only include capital expenditure, and should not include expenditure on repairs and maintenance.
7. In case of projects in Categories 1 and 2, particulars such as name, address and contact details of owner/ Authority/ Agency (i.e. concession grantor, counter party to PPA, etc.) may be provided. In case of projects in Categories 3 and 4, similar particulars of the client need to be provided.
8. Provide the actual capital cost on commissioning (in case, project is under construction, provide estimated capital cost) of Eligible Project. Refer to Clauses 3.4.3 and 3.4.4
9. For Categories 1 and 2, the date of commissioning of the project, upon completion, should be indicated. In case of Categories 3 and 4, date of completion of construction should be indicated. In the case of projects under construction, the likely date of completion or commissioning, as the case may be, shall be indicated.
10. For Categories 1 and 2, the equity shareholding of the Bidder, in the company owning the Eligible Project, held continuously during the period for which Eligible Experience is claimed, needs to be given (Refer Clause 3.4.3).
11. Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner whatsoever.

12. Certificate from the Bidder's statutory auditor^{\$} or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidder/ Member/ Associate may provide the requisite certification.

13. If the Bidder is claiming experience under Categories 1 & 2[£], it should provide a certificate from its statutory auditor in the format below:

Certificate from the Statutory Auditor regarding PPP projects^{Φ Φ}

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

We further certify that the total estimated capital cost of the project is Rs. crore (Rupeescrore), of which Rs. crore (Rupees crore) of capital expenditure was incurred during the past five financial years as per year-wise details noted below:

.....
.....

We also certify that the eligible annual revenues collected and appropriated by the aforesaid project company in terms of Clauses 3.4.1 and 3.4.3 (d) of the RFP Document during the past five financial years were Rs. crore (Rupees..... crore) as per year-wise details noted below:

.....
.....

Date :
Signature of the Statutory Auditor of the Bidder :
Name of the Partner :
Name of the Statutory Auditor Firm/Company :

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

[£] Refer Clause 3.4.1 of the RFP Document.

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

^{€€} Refer instruction no. 10 of this Appendix.

^{¥¥} In case the project is owned by the Bidder company, this language may be suitably modified to read: "It is certified that (name of Bidder) constructed and/ or owned the (name of project) from (date) to(date)."

Registration Number of the Partner	:
Address of the Statutory Auditor	:
Phone Number of the Statutory Auditor Firm/Company	:
Fax Number of the Statutory Auditor Firm/Company	:

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

Certificate from the Statutory Auditor/ Client regarding construction works ^{ΦΦ}

Based on its books of accounts and other published information authenticated by it, {this is to certify that (name of the Bidder/Member/Associate) was engaged by (title of the project company) to execute (name of project) for (nature of project)}^{φ φ}. The construction of the project commenced on (date) and the project was/ is likely to be commissioned on (date, if any). It is certified that (name of the Bidder/ Member/ Associate) received/paid Rs. Crore (Rupees Crore) by way of payment for the aforesaid construction works.

We further certify that the total estimated capital cost of the project is Rs. Crore (RupeesCrore), of which the Bidder/Member/Associate received/paid Rs. Crore (Rupees Crore), in terms of Clauses 3.4.1 and 3.4.4 of the RFP Document, during the past five financial years as per year-wise details noted below:

.....
.....

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

Date :
Signature of the Statutory Auditor of the Bidder :



Refer Clauses 3.4.1 and 3.4.4 of the RFP Document.

ΦΦ

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

ΨΨ

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

^^

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

Name of the Partner	:
Name of the Statutory Auditor Firm/Company	:
Registration Number of the Partner	:
Address of the Statutory Auditor	:
Phone Number of the Statutory Auditor Firm/Company	:
Fax Number of the Statutory Auditor Firm/Company	:

15. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.1.17, the Bidder should also provide a certificate in the format below:

Certificate from Statutory Auditor/ Company Secretary regarding Associate^{\$}

Based on the authenticated record of the company, this is to certify that more than 50% (fifty percent) of the subscribed and paid up voting equity of (*name of the Bidder/ Consortium Member/ Associate*) is held, directly or indirectly[£], by (*name of Associate/ Bidder/ Consortium Member*). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Associate in terms of Clause 2.1.17 of the RFP Document.

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

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

Date	:
Signature of the Statutory Auditor of the Bidder	:
Name of the Partner	:
Name of the Statutory Auditor Firm/Company	:
Registration Number of the Partner	:
Address of the Statutory Auditor	:
Phone Number of the Statutory Auditor Firm/Company	:
Fax Number of the Statutory Auditor Firm/Company	:

16. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to

^{\$} In the event that the Bidder/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

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

exclusion of the relevant project in computation of Experience Score[⊖].

[⊖] Refer Clause 3.4.6 of the RFP Document.

Appendix 8: Format for Statement of Legal Capacity**Statement of Legal Capacity**

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

Ref. Date:

To,

Executive Director,
National Highways & Infrastructure Development Corporation Limited
PTI Building, 4 Parliament Street,
Sansad Marg Area,
New Delhi, 110001

Dear Sir,

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

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

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

Thanking you,

Yours faithfully,
(Signature, name and designation of the person authorising the authorised signatory)
For and on behalf of.....

* Please strike out whichever is not applicable.

Appendix 9: Format of Power of Attorney for Signing of Proposal

Power of Attorney for Signing of Proposal

(Refer Clause 2.1.6)

Know all men by these presents, we..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr/ Ms (name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for the Development of Bus Port on DFBOT Basis at Ramnagar Project proposed or being developed by National Highways & Infrastructure Development Corporation Limited (the "Authority ") including but not limited to signing and submission of all proposals , price proposal and other documents and writings, participate in Pre-Proposal and other conferences and providing information/ responses to Authority, representing us in all matters before Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our proposal, and generally dealing with 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 and/or till the entering into of the Concession Agreement with Authority.

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

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20.....

For

.....
(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Accepted

Notarised

.....
(Signature)

(Name, Designation and Address of the Attorney)

Notes:

- 1 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.
- 2 Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- 3 For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.

Appendix 10: Format for Power of Attorney for Lead Member of Consortium

(Refer Clause 2.1.7)

Whereas the National Highways & Infrastructure Development Corporation Limited ("NHIDCL" or "Authority") has invited proposals from interested parties for the Development of Bus Port on DFBOT Basis at Ramnagar Project (the "Project").

Whereas,and (collectively the "Consortium") being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal Document ("RFP") and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's proposal for the Project and its execution.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

We,having our registered office at
M/s. having our registered office at
....., and M/s. having our registered office at
....., (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s. having its registered office at
....., being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney"). We hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the concession/contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the qualification of the Consortium and submission of its proposal for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the proposal of the Consortium and generally to represent the Consortium in all its dealings with Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's proposal for the Project and/ or upon award thereof till the Concession Agreement is entered into with Authority . and hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things

done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20.....

For
(Signature)

.....
(Name & Title)

For
(Signature)

.....
(Name & Title)

For
(Signature)

.....
(Name & Title)

Witnesses:

1.

2.

.....
(Executants)

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

Notes:

- 1 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.
- 2 Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- 3 For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.

Appendix 11: Format for Joint Bidding Agreement

Joint Bidding Agreement

(Refer Clause 2.1.14 (g))

(To be executed on Stamp paper of appropriate value)

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

AMONGST

1. {..... Limited, a company incorporated under the Companies Act, 1956 or the Companies Act, 2013} and having its registered office at (hereinafter referred to as the "First Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {..... Limited, a company incorporated under the Companies Act, 1956 or the Companies Act, 2013} and having its registered office at (hereinafter referred to as the "Second Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {..... Limited, a company incorporated under the Companies Act, 1956 or the Companies Act, 2013} and having its registered office at (hereinafter referred to as the "Third Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)^{\$}

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

WHEREAS

- A. _____ ("Authority"), represented by its _____, Authority and having its principal offices at _____ (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited proposals (the "Proposals") by its Request for Proposal Document dated(the "RFP") for development, operation and maintenance of Bus Port at Ramnagar Project (the

^{\$} The number of Parties will be shown here, as applicable, subject however to a maximum of 3 (three).

“Project”) through public private partnership.

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

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

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

2. Consortium

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

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the Successful Bidder and awarded the Project, it shall incorporate a Special Purpose Company (the “SPC”) under the Indian Companies Act, 2013 for entering into a Concession Agreement with Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

4. Role of the Parties

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

- a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until execution of the Concession Agreement when all the obligations of the SPC shall become effective;
- b) Party of the Second Part shall be {the Financial Member/ Technical Member/ Other Member of the Consortium;}

- c) *Party of the Third Part shall be the Financial Member/ Technical Member/ Other Member of the Consortium;¹*

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP Document and the Concession Agreement.

6. Shareholding in the SPC

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

First Party:
Second Party:
{Third Party:}

- 6.2 The Parties undertake that a minimum of 51% of the subscribed and paid up equity share capital of the SPC shall, at all times during the Construction Period of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and net worth **or** average annual turnover (*strike out whichever is not applicable*) have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the RFP Document.
- 6.3 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.

7. Representation of the Parties

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

- a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
- (i) require any consent or approval not already obtained;
- (ii) violate any Applicable Law presently in effect and having

¹ Please add roles and obligations, if necessary

- applicability to it;
 - (iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

8. Termination

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

9. Miscellaneous

- 9.1 This Joint Bidding Agreement shall be governed by laws of India.
- 9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of Authority.

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

SIGNED,
DELIVERED

SEALED

AND

SIGNED, SEALED AND DELIVERED

For and on behalf of
LEAD MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

For and on behalf of
SECOND PART by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of
THIRD PART by:

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

- 1.
- 2.

Notes:

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

Appendix 12: Format for Bank Guarantee for Bid Security*(Refer Clauses 2.1.6 and 2.1.7)*

B.G. No. Dated:

1. In consideration of you, _____ ("Authority") and having its office at _____, (hereinafter referred to as the "Authority", which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Proposal of (a company registered under the Companies Act, 1956/ 2013) and having its registered office at (and acting on behalf of its Consortium) (hereinafter referred to as the "Bidder" which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the Development of Bus Port on DFBOT Basis at Ramnagar Project (hereinafter referred to as "the Project") pursuant to the RFP Document dated issued in respect of the Project and other related documents including without limitation the draft concession agreement (hereinafter collectively referred to as "RFP Document"), we(Name of the Bank) having our registered office at and one of its branches at (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of Clause 2.1.6 read with Clause 2.1.7 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the RFP Document by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to Authority an amount of Rs. _____ (Rupees _____ only) (hereinafter referred to as the "Guarantee") as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said RFP Document.
2. Any such written demand made by Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the RFP Document shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of Authority is disputed by the Bidder or not, merely on the first demand from Authority stating that the amount claimed is due to Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the RFP Document including failure of the said Bidder to keep its Proposal open during the Proposal validity period as set forth in the said RFP Document for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. _____ (Rupees _____ only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 120 (One Hundred Twenty) days from the Proposal Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the RFP Document including, inter alia, the failure of the Bidder to keep its Proposal open during the Proposal validity period set forth in the said RFP Document, and the decision of Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, Authority shall be entitled to treat the Bank as the principal debtor. Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said RFP Document or to extend time for submission of the Proposal or the Proposal validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said RFP Document by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said RFP Document or the securities available to Authority, and the Bank shall not be released from its liability under these presents by any exercise by Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of Authority or any indulgence by Authority to the said Bidder or by any change in the constitution of Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.

10. It shall not be necessary for Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. _____ Crore (Rupees _____ Crore only). The Bank shall be liable to pay the said amount or any part thereof only if Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before _____.
14. This guarantee shall also be operatable at our _____ Branch at New Delhi, from whom, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment thereunder claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.
15. The guarantor/bank hereby confirms that it is on the SFMS (Structural Finance Messaging System) platform & shall invariably send an advice of this Bank Guarantee to the designated bank of NHIDCL, details of which is as under:

S N	Particulars	Details
1	Name of Beneficiary	National highways & Infrastructure Development Corporation Limited
2	Beneficiary Bank Account No.	90621010002659
3	Beneficiary Bank Branch Name and Address	Canara Bank (erstwhile Syndicate Bank), Transport Bhawan, 1st Parliament Street, New Delhi - 110001
4	Beneficiary Bank Branch IFSC	SYNB0009062

Signed and Delivered by Bank

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

(Signature of the Authorised Signatory)

(Official Seal)

Appendix 13: Format of Non-Collusion Certificate

Non-Collusion Certificate

(on the Letter Head of Bidder/ Each Consortium Member)

We hereby certify and confirm that in the preparation and submission of this Proposal, we have not acted in concert or in collusion with any other Bidder/s and also not done any act, deed or thing which is or could be regarded as anti-competitive.

We further confirm that we have not offered nor will offer any illegal gratification in cash or kind to any person or agency in connection with the instant Proposal.

Dated thisDay of, 20.....

..... Name of the Bidder

..... Signature of the Authorised Person

..... Name of the Authorised Person

Note:

- To be executed by all the Members in case of Consortium.

Appendix 14: Format of Facilities Compliance Statement

The undersigned agrees that in case the Bidder becomes the Successful Bidder, it shall comply, observe and abide by the Design, Construction and O&M requirements as spelt out in this RFP (read together with the draft Concession Agreement, its Schedules and the Project Information Memorandum) for the construction of Project Facilities. The broad parameters are as set out below:

Project Design Proposal Requirements – Checklist for Compliance

SN	Design/ Output Parameter	Mention details of the minimum provisions (including Article/ Clause number) as has been made/ considered in the Proposal
A	Bus Port Facility	
1.	<ul style="list-style-type: none"> Number of Bus Bays Number of Alighting Bays Number of Idle Bus Parking Bays Number of Car Parking (ECS) 	
2.	<ul style="list-style-type: none"> Dimensions of Bus Bay (length and width) Dimensions of Platforms (length and width) 	
3.	Number of Entry and Exit points	
4.	Adda Fee /Entry Collection Points at Entry point for <ul style="list-style-type: none"> Buses Parking (Private Car, Two Wheeler & Auto) 	
5.	Maximum retrieval time (time taken) of a bus; <ul style="list-style-type: none"> From idle parking bus bay to Boarding bay Boarding bay to exit point 	
6.	Platform Area	
7.	Ticketing Counters in Boarding area	
8.	CCTV Security Room	
9.	Staff Amenities for Roadways including Rest area, Toilets, Lockers etc.	
10.	Pre-Paid Auto Booths Pre-Paid Taxi Booths	

SN	Design/ Output Parameter	Mention details of the minimum provisions (including Article/ Clause number) as has been made/ considered in the Proposal
11.	Toilet <ul style="list-style-type: none"> Ladies Gentlemen Handicapped Baby Changing Room (Near Ladies Toilet) 	
12.	Waiting Area	
13.	Cloak Room <ul style="list-style-type: none"> Number Area 	
14.	Drinking Water fountains	
15.	Seating Area	
16.	Surface Parking - Number of ECS for <ul style="list-style-type: none"> Private Vehicles Autos Taxis 	
17.	Water supply : capacity of water storage facility <ul style="list-style-type: none"> underground overhead tanks for firefighting (Water Tank) 	

Instructions:

- 1) Only where specified, bidder is required to mention the relevant detail against the particular parameter.
- 2) Provide in quantitative terms, the details, as has been reckoned behind the Project Design Proposal support, wherever appropriate, with detailed Drawings.

.....Name of the Bidder
.....Signature of the Authorised Person
.....Name of the Authorised Person

Note:

- On the Letterhead of the Bidder or Lead Member of Consortium.
- To be signed by the Lead Member, in case of a Consortium.

PROJECT CAPITAL OUTLAY

The Aggregated Project Capital Outlay shall be provided separately for Bus Port Facility and Commercial Facility.

(Inclusive of all taxes applicable on the date of submission of Proposal) (Rs.)

SN	Description	Bus Port Facility	Commercial Facility	Total
		Cost (Rs.)	Cost (Rs.)	Total Cost (Rs.)
		(A)	(B)	(C)=(A)+(B)
1	Civil and Building Works:			
2	Basement Construction			
3	Cost of Plant & Machines			
(i)	Indigenous component			
(ii)	Imported components			
4	Other Facilities Proposed:			
(i)	Fire fighting			
(ii)	Air-conditioning/ Ventilation			
(iii)	CCTV Cameras			
(iv)	Car scanner			
(v)	IT enabled system (boom barrier based solution including centralized database management solution, VMS etc.)			
(vi)	Others, if any			
5	Erection and Commissioning Charges, if any:			
6	Any Other Costs/ Misc.			
	Total			

.....Name of the Bidder
Signature of the Authorised Person
Name of the Authorised Person

Note:

- On the Letterhead of the Bidder or Lead Member of Consortium.
- To be signed by the Lead Member, in case of a Consortium.

Appendix 15: Integrity Pact Format

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

This integrity Pact is made at _____ on this _____ day of _____ 20__.

BETWEEN

National Highways & Infrastructure Development Corporation Limited having its registered office at PTI Building, 4 Parliament Street, Sansad Marg Area, New Delhi, Delhi 110001, (hereinafter referred to as the “**Principal/Owner**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns)

AND

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

Preamble

Whereas, the Principal has floated the Tender {NIT No.....dated.....} (hereinafter referred to as “Tender/Bid”) and intends to award, under laid down organizational procedure, contract/s for {Name of the work} (hereinafter referred to as the “Contract”).

And Whereas the Principal values full compliance with all relevant laws of the land, rules of land, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and/ or/ Concessionaire(s).

And whereas to meet the purpose aforesaid, both the parties have agreed to enter into this Integrity Pact (hereafter referred to as “Integrity Pact” or “Pact”) the terms and conditions of which shall also be read as integral part and parcel of the Tender documents and contract between the parties. Now, therefore, in consideration of mutual covenants contained in this pact, the parties hereby agree as follows and this pact witnesses as under:

Article-1: Commitments of the Principal

(1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

(a) No employee of the Principal, personally or through family members, will in connection with the Tender for, or the execution of a Contract, demand, take a promise for or accept, for self, or

- third person, any material or immaterial benefit which the person is not legally entitled to.
- (b) The Principal will, during the Tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the Tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
 - (c) The Principal will exclude all known prejudiced persons from the process, whose conduct in the past has been of biased nature.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act or any other Statutory Acts or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions as per its internal laid down Rules/Regulations.

Article – 2: Commitments of the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s).

The Bidder(s)/ Concessionaire(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

- (1) The Bidder(s)/ Concessionaire(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
- (2) The Bidder(s)/ Concessionaire(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contract, submission or non-submission or bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- (3) The Bidder(s)/ Concessionaire(s) will not commit any offence under the relevant IPC/PC Act and other Statutory Acts; further the Bidder(s)/ Concessionaire(s) will not use improperly, for purposes of completion or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

- (4) The Bidder(s)/ Concessionaire(s) of foreign origin shall disclose the name and address of the Agents/ Representatives in India, if any. Similarly, the Bidder(s)/ Concessionaire(s) of Indian Nationality shall furnish the name and address of the foreign principle, if any.
- (5) The Bidder(s)/ Concessionaire(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract. He shall also disclose the details of services agreed upon for such payments.
- (6) The Bidder(s)/ Concessionaire(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- (7) The Bidder(s)/ Concessionaire(s) will not bring any outside influence through any Govt. bodies/quarters directly or indirectly on the bidding process in furtherance of his bid.

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

- (1) If the Bidder(s)/ Concessionaire(s), before award or during execution has committed a transgression through a violation of any provision of Article- 2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/ Concessionaire(s) from the tender process.
- (2) If the Bidder(s)/ Concessionaire(s) has committed a transgression through a violation of Article-2 such as to put his reliability or credibility into question, the Principal shall be entitled to exclude including blacklist and put on holiday the Bidder(s)/ Concessionaire(s) for any future tenders/ contract award process. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the Principal taking into consideration the full facts and circumstances of each case particularly taking into account the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder(s)/ Concessionaire(s) and the amount of the damage. The exclusion will be imposed for a maximum of 3 years.
- (3) A transgression is considered to have occurred if the Principal after due consideration of the available evidence concludes that “On the basis of facts available there are no material doubts”.
- (4) The Bidder(s)/ Concessionaire(s) with its free consent and without any influence agrees and undertakes to respect and uphold the Principal’s absolute rights to resort to and impose such exclusion and further accepts and undertakes not to challenge or question such exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.

- (5) The decision of the Principal to the effect that a breach of the provisions of this Integrity Pact has been committed by the Bidder(s)/ Concessionaire(s) shall be final and binding on the Bidder(s)/ Concessionaire(s), however, the Bidder(s)/ Concessionaire(s) can approach IEM(s) appointed for the purpose of this Pact.
- (6) On occurrence of any sanctions/ disqualification etc. arising out from violation of integrity pact, the Bidder(s)/ Concessionaire(s) shall not be entitled for any compensation on this account.
- (7) Subject to full satisfaction of the Principal, the exclusion of the Bidder(s)/ Concessionaire(s) could be revoked by the Principal if the Bidder(s)/ Concessionaire(s) can prove that he has restored/ recouped the damage caused by him and has installed a suitable corruption prevention system in his organization.

Article – 4: Compensation for Damages.

- (1) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Article-3, the Principal shall be entitled to forfeit the Earnest Money Deposit/ Bid Security or demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security apart from any other legal right that may have accrued to the Principal.
- (2) In addition to 1 above, the Principal shall be entitled to take recourse to the relevant provisions of the contract related to Termination of Contract due to Concessionaire's Default. In such case, the Principal shall be entitled to forfeit the Performance Bank Guarantee of the Concessionaire and/ or demand and recover liquidated and all damages as per the provisions of the contract/concession agreement against Termination.

Article – 5: Previous Transgressions

- (1) The Bidder declares that no previous transgressions occurred in the last 3 years immediately before signing of this Integrity Pact with any other Company in any country conforming to the anti-corruption/ Transparency International (TI) approach or with any other Public Sector Enterprise/ Undertaking in India or any Government Department in India that could justify his exclusion from the tender process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action for his exclusion can be taken as mentioned under Article-3 above for transgressions of Article-2 and shall be liable for compensation for damages as per Article-4 above.

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

- (1) The Bidder(s)/ Concessionaire(s) undertake(s) to demand from all sub-contractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
- (2) The Principal will enter into agreements with identical conditions as this one with all Bidders/ Concessionaires and subcontractors.
- (3) The Principal will disqualify from the tender process all Bidders who do not sign this Pact or violate its provisions.

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

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

Article- 8: Independent External Monitor (IEM)

- (1) The Principal has appointed Shri. R. S. Gujral as Independent External Monitor (herein after referred to as “Monitor”) for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Managing Director, NHIDCL.
- (3) The Bidder(s)/ Concessionaire(s) accepts that the Monitor has the right to access without restriction to all project documentation of the Principal including that provided by the Bidder(s)/ Concessionaire(s). The Bidder(s)/ Concessionaire(s) will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Subcontractor(s) with confidentiality.
- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Concessionaire. The parties offer to the Monitor the option to participate in such meetings.
- (5) As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Management of the Principal and

request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

- (6) The Monitor will submit a written report to the Managing Director, NHIDCL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (7) If the Monitor has reported to the Managing Director, NHIDCL, a substantiated suspicion of an offence under relevant IPC/PC Act, and the Managing Director, NHIDCL has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (8) The word 'Monitor' would include both singular and plural.

Article – 9 Pact Duration

This Pact begins when both parties have legally signed it. It expires for the concessionaire 24 months after his concession period is over and for all other unsuccessful Bidders 6 months after this Contract has been awarded.

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

Article - 10 Other Provisions.

- (1) This pact is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi.
- (2) Changes and supplements as well as termination notices need to be made in writing.
- (3) If the Bidder/ Concessionaire is in a partnership or a consortium partner, this pact must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- (5) Any disputes/ differences arising between the parties with regard to term of this pact, any action taken by the Principal in accordance with this Pact or interpretation thereof shall not be subject to any Arbitration.
- (6) The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provision of the extent law in force relating to any civil or criminal proceedings.

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

(For & On behalf of the Principal)

(For & On behalf of the Bidder/
Concessionaire)

(Office Seal)

Place _____

Date _____

Witness 1: (Name & Address):

Witness 2: (Name & Address):

{COUNTERSIGNED and accepted by: All Consortium Members}

Appendix 16: Format of LOA**National Highways & Infrastructure Development Corporation Limited**

PTI Building, 4 Parliament Street,
Sansad Marg Area, New Delhi, Delhi 110001

Dated,

To,

{Name of Successful Bidder}

Subject: Letter of Acceptance (LOA) for Development of Bus Port on DFBOT Basis at Ramnagar.

Reference: Your proposal for the subject work dated

Sir,

1. This is in reference to the Proposal submitted by _____ {Name of Successful Bidder} by the Proposal Due Date _____ in response to the RFP Document no _____ dated _____ released by NHIDCL (along with the amendments made thereafter) dated _____ for **Development of Bus Port on DFBOT Basis at Ramnagar**.
2. The aforesaid Proposal was considered and evaluated by the bid evaluation committee constituted by NHIDCL for this purpose.
3. *Further, subsequent discussions were held with you on _____, and the summary of such discussions is set out in the enclosed Enclosure/s. {To be inserted where such discussions have been held}.*
4. NHIDCL is now pleased to inform that _____ (name of Successful Bidder) has been selected as the Successful Bidder for **Development of Bus Port on DFBOT Basis at Ramnagar**.
5. This letter is intended to convey the acceptance of NHIDCL, subject to the terms & conditions specified in the RFP Document issued to your company and conditions set out in the draft Concession Agreement to be executed within 45 (forty five) days from the date of this letter, of the Proposal submitted by Successful Bidder, wherein Successful Bidder has quoted **Premium/ Grant** of Rs. _____ /- {amount in words}.
6. As a token of your acknowledgment of this letter, within 7 (seven) days from the date of this letter, you are hereby requested to return a copy of the same to us, duly signed by the authorized signatory.
7. Further, you are also requested to comply with regard to the following:

- (a) To incorporate a Special Purpose Company in terms of Clause 2.1.14 of the RFP Document;
- (b) Execution of the Concession Agreement;
- (c) Furnish a Performance Guarantee for the sum of Rs._____, in terms of the draft Concession Agreement;

Kindly note that this communication by itself does not create any rights in you and your rights shall come into effect upon complying with conditions set out in para 6 and 7 and the execution of Concession Agreement.

Yours faithfully,

{authorized signatory}

Appendix 17: Guidelines of the Department of Disinvestment

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

Block 14, CGO Complex
New Delhi.
Dated 13th July, 2001.

OFFICE MEMORANDUM

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

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

- (a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory authority that casts a doubt on the ability of the Bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case to case basis after considering the facts of the case and relevant legal principles, by the Government of India.
- (b) In regard to matters relating to the security and integrity of the country, any charge-sheet by an agency of the Government/ conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.
- (c) In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.
- (d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.
- (e) The disqualification criteria would come into effect immediately and would apply to all Bidders for various disinvestment transactions, which have not been completed as yet.

- (f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.
- (g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The Bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors/ Managers/ employees, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along with EOI.

sd/-

(A.K. Tewari)

Under Secretary to the Government of India