



Infrastructure Corporation of Andhra Pradesh Limited (INCAP)

VOLUME - I

NOTICE INVITING

REQUEST FOR PROPOSAL (RFP)

FOR

**SELECTION OF TECHNICAL CONSULTANT FOR PREPARATION OF
DETAILED PROJECT REPORT ON DEVELOPMENT OF
COMMUNICATION TOWER INFRASTRUCTURE IN THE STATE OF
ANDHRA PRADESH**

(FEBRUARY 2016)

(DUE DATE: 26-02-2016)

**(This document is meant for exclusive purposes of submitting the Proposal
against this RFP document and shall not be transferred, reproduced or
otherwise used for purposes other than that for which it is specifically issued)**

**Vice Chairman and Managing Director,
Infrastructure Corporation of Andhra Pradesh Limited (INCAP)
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INFRASTRUCTURE CORPORATION OF ANDHRA PRADESH (INCAP)
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**SELECTION OF TECHNICAL CONSULTANT FOR PREPARATION OF
DETAILED PROJECT REPORT ON DEVELOPMENT OF
COMMUNICATION TOWER INFRASTRUCTURE IN THE STATE OF
ANDHRA PRADESH**

Notice No. INCAP/ P /APTL/1/2016 /1 dated 11/02/2016

REQUEST FOR PROPOSAL DOCUMENT

Proposals in the prescribed format are invited from suitable Applicant agencies for Selection of Technical Consultants on development of Detailed Project Report on development of Communication Tower Infrastructure in the State of Andhra Pradesh.

1.	Name of Authority	Infrastructure Corporation of Andhra Pradesh
2.	Name of the Consultancy assignment	Selection of Technical Consultant for Preparation of Detailed Project Report on development of Communication Tower Infrastructure in the State of Andhra Pradesh
3.	Last date & time for submission of Proposal (Proposal Due Date)	15.00 Hours IST on 26-02-2016
4.	Date & time for opening Proposal	16.00 Hours IST on 26-02-2016 in the Board Room of Infrastructure Corporation of Andhra Pradesh, #10-2-1, 3rd FLOOR, FDC COMPLEX, AC GUARDS, HYDERABAD – 500028, India
5.	Date and Time of opening of Financial Proposal	To be intimated later, only to the technically qualified applicant agencies
6.	Bid Processing Fee (Non-Refundable)	10,000/- (Rupees ten thousand only) In the form of a Demand Draft issued by one of the Nationalized/ Scheduled Banks in India in favor of the Vice Chairman and Managing

		Director, INCAP Ltd., payable at Hyderabad valid till 80 days from Proposal Due Date
7.	Bid Security Deposit (Refundable)	1,00,000/- (Rupees one lakh only) In the form of a Demand Draft issued by one of the Nationalized/ Scheduled Banks in India in favor of the Vice Chairman and Managing Director, INCAP Ltd., payable at Hyderabad valid till 80 days from Proposal Due Date. The Bid Security Deposit will be refunded for unsuccessful Applicant agencies within 60 days from the Proposal Due Date
8.	Method of Selection	The selection shall be on the following basis: <ol style="list-style-type: none"> 1) The Applicant agencies should meet the minimum eligibility criteria 2) Technical proposals of Applicant agencies who meet the minimum eligibility criteria shall be evaluated 3) A minimum score of 60 marks should be obtained by the Applicant agencies in the Technical Evaluation to be eligible for Financial Bid stage 4) The financial bids of the Applicant agencies getting more than 60 marks will be opened 5) Using the combined score obtained in Quality-cum-Cost-Based-Selection (QCBS) described in the RFP the Consultant agency with the highest score will be awarded the Assignment
9.	Validity of the Proposal	The RFP shall indicate that it shall remain valid for a period of 3 (three) months from the Proposal Due Date

Acknowledgement

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

It is expressly understood that the party has subscribed to this document with an express understanding that they will use this document only for the sole purpose of participating in the Qualification process for the **Selection of Technical Consultant for Preparation of Detailed Project Report on development of Communication Tower Infrastructure in the State of Andhra Pradesh and** must not be used for any other purpose. This document must not be passed to a third party except professional advisers assisting with this Proposal submission. The document may not be reproduced or communicated, in whole or in part, and its contents may not be distributed in written or oral form without written permission from the issuing authority.

Signature of the issuing Authority

Vice Chairman & Managing Director
Infrastructure Corporation of Andhra Pradesh Ltd.
(INCAP)
10-2-1, 3rd Floor, FDC Complex,
AC Guards, Hyderabad – 500028, India.
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Web: www.incap.co.in

Disclaimer

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

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Applicants or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Applicants is on a wide range of matters, some of which depends 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. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

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

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise, howsoever caused, arising from reliance of any Applicant upon the statements contained in this RFP.

The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select an Applicant or to appoint the Selected Applicant, as the case may be, for the Consultancy and the Authority reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Proposal. All such costs and expenses will remain with the Applicant and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Proposal, regardless of the conduct or outcome of the Selection Process.

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1. INTRODUCTION

1.1. **Background**

- 1.1.1. Government of Andhra Pradesh is engaged in the development of various infrastructure projects across sectors in the state including the Digital Infrastructure
- 1.1.2. It is observed that there is an opportunity to develop tower infrastructure especially telecommunication services related towers in the State of AP to deepen the reach of high speed qualitative telecom services including 3G / 4G / Wi-Fi etc., especially in rural areas and also to develop smart cities.
- 1.1.3. At present, works are under way for setting up a State-wide, high speed optical fibre network infrastructure. The proposed tower infrastructure can be utilized in association with the optical fiber network infrastructure which can form a robust digital backbone in expanding the telecom and digital services / facilities across the State towards realizing the vision of 'Digital AP'.
- 1.1.4. INCAP is inviting proposals for preparation of a Detailed Project Report on development of Communication Tower Infrastructure in the State of Andhra Pradesh.
- 1.1.5. With this background, the Authority invites Proposals from reputed Consultancy Firms.

1.2. **Release of RFP Document**

- 1.2.1. The RFP document will be made available in the website of INCAP from the date of publication of RFP notification in the News Papers.
- 1.2.2. The Applicant agency needs to furnish, as part of its Proposal, a fee of Rs. 10,000/- (Rupees ten thousand only) in the form of a Demand Draft issued by one of the Nationalised/ Scheduled Banks in India in favour of the Vice Chairman and Managing Director, INCAP Ltd., payable at Hyderabad towards non-refundable Bid Processing Fee (the "**Bid Processing Fee**"). The Bid Processing Fee shall have its validity up to 80 (eighty) days from the Proposal Due Date (the "**Proposal Due Date**").
- 1.2.3. Further, the Applicant agency needs to furnish, as part of its Proposal, a fee of Rs. 1,00,000/- (Rupees one lakh only) in the form of a Demand Draft issued by one of the Nationalised/ Scheduled Banks in India in favour of the Vice Chairman and Managing Director, INCAP Ltd., payable at Hyderabad towards refundable Bid Security Deposit (the "**Bid Security Fee**"). The Bid Security Fee shall have its validity up to 80 (eighty) days from the Proposal Due Date (the "**Proposal Due Date**"). The Bid Security Deposit will be refunded for unsuccessful Applicant agencies within 60 days from the Proposal Due Date.

1.3. Validity of the Proposal

- 1.3.1. The RFP shall indicate that it shall remain valid for a period of 3 (three) months from the last date of submission of the RFP with a provision for extension on mutual consent basis.
- 1.3.2. The selection process of the technical consultant agency may get terminated even before validity period of 3 (three) months for any reason whatsoever.
- 1.3.3. Selection is also liable for cancellation if at any stage it is found that the documents/information submitted in the Proposal is false.
- 1.3.4. The Authority shall have the right to terminate the selection by giving a written notice to the Consultant without any compensation if the selected Consultant becomes bankrupt or otherwise insolvent or in case of dissolution of the firm or winding up of the company, provided that such termination will not prejudice or effect any right of action or remedy, which has accrued thereafter to the Authority.

1.4. Brief description of the Selection Process

- 1.4.1. The Authority intends to select the Consultant agency(ies) through a competitive bidding process in accordance with the procedure set out herein.
- 1.4.2. The Applicant agencies should meet the minimum eligibility criteria as provided in clause 2.2
- 1.4.3. Technical proposals of Applicant agencies who meet the minimum eligibility criteria shall be evaluated
- 1.4.4. A minimum score of 60 marks should be obtained by the Applicant agencies to be eligible for Financial Bid opening stage. The financial bids of the Applicant agencies obtaining more than 60 marks will be opened.
- 1.4.5. Using the combined score obtained in Quality-cum-Cost-Based-Selection (QCBS) described in the clause 3.2 the Consultant agency with the highest score will be awarded the Assignment
- 1.4.6. If the number of qualified respondents is less than 3 (three), the Authority reserves the right to reduce the minimum eligibility criteria and/or relaxing the evaluation criteria for technical proposal.
- 1.4.7. Amongst the shortlisted Applicant agencies based on Technical Evaluation scores, the date for opening the financial bids of the Applicant agencies with more than 60 marks will be intimated over email to those agencies.
- 1.4.8. The Authority reserves the right to negotiate and get lower financial quotations of the Applicant agency (ies) with top score.
- 1.4.9. The selected consultant would be responsible for Preparation of Detailed Project Report on development of Communication Tower Infrastructure in the State of Andhra Pradesh.
- 1.4.10. The Consultant agency shall perform the services and carry out its obligations using skill and care with all due diligence, efficiency and

economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices.

- 1.4.11. The failure of a Party to the agreement to fulfil any of its obligations as set out in the agreement shall not be considered to be a breach of, or default under, this Agreement in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Agreement.
- 1.4.12. The Consultant agency shall commence the Consultancy within seven days of concluding agreement with the Authority, or such other date as may be mutually agreed. If the Consultant agency fails to commence the assignment, the Agreement may be, cancelled / terminated.
- 1.4.13. **Termination:** INCAP can terminate the contract without assigning any reasons at any time on one month written notice to the selected agency.
- 1.4.14. The Parties undertake to act in good faith with respect to each other's rights under the Agreement and to adopt all reasonable measures to ensure the realization of the objectives of the Agreement. The consultant agency may be required to resubmit the deliverables duly taking in to consideration of opinions/suggestions of Authority / Government if any.

1.5. **Schedule of Selection Process**

The Authority would endeavor to adhere to the following schedule:

	Event Description	Date
1.	Proposal Due Date	1500 hours IST 26-02-2016
2.	Opening of Technical Proposals	1600 hours IST 26-02-2016
3.	Opening of Financial Proposals	To be intimated to Applicant agencies with more than 60 marks in Technical score

1.6. **Communications**

- 1.6.1. Submission of Proposal in hard copies in response to this RFP through registered post/speed post/ courier or hand delivered, should be addressed to:

The Vice Chairman and Managing Director,
Infrastructure Corporation of Andhra Pradesh Ltd.,
10-2-1, III Floor, FDC Complex, AC Guards,
Hyderabad - 500 028, Telangana, India.
Phone: 040-23321771/2
Fax: 040-23321773
Email: incap@incap.co.in

The Applicant agencies are welcome to make any query related to RFP prior to submission of Proposal on email at incap@incap.co.in.

The Applicant agencies are advised in their own interest to ensure that completed Proposals reaches the office of client at the address mentioned well before the dates stipulated in the document. Proposals submitted through Speed post/ Registered Post / Courier / Hand delivered shall be accepted. Proposals submitted through Telex / Telegraphic / Fax / email will not be considered and summarily rejected.

Proposals received after the date and time stipulated in this RFP shall not be considered and shall be summarily rejected. **Any proposal received after the closing time for submission of proposals shall be returned unopened.** The Authority shall not be responsible for delayed receipt of Proposals.

The Official Website of the Authority is: <http://www.incap.co.in>. All details including this RFP document, any Proposal Due Date extensions, clarifications, responses to queries, amendments, addenda, corrigenda, etc., in respect of this RFP will be uploaded only to the website of INCAP and will not be published in Newspapers.

- 1.6.2. All communications, including the envelopes and emails, should contain the following information, to be marked at the top or subject line (in case of email) in bold letters:

Notice No. INCAP/ P /APTL/1/2016/1 dated 11/02/2016

**SELECTION OF TECHNICAL CONSULTANT FOR PREPARATION OF
DETAILED PROJECT REPORT ON DEVELOPMENT OF
COMMUNICATION TOWER INFRASTRUCTURE IN THE STATE OF
ANDHRA PRADESH**

All enquiries from the bidders relating to this RFP must be submitted in writing exclusively to the contact person. Contact details for the RFP is given above. Queries should be in the following format:

Sl. No.	RFP reference & page no.	Content of RFP	Points of clarification

2. INSTRUCTIONS TO APPLICANTS

2.1. Scope of Proposal

2.1.1. Role of Consultant:

The selected consultant agency will provide consultancy services for Preparation of Detailed Project Report on development of Communication Tower Infrastructure in the State of Andhra Pradesh.

The scope of the consultancy work may include but not limited to the following aspects:

1. Report on the existing scenario of tower infrastructure in A.P which includes all types of Communication towers, network towers and smart towers etc.
2. Identifying and listing the government assets such as office buildings and public utility service areas such as bus stands, electric substations etc., which are suitable for setting up towers in A.P and GIS mapping of the identified locations.
3. Mapping cellular coverage in A.P and identifying the gaps in providing 3G/4G/Wi-Fi services in A.P and assessing the need, possibilities and benefits of providing new towers, Wi-Fi hotspots etc. across the state of A.P.
4. Assessment of the opportunities and potential for strengthening /further expanding the towers infrastructure in A.P duly defining clear objectives in this regard. Estimating the requirements of resources / funds to meet the objectives and a detailed cost-benefit analysis thereof.
5. Developing suitable models for implementation, O&M and managing the proposed towers infrastructure which include partnering with Government agencies/private sector participants through suitable institutional mechanism and also preparing appropriate financial/business models.
6. Providing assistance to the Government agency / authority concerned during the selection process for selecting a strategic partner/implementing agency to take up the works of setting up tower infrastructure in Andhra Pradesh

2.1.2. Requirement of Applicants

Applicant agency will be required to provide qualified personnel:

- All the prospective Applicant agency shall have sufficient qualified personnel, sub-consultants, and resources to accomplish all the services described herein within the prescribed time.

- The Applicant agency should be capable of furnishing all necessary professional, technical, and expert services as required to complete all the elements of Consultancy assignment described above in the Scope of Proposal.
- Team Leader cum Technical Expert shall be familiar with the requirements of the project. In addition to the below team requirement, it is also expected that the senior management of the bidding firm or consortium will also to be involved.

2.1.2.1. Period of Contract: 1 month

2.1.2.2. Deliverables and timelines

Sl. No.	Deliverable	Scope of Report	Timeline
1	Inception report (5 hard copies with an editable format in soft copy on a CD)	Report on the existing scenario of tower infrastructure in A.P which includes all types of Communication towers, network towers and smart towers etc.	Within seven days of agreement
2	Submission of Draft GIS Report (5 hard copies with an editable format in soft copy on a CD)	Identifying and listing the government assets such as office buildings and public utility service areas such as bus stands, electric substations etc., which are suitable for setting up towers in A.P and GIS mapping of the identified locations. Mapping cellular coverage in A.P and identifying the gaps in providing 3G/4G/Wi-Fi services in A.P and assessing the need, possibilities and benefits of providing new towers, Wi-Fi hotspots etc. across the state of A.P.	Within fifteen days of agreement
3	Submission of Financial / Business Modelling Report	Assessment of the opportunities and potential for strengthening /further expanding the towers infrastructure in A.P duly defining clear objectives in this	Within twenty one days of agreement

	(5 hard copies with an editable format in soft copy on a CD)	regard. Estimating the requirements of resources / funds to meet the objectives and a detailed cost-benefit analysis thereof. Developing suitable models for implementation, O&M and managing the proposed towers infrastructure which include partnering with Government agencies/private sector participants through suitable institutional mechanism and also preparing appropriate financial/business models.	
4	Submission of Draft Detailed Project Report (5 hard copies with an editable format in soft copy on a CD)		Within twenty five days of agreement
5	Submission of Final Detailed Project Report		Within thirty days of agreement

The Selected Applicant agency shall submit to Authority ten (10) hard copies of the final output envisaged in the Scope of Proposal. All the reports shall also be submitted on a CD containing all basic as well as processed data in editable form. If required, the Consultant agency shall present the findings of the each of the Deliverables to the Authority or any other Government Agency as the case may be.

2.1.2.3. Terms of Payment

Sl. No.	Deliverable	Payment (% of fee)
1	Submission and acceptance of Inception report	15%
2	Submission and acceptance of Draft GIS Report	30%
3	Submission and acceptance of Financial / Business Modelling Report	10%
4	Submission and acceptance of Draft Detailed Project Report	15%

5	Submission and acceptance of Final Detailed Project Report	20%
6	Providing assistance to the Government agency /authority concerned for selecting a strategic partner/implementing agency to take up the works of setting up tower infrastructure in Andhra Pradesh	10%

2.1.3. Key Personnel

The Applicant agency shall propose mandatory key personnel for the following positions:

Sl. No.	Position	Minimum Qualification	Relevant Minimum Experience
1.	Team Leader cum Technical Expert	Post Graduate degree from reputed institutions with Graduation in Engineering with experience in Electronics/Telecommunications sector.	15 years
2.	Subject Matter Expert in the field of Cellular / Telecommunications	Post Graduate degree from reputed institutions / Universities in Electronics/Communication Engineering with experience in preparation of DPR for similar type of Assignments	7 years
3.	Subject Matter Expert in the field of Wireless / Wired Networking (Wide Area Network)	Post Graduate degree from reputed institutions / Universities in Networking / Electrical / Electronics sector with experience in preparation of DPR for similar type of Assignments	7 years
4.	Subject Matter Expert in the field of GIS	Post Graduate degree from reputed institutions / Universities in Engineering with specialization in Geographic Information Systems (GIS) and experience in preparation of DPR for similar type of Assignments	7 years
5.	Financial Expert	MBA / PGDM / Post Graduate degree from reputed institutions with specialization in finance and experience in Financial / Business modeling	7 Years

Note:

1) The aforementioned key personnel shall not be substituted during the selected period. However, substitution shall be permitted if the Key Personnel is not available for reasons of any incapacity or due to health, subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Necessary documentation in support of the above shall be submitted as proof

2.2. Minimum Eligibility Criteria for Selection

- 2.2.1. The Applicant agency shall be a company / a corporate body incorporated under the Companies Act, 1956 or the Companies Act, 2013 or a limited liability partnership (LLP) incorporated under the Limited Liability Partnership Act. 2008 or a Proprietorship firm. Certificate of Incorporation/ Registration/necessary documents shall be furnished for the same.
- 2.2.2. The Applicant agency shall be a single entity applying for RFP process. No consortium is permitted
- 2.2.3. The Applicant agency should not have a conflict of interest that affects the RFP process. Any Applicant agency found to have a Conflict of Interest shall be disqualified.
- 2.2.4. Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project, and the bar subsists as on the date of RFP, would not be eligible to submit a RFP.
- 2.2.5. An Applicant agency, in the last 3 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 Applicant agency, 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 Applicant agency.
- 2.2.6. The Applicant agency must have completed at least two Detailed Project Reports for Infrastructure Projects related to Telecommunications/ Information Technology /Electronics/Networks/ Fiber Grid sectors for which the Applicant agency should have received a cumulative professional fees of at least 1 Crore for both projects since 1 April 2010.
- 2.2.7. Documentary proof of meeting above eligibility criteria must be furnished as per Appendix I – Form 3 and Form 6.
- 2.2.8. **Financial Capacity:** The Applicant agency should have an average annual Gross Turnover of not less than Rs. 5 crore (Rs. Five crore) from professional fees over the last three financial years ending March 2015. The Firm will be required to submit an authenticated copy of the audited annual accounts of each of the three years giving details of Turnover and other financial

parameters along with the Proposal. Proposals without audited annual accounts are liable to be rejected.

2.2.9. **Technical Capacity:** The Applicant agency must have completed at least two Detailed Project Reports for Infrastructure projects related to Telecommunications/Information Technology/Electronics/Networks/ Fiber Grid sectors for which the agency should have received a cumulative professional fees of at least 1 Crore for both projects since 1 April 2010.

2.2.10. The Applicant firms may note that mere meeting of the minimum eligibility criteria does not entitle them for selection. The agencies meeting the minimum eligibility criteria will be further short-listed for further evaluation. Technical Proposal of only those firms will be evaluated who meets the minimum eligibility criteria.

2.2.11. The Applicant agency should submit a Power of Attorney as per the format at Form-8 of Appendix-I; provided, however, that such Power of Attorney would not be required if the Application/ Proposal is signed by a partner of the Applicant agency in case the Applicant agency is a partnership firm or limited liability partnership firm.

2.3. **Approach and Methodology**

The applicant agency shall submit its detailed approach and methodology for preparing the DPR (Detailed Project Report) on development of communication tower infrastructure in the state of Andhra Pradesh which will be considered for awarding marks during technical evaluation.

2.4. **Cost of Proposal**

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

2.5. **Acknowledgement by Applicant**

2.5.1. It shall be deemed that by submitting the Proposal, the Applicant agency has:

- a) made a complete and careful examination of the RFP;
- b) received all relevant information requested from the Authority;
- c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority;
- d) Acknowledged that it does not have a Conflict of Interest in providing technical services in the preparation of DPR to the Authority.

2.5.2. The Authority shall not be liable for any omission, mistake or error on the part of the Applicant agency in respect of any of the above or on account of

any matter or thing arising out of or concerning or relating to RFP or the Selection Process, including any error or mistake therein or in any information or data given by the Authority.

2.6. Right to reject any or all Proposals

- 2.6.1. Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.
- 2.6.2. Without prejudice to the generality of Clause 2.6.1, the Authority reserves the right to reject any Proposal if:
 - a) at any time, a material misrepresentation is made or discovered, or
 - b) the Applicant agency does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal.
- 2.6.3. Misrepresentation/ improper response by the Applicant agency may lead to the disqualification of the Applicant agency.
- 2.6.4. Receipt of Proposal beyond the Proposal Due Date shall result in disqualification.
- 2.6.5. Additionally the Proposals may lead to disqualification under, inter-alia, any of the following circumstances:
 - a) Prior suspension by Government of Andhra Pradesh, whether in a capacity as a consulting firm or individual consultant.
 - b) A record of unsatisfactory past performance, particularly non-compliance with contract terms, plans and specifications or abandonment of work and similar deficiencies.
- 2.6.6. To facilitate evaluation of Bids, the Authority reserves the right to seek any clarification or any additional information on the proposal based on need as assessed by the authority. Such clarification(s) shall be provided within the time specified by the authority

2.7. Amendment of RFP

- 2.7.1. At any time prior to the deadline for submission of Proposal, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant agency, modify the RFP document by the issuance of Addendum/ Amendment.
- 2.7.2. The amendments will be posted on the Official Website along with the revised RFP containing the amendments and will be binding on all Applicant agencies.

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

2.8. Preparation and Submission of Proposal

2.8.1. Language

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

2.8.2. Submission of Proposal

2.8.2.1. The Applicant agencies shall submit the Proposal in two separate envelopes – one for the technical proposal and the other for the financial proposal. The technical proposal should have all the pages numbered serially and by giving an index of submissions. Each page of the submission shall be initialled by the Authorized Representative of the Applicant agency in blue ink as detailed below.

- a) by the proprietor, in case of a proprietary firm; or
- b) by a partner, in case of a partnership firm and/or a limited liability partnership; or
- c) by a duly authorized person holding the Power of Attorney, in case of a Limited Company or a corporation

A copy of the Power of Attorney certified under the hands of a partner or director of the Applicant agency and notarized by a notary public in the form specified in Appendix-I (Form-8) shall accompany the Proposal.

2.8.2.2. The Technical Proposal from the Consultant agencies must contain the following documents:

- a) Letter of Proposal (Appendix I – Form 1)
- b) Index (giving list of contents and corresponding page numbers in the Proposal)
- c) Certificate of Incorporation/ Registration/Relevant Document
- d) Bid Processing Fee (non-refundable)
- e) Bid Security Fee
- f) Original and 1 (one) Copy of the Proposal
- g) Particulars of the Applicant agency (Appendix I – Form 2)
- h) Financial capacity of the Applicant agency (Appendix I – Form 3)
- i) Experience of the Firm (Appendix I – Form 4)

- j) Summary of Key Professionals (Appendix I – Form 5)
- k) Summary List of Eligible Assignments (Appendix I – Form 6)
- l) Approach & methodology along with work plan for the Project (Appendix I – Form 7)
- m) Power of Attorney (Appendix I – Form 8)
- n) Statement of Legal Capacity (Appendix I – Form 9)
- o) CVs of Key Professionals (Exhibit I)
- p) Other documents, if any

In case any bid not accompanying the above documents shall be summarily rejected by the Authority as non-responsive.

2.8.2.3. The Technical Proposal from the Consultant agencies must contain the documents as provided in the Clause 2.8.2.2. and shall be sealed in an envelope with the following inscription:

“TECHNICAL PROPOSAL”

SELECTION OF TECHNICAL CONSULTANT FOR PREPARATION
OF DETAILED PROJECT REPORT ON DEVELOPMENT OF
COMMUNICATION TOWER INFRASTRUCTURE IN THE STATE OF
ANDHRA PRADESH

2.8.2.4. The Financial Proposal from the Consultant agencies must contain the Appendix II in the Consultant agency’s letter head and shall be sealed in an envelope with the following inscription:

“FINANCIAL PROPOSAL”

SELECTION OF TECHNICAL CONSULTANT FOR PREPARATION
OF DETAILED PROJECT REPORT ON DEVELOPMENT OF
COMMUNICATION TOWER INFRASTRUCTURE IN THE STATE OF
ANDHRA PRADESH

The financial proposal shall clearly indicate the total cost of consultancy in both figures and words, only in Indian Rupees and signed by the applicant agency’s authorised representative. In the event of any difference between figures and words, the amount indicated in words shall prevail.

The financial proposal shall include all the costs associated with the assignment. These shall normally cover remuneration for all personnel , accommodation, air fare, equipment, printing of documents etc., the total amount indicated in the financial proposal shall be without any condition attached or subject to any assumption and shall be final and binding. In case any assumption or condition is indicated in the financial proposal, it shall be considered non-responsive and liable to be rejected.

The financial proposal shall take into account all expenses and tax liabilities. For the avoidance of doubt, it is clarified that all taxes shall be deemed to be

included in the financial proposal. Further, all payments shall be subject to deduction of taxes at source as per applicable laws.

2.8.2.5. The Technical and Financial Proposals will be sealed in envelopes which will bear the address of the Authority, RFP Notice number, Consultancy name (as detailed in Clause 2.8.2.9) and the name and address of the Applicant agency. It shall bear on top, the following:

“Do not open, except in presence of the Authorized Person of the Authority”

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

2.8.2.6. The Proposals shall be typed or written in indelible ink and signed by the Authorised Representative of the Applicant agency. All pages of the original Proposal must be numbered and initialled by the person or persons signing the Proposal.

2.8.2.7. The completed Proposal must be delivered on or before the specified time on Proposal Due Date. Proposals submitted by fax, telex, telegram, e-mail or any other format except as specified in this section shall not be entertained.

2.8.2.8. The Proposal shall be made in the Forms specified in this RFP. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents. No separate documents like printed annual statements, company brochures, copy of contracts etc. will be entertained.

2.8.2.9. The above sealed envelopes of the Technical and Financial Proposals shall be put in another outer envelope which shall have the following inscription:

“REQUEST FOR PROPOSAL”

SELECTION OF TECHNICAL CONSULTANT FOR PREPARATION
OF DETAILED PROJECT REPORT ON DEVELOPMENT OF
COMMUNICATION TOWER INFRASTRUCTURE IN THE STATE OF
ANDHRA PRADESH

2.8.3. **Proposal Due Date**

2.8.3.1. The completed Proposals should reach the under mentioned address before 1500 hours IST on 26/02/2016

Vice Chairman and Managing Director,
Infrastructure Corporation of Andhra Pradesh Limited (INCAP)

10-2-1, III Floor, FDC Complex, AC Guards,
Hyderabad – 500 028, India
Tel: +91-40-2332 1771/72 Fax: +91-40-2332 1773
Email: incap@incap.co.in, md@incap.co.in.

2.8.3.2. In case, the Proposal Due Date is an unscheduled holiday, the Proposal has to be submitted latest by the next working day. The time and venue of submission will remain unchanged. A receipt thereof should be obtained from the person specified therein.

2.8.3.3. The Authority may, in its sole discretion, extend the Proposal Due Date by issuing an Addendum in accordance with Clause 2.7 and will be made available in the website of INCAP and will not be published in the News Papers.

2.8.4. **Late Proposals**

Proposals received by the Authority after the specified time on Proposal Due Date shall not be eligible for consideration and shall be summarily rejected. The Authority will not be responsible for any delay in receipt of Proposals.

2.8.5. **Modification/ substitution/ withdrawal of Proposals**

2.8.5.1. The Applicant agency may modify, substitute, or withdraw its Proposal after submission, provided that written notice of the modification, substitution, or withdrawal is received by the Authority prior to Proposal Due Date. No Proposal shall be modified, substituted, or withdrawn by the Applicant agency on or after 1500 hours IST of Proposal Due Date.

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

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

2.8.6. **Opening of Proposals**

The Proposals will be opened at 1600 hours IST on the Proposal Due Date at the following address:

Board Room,
Infrastructure Corporation of Andhra Pradesh Limited (INCAP)
10-2-1, III Floor, FDC Complex, AC Guards,
Hyderabad – 500 028, India
Tel: +91-40-2332 1771/72 Fax: +91-40-2332 177

2.9. Conflict of Interest

The Authority requires that Consultant agencies provide professional, objective, and impartial advice and at all times hold the Authority's interests paramount, strictly avoid conflicts with other Projects or their own corporate interests and act without any consideration for future work. Without limitation on the generality of the foregoing, Consultant agencies, and any of their affiliates, shall be considered to have a conflict of interest and shall not be recruited.

2.10. Confidentiality

The selected firm/Company and their personnel shall not, either during the term or after expiration of this proposal, disclose any proprietary or confidential information relating to the services, contract or business or operations of the Authority, without the prior written consent of the Authority. All documents submitted by the Consultant agency will be treated as confidential, and will not be returned to Consultant agency.

3. CRITERIA FOR EVALUATION FOR TECHNICAL PROPOSAL

3.1. Technical Evaluation

- 3.1.1. The quality of DPR document is of significant importance to the Authority. So the technical capabilities and past experience of the agency is more important for this assignment. Therefore, the agency will be selected based on combined Quality-cum-Cost-Based-Selection (QCBS) in the ratio of 70% (Technical) and 30% (Financial).
- 3.1.2. Agencies that have scored less than 60% in the technical evaluation will not be considered eligible for opening their financial bids. The unopened financial bids of unsuccessful Applicant agencies will be returned along with the Bid Security within 60 days from Proposal Due Date. The technical bid will be evaluated on a scale of 100 and the weightage for each criterion would be as follows:
- 3.1.3. **Eligible Projects** would mean projects involving development of Detailed Project Report/Feasibility Report/ Relevant Studies in Infrastructure Projects related to Telecommunications/Information Technology/Electronics/ Networks/Fiber Grid sectors since 1 April 2010 for which the agency has received not less than INR 30 Lakhs as professional fee for each project.

Evaluation Criteria	Maximum Marks = 100	Supporting Documents
I. Experience of the Firm Profile of the Applicant firm in terms of: Number of Eligible Assignments since 01 April 2010 Note : For each project, 8 marks will be given subject to a maximum of 40 marks (Max. 5 projects) Only completed projects will be considered for evaluation. Documentary proof to be submitted: Completion Certificate from Competent Authority	40 Marks	Appendix I – Form 4 & 6

II. Experience of Key Personnel

The key personnel shall be marked on the basis of number of total experience of the personnel in the sector mentioned in section 2.1.3

40 Marks

Appendix I –
Form 5Exhibit I for
CVs

Experience	Maximum Marks
Team Leader cum Technical Expert	12 marks
1. Educational Qualification	2 marks
2. Over all Experience - Minimum 5 years in telecommunication/tower infrastructure	7 marks
3. Minimum 2 projects involving preparation of DPR for eligible projects.	3 marks
Subject Matter Expert in the field of Cellular / Telecommunications	7 marks
1. Educational Qualification	2Marks
2. Experience - Minimum 3 years in cellular/telecommunication sector	3marks
3. Minimum 2 projects involving preparation of DPR for eligible projects.	2 marks
Subject Matter Expert in the field of Wireless / Wired Networking	7 marks
1. Educational Qualification	2marks
2. Experience - Minimum 3 years in Networking	3marks
3. Minimum 2 projects involving preparation of DPR for eligible projects.	2 marks

Subject Matter Expert in the field of GIS	7 marks										
1. Educational Qualification	3 marks										
2. Experience in GIS	4 marks										
Financial Expert	7 marks										
1. Educational Qualification	3marks										
2. Experience in financial modelling for infrastructure projects	4 marks										
III. Financial Strength of the Firm		10 marks	Appendix I – Form 3								
Firm should have a minimum average annual financial turnover of Rs 5.00 crore from professional fees											
<table border="1"> <thead> <tr> <th>Criteria for financial turnover from professional fees (average over past 3 years)</th> <th>Marks</th> </tr> </thead> <tbody> <tr> <td>>15 crore</td> <td>10 marks</td> </tr> <tr> <td>10-15crore</td> <td>8 marks</td> </tr> <tr> <td>5-10 crore</td> <td>5 marks</td> </tr> </tbody> </table>		Criteria for financial turnover from professional fees (average over past 3 years)	Marks	>15 crore	10 marks	10-15crore	8 marks	5-10 crore	5 marks		
Criteria for financial turnover from professional fees (average over past 3 years)	Marks										
>15 crore	10 marks										
10-15crore	8 marks										
5-10 crore	5 marks										
Documentary proof to be submitted: Auditor's Certificate of the turnover of the firm for the past 3 (three) years											
IV. Approach & Methodology Along With Work Plan for the Preparation of Detailed Project Report on development of Communication Tower Infrastructure in the State of Andhra Pradesh		10 marks	Appendix I – Form 7								
Total Technical Score		100 marks									

3.2. Evaluation of Proposals

3.2.1. The overall selection of the Applicant agencies will be a Quality-cum-Cost-Based Selection (QCBS), the following formula will be used for the evaluation of the bids. The combined scores will be calculated as: $S = (0.7)*T + (0.3)*(Fm/F * 100)$

Where

I. S = overall score of Applicant agency under consideration (calculated up to two decimal points)

II. T = Technical score for the Applicant agency under consideration

III. F = Financial Bid Value for the Applicant agency under consideration

IV. Fm = Lowest Financial Bid Value among the financial proposals under consideration

- 3.2.2. The Agency which obtains the highest combined score (S) will be selected. The authority reserves the right to invite the agency with the highest combined score for negotiations based on need as assessed by the authority. In case of a tie where two or more Applicant agencies achieve the same highest overall score, the Applicant agency with the higher technical score will be considered for selection.

3.3. Award of Consultancy

3.3.1. Letter of Award:

After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Authority to the Selected Applicant agency(ies) and the Selected Applicant agency (ies) shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Applicant agency is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Applicant agency as mutually agreed genuine pre-estimated loss and damage suffered by the Authority on account of failure of the Selected Applicant agency to acknowledge the LOA, and the next highest ranking agency may be considered

3.3.2. Execution of Agreement:

After acknowledgement of the LOA as aforesaid by the Selected Applicant agency, it shall execute the Agreement within 7 (seven) days of acknowledgement. The Selected Applicant agency shall not be entitled to seek any deviation in the Agreement as per the Appendix III.

4. TERMS OF REFERENCE

4.1. Introduction – Mobile Data Growth:

The world is going through an era of data deluge. Mobile data traffic is forecast to grow rapidly across all geographies, at a faster rate than that of mobile connections. This is due to significant increases in mobile traffic per device.

Since 2012, the mobile data has seen multifold growth. Mobile broadband expected to grow over 26% year on year for next few years. While globally traffic will grow at a CAGR of 57% out to 2019, countries in which mobile Internet is already well entrenched will experience slower overall traffic growth than those in regions in which it is less developed, such as the emerging Asia Pacific where the growth rate is expected to be 72%.

The mobile data growth in India has been much below the global peers in the past. Recently, India has shown rapid growth, fueled by the telecom savvy young population.

However, due to the lack of infrastructure, the mobile data network performance in India is still below the global standards.

4.2. Digital Drive – Andhra Pradesh:

The state of Andhra Pradesh has been in the frontline of digital growth in India. The Government of Andhra Pradesh has recently constituted seven missions, as part of its "Vision 2029" for facilitating inter-departmental synergy and optimising public and private investments by providing an effective planning and delivery mechanism. In addition, Andhra Pradesh has taken the steps to become the first state in India to execute the full enterprise architecture model (Digital Andhra Pradesh).

However, without state of the art high speed data network such digital initiatives will not be effective and delay the process significantly.

4.3. Challenges – State of the art mobile network:

The non-contiguous tower infrastructure and lack of sufficient in-building solution are the key challenges for mobile Operators to offer mobile services at international standards. With recent directives from TRAI, mobile Operators are aggressively looking for cost effective options to offer better mobile services across India.

However, the major hurdles to develop a seamless network for the mobile Operators are as follows:

1. Urban Space Constraints
2. Focus on Aesthetic Landscape
3. Health, Safety and Environment Regulations

4. Increasing Carbon Emissions
5. Increasing Public awareness
6. Proximity to public access areas

Due to above reasons, today, Andhra Pradesh has only ~15000 towers (apart from reliance which claims 3095 towers connected to fiber) which gives a minimum voice & data (2G & 3G) connectivity. The state requires over 100,000 towers (one lac towers) to provide seamless data network (4G/ LTE).

However, such a large network rollout is not an easy task and requires significant capital investments and operational experience.

4.4. Innovative Solutions – Bridging the Digital Divide:

Most of the developed countries have taken several innovative solutions to bridge such digital divide. In the South East Asia region, countries such as Malaysia, Thailand & Indonesia has established successful models to improve digital infrastructure.

A typical city level digital infrastructure:



A fully integrated telecom network will be the most critical infrastructure for any developing country. By integrating fiber, towers, utility services, Andhra Government can pave the way for digital India.

4.5. Existing work under AP State Fibergrid Limited

There is an opportunity to develop tower infrastructure especially telecommunication services related towers in the State of AP to deepen the reach of high speed qualitative telecom services including 3G / 4G / Wi-Fi etc., especially in rural areas and also to develop smart cities.

At present, works are under way for setting up a State-wide, high speed optical fibre network infrastructure by the AP State Fibergrid Limited. The proposed tower infrastructure can be utilised in association with the optical fibre network infrastructure which can form a robust digital backbone in

expanding the telecom and digital services / facilities across the State towards realising the vision of 'Digital AP'.

4.6. Proposal to set up a new Corporation "AP Towers Limited"

There is a proposal to setup a new corporation by the name "AP Towers Limited". The main objectives of the new corporation are as given below:

- 1) To set up tower infrastructure in the State of Andhra Pradesh and also in other States to enable provision of seamless communication network, which can provide voice, data and video services etc.
- 2) To promote and facilitate telecommunication related infrastructure such as smart towers, mobile towers etc. across the State of AP to enhance the reach and quality of telecom and related services in AP.
- 3) To evolve suitable business models and carry on business activities related to setting up and utilisation of the tower infrastructure in the State of AP and in other States.
- 4) Leverage the existing vacant space in the Government buildings / on the roof top of identified Government / Private buildings and other public service utility areas such as electric poles, substations and bus stands etc., to erect telecom towers.
- 5) To undertake the process for selection / engagement of suitable private sector participants in setting up/ managing / expansion of tower infrastructure in AP.
- 6) Coordinating with other agencies such as IT Department, AP State FiberNet Limited etc. for effective utilisation of the IT and Telecom Infrastructure.
- 7) To promote development of smart telecom infrastructure for optimal utilisation of the capacities in this field towards providing improved public services.
- 8) Promote/ facilitate/ develop/ implement and manage integrated solutions in telecommunication and related fields through shared infrastructure etc. for development of Digital services such as Wi-fi, CC TV surveillances systems, and smart grids/ smart cities etc.

4.7. Scope of Work of the Consultant:

The selected consultant agency will provide consultancy services for Preparation of Detailed Project Report on development of Communication Tower Infrastructure in the State of Andhra Pradesh.

The scope of the consultancy work may include but not limited to the following aspects:

1. Report on the existing scenario of tower infrastructure in A.P which includes all types of Communication towers, network towers and smart towers etc.
2. Identifying and listing the government assets such as office buildings and public utility service areas such as bus stands, electric substations etc., which are suitable for setting up towers in A.P and GIS mapping of the identified locations.
3. Mapping cellular coverage in A.P and identifying the gaps in providing 3G/4G/Wi-Fi services in A.P and assessing the need, possibilities and benefits of providing new towers, Wi-Fi hotspots etc. across the state of A.P.
4. Assessment of the opportunities and potential for strengthening /further expanding the towers infrastructure in A.P duly defining clear objectives in this regard. Estimating the requirements of resources / funds to meet the objectives and a detailed cost-benefit analysis thereof.
5. Developing suitable models for implementation, O&M and managing the proposed towers infrastructure which include partnering with Government agencies/private sector participants through suitable institutional mechanism and also preparing appropriate financial/business models.
6. Providing assistance to the Government agency / authority concerned during the selection process for selecting a strategic partner/implementing agency to take up the works of setting up tower infrastructure in Andhra Pradesh

Form 1
Letter of Proposal

(On Applicant Agency's letter head)

(Date and Reference)

To,

The Vice Chairman and Managing Director,
Infrastructure Corporation of Andhra Pradesh Ltd.,
10-2-1, III Floor, FDC Complex, AC Guards,
Hyderabad - 500 028, Telangana, India.
Tel: +91-40-2332 1771/72 Fax: +91-40-2332 1773
Email: incap@incap.co.in, md@incap.co.in.
Web: www.incap.co.in

Sub: Selection of Technical Consultant for Preparation of Detailed Project
Report on development of Communication Tower Infrastructure in the
State of Andhra Pradesh

Dear Sir,

With reference to your RFP Document dated, I/We, having examined all relevant documents and understood their contents, hereby submit our Proposal for Selection of Technical Consultant for Preparation of Detailed Project Report on development of Communication Tower Infrastructure in the State of Andhra Pradesh. The Proposal is unconditional and unqualified.

1. All information provided in the Proposal and in the Appendices is true and correct and all documents accompanying such Proposal are true copies of their respective originals.
2. This statement is made for the express purpose of appointment as the Consultant for the aforesaid Selection
3. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
4. I/We acknowledge the right of the Authority to reject our Proposal without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
5. I/We certify that in the last three years, we or any of our 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 against the Applicant agency, 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.

6. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant agency , without incurring any liability to the Applicant agencies
7. I/We certify that in regard to matters other than security and integrity of the country, we or any of our Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.
8. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
9. 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.[§]
10. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority and/ or the Government of India in connection with the selection of Consultant agency or in connection with the Selection Process itself in respect of the above mentioned Project.
11. I/We agree and understand that the Proposal is subject to the provisions of the RFP document. In no case, shall I/We have any claim or right of whatsoever nature if me or our Proposal is not opened or rejected.
12. I/We agree to keep this offer valid for 3 months from the Proposal Due Date specified in the RFP.
13. I/We agree and undertake to abide by all the terms and conditions of the RFP Document. In witness thereof, I/We submit this Proposal under and in accordance with the terms of the RFP Document.

Yours faithfully,

(Signature, name and designation of the authorized signatory)

(Name and seal of the Applicant Agency)

[§] In case the Applicant is unable to provide the certification specified in Paragraph 9, it may precede the Paragraph by the words viz. "Except as specified in Schedule hereto". The exceptions to the certification or any disclosures relating thereto may be clearly stated in a Schedule to be attached to the Application. The Authority will consider the contents of such Schedule and determine whether or not the exceptions/disclosures are material to the suitability of the Applicant for pre-qualification hereunder.

Form 2
Particulars of the Applicant Agency

1.	Title of Consultancy: Selection of Technical Consultants for Preparation of Detailed Project report on development of Communication Tower Infrastructure in the State of Andhra Pradesh				
2.	State the following: Name of Company or Firm: Legal status (e.g. incorporated private company, unincorporated business, partnership etc.): Country of incorporation: Registered address: <table border="1" style="width: 100%;"><tr><td style="width: 50%;">i. PAN Number</td><td></td></tr><tr><td>ii. Service Tax Registration Number</td><td></td></tr></table> Year of Incorporation: Year of commencement of business: Principal place of business: Brief description of the Company including details of its main lines of business Name, designation, address and phone numbers of authorised signatory of the Applicant: Name: Designation: Company: Address: Phone No.: E-mail address:	i. PAN Number		ii. Service Tax Registration Number	
i. PAN Number					
ii. Service Tax Registration Number					
3.	For the Applicant agency , state the following information: (i) In case of non-Indian Firm, does the Firm have business presence in India? <p style="text-align: right;">Yes/No</p> <p style="text-align: center;">If so, provide the office address (es) in India.</p> (ii) Has the Applicant agency been penalized by any organization for poor quality of work or breach of contract in the last five years? <p style="text-align: right;">Yes/No</p>				

	<p>(iii) Has the Applicant agency ever failed to complete any work awarded to it by any public authority/ entity in last five years? Yes/No</p> <p>(iv) Has the Applicant agency been blacklisted by any Government department/Public Sector Undertaking in the last five years? Yes/No</p> <p>(v) Has the Applicant agency suffered bankruptcy/insolvency in the last five years? Yes/No</p> <p>Note: If answer to any of the questions at (ii) to (v) is yes, the Applicant agency is not eligible for this consultancy assignment.</p>
4.	<p>Does the Applicant agency's firm combine functions as a consultant or adviser along with the functions as a contractor and/or a manufacturer? Yes/No</p> <p>If yes, does the Applicant agency agree to limit the Applicant agency's role only to that of a consultant/ adviser to the Authority and to disqualify themselves, their Associates/ affiliates, subsidiaries and/or parent organization subsequently from work on the projects in any other capacity? Yes/No</p>

Form 3

Financial Capacity of the Applicant Agency

S. No.	Financial Year	Annual Turnover (Rs.in crores)
1.	2014-15	
2.	2013-14	
3.	2012-13	

Certificate from the Statutory Auditor^{\$}

This is to certify that..... (name of the Applicant Agency) has received the payments shown above against the respective years on account of professional fees.

Name of the audit firm:

Seal of the audit firm

Date:

(Signature, name and designation of the authorized signatory)

^{\$} In case the Applicant agency does not have a statutory auditor, it shall provide the certificate from its chartered accountant that ordinarily audits the annual accounts of the Applicant agency.

Note: Please do not attach any printed Annual Financial Statement.

Form 4
Experience of the firm

1.	Name of Applicant Agency:	
2.	Name of the Project:	
3.	Project description and other particulars	
4.	Description of services performed by the Applicant Firm:	
5.	Name of client and Address: (indicate whether public or private)	
6.	Name and telephone no. of client's representative:	
7.	Estimated capital cost of the Project (in Rs crore or US\$ million):	
8.	Payment received by the Applicant Agency (in Rs. crore):	
9.	Start date of the services (month/ year):	
10.	Finish date of the services (month/ year):	
11.	Number of Man-months:	

Notes:

1. Use separate sheet for each Project.
2. The Applicant agency may attach separate sheets to provide brief particulars of other relevant experience of the Applicant agency.
3. Currency conversion to be taken as INR 60 per USD

Form 5
Summary of Key Professionals

Sl. N. ¹	Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience	Employment duration with present Firm	Infrastructure Sector Specialization (applicable for Team Leader / Subject Matter Expert)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Team Leader cum Technical Expert					
2	Subject Matter Expert in the field of Cellular / Telecommunications					
3	Subject Matter Expert in the field of Wireless / Wired Networking (Wide Area Network)					
4	Subject Matter Expert in the field of GIS					
5	Financial expert					

Note:

1. Detailed CVs of the key personnel should be submitted as per format given in Exhibit I
2. Use separate rows in case of multiple CVs used for a particular designation

¹ Should be consistent with the Sl. No. given in the Exhibit I for detailed particulars of the assignment.

- 3.** Each page of the CV shall be signed in ink by both the personnel concerned and by the authorized representative of the applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.

Form 6

Summary List of Eligible Assignments

Sl. No.	Title of the Assignment	Client Organization	Period of the Assignment	Total Man-months of the Assignment	Consultancy Fee Charged (In INR)
(1)	(2)	(3)	(4)	(5)	(6)

Note: Provide the Completion Certificate of the Assignments mentioned above issued by the Agency / Client / Authority

Form 7

**APPROACH & METHODOLOGY ALONG WITH WORK PLAN FOR
THE PREPARATION OF DETAILED PROJECT REPORT ON
DEVELOPMENT OF COMMUNICATION TOWER INFRASTRUCTURE
IN THE STATE OF ANDHRA PRADESH**

Form 8

Power of Attorney for Signing of Bid

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 and holding the position of, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for pre-qualification and submission of our bid for the Project proposed or being developed by the (the "Authority") including but not limited to signing and submission of all applications, bids and other documents and writings, participate in Pre-Bids and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

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

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

For
.....
.....

(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

(Notarised)

Accepted

.....

(Signature)

(Name, Title and Address of the Attorney)

Notes:

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

Form 9
Statement of Legal Capacity

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

Ref. Date:

To,

.....

.....

.....

Dear Sir,

We hereby confirm that we satisfy the terms and conditions laid out in the RFQCP document.

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

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

Form 10

Guidance Note on Conflict of Interest

1. This Note further explains and illustrates the provisions of Clause 2.9 of the RFP and shall be read together therewith in dealing with specific cases.
2. Consultant agencies should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the Authority and a consultant agency or between consultant agencies and present or future concessionaries/contractors. Some of the situations that would involve conflict of interest are identified below:
 - (a) Authority and consultant agencies:
 - (i) Potential consultant agency should not be privy to information from the Authority which is not available to others;
 - (ii) potential consultant agency should not have defined the project when earlier working for the Authority;
 - (iii) potential consultant agency should not have recently worked for the Authority overseeing the project.
 - (b) Consultants and concessionaires/contractors:
 - (i) No consultant agency should have an ownership interest or a continuing business interest or an on-going relationship with a potential concessionaire/ contractor save and except relationships restricted to project-specific and short-term assignments; or
 - (ii) no consultant agency should be involved in owning or operating entities resulting from the project; or
 - (iii) no consultant agency should bid for works arising from the project.

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

4. The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Authority. All conflicts must be declared as and when the consultants become aware of them.
5. Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Authority.
6. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultant agencies drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
7. Another form of conflict of interest called “scope–creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultant agencies to extend the length of their assignment.
8. Every project contains potential conflicts of interest. Consultant agencies should not only avoid any conflict of interest, they should report any present/potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

Curriculum Vitae (CV) of Key Personnel

1. Proposed Position:

2. Name of Personnel:

3. Date of Birth:

4. Nationality:

5. Educational Qualifications:

6. Employment Record:

(Starting with present position, list in reverse order every employment held.)

7. Experience of the Personnel in Infrastructure sector

Name of project	
Activities performed	
Position held	

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications and my experience.

(Signature and name of the Key Personnel)

Place.....

Notes:

1. Use separate form for each Key Personnel

Financial Proposal

(On Applicant Agency's letter head)

(Date and Reference)

To,

The Vice Chairman and Managing Director,
Infrastructure Corporation of Andhra Pradesh Ltd.,
10-2-1, III Floor, FDC Complex, AC Guards,
Hyderabad - 500 028, Telangana, India.
Tel: +91-40-2332 1771/72 Fax: +91-40-2332 1773
Email: incap@incap.co.in, md@incap.co.in.
Web: www.incap.co.in

Sub: Selection of Technical Consultants for Preparation of Detailed Project report on development of Communication Tower Infrastructure in the State of Andhra Pradesh

We offer to provide the above mentioned consultancy services as provided below.

Sl. No.	Project / Category	Total Fee(In INR)
1	COST OF SERVICES (including taxes) (in INR) In Indian Rupees in words: Rupees ----- ----- only	

Note:

- 1 The financial evaluation shall be based on the above Financial Proposal.
- 2 No escalation on any account will be payable on the above amounts.
- 3 The aforesaid fees payable to the Consultant agency shall cover the costs of all travel, transport, telephone/fax, reasonable amount of in-house photocopying and stationery, boarding and lodging etc. No additional charges in respect thereof shall be due or payable.
- 4 All other charges not shown here and all insurance premia are considered included in the costs quoted above.
- 5 The Authority may require the Key Personnel to visit the Project/ the Authority's offices for further consultations after their Report has been accepted.
- 6 All payments shall be made in Indian Rupees and shall be subject to applicable Indian laws withholding taxes if any.
- 7 The Consultant agency shall submit invoice in triplicate along with advanced stamped receipt to the Authority.
- 8 The applicable service tax will be paid by the Authority as per the bills/invoices submitted by the consultant agency.
- 9 The payments will be made to the consultant agency based on the bills submitted.
- 10 All payments shall be subject to deduction of taxes at source as per applicable laws.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

(Name and seal of the Applicant Agency)

**VOLUME II - AGREEMENT FOR PREPARATION OF DETAILED PROJECT
REPORT ON DEVELOPMENT OF COMMUNICATION TOWER INFRASTRUCTURE
IN THE STATE OF ANDHRA PRADESH**

AGREEMENT

Preparation of Detailed Project Report for Project

This AGREEMENT (hereinafter called the “**Agreement**”) is made on the day of the month of 20..., between, on the one hand, the [President of India acting through] (hereinafter called the “**Authority**” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, (hereinafter called the “**Consultant**” which expression shall include their respective successors and permitted assigns).

WHEREAS

- (A) The Authority vide its Request for Proposal for Preparation of Detailed Project Report (hereinafter called the “**Consultancy**”) for the Project (hereinafter called the “**Project**”);
- (B) the Consultant submitted its proposals for the aforesaid work, whereby the Consultant represented to the Authority that it had the required professional skills, and in the said proposals the Consultant also agreed to provide the Services to the Authority on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) the Authority, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the Consultant vide its Letter of Award dated (the “**LOA**”); and
- (D) in pursuance of the LOA, the parties have agreed to enter into this Agreement.

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

1. GENERAL

1.1 Definitions and Interpretation

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

- (a) “**Additional Costs**” shall have the meaning set forth in Clause 6.1.2;
- (b) “**Agreement**” means this Agreement, together with all the Annexes;
- (c) “**Agreement Value**” shall have the meaning set forth in Clause 6.1.2;

- (d) “**Applicable Laws**” means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time;
- (e) “**Confidential Information**” shall have the meaning set forth in Clause 3.3;
- (f) “**Conflict of Interest**” shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
- (g) “**Dispute**” shall have the meaning set forth in Clause 9.2.1;
- (h) “**Effective Date**” means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;
- (i) “**Expatriate Personnel**” means such persons who at the time of being so hired had their domicile outside India;
- (j) “**Government**” means the Government of
- (k) “**INR, Re. or Rs.**” means Indian Rupees;
- (l) “**Member**”, in case the Consultant consists of a joint venture or consortium of more than one entity, means any of these entities, and “**Members**” means all of these entities;
- (m) “**Party**” means the Authority or the Consultant, as the case may be, and Parties means both of them;
- (n) “**Personnel**” means persons hired by the Consultant or by any Sub-Consultant as employees and assigned to the performance of the Services or any part thereof;
- (o) “**Resident Personnel**” means such persons who at the time of being so hired had their domicile inside India;
- (p) “**RFP**” means the Request for Proposal document in response to which the Consultant’s proposal for providing Services was accepted;
- (q) “**Services**” means the work to be performed by the Consultant pursuant to this Agreement, as described in the Terms of Reference hereto;
- (r) “**Sub-Consultant**” means any entity to which the Consultant subcontracts any part of the Services in accordance with the provisions of Clause 4.7; and
- (s) “**Third Party**” means any person or entity other than the Government, the Authority, the Consultant or a Sub-Consultant.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

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

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

1.2 Relation between the Parties

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

1.3 Rights and obligations

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

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

1.4 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in the State in which the Authority has its headquarters shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

1.5 Language

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

1.6 Table of contents and headings

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

1.7 Notices

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

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

1.8 Location

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

1.9 Authority of Member-in-charge

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

1.10 Authorised Representatives

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

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

.....

.....

Tel:

Mobile:

Email:

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

.....

.....

Tel:

Mobile:

Email:

1.11 Taxes and duties

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

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreement

This Agreement shall come into force and effect on the date of this Agreement (the "Effective Date").

2.2 Commencement of Services

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

2.3 Termination of Agreement for failure to commence Services

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

2.4 Expiry of Agreement

Unless terminated earlier pursuant to Clauses 2.3 or 2.9 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire upon the earlier of (i) expiry of a period of 90 (ninety) days after the delivery of the final deliverable to the Authority; and (ii) the expiry of [1 (one) year] from the Effective Date. Upon Termination, the Authority shall make payments of all amounts due to the Consultant hereunder.

2.5 Entire Agreement

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

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

2.6 Modification of Agreement

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

2.7 Force Majeure

2.7.1 Definition

(a) For the purposes of this Agreement, "**Force Majeure**" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered

impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.

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

2.7.2 No breach of Agreement

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

2.7.3 Measures to be taken

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

2.7.4 Extension of time

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

2.7.5 Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to be reimbursed for Additional Costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6 Consultation

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

2.8 Suspension of Agreement

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

2.9 Termination of Agreement

2.9.1 By the Authority

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

- (a) the Consultant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within 30 (thirty) days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing;
- (b) the Consultant becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the Consultant submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Consultant knows to be false;

- (e) any document, information, data or statement submitted by the Consultant in its Proposals, based on which the Consultant was considered eligible or successful, is found to be false, incorrect or misleading;
- (f) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (g) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

2.9.2 By the Consultant

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

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

2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, or which expressly survive such Termination; (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) the Consultant's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.6, as relate to the Consultant's Services provided under this Agreement; and (iv) any right or remedy which a Party may have under this Agreement or the Applicable Law.

2.9.4 Cessation of Services

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

2.9.5 Payment upon Termination

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

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

2.9.6 Disputes about Events of Termination

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

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Standards of Performance

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

3.1.2 Terms of Reference

The scope of services to be performed by the Consultant is specified in the Terms of Reference (the “**TOR**”) at Annex-1 of this Agreement. The Consultant shall provide the Deliverables specified therein in conformity with the time schedule stated therein.

3.1.3 Applicable Laws

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

3.2 Conflict of Interest

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

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

The Consultant agrees that, during the term of this Agreement and after its termination, the Consultant or any Associate thereof and any entity affiliated with the Consultant, as well as any Sub-Consultant and any entity affiliated with such Sub-Consultant, shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services and any breach of this obligation shall amount to a Conflict of Interest; provided that the restriction herein shall not apply after a period of five years from the completion of this assignment or to consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services provided to the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services provided to the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant’s firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Consultant, as the case may be, and any Associate thereof.

3.2.3 Prohibition of conflicting activities

Neither the Consultant nor its Sub-Consultant nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

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

3.2.4 Consultant not to benefit from commissions, discounts, etc.

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

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

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

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

- (a) "**corrupt practice**" means (i) the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA

or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser the Authority in relation to any matter concerning the Project;

- (b) “**fraudulent practice**” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) “**coercive practice**” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the Authority under this Agreement;
- (d) “**undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) “**restrictive practice**” means forming a cartel or arriving at any understanding or arrangement among Applicant Agencies with the objective of restricting or manipulating a full and fair competition in the Selection Process.

3.3 Confidentiality

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

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

- (i) was in the public domain prior to its delivery to the Consultant, its Sub-Consultants and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Consultant, its Sub-Consultants and the Personnel of either of them;

- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the Consultant, its Sub-Consultants and the Personnel of either of them shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and
- (iv) is provided to the professional advisers, agents, auditors or representatives of the Consultant or its Sub-Consultants or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Consultant or its Sub-Consultants or Personnel of either of them, as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

3.4 Liability of the Consultant

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

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

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

(i) for any indirect or consequential loss or damage; and

(ii) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.1.2 of this Agreement, or (b) the proceeds the Consultant may be entitled to receive from any insurance maintained by the Consultant to cover such a liability in accordance with Clause 3.5.2, whichever of (a) or (b) is higher.

3.4.4 This limitation of liability specified in Clause 3.4.3 shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services subject, however, to a limit equal to 3 (three) times the Agreement Value.

3.5 Insurance to be taken out by the Consultant

3.5.1 (a) The Consultant shall, for the duration of this Agreement, take out and maintain, and shall cause any Sub-Consultant to take out and maintain, at its (or the Sub-Consultant's, as the case may be) own cost, but on terms and conditions approved by

the Authority, insurance against the risks, and for the coverages, as specified in the Agreement and in accordance with good industry practice.

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

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

- (a) Third Party liability insurance as required under Applicable Laws, with a minimum coverage of [Rs. 1 (one) crore];
- (b) employer's liability and workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultant, in accordance with Applicable Laws; and
- (c) professional liability insurance for an amount no less than the Agreement Value.

The indemnity limit in terms of "Any One Accident" (AOA) and "Aggregate limit on the policy period" (AOP) should not be less than the amount stated in Clause 6.1.2 of the Agreement. In case of consortium, the policy should be in the name of Lead Member and not in the name of individual Members of the consortium.

3.6 Accounting, inspection and auditing

The Consultant shall:

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

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

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

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

3.8 Reporting obligations

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

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

- 3.9.1 All plans, drawings, specifications, designs, reports and other documents (collectively referred to as “**Consultancy Documents**”) prepared by the Consultant (or by the Sub-Consultants or any Third Party) in performing the Services shall become and remain the property of the Authority, and all intellectual property rights in such Consultancy Documents shall vest with the Authority. Any Consultancy Document, of which the ownership or the intellectual property rights do not vest with the Authority under law, shall automatically stand assigned to the Authority as and when such Consultancy Document is created and the Consultant agrees to execute all papers and to perform such other acts as the Authority may deem necessary to secure its rights herein assigned by the Consultant.
- 3.9.2 The Consultant shall, not later than termination or expiration of this Agreement, deliver all Consultancy Documents to the Authority, together with a detailed inventory thereof. The

Consultant may retain a copy of such Consultancy Documents. The Consultant, its Sub-Consultants or a Third Party shall not use these Consultancy Documents for purposes unrelated to this Agreement without the prior written approval of the Authority.

- 3.9.3 The Consultant shall hold the Authority harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as ‘Claims’) which may arise from or due to any unauthorised use of such Consultancy Documents, or due to any breach or failure on part of the Consultant or its Sub-Consultants or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the Authority.

3.10 Equipment and materials furnished by the Authority

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

3.11 Providing access to Project Office and Personnel

The Consultant shall ensure that the Authority, and officials of the Authority having authority from the Authority, are provided unrestricted access to the Project Office and to all Personnel during office hours. The Authority’s official, who has been authorised by the Authority in this behalf, shall have the right to inspect the Services in progress, interact with Personnel of the Consultant and verify the records relating to the Services for his satisfaction.

3.12. Accuracy of Documents

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

4. CONSULTANT’S PERSONNEL AND SUB-CONSULTANTS

4.1 General

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

4.2 Deployment of Personnel

- 4.2.1 The designations, names and the estimated periods of engagement in carrying out the Services by each of the Consultant's Personnel are described in Annex-2 of this Agreement. The estimate of Personnel costs and man day rates are specified in Annex-3 of this Agreement.
- 4.2.2 Adjustments with respect to the estimated periods of engagement of Personnel set forth in the aforementioned Annex-3 may be made by the Consultant by written notice to the Authority, provided that: (i) such adjustments shall not alter the originally estimated period of engagement of any individual by more than 20% (twenty per cent) or one week, whichever is greater, and (ii) the aggregate of such adjustments shall not cause payments under the Agreement to exceed the Agreement Value set forth in Clause 6.1.2 of this Agreement. Any other adjustments shall only be made with the written approval of the Authority.
- 4.2.3 If additional work is required beyond the scope of the Services specified in the Terms of Reference, the estimated periods of engagement of Personnel, set forth in the Annexes of the Agreement may be increased by agreement in writing between the Authority and the Consultant, provided that any such increase shall not, except as otherwise agreed, cause payments under this Agreement to exceed the Agreement Value set forth in Clause 6.1.2.

4.3 Approval of Personnel

- 4.3.1 The Professional Personnel listed in Annex-2 of the Agreement are hereby approved by the Authority. No other Professional Personnel shall be engaged without prior approval of the Authority.
- 4.3.2 If the Consultant hereafter proposes to engage any person as Professional Personnel, it shall submit to the Authority its proposal along with a CV of such person in the form provided at Appendix-I (Form-5) and Exhibit 1 of the RFP. The Authority may approve or reject such proposal within 14 (fourteen) days of receipt thereof. In case the proposal is rejected, the Consultant may propose an alternative person for the Authority's consideration. In the event the Authority does not reject a proposal within 14 (fourteen) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the Authority.

4.4 Substitution of Key Personnel

The Authority expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. The Authority will not consider any substitution of Key Personnel except under compelling circumstances beyond the control of the Consultant and the concerned Key Personnel. Such substitution shall be limited to not more than two Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Without prejudice to the foregoing, substitution of one Key Personnel shall be permitted subject to reduction of remuneration equal to 20% (twenty per cent) of the total remuneration specified for the Key Personnel who is proposed

to be substituted. In case of a second substitution, such reduction shall be equal to 50% (fifty per cent) of the total remuneration specified for the Key Personnel who is proposed to be substituted.

4.5 Working hours, overtime, leave, etc.

The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in the Agreement, and the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is excluded from the man days of service set forth in Annex-2. Any taking of leave by any Personnel for a period exceeding 7 (seven) days shall be subject to the prior approval of the Authority, and the Consultant shall ensure that any absence on leave will not delay the progress and quality of the Services.

4.6 Resident Team Leader cum Technical Expert

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

4.7 Sub-Consultants

Sub-Consultants listed in Annex-4 of this Agreement are hereby approved by the Authority. The Consultant may, with prior written approval of the Authority, engage additional Sub-Consultants or substitute an existing Sub-Consultant. The hiring of Personnel by the Sub-Consultants shall be subject to the same conditions as applicable to Personnel of the Consultant under this Clause 4.

5. OBLIGATIONS OF THE AUTHORITY

5.1 Assistance in clearances etc.

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

- (a) provide the Consultant, its Sub-Consultants and Personnel with work permits and such other documents as may be necessary to enable the Consultant, its Sub-Consultants or Personnel to perform the Services;
- (b) facilitate prompt clearance through customs of any property required for the Services; and
- (c) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

5.2 Access to land and property

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

5.3 Change in Applicable Law

If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultant in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Agreement Value.

5.4 Payment

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

6. PAYMENT TO THE CONSULTANT

6.1 Currency of payment

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

6.2 Mode of billing and payment

- (a) The Consultant shall be paid for its services as per the Payment Schedule at Annex-6 of this Agreement, subject to the Consultant fulfilling the following conditions:
 - (i) No payment shall be due for the next stage till the Consultant completes, to the satisfaction of the Authority, the work pertaining to the preceding stage.
 - (ii) The Authority shall pay to the Consultant, only the undisputed amount.
- (b) The Authority shall cause the payment due to the Consultant to be made within 30 (thirty) days after the receipt by the Authority of duly completed bills with necessary particulars (the “**Due Date**”).
- (c) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and

approved as satisfactory by the Authority. The Consultant shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated. The Authority shall make the final payment upon acceptance or deemed acceptance of the final deliverable by the Authority.

- (d) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Consultant to the Authority within 30 (thirty) days after receipt by the Consultant of notice thereof. Any such claim by the Authority for reimbursement must be made within 1 (one) year after receipt by the Authority of a final report in accordance with Clause 6.3 (d). Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.
- (e) All payments under this Agreement shall be made to the account of the Consultant as may be notified to the Authority by the Consultant.

7. LIQUIDATED DAMAGES AND PENALTIES

7.1 Performance Security

- 7.1.1 The Authority shall retain by way of performance security (the “**Performance Security**”), 5% (five per cent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of 3 (three) months after the expiry of this Agreement pursuant to Clause 2.4 hereof. For the avoidance of doubt, the parties hereto expressly agree that in addition to appropriation of the amounts withheld hereunder, in the event of any default requiring the appropriation of further amounts comprising the Performance Security, the Authority may make deductions from any subsequent payments due and payable to the Consultant hereunder, as if it is appropriating the Performance Security in accordance with the provisions of this Agreement.
- 7.1.2 The Consultant may, in lieu of retention of the amounts as referred to in Clause 7.1.1 above, furnish a Bank Guarantee from a nationalised or scheduled bank in favour of ‘Vice Chairman and Managing Director, Infrastructure Corporation of Andhra Pradesh’ payable at Hyderabad, substantially in the form specified at Annex-7 of this Agreement before signing of this agreement.

7.2 Liquidated Damages

7.2.1 Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by the Authority in a

reasonable manner and recovered from the Consultant by way of deemed liquidated damages, subject to a maximum of 50% (fifty per cent) of the Agreement Value.

7.2.2 Liquidated Damages for delay

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

7.2.3 Encashment and appropriation of Performance Security

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

7.3 Penalty for deficiency in Services

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

8. FAIRNESS AND GOOD FAITH

8.1 Good Faith

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

8.2 Operation of the Agreement

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

9. SETTLEMENT OF DISPUTES

9.1 Amicable settlement

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

9.2 Dispute resolution

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

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

9.3 Conciliation

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

9.4 Arbitration

9.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the “**Rules**”), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The place of such arbitration shall be the capital of the State where the Authority has its headquarters and the language of arbitration proceedings shall be English.

9.4.2 There shall be a sole arbitrator whose appointment shall be made in accordance with the Rules.

- 9.4.3 The arbitrators shall make a reasoned award (the “**Award**”). Any Award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the Consultant and the Authority agree and undertake to carry out such Award without delay.
- 9.4.4 The Consultant and the Authority agree that an Award may be enforced against the Consultant and/or the Authority, as the case may be, and their respective assets wherever situated.
- 9.4.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of
Consultant:

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

SIGNED, SEALED AND DELIVERED

For and on behalf of
Authority

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

In the presence of:

1.

2.

Annex-1

Terms of Reference

(Refer Clause 3.1.2)

Refer Article 4 of RFP

Annex-2

Deployment of Personnel

Annex-3

Estimate of Personnel Costs

Annex-4

Approved Sub-Consultant(s)

Annex-5

Cost of Services

Annex-6

Payment Schedule

(Refer Appendix II)

Key Date No.	Description of Deliverables	Week No.	Payment
	Total		100%

^s Excludes the time taken by the Authority in providing its comments on the Reports. The Consultant shall get one week for submission of the Final Report after comments of the Authority are provided.

Annex- 7

Bank Guarantee for Performance Security

(Refer Clause 7.1.2)

To

[The President of India /Governor of]

acting through

.....

.....

.....

In consideration of acting on behalf of the [President of India/Governor of] (hereinafter referred as the “**Authority**”, which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) awarding to, having its office at (hereinafter referred as the “**Consultant**” which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority’s Agreement no. dated valued at Rs. (Rupees), (hereinafter referred to as the “**Agreement**”) the assignment for consultancy services in respect of the Project, and the Consultant having agreed to furnish a Bank Guarantee amounting to Rs. (Rupees) to the Authority for performance of the said Agreement.

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

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

3. We, (indicate the name of the Bank) do hereby undertake to pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this

bond shall be a valid discharge of our liability for payment thereunder and the Consultant shall have no claim against us for making such payment.

4. We, (indicate the name of Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be required for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Authority under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Authority certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Consultant and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before a period of one year from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

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

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

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

8. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. crore (Rupees crore) only. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with Paragraph 2 hereof, on or before [..... (indicate the date falling 365 days after the date of this Guarantee)].

For

Name of Bank:

Seal of the Bank:

Dated, theday of, 20.....

(Signature, name and designation of the authorised signatory)

NOTES:

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