

PRE--BID MEETING FOR Engagement of Consultant for processing revision of Model Concession Agreement at Major Ports through Zoom04.06.2020

IPA/GAD/MCA/2020

S.No	Clause Description	Details of Item per Tender Requirement	Query/ Suggestion	Clarifications
<u>Name of Firm: M/s Deloitte</u>				
1	7. Eligibility Criteria; Sr. No A	The Bidder must be an organization/Corporate house/Institution/ Consulting firm and must be registered in India having minimum 5 years of experience for processing revision of Model Concession Agreement for PPP Projects in maritime sector.	We would like to highlight that Model Concession Agreement for maritime sector in India has seen limited revisions in India. We would request that the experience of revising and drafting Model Concession agreements in the transport sector may be considered instead. The requirement may be amended as below: <i>The Bidder must be an organization/Corporate house/Institution/ Consulting firm and must be registered in India having minimum 5 years of experience for processing revision of Model Concession Agreement for PPP Projects in transport sector.</i>	Clause remains unchanged
2	7. Eligibility Criteria; Sr. No C	The bidder shall have at least following full time experts (FTEs) with given qualifications and experience: Legal: One team Head with minimum 20 years of experience in corporate legal matters with LLB.	We would like to highlight that legal practice is regulated by Bar council of India and typically, the management consultancy firms associate with registered legal practitioners on case to case basis. This also helps in providing the best legal expertise suited to the need of the project. We understand that the empanelled firm can associate with a legal firm to meet the requirement of legal professionals.	FTE –Full time expert are to be on roll of the firm/company. Legal: One team that with minimum 15 years of experience. Clause is amended to the extend that experience is to be read as: (Please Refer

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				Addendum-III)
3	7. Eligibility Criteria; Sr. No C	<p>The bidder shall have at least following full time experts (FTEs) with given qualifications and experience:</p> <p>a) Project/Contract: One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and PSUs.</p> <p>Qualifications: MBA with graduate in Law having experience in legal matters.</p>	<p>We would like to highlight that the role of team Head is to formulate the model concession agreement with support from Legal and MCA expert. The team Head should have relevant experience in drafting of MCAs for PPP projects and since a legal expert already proposed in the team, Law graduation may not be required.</p> <p>We request that such requirement may be removed.</p>	<p>Clause is amended to the extent that qualification is to be read as: (Please Refer Addendum-III)</p>
4.	7. Eligibility Criteria; Sr. No C	<p>The bidder shall have at least following full time experts (FTEs) with given qualifications and experience:</p> <p>MCA Expert and Legal Expert - An expert with at least 20 years of experience ...</p>	<p>PPPs in India came in to mainstream in last 15 years. We would like to submit that an expert with 15 years of experience is well placed to provide the requisite advisory services.</p> <p>We request the number of years of experience requirement for MCA expert and Legal expert may be reduced to 15 years in alignment with the requirement stated for Project/Contract expert.</p>	<p>Clause is amended to the extend that experience is to be read as: (Please Refer Addendum-III)</p>
5.	7. Eligibility Criteria; Sr. No D	A. The bidder shall have experience of having	A. We would like to highlight that Model Concession Agreement for maritime	Clause remains unchanged.

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		<p>successfully conducted the work of revising/formulation of Model Concessional Agreement (MCA)of PPP Projects of minimum two projects and out of which one must be in maritime sector</p> <p>B. Completion Certificate has to be attached</p>	<p>sector in India has seen limited revisions in India. Furthermore, experience of making project agreements does not adequately demonstrate skill required for drafting MCAs. We would request that the experience of revising and drafting Model Concession agreements in the transport sector may be considered instead.</p> <p>The requirement may be amended as below:</p> <p><i>The bidder shall have experience of having successfully conducted the work of revising/formulation of Modal Concessional Agreement (MCA)of PPP Projects in two consultancy contracts of minimum two projects and out of which one must be in transport maritime sector</i></p> <p>B. In many cases Client do not issue completion certificates or cannot be shared because of confidentiality reasons. We request that any supporting documentation along with self-certification by partner certifying completion of relevant task may</p>	

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			be considered.	
<u>Name of Firm: M/s Infrastructure Development Corporation (Karnataka) Ltd.</u>				
1	Page 5	C. The bidder shall have at least following full time experts (FTEs) with given qualifications and experience: a) Project/Contract: One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and PSUs. Qualifications: MBA with graduate in Law having experience in legal matters. b) MCA Expert: An expert with at least 20 years of experience in the Government, specializing in formulating concession agreements particularly for PPP projects (equivalent to team head). c) Legal: One team Head with minimum 20 years of experience in corporate legal matters with LLB.	Requesting for following modifications. "C. The bidder shall have at least following full time experts (FTEs) with given qualifications and experience: a) Project/Contract: One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and PSUs. Qualifications: MBA. b) MCA Expert: An expert with at least 20 years of experience in the Government, specializing in formulating concession agreements particularly for PPP projects Qualifications: LLB & LLM c) Legal: One team Head with minimum 10 years of experience in corporate legal matters with LLB." Further, requesting you to clarify if the fulltime experts has to be placed in IPA for the assignment duration or to be under pay-roll of the consultant.	(Please Refer Addendum-III)
2	Page 6	D.....Completion Certificate has to be attached	Requesting to consider certificate issued by Chartered Accountant / Statutory Auditor	Certificate issued by the MD of the consulting firm will also be considered. (Please Refer Addendum-III)
3.	Page 8	A iii) Capability, Experience and expertise in handling similar projects	Requesting to consider Capability, Experience and expertise in handling similar	Clause remains

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		during last three years (2016-17,2017-18 and 2018-19): a. 2 Projects – 15 Marks. b. 3 Projects – 25 Marks. c. >3 Projects – 35 Marks.	projects during last five years (2015-16 and 2019-20)	unchanged.
4.	Page 8	B. A.-Legal: 1-Legal Team head with experience in corporate legal affairs with LLB. : (a) > 20 year and 25 years = 10 Marks 2-Two Legal Associates with experience in corporate legal affairs with LLB : (a)> 10 year and 15 years = 5 Marks	With regard to the request made at Sr. No. 1, requesting to modify the clause as follows. 1-Legal Team head with experience in corporate legal affairs with LLB.: (a) > 10 year and 15 years = 10 Marks 2-Two Legal Associates with experience in corporate legal affairs with LLB: (a)> 5 year and 10 years = 5 Marks	Change in Marking Pattern (Please Refer Addendum-III)
5.	Page 8	B.-Project/Contract: 1-Project/Contract Team head with experience in formulating, executing contracts for projects, preferably in corporate and PSU. MBA with graduate in Law and having experience in legal matters: (a)> 15year and 20 years = 20 Marks	With regard to the request made at Sr. No. 1, requesting to modify the clause as follows. 1-Project/Contract Team head with experience in formulating, executing contracts for projects, preferably in corporate and PSU. Qualification: MBA: (a)> 15year and 20 years = 20 Marks	Clause is changed (Please Refer Addendum-III)
6.	Page 8	C.-MCA Expert: 1.MCA expert with experience in the Government, specializing in formulating concession agreements, particularly for Public Private Partnership Projects (Equivalent to Team Head): (a)> 20 year and 25 years = 15	With regard to the request made at Sr. No. 1, requesting to modify the clause as follows. 1.MCA expert with experience in the Government, specializing in formulating concession agreements, particularly for Public Private Partnership Projects Qualifications: LLB & LLM: (a)> 20 year and 25 years = 15 Marks	Clause is changed (Please Refer Addendum-III)

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		Marks		
<u>Name of Firm: Mazars in consortium with Singhania& Partners LLP</u>				
1	Clause 7- ELIGIBILITY CRITERIA	S.No. C (a) - Project/Contract: One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and PSUs. Qualifications: MBA with graduate in Law having experience in legal matters.	QUERY: Since the experience is being considered of legal matters and one separate legal expert is also being sought with an experience of 20 years, the requirement of dual qualification may be dispensed with and an MBA should only be considered under this eligibility criteria.	(Please Refer Addendum-III)
2		S.No. D- The bidder shall have experience of having successfully conducted the work of revising/formulation of Model Concessional Agreement (MCA)of PPP Projects of minimum two projects and out of which one must be in maritime sector.	QUERY: The experience of revising/formulation of Modal Concessional Agreement (MCA)of PPP Projects of minimum two projects in any sector should be considered and this specific requirement of one being from the maritime sector may be dispensed with.	Clause remains unchanged
<u>Name of Firm: Almondz Global Securities Limited</u>				
1.	Clause 7;	Eligibility Criteria, Page No. 05	Since, this is the limited tender for Empanelled Consultant and the firms on the Panel have already been assessed as capable of providing Advisory/Consultancy services.	Clause remains unchanged

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			<p>For Appointment of Consultant, project specific Terms of Reference (ToR) shall be prepared by respective mandating authority which will invite financial bids from the empanelled list. Mandating Authority shall carry out Cost Based Selection (CBS) i.e. on the basis of the laid down terms and conditions, the Consultants shall submit financial proposals and the Consultants quoting the lowest financial quote i.e. L1 will be selected for the project. Fees will be released as per the payment schedule defined in the ToR. Mandating Authority shall have the right to ask for Project Specific Sectoral Expert (s) and additional manpower/professionals.</p> <p>Therefore it is requested to kindly remove the Technical Criteria.</p>	
2.	Clause 7;	<p>Eligibility Criteria, Page No. 05</p> <p>(A) The Bidder must be an organization/Corporate house/Institution/ Consulting firm and must be registered in India</p>	<p>Model Concession Agreement for PPP Projects in maritime sector has seen very limited revisions in India. We request the authority to kindly include the Transport Sector or any infrastructure sector in this category. Therefore, we request the authority to kindly amend this clause as follows:</p>	<p>Clause remains unchanged</p>

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		having minimum 5 years of experience for processing revision of Model Concession Agreement for PPP Projects in maritime sector.	The Bidder must be an organization/Corporate house/Institution/ Consulting firm and must be registered in India having minimum 5 years of experience for preparation of Draft Concession Agreement (DCA) for PPP Projects in maritime sector/ Transport Sector or any Infrastructure sector.	
3.	Clause 7; Eligibility Criteria, Page No. 05	(C) The bidder shall have at least following full time experts (FTEs) with given qualifications and experience	We request the authority to kindly drop this criteria since experts for such projects are usually hired on project basis and are not always full time employees of a particular company.	Clause remains unchanged
4.	Clause 7; Eligibility Criteria, Page No. 05	Project/Contract: One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and PSUs. Qualifications: MBA with graduate in Law having experience in legal matters.	We request the authority to kindly amend this clause as follows: Project/Contract: An expert with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and PSUs. Qualifications: MBA or CA.	Please refer Addendum III
5.	Clause 7; Eligibility Criteria,	MCA Expert: An expert with at least 20 years of experience in the	We request the authority to kindly amend this clause as follows:	Please refer Addendum III

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	Page No. 05	Government, specializing in formulating concession agreements particularly for PPP projects (equivalent to team head).	MCA Expert: An expert with at least 10 years of experience in the Government, specializing in formulating concession agreements particularly for PPP projects. Qualifications: MBA or CA or LLB	
6.	Clause 7; Eligibility Criteria, Page No. 06	Legal: One team Head with minimum 20 years of experience in corporate legal matters with LLB.	We request the authority to kindly amend this clause as follows: Legal:An expert with minimum 10 years of experience in corporate legal matters with LLB.	Please refer Addendum III
7.	Clause 7; Eligibility Criteria, Page No. 06	(C) The bidder shall have experience of having successfully conducted the work of revising/formulation of Modal Concessional Agreement (MCA)of PPP Projects of minimum two projects and out of which one must be in maritime sector	We request the authority to kindly amend this clause as follows: The bidder shall have experience for preparation of Draft Concession Agreement (DCA) of PPP Projects of minimum two projects and out of which one must be in maritime sector or Transport Sector or any Infrastructure Sector in last 10 years.	Clause remains unchanged
8.	Date Extension		In view of the current COVID-19 scenario, we request the authority to kindly extend the	Clause remains unchanged

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			bid due date for the captioned project till 30 th June, 2020.	
<u>Name of Firm: Feedback Infra (P) Ltd.</u>				
1.	Eligibility Criteria, Clause 7 A, Page no 5	The Bidder must be an organization/Corporate/house/Institution/ Consulting firm and must be registered in India having minimum 5 years of experience for processing revision of Model Concession Agreement for PPP Projects in maritime sector.	As we understand, the intent is to revise the MCA for Major Ports, incorporating the industry learnings. Therefore, it is imperative that the Consultant has experience in the Ports sector as Transaction Advisor, drafting / amending the Concession Agreements for Ports / Maritime Projects. Thus, we suggest revising the Clause as below: “The Bidder must be an organization/Corporate/house/Institution/ Consulting firm and must be registered in India having minimum 5 years of experience for processing revision of Model Concession Agreement or drafting of Concession Agreements for PPP Projects in maritime sector.”	Please refer Addendum III
2.	Eligible projects	Definition of Eligible projects for Eligibility and Technical Scoring.	Transaction advisors who have advised governments in PPP transactions for maritime sector projects are well capable of handling modal concession agreement	Clause remains unchanged.

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			also. They understand both the market expectations and commercial implications of the Concession Agreement. Hence, Please allow the following as eligible projects: “Experience in transaction advisory for maritime projects, necessarily including drafting of Concession Agreements / bid documents for maritime sector projects in last 7 years”	
3.	Opening of Financial Bids, Clause 9 (c), page no 9	Consortium bids will be allowed.	<p>Please clarify the following:</p> <ul style="list-style-type: none"> • Can two Consultants who are a part of the empanelled list of “Transaction Advisor” under Category ‘A’ form a Consortium? • Can an empanelled Consultant, form a Consortium with another firm, which is not a part of the empanelled list of “Transaction Advisor” under Category ‘A’. 	An empanelled consultant who is the part of the empanelled list of “Transaction Advisor” under Category A may form a consortium with another firm; which is not a part of empanelled list of Transaction Advisor.
4.	Eligibility Criteria, Clause 7 C, Page no 5	The bidder shall have at least following full time experts with given qualification and experience. a) Project/Contract: One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and	Given the qualification requirements, it is not possible to have the required team as full-time experts by any consulting firm. Hence, we request you to allow external consultants	Please refer Addendum III

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		<p>PSUs. Qualifications: MBA with graduate in Law having experience in legal matters. b) MCA Expert: An expert with at least 20 years of experience in the Government, specializing in formulating concession agreements particularly for PPP projects (equivalent to team head). c) Legal: One team Head with minimum 20 years of experience in corporate legal matters with LLB</p>		
5.	<p>Eligibility Criteria, Clause 7 C, Page no 5</p>	<p>Project/Contract: One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and PSUs. Qualifications: MBA with graduate in Law having experience in legal matters.</p>	<p>We understand that the role of the Project / Contract Head shall be to bring in the experience of working across various Contracts / Agreements in different sectors. Given, the legal requirements of the Project shall be fulfilled by the Legal Head, we request to remove the requirement of graduate degree in law for the Project Contract Head. Request you to modify the clause as below: a) Project/Contract: One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in corporate and PSUs. Qualifications: MBA.</p>	<p>Please refer Addendum III</p>

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6.	Eligibility Criteria, Clause 7 C, Page no 5	Bidder shall submit declaration of educational qualifications duly selfcertified. Specialization should be defined. MBA may be in Personnel Management/Industrial Relations/ Finance/Project Management/ Construction/Marketing/ Operations/ International Business. Most suitable qualification is MBA (Construction Management). Similarly, for MCA expert, qualifications should be defined, otherwise MCA (IT) may become eligible	Kindly clarify the qualification for MCA expert.	Please refer Addendum III
7.	Eligibility Criteria, Clause 7 D, Page no 6	The bidder shall have experience of having successfully conducted the work of revising/formulation of Modal Concessional Agreement (MCA)of PPP Projects of minimum two projects and out of which one must be in maritime sector Completion Certificate has to be attached	We request the authority to consider Work Order and along with CA certificate, certifying receipt of payment, as proof of completion for the project.	Please refer Addendum III
8.	Technical Evaluation scoring matrix, Past experience and Capability, Page no 8	Capability, Experience and expertise in handling similar projects during last three years (2016-17,2017-18 and 2018-	Request you to modify the clause to: Capability, Experience and expertise in handling similar projects during last 7 years (2012-2013, 2013-2014, 2014-2015,	Please refer Addendum III

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		19): a. 2 Projects – 15 Marks. b. 3 Projects – 25 Marks. c. >3 Projects – 35 Marks.	2015 – 2016, 2016 -17, 2017 - 18 and 2018 - 19): a. 2 Projects – 15 Marks. b. 3 Projects – 25 Marks. c. >3 Projects – 35 Marks	
9.	Bid Submission, Clause 6, Page no 6	The proposal as above may be submitted latest by 1500hrs on 19/06/2020	Request you to extend the submission till 22nd June.	Can be considered
10.	Bid Submission, Clause 6, Page no 5	(d) Technical Bid shall also be submitted on CPP Portal also in PDF format only The proposal as above may be submitted latest by 1500 hrs on 19/06/2020 to the Managing Director, Indian Ports Association, 1st Floor, South Tower. NBCC Place, Bhisham Pitamah Marg, Lodhi Road, New Delhi – 110003 in hard copies in original, duly signed by the authorized person.	Clause 6 mentions submission on the portal as well as in hard copy. Please clarify: Is submission in hard copy required, or only soft copy submission on the portal will suffice? Also, in case of submission on portal, please mention the provision of submission of Financial Bid.	Submission is hard copy is required
KPMG Advisory Services Private Limited				
1.	Page 5, C. Project / Contract	One team Head with 15 Years of experience in formulating, executing contracts for projects, preferably in	We would like to request that the following modifications may please be considered: “Qualifications: MBA and graduate in any	Please refer Addendum III

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		corporate and PSUs. Qualifications: MBA with graduate in Law having experience in legal matters	stream”	
2.	Page 5, C. MCA Expert	An expert with at least 20 years of experience in the Government, specializing in formulating concession agreements particularly for PPP projects (equivalent to team head).	We would like to request that the experience requirement for the expert may kindly be reduced to 15 years of experience.	Please refer Addendum III
3.	Page 5, C. Legal	One team Head with minimum 20 years of experience in corporate legal matters with LLB	We would like to request that the experience requirement for the expert may kindly be reduced to 15 years of experience	Please refer Addendum III
4.	Page 6, D.	The bidder shall have experience of having successfully conducted the work of revising/formulation of Modal Concessional Agreement (MCA)of PPP Projects of minimum two projects and out of which one must be in maritime sector	We would like to request the following: “The bidder shall have experience of having successfully conducted the work of revising/formulation of Modal Concessional Agreement (MCA)of PPP Projects of minimum two projects in transport sector” Also, we would like to request that ongoing projects that are more than 50% completed may also be permitted. As proof of such projects, the bidders may please be allowed to submit certificate from their respective Statutory Auditors confirming receipt of	Please refer Addendum III

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			more than 50% payments.	
5.	Page 6, D.	The bidder shall have experience of having successfully conducted the work of revising/formulation of Modal Concessional Agreement (MCA) of PPP Projects of minimum two projects and out of which one must be in maritime sector Completion Certificate has to be attached	We would like to request that bidders may please be allowed to submit certificate from their respective Statutory Auditors confirming receipt of complete payment for completed projects and for ongoing projects confirming receipt of more than 50% payments.	Please refer Addendum III
6.	Page 10, Clause 12.	Terms of Payment	We would like to request the following payment milestones for the engagement: i. 15% amount of the contract value shall be released on submission of Inception Report ii. 50% amount of the contract value shall be released on submission of Preliminary Draft Report of revised Model Concession Agreement. iii. Balance 35% of the contract value shall be released within 30 days of acceptance of final revised Model Concession Agreement.	Clause remains unchanged
7.	Page 12, Clause 16:	Completion Period This is a time bound job and in the event of any delay in	There can be potential instances wherein the delay may not be attributable to the	Clause remains unchanged

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		completion of work due to reasons attributable to consultant, the consultant shall be liable for Liquidated Damages at the rate of 0.5% per week of such delays subject to a maximum amount of 10% of the total contract value.	Consultant. Hence, we would like to request that this Clause may kindly be removed from the RFP.	
8.	Other	----	Since the response to pre-bid queries raised by the bidders is expected to take time, we would like to request IPA to kindly provide the bidders 15 working days after the release of response to pre-bid queries for the proposal submission.	-