

File No 24(32)/PF-II/09
Government of India
Ministry of Finance
Department of Expenditure
Plan Finance II Division

New Delhi, 29th March 2010

OFFICE MEMORANDUM

Sub: Model Request for Proposal (RFP) for Selection of Financial Consultants and Transaction Advisers

1. The undersigned is directed to state that for selection of financial consultants for PPP projects, the Model RFP contained herein may be followed henceforth.

EXISTING GUIDELINES ON PROCUREMENT OF CONSULTANTS

2. The General Financial Rules (GFR) lay down the general principles to be adopted for procurement of goods and services. In particular, Chapter 6 of GFR deals with 'Procurement of Goods and Services'.

3. In order to provide detailed generic guidelines, the Department of Expenditure had issued a Manual of Policies and Procedure for Employment of Consultants in August 2006. This Manual is intended to serve as a practical guide to Ministries and Departments for engaging the services of consultants for various projects. These guidelines suggest many alternate methodologies for procurement of consultants, which include: (i) Quality-cum-cost based selection system (QCBS); (ii) Combined, quality-cum-cost based selection system (CQCBS); (iii) Quality based selection system (QBS); and (iv) Cost based selection system (CBS). The methodology to be adopted for selection of consultants depends on the nature and complexity of the projects for which consultants are proposed to be engaged, especially with respect to an appropriate balance between the quality and cost of engaging a consultant.

NEED FOR AN RFP DOCUMENT

4. The above mentioned Rules and Manual apply to all types of projects, whether Public Private Partnership (PPP) projects or EPC contracts. However, since PPP projects are inherently different from the normal projects implemented by Government Departments/Ministries, a need has arisen for a separate RFP document for selection and appointment of financial consultants and transaction advisers for PPP projects.

5. The RFP document for selection of financial consultants and transaction advisers is substantially based on the duly approved RFPs for selection of technical consultants and legal advisers respectively. Prior to its approval, the RFP document for selection of financial consultants was subjected to extensive consultations with the ministries, state governments, selected consultancy firms and other stakeholders. The document so

evolved was endorsed and recommended in an inter-ministerial meeting held on March 2, 2010 under the chairmanship of Deputy Chairman, Planning Commission. .

6. The RFP document for selection of financial consultants is primarily meant to be used for selection of financial consultants and/ or transaction advisers for specific projects. However, where a project authority is undertaking repetitive projects such as in the case of highways, this document can be used for selection of a single firm of financial consultants for advising on a cluster of projects which are similar in nature. Further, for small projects such as those where the underlying value of the assets is less than Rs. 10 crore, the project authority may, instead of appointing a firm of financial consultants, appoint a competent consulting firm which may also procure and provide financial advice as part of its project assignment.

KEY PRINCIPLES GOVERNING RFP

7. The key principles governing the RFP are stated below.

Separate technical, financial and legal consultants

8. The Project Authorities would normally need expert financial, legal and technical advice for formulating project documents necessary for award and implementation of projects in an efficient, transparent and fair manner. It is advisable to engage technical, legal and financial consultants separately as the firms rendering such services are independent of each other and must also provide their advice independently. However, a single consultant firm may be engaged for handling all aspects of project preparation and award in exceptional circumstances and for low value projects only.

Role of financial consultants

9. The role of financial consultants is critical since the success of a PPP project depends on a well structured project which is financially viable. This includes appraising the project, developing a revenue model, reviewing the cost estimates based on the Feasibility Report and assisting the Project Authority in the bidding process. The financial consultants would collect, compile and analyse the financial data relating to all costs and revenues, and help in the identification and allocation of project risks in an efficient and economic manner.

10. An important aspect of good financial advice is that the financial consultants should clearly explain to the Project Authority the financial impact of the project on government's resources – direct as well as contingent - and the optimal structure for financing and operation of the project. The financial consultants would also participate in meetings and conferences, and shall advise and assist the Project Authority in resolving the diverse commercial issues that may arise from time to time.

Financial consultant as transaction adviser

11. Normally, the Project Authorities are comfortable in executing PPP projects with the help of transaction advisers. This reliance on the transaction advisers is a result of the lack of capacity within the government for structuring and award of such projects. A

transaction adviser could help in ensuring that the whole process leading to the selection of the concessionaire is transparent and in accordance with the laid down guidelines and parameters. The financial consultants would normally be capable of performing the role of transaction advisers and the two roles could therefore be combined for optimising on time and costs. A transaction adviser could also be asked to assist the Project Authority in selection of the technical and legal consultants at the initial stage of project formulation.

Fair and transparent selection process

12. The appointment of consultants should not be treated in the same manner as procurement of goods and other services where the bid is awarded to the lowest financial bidder based on pre-determined specifications. This is so because what sets consultancy services apart from other procurements is the advisory and intellectual nature of services which are not amenable to precise quantification.

Importance of Terms of Reference

13. The Terms of Reference (ToR) of the consultant provide a brief description of the services the consultant is required to perform. They should include background information, a statement of objectives, a precise scope of work, the nature and number of key personnel to be deployed, schedule for completion of task, the indicative work plan, level of effort, the inputs to be provided by the Project Authority and the deliverables/ outputs that will be required from the consultant.

Deliverables

14. It is important to define in the RFP the deliverables expected by the Project Authority at various stages of the consultancy assignment. The deliverables in the form of advice/documents/reports should be formulated after suitable consultations with the Project Authority. The time frame for the deliverables should be clearly defined and must be adequate for the consultant to prepare an output that is desired by the Project Authority. Normally it is advisable to appoint a nodal/officer to interact with the consultant and to ensure that the period of consultancy is utilised to the optimum.

Key Dates

15. The Key Dates in the RFP indicate the time schedule that the Project Authority expects the consultant to follow in accordance with the requirement of awarding the project. Normally, the services of the financial consultant are required for a period of about one year, though dedicated deployment of personnel may be required only for a period of about 24 weeks. The payment of the consultant is linked to the man hours spent on a specific deliverable and the payment schedule should be stated upfront in the RFP.

Importance of Agreement

16. The draft contract agreement covers the terms and conditions of employment of the winning bidder. A standard contract should be used for this purpose. Key

elements that the contract ought to include inter alia are the term or duration of the contract; description of the scope of work; provision for modifications to the scope of work; definition of specific tasks and responsibilities; elimination of conflict of interest; change of personnel and use of sub-consultants; ownership of property used by the consultants during the course of the project; insurance requirements with specified level of coverage; dispute resolution, including the use of specified rules for arbitration; treatment of Force Majeure; conditions for termination; contract price; and payment schedule.

Eligible Projects

17. Consultants should normally be selected on the basis of their track record and relevant experience. The RFP should clearly indicate the value and nature of past assignments that would be considered eligible for the purpose of evaluating the applicants. Besides a minimum eligibility criteria, the RFP should specify the manner in which past experience would be evaluated.

Key Personnel

18. The quality of financial advice would largely depend on the experience and expertise of the key personnel engaged for the assignment. The Project Authority must, therefore, determine the nature and discipline of the advice required and identify a limited number of key personnel, including the team leader, who would play a critical role in the consulting assignment.

Two-envelope system

19. Consultancy services are normally procured through a 'two-envelope' system comprising a technical bid and a financial bid. This method of selection places due emphasis on the quality of consultants by assigning weightage to higher technical experience and expertise. The technical and financial bids are submitted in two separate sealed covers duly superscribed and kept inside a bigger cover which should also be duly sealed and superscribed.

20. A technical evaluation should be carried out by an evaluation committee constituted by the Project Authority and a list of bidders qualifying the technical criteria should be prepared at this stage, based on pre-determined criteria. The bidders should be ranked according to their respective technical scores. Only the bidders scoring the minimum prescribed marks should be pre-qualified and not more than five bidders should normally be short-listed.

21. In the second stage, a financial evaluation is to be carried out. The financial bids of only the short listed bidders should be opened for the purpose of further evaluation. Proposals should be finally ranked based on their combined technical and financial scores.

Technical evaluation

22. The technical proposal should be evaluated mainly for the experience of the applicant firm as well as the experience and qualifications of the key personnel offered for the project. Evaluation of key personnel is the most important component of evaluation and must, therefore, be undertaken with care and diligence.

Short-listing of Applicants

23. Not more than 7 applicants should be prequalified and shortlisted for financial evaluation in the second stage. The Project Authority may, however, increase the number of short-listed bidders to 8 or 9 in the case of less complex or repetitive projects. The purpose of restricting the number to seven is to ensure that only proposals of high technical standards are considered. This would also provide applicants an incentive to prepare sound proposals. If the number of pre-qualified bidders is less than two, the Authority may in its sole discretion, pre-qualify the Applicant(s) whose technical score is less than 70%, the minimum prescribed, so that at least two applicants compete for the assignment.

Financial Evaluation

24. In the second stage the financial evaluation should be carried out by assigning a financial score to each financial proposal. The total cost indicated in the financial proposal should be considered for the purpose of financial evaluation.

Combined Scores

25. Proposals should finally be ranked according to their combined technical and financial scores, based on the respective weightage assigned to them. For the purpose of arriving at combined scores, appropriate weightages should be determined for the technical and financial bids. The ratio of weightages for technical and financial bids should be established well in advance and incorporated in the RFP document. Generally the successful applicant shall be the applicant having the highest combined score. In the event two or more proposals have the same scores in the final ranking, the proposal with the highest technical score should be ranked first.

Project-specific flexibility

26. The Model RFP document provides the requisite sector-specific and project-specific flexibility by placing several provisions within square brackets, thus enabling the project authorities to make necessary substitutions. Some flexibility has also been afforded by the respective footnotes. To the extent possible, the concerned Ministries should standardise the provisions contained in square brackets so that case by case modifications are minimised.

27. The Project Authorities may use this document for selection of a single firm to act as financial consultants-cum-transaction advisers or for selection of separate firms to act as financial consultants and transaction advisers respectively.

28. This RFP document may also be used for selection of financial consultants to advise on social sector projects. For this purpose, suitable modifications may be made to suit sector-specific and project-specific requirements. This RFP document may also be used for selecting other experts for providing advisory services to the government.

CONCLUSION

29. The Model RFP document annexed with this OM has been developed based on the principles outlined above. It is generic in nature and aims at lending transparency and efficiency to the selection process. It addresses the critical requirements that should be satisfied for conducting a fair and transparent bidding process. The administrative ministries and other government entities intending to procure the services of financial consultants and/or transaction advisers should observe these guidelines and adopt the Model RFP document for selection of financial consultants and transaction advisers.

30. This RFP shall apply to all Ministries and Departments of the Central Government, all statutory entities under the control of Central Government and all Central Public Sector Undertakings (CPSUs).

RELAXATION OF GFR PROVISIONS

31. GFR provisions relating to hiring of consultants stand relaxed to the extent of the procedure indicated in this OM specifically and only for the purposes of hiring of financial consultants and/or transaction advisers for PPP projects.

32. These instructions shall come into force with immediate effect and will apply to all cases where bids are invited after May 1, 2010.



(PARAMASEN)
Director (PF II)
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2. Secretary, Department of Economic Affairs, North Block, New Delhi.
3. Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi.
4. Secretary, Department of Road Transport & Highways, Transport Bhawan, New Delhi.
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7. Secretary, Ministry of Urban Development, Nirman Bhawan, New Delhi.
8. Secretary, Department of Telecommunication, Sanchar Bhawan, New Delhi.

9. Secretary, Ministry of New and Renewable Energy, CGO Complex, New Delhi.
10. Secretary, Ministry of Law and Justice, Department of Legal Affairs, Shastri Bhawan, New Delhi.
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