

GOVERNMENT OF INDIA
NITI Aayog
New Delhi

RFP Notice No. N-14070/01/2016-PPPAU

March 01, 2016

REQUEST FOR PROPOSAL

Competitive Bidding

For

Preparation of a Panel of Firms for Technical and Legal Scrutiny of the Project Documents and Concession/ Contract Agreements.

1. The Public Private Partnership Appraisal Unit (PPPAU) and Project Appraisal and Management Division (PAMD) in NITI Aayog conducts appraisal of public private partnership (PPP) and public funded projects.
2. Adviser (PPPAU & PAMD), NITI Aayog, for and on behalf of the President of India, hereby invites sealed applications in two envelope system for empanelling Firms, not exceeding 4 in number each for providing technical and legal services. The empanelled firms shall assist in technical and legal scrutiny of the feasibility studies/ detailed project reports and the concession/ contract agreements of the public private partnership (PPP) projects/ public funded projects, as the case may be.
3. Firms having the requisite experience can submit their offers for either Technical Consultant or Legal Consultant or for both.
4. RFP document will be available for download on the NITI Aayog website <http://niti.gov.in> from March 01, 2016.
5. The bids on prescribed format should be submitted at the place described in the RFP documents on or before 11:00 hrs. on April 06, 2016.
6. All communications including the submission of Proposal should be addressed to Shri Ch.P.Sarathi Reddy, Director (PPPAU), NITI Aayog, Government of India, Room 143, NITI Aayog, Parliament Street, New Delhi. Phone: +91-11-23096618; Fax: +91-11-23096618; Email: ps.reddy@gov.in

Director (PPPAU)

No.N-14070/01/2016-PPPAU

Government of India

NITI Aayog

(PPPAU)

NITI Aayog, Sansad Marg

New Delhi-110001

Dated: March 01, 2016

REQUEST FOR PROPOSAL

Subject: - Preparation of a Panel of Firms for Technical and Legal Scrutiny of the Project Documents and Concession/ Contract Agreements.

Background:

1. The Public Private Partnership Appraisal Unit (PPPAU) and Project Appraisal and Management Division (PAMD) in NITI Aayog conducts appraisal of public private partnership (PPP) and public funded projects as a part of approval process of the Central Government. In this regard, it is proposed to empanel Firms, not exceeding 4 in number each for providing technical and legal services. The empanelled firms shall assist in technical and legal scrutiny of the feasibility studies/ detailed project reports and the concession/ contract agreements of the public private partnership (PPP) projects/ public funded projects, as the case may be.

Request for Proposal:

2. Adviser (PPPAU & PAMD), for and on behalf of the President of India, hereby invites proposals from Firms who have experience of working in the Infrastructure Sector. The selection of Firms would be through open competitive bidding process in accordance with the procedure set out herein.
3. Firms having the requisite experience can submit their offers for either Technical Consultant or Legal Consultant or for both.

Validity of the Proposal:

4. The proposal shall be valid for a period not less than 90 days from the due date for receiving the proposal.

Job Requirement:

5. As per detailed Terms of Reference at Schedule I.

Conditions of Eligibility of Firm

6. To be considered for empanelment, the Applicant must fulfil the following conditions of eligibility:

(A) **Technical Capacity:** The Technical Capacity requirements for the Firms for empanelment for the Technical Consultant and Legal Consultant are as below:

- i) **Legal Consultant:** The Firm shall have, over the past 3 (three) years preceding the due date, undertaken a minimum of 15 (fifteen) Eligible Assignments as described below, of which at least 10 (ten) should be PPP projects:

Eligible Assignments

For the purposes of satisfying the Conditions of Eligibility and for evaluating the Proposals under this RFP, advisory/ consultancy assignments granted by the government, regulatory commission, tribunal, statutory authority or public sector entity in respect of review and/or preparation of concession/ contract agreements and other similar documents for the following projects shall be deemed as eligible assignments (the “**Eligible Assignments**”):

- (a) An infrastructure project having an estimated capital cost (excluding land) of at least Rs. 100 crore (Rupees one hundred crore) in case of a project in India, and US \$ 50 million (US\$ fifty million) for projects elsewhere, provided that the payment of professional fee to the Firm was at least Rs. 5 lakh (Rupees five lakh) in case of a project in India, and US \$ 25,000 (US\$ twenty five thousand) for any infrastructure project elsewhere (the “**Public Projects**”);
- (b) an assignment relating to rules, regulations, orders, appraisal, or any other matter pertaining to infrastructure, but only if the payment of professional fee to the Firm was at least Rs. 50,000 (Rupees fifty thousand) (the “**Regulatory Projects**”); or
- (c) an infrastructure project undertaken through Public Private Partnership (PPP) or other forms of private participation and having an estimated capital cost (excluding land) of at least Rs. 100 crore (Rupees one hundred crore) in case of a project in India, and US \$ 50 million (US\$ fifty million) for infrastructure projects undertaken elsewhere through PPP or other forms of private participation (the “**PPP Projects**”).

- ii. Technical Consultant:** The Firm shall have, over the past 3 (three) years preceding the due date, undertaken a minimum of 15 (ten) Eligible Assignments as described below. Further, to be eligible for undertaking technical scrutiny of a PPP project, a minimum of 5 (three) Eligible Assignments shall be PPP projects:

Eligible Assignments

For the purposes of satisfying the Conditions of Eligibility and for evaluating the Proposals under this RFP, advisory/ consultancy assignments granted by the government, regulatory commission, tribunal, statutory authority or public sector entity in respect of review and/or preparation of detailed project reports/ feasibility studies/ Technical Report/ Manual of Standards and Specifications and other similar documents for the following projects shall be deemed as eligible assignments (the “**Eligible Assignments**”):

- (a) An infrastructure project having an estimated capital cost (excluding land) of at least Rs. 100 crore (Rupees one hundred crore) in case of a project in India, and US \$ 50 million (US\$ fifty million) for projects elsewhere, provided that the payment of professional fee to the Firm was at least Rs. 5 lakh (Rupees five lakh) in case of a project in India, and US \$ 25,000 (US\$ twenty five thousand) for any infrastructure project elsewhere (the “**Public Projects**”);
 - (b) an assignment relating to rules, regulations, orders, appraisal, or any other matter pertaining to infrastructure, but only if the payment of professional fee to the Firm was at least Rs. 50,000 (Rupees fifty thousand) (the “**Regulatory Projects**”); or
 - (c) an infrastructure project undertaken through Public Private Partnership (PPP) or other forms of private participation and having an estimated capital cost (excluding land) of at least Rs. 100 crore (Rupees one hundred crore) in case of a project in India, and US \$ 50 million (US\$ fifty million) for infrastructure projects undertaken elsewhere through PPP or other forms of private participation (the “**PPP Projects**”).
- (B) Financial Capacity:** The firm shall have received a minimum of Rs. 5 crore (Rs. five crore) or US \$ 2 (two) million per annum as professional fees during each of the three financial years preceding the Proposal Due Date (PDD). For the avoidance of doubt, professional fees hereunder refers to fees received by the Firm for providing advisory or consultancy services to its clients and shall not include any amounts received by way of reimbursement or fee for payment to external counsels, senior advocates or external professional retained by the firm for its clients.

(C) **Availability of Personnel:** The firm shall undertake to make available the personnel meeting the requirements specified below during the period of contract for the respective Consultant:

i). Legal Consultant:

Personnel	Educational Qualification	Length of Professional Experience	Experience on Eligible Assignments
Legal Expert	Bachelor in law or equivalent	10 years	He should have 10 years of experience in commercial contracts. He should have led the legal teams for not less than four Eligible Assignments under PPP Projects in at least two different sectors.
One/two Associate Lawyer(s)	Bachelor in law or equivalent	3 years	He should have worked as an Associate Lawyer for not less than two Eligible Assignments under PPP Projects in two different sectors.

ii). Technical Consultant for PPP Projects:

Personnel	Educational Qualification	Length of Professional Experience	Experience on Eligible Assignments
Technical Expert	Bachelor / Master Degree in Civil Engineering	10 years	He should have 10 years of technical experience in infrastructure projects. He should have led the technical teams for not less than seven Eligible Assignments under PPP Projects from at least two different sectors.
One/two Associates	Bachelor in Electrical/ Mechanical Engineering	5 years	He should have worked as an Associate Engineer for not less than two Eligible Assignments under PPP Projects from two different sectors.

iii). Technical Consultant for Public Funded Projects:

Personnel	Educational Qualification	Length of Professional Experience	Experience on Eligible Assignments
Technical Expert	Bachelor / Master Degree in Civil Engineering	10 years	He should have 10 years of technical experience in infrastructure projects. He should have led the technical teams for not less than seven Eligible Assignments from at least two different sectors.
One/two Associates	Bachelor in Electrical/ Mechanical Engineering	5 years	He should have worked as an Associate Engineer for not less than two Eligible Assignments from two different sectors.

7. The proposals appraised by the NITI Aayog are from various Public organizations such as NHAI, Railway Board, NHPC etc. The Law Firms and Technical Consultants empanelled with such organizations would not be given consultancy assignments pertaining to the respective organizations. For the purpose of this RFP, any firm that has received more than 5 (five) assignments from an organization during 2015-16 shall be deemed to be empanelled with that organization.

Duration:

8. Firm selected will be appointed on contract basis for an initial period of two years. This term can be extended upto a maximum of 5 years depending on the performance of the Firm/ need of the NITI Aayog.

Brief Description of the Selection Process:

9. A two stage selection process will be adopted in evaluating the Proposals. In the first stage, a technical evaluation will be carried out followed by a financial evaluation in the second stage.

Criteria for Evaluation: Technical Proposals:

10. The Proposal will be evaluated on the basis of the experience of the Firm. The experience of the Firm will be evaluated separately for Technical Consultant and Legal consultant. Only those Firms whose Proposals score 80 points or more out of 100 shall qualify for the second stage in the respective consultancy. Further, the ranking of the top four bidders for empanelment as technical consultant will be done

in a manner so as to include at least two bidders who fulfill the condition for undertaking scrutiny of PPP projects.

The scoring criteria to be used for the evaluation shall be as follows.

Criteria	Marks	Criteria
Relevant Experience of the Firm	100	60% of the maximum marks shall be awarded for the number of Eligible Assignments undertaken by the Firm. The remaining 40% shall be awarded for: (i) the comparative size and quality of Eligible Assignments (15%); (ii) overall turnover, experience and capacity of the firm (15%); and (iii) other similar work in the infrastructure sectors (10%).

Evaluation of Financial Proposals:

11. The financial bids of top ranked Applicants in each category as per para 10 above who secure 80% or more marks in technical evaluation, shall be opened and the lowest financial bid shall be determined. The financial bids of other applicants will be returned unopened. Applicants securing 80% or more marks in technical evaluation not among the four top ranked applicants shall constitute the reserve list.

Negotiation and Empanelment:

12. After determining the lowest financial bids separately for Technical Consultant and Legal Consultant, all the other Applicants whose financial bids have been opened shall be called upon to match their respective lowest financial bid. This would mean the Applicants shortlisted for Technical Consultancy would be called upon to match the lowest financial bid received for the Technical consultancy while the Applicants shortlisted for Legal Consultancy would be called upon to match the lowest financial bid received for the Legal consultancy. All the Applicants who agree to carry out the proposed assignment at the rate offered by the lowest bidder shall be considered for empanelment.
13. In case the above process does not enable the empanelment of at least 4 (four) firms each for the Technical and Legal Consultant, then the requisite bidders from the reserve list as per their technical ranking would be called upon to match the lowest financial bid received for their respective category.
14. In case the above process does not enable the empanelment of at least 2 (two) firms for legal consultancy and technical consultancy, then differential rates would be considered. Further, differential rates would be considered in the case of technical consultant, if the above process does not able to empanel at least one firm fulfilling the condition for undertaking scrutiny of PPP projects.

Right to reject any or all Proposals:

15. Notwithstanding anything contained in this RFP, the NITI Aayog 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.
16. The NITI Aayog reserves the right to reject any Proposal if:
 - (a) at any time, a material misrepresentation is made or uncovered, or
 - (b) the Applicant does not provide, within the time specified by the NITI Aayog, the supplemental information sought by the NITI Aayog for evaluation of the Proposal.

Submission of Proposals:

17. The Proposal shall be typed or written in indelible ink and signed by the Applicant who shall initial each page, in blue ink. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be initialed by the person(s) signing the Proposal.
18. While submitting the Technical Proposal, the Applicant shall ensure that the Applicant meets the Conditions of Eligibility.
19. Failure to comply with the requirements spelt out in Clause 18 above shall make the Proposal liable to be rejected.
20. If an Applicant makes an averment regarding his qualification, experience or other particulars and it turns out to be false, or his commitment regarding availability for the Project is not fulfilled at any stage after signing of the Letter of Empanelment, he shall be debarred for any future assignment of the NITI Aayog for a period of five years.
21. The Technical Proposal shall not include any financial information relating to the Financial Proposal.
22. The NITI Aayog reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFP. Failure of the NITI Aayog to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the NITI Aayog thereunder.
23. In case it is found during the evaluation or at any time before issue of Letter of Empanelment (LOE) that one or more of the eligibility conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed. If the Applicant has already been issued the LOA the

same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the NITI Aayog without the NITI Aayog being liable in any manner whatsoever to the Applicant.

24. The Proposal shall be submitted by the Applicant with each page of the submission signed in blue ink. In case the proposal is submitted on the document downloaded from Official Website, the Applicant shall be responsible for its accuracy and correctness as per the version uploaded by the NITI Aayog and shall ensure that there are no changes caused in the content of the downloaded document. In case of any discrepancy between the downloaded or photocopied version of the RFP and the original RFP issued by the NITI Aayog, the latter shall prevail.
25. The Proposal will be sealed in an outer envelope which will bear the address of the NITI Aayog, RFP Notice no., Consultancy name, and the name and address of the Applicant. It shall bear on top, the following:

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

If the envelope is not sealed and marked as instructed above, the NITI Aayog assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted.

 - (i) The aforesaid outer envelope will contain two separate sealed envelopes, one clearly marked **‘Technical Proposal- Legal Consultant or Technical Proposal- Technical Consultant or Technical Proposal- Legal and Technical Consultant, as the case may be’** and the other clearly marked **‘Financial Proposal’**. The envelope marked “Technical Proposal- Legal Consultant or Technical Proposal- Technical Consultant or Technical Proposal-Legal and Technical Consultant” shall contain the Application in the prescribed Forms at Annex -I.
 - (ii) The envelope marked “Financial Proposal” shall contain the financial proposal in the prescribed format at Annex- II.
26. The completed Proposal must be delivered on or before the specified time on the due date as per Clause 31. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained.
27. 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.
28. The rates quoted shall be firm throughout the period of performance of the assignment and discharge of all obligations of the Legal Consultant/ Technical Consultant under the Agreement.

Financial Proposal:

29. Applicants shall submit the financial proposal in the Forms at Annex-II clearly indicating the total cost of the assignment in both figures and words, in Indian Rupees, and signed by the Applicant. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
30. While submitting the Financial Proposal, the Applicant shall ensure the following:
 - (i) All the costs associated with the assignment shall be included in the Financial Proposal. These shall normally cover remuneration for all the Personnel, accommodation, air fare, printing of documents, taxes 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.
 - (ii) 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 costs shown under different items of the Financial Proposal. Further, all payments shall be subject to deduction of taxes at source as per applicable laws.
 - (iii) Costs (including break down of costs) shall be expressed in INR.

Submission of Proposal:

31. Interested firms may send their applications in the enclosed formats provided in the Annexes to reach on or before 1100 hours on *April 06, 2016*, at the following address.

Shri Ch.P.Sarathi Reddy,
Director (PPPAU),
Room No. 143, NITI Aayog,
Sansad Marg, New Delhi-110001
Telefax No. 23096618

Late Proposals:

32. Proposals received by the NITI Aayog after the specified time on the due date shall not be eligible for consideration and shall be summarily rejected.
33. Any alteration / modification in the Proposal or additional information or material supplied subsequent to the due date, unless the same has been expressly sought for by the NITI Aayog, shall be disregarded.

Evaluation Process:

34. The NITI Aayog shall open the Proposals at 1130 hours on the due date, at the place specified in Clause 31 and in the presence of the Applicants who choose to attend. The envelopes marked “Technical Proposals” shall be opened first . The envelopes marked “Financial Proposal” shall be kept sealed for opening at a later date.
35. Prior to evaluation of Proposals, the NITI Aayog will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:
 - (a) it is received in the specified format;
 - (b) it is received by the due date including any extension thereof;
 - (c) it is signed, sealed and marked as stipulated;
 - (d) it contains all the information (complete in all respects) as requested in the RFP;
 - (e) it does not contain any condition or qualification; and
 - (f) it is not non-responsive in terms hereof.
36. The NITI Aayog reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the NITI Aayog in respect of such Proposals.
37. The NITI Aayog would subsequently examine and evaluate Technical Proposals in accordance with Clause 9 and the criteria set out in Clause 10 in this RFP.
38. After the technical evaluation, the NITI Aayog would prepare a list of pre-qualified Applicants, separately for Legal Consultant and Technical Consultant, for opening of their Financial Proposals and evaluating them in accordance with Clause 11 of this RFP. The opening of Financial Proposals shall be done in presence of Applicants who choose to be present. The NITI Aayog will not entertain any query or clarification from Applicants who fail to qualify at any stage of Selection Process.

Clarifications:

39. To facilitate evaluation of Proposals, the NITI Aayog may, at its sole discretion, seek clarifications from any Applicant regarding its Proposal. Such clarification(s) shall be provided within the time specified by the NITI Aayog for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing. If an Applicant does not provide clarifications sought above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the NITI Aayog may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding.

Empanelment and Award of Consultancy:

40. After selection, a Letter of Empanelment (LOE) shall be issued, in duplicate, by the NITI Aayog to the Selected Applicants and the Selected Applicants shall, within 7 (seven) days of the receipt of the LOE, sign and return the duplicate copy of the LOE in acknowledgement thereof. The LOE shall constitute the Agreement for the purpose of this consultancy assignment.

Proprietary data:

41. All documents and other information provided by the NITI Aayog or submitted by an Applicant to the NITI Aayog shall remain or become the property of the NITI Aayog. Applicants are to treat all information as strictly confidential. All information collected, analysed, processed or in whatever manner provided by the Firm to the NITI Aayog in relation to the assignment shall be the property of the NITI Aayog.

Fees:

42. **Legal Consultant:** The legal scrutiny required to be carried out by empanelled firms fall into four categories:
- (i) Category A: Draft Concession/ Contract Agreement based on a Model Concession/ Contract Agreement
 - (ii) Category B: For repeat proposal of Category A.
 - (iii) Category C: For draft Concession/ Contract Agreement not based on any sector specific Model Concession/ Contract Agreement
 - (iv) Category D: For a draft Concession/ Contract Agreement in a new sector or on a new model

The Applicants will be required to bid for Category A projects only. The fee for Category B projects shall be one-half of the fees finalized for Category A projects. The fees for Category C projects shall be twice the fee payable for Category A projects. The fee for Category D projects shall be four times the fee payable for Category A projects. By way of illustration, if the fee is Rs. 10,000 for a Category A project, then for cases of Categories B, C & D, it shall be Rs. 5,000, Rs. 20,000 and Rs. 40,000 respectively.

43. **Technical Consultant:** The technical examination/ scrutiny required to be carried out by empanelled consultancy firms/consultants fall into three categories:
- (i) Category A: PPP/ public funded projects with cost Rs. 500 crore to Rs. 1000 crore
 - (ii) Category B: PPP/ public funded projects with cost above Rs. 1000 crore
 - (iii) Category C: PPP projects with cost less than Rs. 500 crore

The Applicants will be required to bid for Category A projects only. The fee for Category B projects shall be 1.25 of the fee finalized for Category A projects. The fees for Category C projects shall be 0.5 of the fee payable for Category A projects. By way of illustration, if the fee is Rs. 50,000 for a Category A project, then for cases of Categories B, & C, it shall be Rs. 62,500, and Rs. 25,000 respectively.

Payments:

44. The NITI Aayog shall cause the payment due to the Firm to be made within 30 (thirty) days after the receipt by the NITI Aayog of duly completed bills with necessary particulars.
45. All payments under this Agreement shall be made to the account of the Firm as may be notified to the NITI Aayog by the respective Firm.
46. No advance payment shall be admissible.

Penalty for error/variation:

47. In case any error or variation is detected in the reports submitted by the Firm and such error or variation is the result of negligence or lack of due diligence on the part of the Firm, the consequential damages thereof shall be quantified by the NITI Aayog in a reasonable manner and recovered from the Firm from payments due to him by way of penalty, subject to a maximum of 50% (fifty percent) of the fee for the respective project.

Liquidated Damages for delay:

48. In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 2.5% (two point five percent) of the assignment value per day and shall be recovered from the payment due to the respective Consultant for that assignment. However, in case of delay due to reasons beyond the control of the Firm, suitable extension of time shall be granted.

Miscellaneous:

49. The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.

Schedule – I

Terms of Reference for Engagement of Legal Consultant

1. The Firm would undertake a detailed desk review of the contractual/concession agreements, received from various ministries, states and statutory entities in accordance with the guidelines for "Financial Support to Public Private Partnerships (PPP) in Infrastructure" and "Formulation, Appraisal and Approval of PPP Projects" and also proposals related to public funded projects.
2. The firm would suggest amendments to specific articles/clauses for safeguarding the interest of the Government/ statutory entity and the users, as the case may be, and conforming to the guidelines issued for funding projects under VGF by Government of India, the central sector PPP projects and also for the public funded projects.
3. The firm would suggest alternative formulations, wherever necessary, for specific articles/clauses with the purpose of establishing that concession agreements/ other agreements are in accordance with best practices and applicable laws.
4. The firm should ensure that the concession agreements/ other agreements allocate legal, financial and other risks in such a fashion that the government or statutory entity granting the concession or awarding the project does not at a future date become liable to pay compensation or damages for any unintended/unidentified risk. In the unlikely event that such a liability arises, the firm shall suggest provisions that safeguard public interest including the interests of users of the infrastructure.
5. The firm would suggest provisions that would ensure that the agreements are in line with the global best practices, and that such agreements when operationalised shall attract the required amount and quality of investment at reasonable cost and risk levels.
6. The firm will also advise on specific issues referred to them by the PPPAU & PAMD division or any other related issues regarding concession agreements/ other agreements/ documents.
7. The firm shall be deemed to have given an undertaking to the NITI Aayog declaring that it shall have no conflict of interests in advising on each assignment. Three months after completing an assignment, the firm shall be free to advise the client on matters unrelated to the assignment concerning which the documents are reviewed by it for the NITI Aayog.
8. The firm will be required to submit their comments/advice on the documents/concession agreements etc. referred to them by the PPPAU & PAMD division within a period of ten working days.

9. The Legal Consultant shall make a brief presentation and discuss the draft comments within 7 working days of receiving the assignment. This may take about two hours for category A assignments and one, four and eight hours for Categories B, C and D respectively.

Terms of Reference for Engagement of Technical Consultant for PPP projects

1. The Public Private Partnership (PPP) projects being implemented in the Central Sector and the State Sector Projects seeking Viability Gap Funding from the Government of India are appraised in the NITI Aayog prior to approval. The process of appraisal, inter alia, involves examination of the feasibility reports and the technical schedules contained in the concession agreements for the project received from various Ministries/ States and statutory entities in accordance with the guidelines for “Financial Support to Public Private Partnerships (PPP) in Infrastructure” and ”Formulation, Appraisal and Approval of PPP Projects”. For the aforesaid purpose, NITI Aayog proposes to appoint technical consultants.
2. The Consultant shall examine the Feasibility report/ detailed project report, core requirements of design, construction and maintenance, project cost and other technical requirements forming part of the Concession Agreement (CA)/ other agreements and in particular Schedules A, B, C, D and K of the CA and give his comments and observations on the following aspects and other provisions specific to the project.
 - a) General: Conformity of the design and specifications of the Project, project facilities, safety requirements, and all other technical parameters with the requirements laid down in the relevant Manual for Specifications and Standards for PPP Projects. Any deviations from the Manual shall be brought out and commented on their justification and impact on the Project Cost.
 - b) Scope of the Project: any deviations from the relevant technical schedules of the Model Concession Agreement shall be commented upon by the consultant.
 - c) Right of Way: The proposed right-of-way width, its availability and adequacy, status of land acquisition, handing over schedule, etc.
 - d) Status of Clearances: Environmental clearance, cutting of trees, approval of GAD for ROB/RUB by Railways, and shifting of utilities.
 - e) Traffic data and projections, carriageway provision, and level of service.
 - f) Total Project Cost: Break up, reasonability of the estimated cost, basis and rates adopted.
 - g) Design, construction, maintenance and safety related issues specific to the project.
3. The consultant will also advise on specific issues referred to them by the PPPAU or any other related issues regarding technical appraisal of projects.
4. The empanelled entity shall make necessary arrangements for collection & delivery of reports, documents/CDs etc. from and to NITI Aayog at their expense and responsibility.

5. The empanelled entity may have to make a presentation of the project and technical report to the NITI Aayog within 7 working days of receipt of the project documents/ soft copies of project.
6. The empanelled entity would undertake necessary revisions of their comments/reports based on observations made during the presentation/discussion.
7. Any shortcomings in the project documents (hard copy/soft copy) have to be brought out within 24 hours of receipt of the same to the NITI Aayog.
8. The Consultant will be required to submit its comments/advice on the documents/concession agreements etc. referred to it by the PPPAU Division within a period of ten working days.

Terms of Reference for Engagement of Technical Consultant for Public Funded projects

1. The Project Appraisal and Management Division (PAMD) undertakes appraisal of public funded plan projects and schemes in consultation with the subject divisions of the NITI Aayog before these are considered for recommendation/decision by the Public Investment Board or Expenditure Finance Committee depending upon the nature of the project and project cost. The Projects / Schemes costing >Rs.500 crore are appraised by this Division.
2. The appraisal by PAMD broadly includes need and justification for the project/scheme, linkages with the plan, demand-supply gap in development, technical feasibility, organizational, managerial and financial capabilities of project authorities, reliability of cost estimates, financial and economic viability etc. of the projects/schemes. The projects examined are mainly from Railways, Roads, Urban Development, Metro rail, Ports, Power, and Renewable Energy projects. In addition, proposals for Revised Cost Estimates are also appraised by PAMD.
3. The Consultant shall examine the Feasibility report/ detailed project report, core requirements of design, construction and maintenance, project cost and other technical requirements forming part of the contract agreement and give his comments and observations on the following aspects and other provisions specific to the project.
 - a) General: Conformity of the design and specifications of the Project, project facilities, safety requirements, and all other technical parameters with the requirements laid down in the relevant Specifications and Standards. Any deviations from the Specifications and Standards shall be brought out and commented on their justification and impact on the Project Cost.
 - b) Scope of the Project, any deviations from the relevant technical schedules of the contract agreement, if any, shall be commented upon by the consultant.
 - c) Right of Way: The proposed right-of-way width, its availability and adequacy, status of land acquisition, handing over schedule, etc.
 - d) Status of Clearances: Environmental clearance, forest clearness, cutting of trees, approval of GAD for ROB/RUB by Railways, and shifting of utilities.
 - e) Traffic data and projections, carriageway provision, and level of service.
 - f) Total Project Cost: Break up, reasonability of the estimated cost, basis and rates adopted.
 - g) Design, construction, maintenance and safety related issues specific to the project.

4. The consultant will also advise on specific issues referred to them by the PAMD or any other related issues regarding technical appraisal of projects.
5. The empanelled entity shall make necessary arrangements for collection & delivery of reports, documents/CDs etc. from and to NITI Aayog at their expense and responsibility.
6. The empanelled entity may have to make a presentation of the project and technical report to the NITI Aayog within 7 working days of receipt of the project documents/ soft copies of project.
7. The empanelled entity would undertake necessary revisions of their comments/reports based on observations made during the presentation/discussion.
8. Any shortcomings in the project documents (hard copy/soft copy) have to be brought out within 24 hours of receipt of the same to the NITI Aayog.
9. The Consultant will be required to submit its comments/advice on the documents/contract agreements etc. referred to it by the PAMD Division within a period of ten working days.

ANNEX-I

TECHNICAL PROPOSAL

(Form-1)

Covering Letter

(On Applicant's letter head)

(Date and Reference)

To,

Shri Ch.P.Sarathi Reddy,
Director (PPPAU),
Room No. 143, NITI Aayog,
Sansad Marg, New Delhi-110001
Telefax No. 23096618

Dear Sir,

Subject: **Preparation of a Panel of Firms for Technical and Legal Scrutiny of the Project Documents and Concession/ Contract Agreements for PPPAU & PAMD Division**

I, _____ (Applicant's name) herewith enclose the Technical Proposal for above.

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

Yours faithfully,

(Signature, name and designation of the Applicant)

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

ANNEX-1

TECHNICAL PROPOSAL- Legal Consultant

(Form-2)

Abstract of Eligible Assignments of the Firm and areas of experience[#]

S.No	Name of Project	Name of Client	Estimated capital cost of Project (in Rs. crore/ US\$ million)	Professional fee ^{##} received by the Firm (in Rs. lakh) [£]
(1)*	(2)	(3)	(4)	(5)
1				
2				
3				
4				
	Areas of Experience:			

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

Exchange rate should be taken as Rs. 60 per US \$ for conversion to Rupees.

£ In the event that the Firm does not wish to disclose the actual fee received for any particular assignment, it may state that it has received more than the amount specified for eligibility under this RFP. For example, it may state: "Above Rs. 5 (five) lakh" in respect of a Project.

* The names and chronology of Eligible Assignments included here should conform to the project-wise details submitted in Form-4 of Annex-I.

ANNEX-1

TECHNICAL PROPOSAL- Technical Consultant

(Form-3)

Abstract of Eligible Assignments of the Firm and areas of experience[#]

S.No	Name of Project	Name of Client	Estimated capital cost of Project (in Rs. crore/ US\$ million)	Professional fee ^{##} received by the Firm (in Rs. lakh) [£]
(1)*	(2)	(3)	(4)	(5)
1				
2				
3				
4				
	Areas of Experience:			

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

Exchange rate should be taken as Rs. 60 per US \$ for conversion to Rupees.

£ In the event that the Firm does not wish to disclose the actual fee received for any particular assignment, it may state that it has received more than the amount specified for eligibility under this RFP. For example, it may state: "Above Rs. 5 (five) lakh" in respect of a Project.

* The names and chronology of Eligible Assignments included here should conform to the project-wise details submitted in Form-4 of Annex-I.

ANNEX -I

(Form-4)

Eligible Assignments of Firm^{\$}

Name of Firm:	
Name of the Project:	
Length in km or other particulars	
Nature of Assignment (PPP Project Regulatory Project/ Public Project)	
Description of services performed by the Firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs. lakh or US\$ million):	
Payment received by the Firm as professional fees (in Rs. lakh) [£] :	
Start date and finish date of the services (month/ year):	
Brief description of the Project:	

Notes:

1. Use separate sheet for each Eligible Assignment.
2. Exchange rate should be taken as Rs. 60 per US \$ for converting to Rupees.

^{\$} See clause 6 of the RFP

[£] In the event that the Firm does not wish to disclose the actual fee received for any particular assignment, it may state that it has received more than the amount specified for

eligibility under this RFP. For example, it may state: “Above Rs. 5 (five) lakh” in respect of other Projects.

ANNEX-I

(Form-5)

Financial Capacity of the Firm

S. No.	Financial Year	Annual Revenue (Rs./US \$ in million)
1.		
2.		
3.		

Note:

1. Please do not attach any printed Annual Financial Statement.
2. This form should be signed by the auditor of the Firm

ANNEX-II
FINANCIAL PROPOSAL

(Form-1)

Covering Letter

(On Applicant's letter head)

(Date and Reference)

To,

Shri Ch.P.Sarathi Reddy,
Director (PPPAU),
Room No. 143, NITI Aayog,
Sansad Marg, New Delhi-110001
Telefax No. 23096618

Dear Sir,

Subject: Preparation of a Panel of Firms for Technical and Legal Scrutiny of the Project Documents and Concession/ Contract Agreements for PPPAU & PAMD Division

I, _____ (Applicant's name) herewith enclose the Financial Proposal for above.

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

Yours faithfully,

(Signature, name and designation of the Applicant)

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

ANNEX-II

(Form-2)

Financial Proposal

Item No.	Description	Amount (Rs.)
	PERSONNEL AND MISCELLANEOUS COSTS	
A.	LEGAL CONSULTANT	
I	Remuneration for Category A assignment [£] (inclusive of all personal allowances, traveling costs, taxes and other miscellaneous expenses) In Indian Rupees in figures In words _____	
B.	TECHNICAL CONSULTANT	
I	Remuneration for Category A assignment [£] (inclusive of all personal allowances, traveling costs, taxes and other miscellaneous expenses) In Indian Rupees in figures In words _____	

Note:

1. The financial evaluation shall be based on the above Financial Proposal.
 2. All travel outside Delhi shall be borne by the NITI Aayog and all expenses on this account reimbursed as per entitlements of a Joint Secretary level officer of Government of India.
 3. The reimbursement of cost and expenses shall be limited to the amounts indicated above.
 4. No escalation on any account will be payable on the above amounts.
 5. All payments shall be made in Indian Rupees and shall be subject to applicable Indian laws, withholding taxes if any.
- £ For categories of assignment, refer to paragraph 42 & 43 of the RFP.