

GLOBAL  
INVITATION FOR EoI-cum-RfQ

RfQ document no. 405/CGM/HMR/2010 dated Aug 24,2010

FOR  
APPOINTMENT OF INDEPENDENT ENGINEER (IE)  
FOR  
HYDERABAD METRO RAIL (MRTS) PROJECT

GOVERNMENT OF ANDHRA PRADESH

AUGUST , 2010



## DISCLAIMER

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

This RfQ 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 RfQ is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RfQ. This RfQ 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 RfQ 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 RfQ. The assumptions, assessments, statements and information contained in this RfQ 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 RfQ and obtain independent advice from appropriate sources.

Information provided in this RfQ 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 RfQ or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RfQ and any assessment, assumption, statement or information contained therein or deemed to form part of this RfQ or arising in anyway in this Selection Process.

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

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 RfQ.

The issue of this RfQ 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.

## **GLOSSARY**

<b>Applicant</b>	As defined in Clause 2.1.1
<b>Associate</b>	As defined in Clause 2.3.3
<b>Authorised Representative</b>	As defined in Clause 2.13.3 (iii)
<b>Authority</b>	As defined in Clause 1.1.1
<b>Concession Agreement</b>	As defined in Clause 1.1.4
<b>Concessionaire</b>	As defined in Clause 1.1.4
<b>Conditions of Eligibility</b>	As defined in Clause 2.2.1
<b>Conflict of Interest</b>	As defined in Clause 2.3.1
<b>Consultant</b>	As defined in Clause 1.2
<b>Consultancy Team</b>	As defined in Clause 2.1.4
<b>CV</b>	Curriculum Vitae
<b>DBFOT</b>	Design, Build, Finance, Operate and Transfer
<b>Documents</b>	As defined in Clause 2.12
<b>Eligible Assignments</b>	As defined in Clause 3.1.5
<b>IE</b>	Independent Engineer
<b>INR, Re, Rs.</b>	Indian Rupee(s)
<b>Key Personnel</b>	As defined in Clause 2.1.4
<b>Lead Member</b>	As defined in Clause 2.1.1
<b>MSS</b>	Manual of Specifications and Standards
<b>Member</b>	As defined in Clause 2.3.3 (i)
<b>Official Website</b>	As defined in Clause 1.11.2

<b>Project</b>	As defined in Clause 1.2
<b>Prohibited Practices</b>	As defined in Clause 4.1
<b>Proposal</b>	As defined in Clause 1.2
<b>Proposal Due Date or PDD</b>	As defined in Clause 1.5
<b>RfQ</b>	As defined in Disclaimer
<b>Selection Process</b>	As defined in Clause 1.6
<b>Sole Firm</b>	As defined in Clause 2.1.1
<b>Statutory Auditor</b>	An Auditor appointed under Applicable Laws
<b>US\$</b>	United States Dollar

The words and expressions beginning with capital letters and defined in this document shall, unless the context otherwise requires, have the meaning ascribed thereto herein.

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# 1. INTRODUCTION

## 1.1 Background

1.1.1 The Government of Andhra Pradesh (the “**Authority**”) had resolved to provide an elevated Metro Rail (Mass Rapid Transit System) on design, build, finance, operate and transfer (the “**DBFOT**”) basis in Hyderabad, the capital city of Andhra Pradesh, India, consisting of the following three Corridors:

Corridor I	Miyapur to L.B. Nagar	28.87 Km
Corridor II	JBS to Falaknuma	14.78 Km
Corridor III	Nagole to Shilparamam	27.51 Km
	<b>Total</b>	<b>71.16 Km</b>

1.1.2 The Authority desires to provide a world-class Public Transportation System with state of the art technology. As such, the overarching criteria for setting up the project shall be to create an efficient, safe, reliable, economical and affordable system.

1.1.3 The MRTS project for Hyderabad is taken up on DBFOT basis in public private partnership (the “**PPP**”) mode. The estimated cost of the project is Rs. 12,132 crore. (US\$2.7billion). The project being technically complex in nature requires a highly qualified and competent consultant to oversee the overall implementation of the project strictly as per the Concession Agreement.

1.1.4 The Authority has already selected the Developer (the “**Concessionaire**”) and finalized the “**Concession Agreement**”. As per the Concession Agreement, the Authority has to appoint an Independent Engineer for implementation of MRTS project as per the relevant clauses of the Concession Agreement and as per the specifications indicated in the Manual of Specifications and Standards (MSS) published by the Authority.

## 1.2 Request for Qualification

The Authority invites proposals (the “**Proposals**”) for selection of an engineering consultant (the “**Consultant**”) who shall be appointed as Independent Engineer (the “**IE**”) for Hyderabad Metro Rail (MRTS) project (the “**Project**”). The IE shall, on a day to day basis, manage the relationship with the Authority, the

Concessionaire and the parties involved in the Project, managing the information, documentation and work flows generated by the assignment, assist the Authority to prioritise the tasks in order to adhere to Project mile stones, advise on Project related issues that arise and assist the Authority to solve Project related problems and in dispute resolution.

The role and function of the Independent Engineer would broadly include

- (i) review of Drawings and Documents,
- (ii) review, inspection and monitoring of Construction Works,
- (iii) review, inspection and testing of Rolling Stock,
- (iv) conducting Tests on completion of construction and issuing Completion/Provisional Certificate,
- (v) review, inspection and monitoring of O & M,
- (vi) review, inspection and monitoring of Divestment Requirements,
- (vii) determining, as required under the agreement, the costs of any works or services and/or their reasonableness,
- (viii) determining, as required under the agreement, the period or any extension thereof for performing any duty or obligation;
- (ix) assisting the Parties in resolution of disputes, and
- (x) undertaking all other duties and functions in accordance with the agreement.

The Authority intends to select the Consultant through an open competitive bidding process in accordance with the procedure set out herein.

### **1.3 Due diligence by Applicants**

Applicants are encouraged to inform themselves fully about the assignment and the local conditions before submitting the Proposal by paying a visit to the Authority and the Project site, sending written queries to the Authority.

### **1.4 Sale of RfQ Document**

RfQ document can be downloaded from 24-08-2010 onwards from the Official Website of the Authority.

### **1.5 Validity of the Proposal**

The Proposal shall be valid for a period of not less than 120 days from the Proposal Due Date (the “PDD”).

## **1.6 Brief description of the Selection Process**

The Authority shall invite expressions of interest from consulting engineering firms or bodies corporate to undertake and perform the duties and functions set forth in the RfQ and thereupon shortlist 6 (six) qualified firms in accordance with pre-determined criteria. The Authority shall convey the aforesaid list of firms to the Concessionaire for scrutiny and comments, if any. The Concessionaire shall be entitled to scrutinise the relevant records of the Authority to ascertain whether the selection of firms has been undertaken in accordance with the prescribed procedure and it shall send its comments, if any, to the Authority within 7 (seven) days of receiving the aforesaid list of firms. Upon receipt of such comments, if any, the Authority shall, after considering all relevant factors, finalise and constitute a panel of 6 (six) firms (the “**Panel of Firms**”) and convey its decision to the Concessionaire.

The Authority shall invite the aforesaid firms in the Panel of Firms to submit their respective technical and financial offers, each in a separate sealed cover. All the technical bids so received shall be opened and pursuant to the evaluation thereof, the Authority shall shortlist 3 (three) eligible firms on the basis of their technical scores. The financial bids in respect of such 3 (three) firms shall be opened and the order of priority as among these firms shall be determined on the basis of a weighted evaluation where technical and financial scores shall be assigned respective weights of 80:20.

## **1.7 Currency conversion rate and payment**

1.7.1 For the purposes of evaluation of Applicants, Rs. 45 per US\$ shall be considered as the applicable currency conversion rate. In case of any other currency, the same shall first be converted to US\$ as on the date 60 (sixty) days prior to the Proposal Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the average of buying and selling rates prevailing in New York on the relevant date.

1.7.2 All payments to the Consultant shall be made in INR in accordance with the provisions of this RfQ. The Consultant may convert Rupees into any foreign

currency as per Applicable Laws and the exchange risk, if any, shall be borne by the Consultant.

## **1.8 Schedule of Selection Process**

The Authority would endeavour to adhere to the following schedule:

<b>Event Description</b>	<b>dd-mm-yy</b>
1. Last date for receiving queries/clarifications	03-09-10
2. Authority response to queries	07-09-10
3. Proposal Due Date or PDD	23-09-10 (15:00 Hrs)
4. Opening of Proposals	On Proposal Due Date(15:30 Hrs)

## **1.9 Pre-Proposal visit to the Site and inspection of data**

Prospective applicants may visit the Site and review the available data at any time prior to PDD. For this purpose, they shall provide at least two days' notice to the nodal officer specified below:

Mr.Md.Ziauddin,  
Chief General Manager,  
Hyderabad Metro Rail Limited,  
Metro Rail Bhavan, Saifabad, Hyderabad-500004.  
Phone: +91-40-23388591  
Mobile: +91-9704567437  
Email: cehmr2008@gmail.com

## **1.11 Communications**

1.11.1 All communications including the submission of Proposal should be addressed to:

Mr.N.V.S.Reddy,  
Managing Director, HMR and Project Director, MRTS,  
Government of Andhra Pradesh,  
Metro Rail Bhavan, Saifabad, Hyderabad-500004.  
Phone: +91-40-23388580, 23388581      Fax: +91-40-23388582  
Email: nvsreddyiras@gmail.com

1.11.2 The **Official Website** of the Authority is:  
**<http://www.hyderabadmetrorail.in>**

1.11.3 All communications, including the envelopes, should contain the following information, to be marked at the top in bold letters:

**RFQ FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR HYDERABAD  
METRO RAIL (MRTS) PROJECT**

## 2. INSTRUCTIONS TO APPLICANTS

### A. GENERAL

#### 2.1 Scope of Proposal

2.1.1 Detailed description of the objectives, scope of services, deliverables and other requirements relating to this Consultancy are specified in this RfQ. In case an applicant firm possesses the requisite experience and capabilities required for undertaking the Consultancy, it may participate in the Selection Process either individually (the “**Sole Firm**”) or as lead member of a consortium of firms (the “**Lead Member**”) limited to 3 (three) firms, in response to this invitation. The term applicant (the “**Applicant**”) means the Sole Firm or the Lead Member, as the case may be. The manner in which the Proposal is required to be submitted, evaluated and accepted is explained in this RfQ.

2.1.2 Applicants are advised that the selection of Consultant shall be on the basis of an evaluation by the Authority through the Selection Process specified in this RfQ. Applicants shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and that the Authority’s decisions are without any right of appeal whatsoever.

2.1.3 The Applicant shall submit its Proposal in the form and manner specified in this RfQ. The RfQ proposal shall be submitted in the form at Appendix-I.

#### 2.1.4 Key Personnel

The Consultancy Team shall consist of the following indicative key personnel who shall discharge their respective responsibilities as specified in the RfP document to be issued by the Authority:

- a) Principal Engineer with significant experience of project management from design to operation of large transportation systems;
- b) Design coordinators with significant experience of design monitoring;
- c) Works coordinators with significant experience of works monitoring;
- d) Operations coordinators with significant experience of Tests monitoring; and
- e) In-house experts or outsourced consultants for undertaking the tasks specified in the TOR.

## **2.2 Conditions of Eligibility of Applicants**

- 2.2.1 Applicants must read carefully the minimum conditions of eligibility (the “**Conditions of Eligibility**”) provided herein. Proposals of only those Applicants who satisfy the Conditions of Eligibility will be considered for evaluation.
- 2.2.2 To be eligible for evaluation of its Proposal, the Applicant shall fulfil the following:
- (A) **Technical Capacity:** The Applicant shall have, over the past 10 (ten) years preceding the PDD, undertaken eligible assignments as prescribed in 3.1.5 (a).
  - (B) **Financial Capacity:** The Applicant shall have received a minimum income of Rs.50 crore (Rs. fifty crore) or US \$ 11.1 million per annum from professional fees during each of the three years preceding the Proposal Due Date.
- 2.2.3 The Applicant shall enclose with its Proposal, certificate(s) from its Statutory Auditors stating its revenues from professional fees during the past three years.
- 2.2.4 Any entity which has been barred by the Central / State Government in India, or any entity controlled by them, from participating in any project, and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal.
- 2.2.5 An Applicant should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Applicant.
- 2.2.6 While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.

## 2.3 Conflict of Interest

- 2.3.1 An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “**Conflict of Interest**”). Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the processing fee as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter-alia*, the time, cost and effort of the Authority including consideration of such Applicant’s Proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.
- 2.3.2 The Authority requires that the Consultant provides professional, objective, and impartial advice and at all times hold the Authority’s interests paramount, avoid conflicts with other assignments or its own corporate interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other employers, or that may place it in a position of not being able to carry out the assignment in the best interests of the Authority.
- 2.3.3 An Applicant shall be deemed to have a Conflict of Interest that affects the Selection Process, if:
- (i) the Applicant, its consortium member (the “**Member**”) or **Associate** (or any constituent thereof) and any other Applicant, its Member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an Applicant, its Member or Associate (or any shareholder thereof) having a shareholding of more than 5% (five percent) of the paid up and subscribed share capital of the Applicant, Member or Associate, as the case may be in the other Applicant, its Member or Associate is less than 1% (one percent) of the paid up and subscribed share capital of such Applicant, Member or Associate; provided further that this disqualification shall not apply to a bank, insurance company, pension fund or a Public Financial Institution referred to in section 4A of the Companies Act 1956; or

- (ii) a constituent of such Applicant is also a constituent of another Applicant; or
- (iii) such Applicant receives or has received any direct or indirect subsidy from any other Applicant; or
- (iv) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
- (v) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Application of either or each of the other Applicant; or
- (vi) if there is a conflict among this and other consulting assignments of the Consultant (including its personnel and sub-Consultant) and any subsidiaries or entities controlled by such Consultant or having common controlling shareholders. The duties of the Consultant depend on the circumstances of each case. While providing consultancy services to the Authority for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or
- (vii) a firm which has been engaged by the Authority to provide goods or works for a project, and its Associates, will be disqualified from providing consulting services for the same project; conversely, a firm hired to provide consulting services for the preparation of implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project; or
- (viii) the Applicant, its Member or Associate (or any constituent thereof) and the Concessionaire, its contractor(s) or sub-contractor(s) (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five percent) of the paid up and subscribed share capital of the Applicant, Member or Associate, as the case may be) in the Concessionaire or its contractor(s) or sub-contractor(s) is less than 1% (one percent) of the paid up and subscribed share capital of such Concessionaire or its contractor(s) or sub-contractor(s); provided further that this disqualification shall not apply to a bank, insurance

company, pension fund or a Public Financial Institution referred to in section 4A of the Companies Act 1956.

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

2.3.4 An Applicant eventually appointed to provide Consultancy for this Project, as well as any of its Associates, shall be disqualified from subsequently providing goods or works or services related to the construction and execution of the same Project and any breach of this obligation shall be construed as Conflict of Interest.

#### **2.4 Number of Proposals**

An Applicant is eligible to submit only one Application for the Consultancy. An Applicant applying individually or as a member of a consortium shall not be entitled to submit another application either individually or as a member of any consortium, as the case may be.

#### **2.5 Cost of Proposal**

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

#### **2.6 Site visit and verification of information**

Applicants are encouraged to submit their respective Proposals after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, access to the site, availability of drawings and other data

with the Authority, applicable laws and regulations or any other matter considered relevant by them.

## **2.7 Acknowledgement by Applicant**

2.7.1 It shall be deemed that by submitting the Proposal, the Applicant has:

- (a) made a complete and careful examination of the RfQ;
- (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 RfQ or furnished by or on behalf of the Authority or relating to any of the matters referred to in Clause 2.6 above;
- (d) satisfied itself about all matters, things and information, including matters referred to in Clause 2.6 herein above, necessary and required for submitting an informed Application and performance of all of its obligations thereunder;
- (e) acknowledged that it does not have a Conflict of Interest; and
- (f) agreed to be bound by the undertaking provided by it under and in terms hereof.

2.7.2 The Authority shall not be liable for any omission, mistake or error on the part of the Applicant in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RfQ or the Selection Process, including any error or mistake therein or in any information or data given by the Authority.

## **2.8 Right to reject any or all Proposals**

2.8.1 Notwithstanding anything contained in this RfQ, 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.

2.8.2 The Authority 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 Authority, the supplemental information sought by the Authority for evaluation of the Proposal.

Such misrepresentation/ improper response may lead to the disqualification of the Applicant. If the Applicant is the Lead Member of a consortium, then the entire consortium may be disqualified / rejected. If such disqualification /rejection occurs after the Proposals have been opened and the highest ranking Applicant gets disqualified / rejected, then the Authority reserves the right to consider the next best Applicant, or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

## **B. DOCUMENTS**

### **2.9 Contents of the RfQ**

2.9.1 This RfQ comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.11:

#### **Request for Qualification**

1. Introduction
2. Instructions to Applicants
3. Criteria for Evaluation
4. Fraud and corrupt practices
5. Indicative Terms of Reference
6. Miscellaneous

#### **Appendix**

Appendix-I: Proposal

Form 1: Letter of Proposal

Form 2: Particulars of the Applicant

Form 3: Financial Capacity of Applicant

Form 4: Experience of the Applicant

Form 5: Eligible Assignments of Applicant

## **2.10 Clarifications**

2.10.1 Applicants requiring any clarification on the RfQ may send their queries to the Authority in writing before the date mentioned in the Schedule of Selection Process at Clause 1.8. The envelopes shall clearly bear the following identification:

"Queries/Request for Additional Information concerning RfQ"

The Authority shall endeavour to respond to the queries within the period specified therein but not later than 10 days prior to the Proposal Due Date. The Authority will post the reply to all such queries on the Official Website.

2.10.2 The Authority reserves the right not to respond to any questions or provide any clarifications, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

## **2.11 Amendment of RfQ**

2.11.1 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, modify the RfQ document by the issuance of Addendum/ Amendment and posting it on the Official Website.

2.11.2 All such amendments will be posted on the Official Website along with the revised RfQ containing the amendments and will be binding on all Applicants.

2.11.3 In order to afford the Applicants 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.

## **C. PREPARATION AND SUBMISSION OF PROPOSAL**

### **2.12 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 RfQ. 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.

## **2.13 Format and signing of Proposal**

2.13.1 The Applicant shall provide all the information sought under this RfQ. The Authority would evaluate only those Proposals that are received in the specified forms and complete in all respects.

2.13.2 The Applicant shall prepare one original set of the Documents comprising the Proposal (together with originals/ copies of documents required to be submitted along therewith pursuant to this RfQ) and clearly marked “ORIGINAL”. In addition, the Applicant shall submit 1 (one) copy of the Proposal marked “COPY” and 1 (one) soft copy. In the event of any discrepancy between the originals and the copies, the original shall prevail.

2.13.3 The Proposal shall be typed or written in indelible ink and signed by the authorised signatory of 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 initialled by the person(s) signing the Proposal. The Proposals must be properly signed as detailed below:

- (i) by the proprietor, in case of a proprietary firm;
- (ii) by the partner holding the Power of Attorney, in case of a partnership firm;
- (iii) by a duly authorised person holding the Power of Attorney (the “**Authorised Representative**”), in case of a Limited Company or a corporation; or
- (iv) by the Authorised Representative of the Lead Member, in case of consortium.

2.13.4 Applicants should note the Proposal Due Date, as specified in Clause 1.8, for submission of Proposals. Applicants are reminded that no supplementary material will be entertained by the Authority, and that evaluation will be carried out only on the basis of Documents received by the closing time of Proposal Due Date as specified in Clause 2.16.1. Applicants will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected.

## **2.14 Proposal**

2.14.1 Applicants shall submit the proposal in the formats at Appendix-I (the “**Proposal**”).

2.14.2 Failure to comply with the requirements spelt out in this Clause 2.14 shall make the Proposal liable to be rejected.

2.14.3 The Authority reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RfQ. Failure of the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

2.14.4 In case it is found during the evaluation or at any time before short listing and during the period of subsistence thereof, 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, by a communication in writing by the Authority without the Authority being liable in any manner whatsoever to the Applicant or Consultant, as the case may be.

In such an event, the Authority shall forfeit and appropriate the processing fee as mutually agreed pre-estimated compensation and damages payable to the Authority for, *inter-alia*, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority.

## **2.15 Submission of Proposal**

2.15.1 The Applicants shall submit the Proposal in hard bound form with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be signed by the Authorized Representative of the Applicant. In case the proposal is submitted on the document down loaded from Official Website, the Applicant shall be responsible for its accuracy and correctness as per the version uploaded by the Authority and shall ensure that there are no changes caused in the content of the downloaded document.

2.15.2 The Proposal will be sealed in an outer envelope which will bear the address of the Authority, RfQ, Consultancy name as indicated at Clause 1.11.1 and 1.11.3 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 Authority assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted.

2.15.3 The aforesaid outer envelope will contain sealed envelope, clearly marked **‘Proposal’**. The envelope marked “Proposal” shall contain:

- (i) Application in the prescribed format (Form 1 of Appendix-I) along with Forms 2 to 5 of Appendix-I and supporting documents;
- (ii) copy of Memorandum and Articles of Association, if the Applicant/ Consortium Member is a corporate body, and if a partnership then a copy of its partnership deed;

2.15.4 The Proposal shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant. All pages of the original Proposal must be numbered and initialed by the person or persons signing the Proposal.

2.15.5 The completed Proposal must be delivered on or before the specified time on Proposal Due Date. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained.

2.15.6 The Proposal shall be made in the Forms specified in this RfQ. 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.

## **2.16 Proposal Due Date**

2.16.1 Proposal should be submitted before 15:00 hrs on the Proposal Due Date specified at Clause 1.8 at the address provided in Clause 1.11 in the manner and form as detailed in this RfQ. A receipt thereof should be obtained from the person specified therein.

2.16.2 The Authority may, in its sole discretion, extend the Proposal Due Date by issuing an Addendum in accordance with Clause 2.11 uniformly for all Applicants.

**2.17 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.

**2.18 Modification/ substitution/ withdrawal of Proposals**

2.18.1 The Applicant 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 on or after the Proposal Due Date.

2.18.2 The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.15, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

2.18.3 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.

**D. EVALUATION PROCESS**

**2.19 Evaluation of Proposals**

2.19.1 The Authority shall open the Proposals at 15:30 hours on the Proposal Due Date, at the place specified in Clause 1.11.1 and in the presence of the Applicants who choose to attend.

2.19.2 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.18 shall not be opened.

2.19.3 Prior to evaluation of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RfQ. A Proposal shall be considered responsive only if:

- (a) it is received in the form specified at Appendix-I (RfQ Proposal);
- (b) it is received by the Proposal Due Date including any extension thereof pursuant to Clause 2.16;
- (c) it is signed, sealed, hard bound and marked as stipulated in Clause 2.13 and 2.15;and
- (d) it is not non-responsive in terms hereof.

2.19.4 The Authority reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Proposals.

2.19.5 The Authority would subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 1.6 and the criteria set out in Clause 3 of this RfQ.

2.19.6 After the evaluation, the Authority would prepare a list of pre-qualified Applicants in terms of Clause 3.2 for issue of RfP. The Authority will not entertain any query or clarification from Applicants who fail to qualify at any stage of Selection Process.

2.19.7 Applicants are advised that Selection will be entirely at the discretion of the Authority. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Selection Process or Selection will be given.

2.19.8 Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant if the Consultancy is subsequently awarded to it.

## **2.20 Confidentiality**

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained

professional adviser advising the Authority in relation to, or matters arising out of, or concerning the Selection Process. The Authority will treat all information, submitted as part of the Proposal, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or the Authority.

## **2.21 Clarifications**

2.21.1 To facilitate evaluation of Proposals, the Authority 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 Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.21.2 If an Applicant does not provide clarifications sought under Sub-Clause 2.21.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the Authority may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

### 3. CRITERIA FOR EVALUATION

#### 3.1 Evaluation of Proposals

3.1.1 The evaluation of the Applicants for pre-qualification and short listing will be done, *inter-alia*, based on their past experience relating to eligible assignments.

<b>Item Code</b>	<b>Parameter</b>	<b>Maximum Marks</b>	<b>Criteria</b>
<b>1.</b>	<b>Firm's Relevant Experience</b>	<b>100</b>	30% of the maximum marks shall be awarded for the number of Eligible Assignments undertaken by the Applicant firm. The remaining 70% shall be awarded for the comparative size and quality of Eligible Assignments.
<b>Grand Total</b>		<b>100</b>	

3.1.2 The Authority may short list upto six top ranking Applicants based on the above criteria for issue of Request For Proposal (RfP) inviting the technical and financial offers.

3.1.3 Selection Process: The Technical Bids of RfP submitted by the Shortlisted/Pre-qualified consultants will be evaluated as per the criteria specified in the RfP. Based on the technical score, 3 (three) eligible consultants will be shortlisted for the financial bid stage. The financial offers of these 3 shortlisted consultants will be opened and the order of priority as among these consultants shall be determined on the basis of a weighted evaluation where technical and financial scores will be assigned respective weights of 80:20.

3.1.4 The appointment of the Independent Engineer shall be for a period of five years.

#### 3.1.5 Eligible Assignments

For the purposes of determining the Conditions of Eligibility and for evaluating the Proposals under this RfQ, consultancy assignments in respect of preparation of feasibility report and/or detailed project report including engineering surveys, preparation of DPRs, supervision/ independent engineering services for the

following projects shall be deemed as eligible assignments (the “**Eligible Assignments**”):

- a) Railway/ MRTS projects where the Applicant has received a professional fee of not less than Rs.20 Crore (Rupees twenty Crore).
- b) The areas of Railway/ MRTS expertise shall *inter-alia* include, civil structures (including elevated, at grade and underground track structure and stations), signalling, telecommunications, electric traction, rolling stock, air-conditioning, automatic fare collection systems, depots, workshops and other related facilities which are required for successful building and commercial operations of MRTS/ Railways.

### **3.2 Short-listing of Applicants**

Of the Applicants ranked as aforesaid, not more than six shall be pre-qualified and short-listed for issue of RfP in the second stage.

#### 4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RfQ, the Authority shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “**Prohibited Practices**”) in the Selection Process. In such an event, the Authority shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Processing Fee, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter-alia*, time, cost and effort of the Authority, in regard to the RfQ, including consideration and evaluation of such Applicant’s Proposal.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the shortlisting process, if an Applicant or Consultant, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the shortlisting process, such Applicant or Consultant shall not be eligible to participate in any tender or RfQ issued by the Authority during a period of 2 (two) years from the date of such Applicant or Consultant, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Clause, 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 action of any person connected with the Selection Process (for avoidance of doubt,

offering of employment to 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 the Selection Process or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of 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 shortlisting, as the case may be, any person in respect of any matter relating to the Project, who at any time has been or is a legal, financial or technical consultant/ adviser of the Authority in relation to any matter concerning the Project;

- (b) “fraudulent practice” means a misrepresentation or omission 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 persons or property to influence any person’s participation or action in the Selection Process;
- (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 Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

## **5. INDICATIVE TERMS OF REFERENCE**

### **5.1 Scope**

5.1.1 Indicative Terms of Reference for the Independent Engineer (the “Indicative TOR”) for development of the Rail System on Miyapur to L.B.Nagar Corridor; Jubilee Bus Station to Falaknuma Corridor and Nagole to Shilparamam Corridor in the city of Hyderabad on design, build, finance, operate and transfer (DBFOT) basis are as under:

The Hyderabad Metro Rail (MRTS) Project is contemplated in the three busy commercial and high density traffic Corridors for a length of 71.16Km. The elevated Corridor generally passes through the central median of the road and 66 elevated stations are planned at an average interval of 1Km. The gauge adopted for rail track is standard gauge (1435mm).

5.1.2 TOR shall apply to construction, operation and maintenance of the Rail System.

### **5.2 Role and functions of the Independent Engineer**

5.2.1 The role and functions of the Independent Engineer shall include the following:

- (i) review of the Drawings and Documents as set forth in Paragraph 5.3;
- (ii) review, inspection and monitoring of Construction Works as set forth in Paragraph 5.4;
- (iii) review, inspection and testing of rolling stock as set forth in Paragraph 5.4;
- (iv) conducting Tests on completion of construction and issuing Completion/Provisional Certificate as set forth in Paragraph 5.4;
- (v) review, inspection and monitoring of O&M as set forth in Paragraph 5.5;
- (vi) review, inspection and monitoring of Divestment Requirements as set forth in Paragraph 5.6;

- vii) determining, the costs of any works or services and/or their reasonableness;
- (viii) determining, the period or any extension thereof, for performing any duty or obligation; and
- (ix) assisting the Parties in resolution of disputes as set forth in Paragraph 5.7.

5.2.2 The Independent Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

### **5.3 Development Period**

5.3.1 During the Development Period, the Independent Engineer shall undertake a detailed review of the Drawings to be furnished by the Concessionaire along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and traffic surveys. The Independent Engineer shall complete such review and send its comments/observations to the Government and the Concessionaire within 7 (seven) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.

5.3.2 The Independent Engineer shall review any modified Drawings or supporting Documents sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.

5.3.3 The Independent Engineer shall review the Drawings sent to it by the Safety Consultant and furnish its comments thereon to the Government and the Concessionaire within 7 (seven) days of receiving such Drawings. The Independent Engineer shall also review the Safety Report and furnish its comments thereon to the Government within 7 (seven) days of receiving such report.

- 5.3.4 The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receipt thereof.
- 5.3.5 The Independent Engineer shall review the detailed design and the manufacturing, installation, testing and commissioning plans for the rolling stock sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receipt thereof.
- 5.3.6 Upon reference by the Government, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Rail System, and furnish its comments within 7 (seven) days from receipt of such reference from the Government.

#### **5.4 Construction Period**

- 5.4.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Construction Period, the provisions of Paragraph 5.3 shall apply, mutatis mutandis.
- 5.4.2 The Independent Engineer shall review the monthly progress report furnished by the Concessionaire and send its comments thereon to the Government and the Concessionaire within 7 (seven) days of receipt of such report.
- 5.4.3 The Independent Engineer shall inspect the Construction Works and rolling stock (if any) once every month, preferably after receipt of the monthly progress report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "Inspection Report") setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works and rolling stock with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the Rail System or in the rolling stock. The Inspection Report shall also contain a review of the maintenance of the existing roads in conformity with the provisions of the

Agreement. The Independent Engineer shall send a copy of its Inspection Report to the Government and the Concessionaire within 7 (seven) days of the inspection.

- 5.4.4 The Independent Engineer may inspect the Rail System more than once in a month if any lapses, defects or deficiencies require such inspections.
- 5.4.5 For determining that the Construction Works conform to Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. For purposes of this Paragraph 5.4.5, the tests specified in the IRC Special Publication-47 {(Guidelines on Quality systems for Road Bridge (Plain, Reinforced, Pre-stressed and Composite Concrete))} and other relevant Manuals specified by the Government in relation to structures, buildings, track, equipment and rolling stock (the “Quality Control Manuals”) or any modification/substitution thereof shall be deemed to be tests conforming to Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Concessionaire for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.
- 5.4.6 The sample size of the tests, to be specified by the Independent Engineer under Paragraph 5.4.5, shall comprise 10% (ten per cent) of the quantity or number of tests prescribed for each category or type of tests in the Quality Control Manuals; provided that the Independent Engineer may, for reasons to be recorded in writing, increase the aforesaid sample size by up to 10% (ten per cent) for certain categories or types of tests.
- 5.4.7 The timing of tests referred to in Paragraph 5.4.5, and the criteria for acceptance/rejection of their results shall be determined by the Independent Engineer in accordance with the Quality Control Manuals. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.

- 5.4.8 In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph 5.4 shall apply to such tests.
- 5.4.9 In the event that the Concessionaire fails to achieve any of the Project Milestones, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Rail System is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within 7 (seven) days the steps proposed to be taken to expedite progress, and the period within which the Project Completion Date shall be achieved. Upon receipt of a report from the Concessionaire, the Independent Engineer shall review the same and send its comments to the Government and the Concessionaire forthwith.
- 5.4.10 If at any time during the Construction Period, the Independent Engineer determines that the Concessionaire has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the Users, it shall make a recommendation to the Government forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.
- 5.4.11 In the event that the Concessionaire carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Independent Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Independent Engineer shall inspect the suspended works and make a report to the Government forthwith, recommending whether or not such suspension may be revoked by the Government.
- 5.4.12 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the Concessionaire is

reasonably entitled, and shall notify the Government and the Concessionaire of the same.

5.4.13 The Independent Engineer shall carry out, or cause to be carried out, all the Tests and issue a Completion Certificate or Provisional Certificate, as the case may be.

5.4.14 Upon reference from the Government, the Independent Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services and certify the reasonableness of such costs for payment by the Government to the Concessionaire.

5.4.15 The Independent Engineer shall aid and advise the Concessionaire in preparing the Maintenance Manual.

## **5.5 Operation Period**

5.5.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Operation Period, the provisions of Paragraph 5.4 shall apply, mutatis mutandis.

5.5.2 The Independent Engineer shall review the annual Maintenance Programme furnished by the Concessionaire and send its comments thereon to the Government and the Concessionaire within 15 (fifteen) days of receipt of the Maintenance Programme.

5.5.3 The Independent Engineer shall review the monthly status report furnished by the Concessionaire and send its comments thereon to the Government and the Concessionaire within 7 (seven) days of receipt of such report.

5.5.4 The Independent Engineer shall inspect the Rail System, including Trains and rolling stock, once every month, preferably after receipt of the monthly status report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out an O&M Inspection Report setting forth an overview of the status, quality and safety of O&M including its conformity with the Key Performance Indicators, Maintenance Requirements and Safety Requirements. In a separate section of the O&M Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in

O&M of the Rail System. The Independent Engineer shall send a copy of its O&M Inspection Report to the Government and the Concessionaire within 7 (seven) days of the inspection.

- 5.5.5 The Independent Engineer may inspect the Rail System more than once in a month, if any lapses, defects or deficiencies require such inspections.
- 5.5.6 The Independent Engineer shall in its O&M Inspection Report specify the tests, if any, that the Concessionaire shall carry out, or cause to be carried out, for the purpose of determining that the Rail System is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Concessionaire in this behalf.
- 5.5.7 In respect of any defect or deficiency, the Independent Engineer shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.
- 5.5.8 The Independent Engineer shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Agreement, and shall also determine the Damages, if any, payable by the Concessionaire to the Government for such delay.
- 5.5.9 The Independent Engineer shall examine the request of the Concessionaire for closure of any track of the Rail System for undertaking maintenance/repair thereof, keeping in view the need to minimise disruption in traffic and the time required for completing such maintenance/repair in accordance with Good Industry Practice. It shall grant permission with such modifications, as it may deem necessary, within 3 (three) days of receiving a request from the Concessionaire. Upon expiry of the permitted period of closure, the Independent Engineer shall monitor the re-opening of such track(s), and in case of delay, determine the Damages payable by the Concessionaire to the Government.
- 5.5.10 The Independent Engineer shall monitor and review the curing of defects and deficiencies by the Concessionaire.

5.5.11 In the event that the Concessionaire notifies the Independent Engineer of any modifications that it proposes to make to the Rail System, the Independent Engineer shall review the same and send its comments to the Government and the Concessionaire within 7 (seven) days of receiving the proposal.

5.5.12 Audit of Fare collection system

The Independent Engineer shall, at least once every month, conduct an audit of the working of the automatic Fare collection system installed by the Concessionaire, to check its accuracy in recording the entry and exit of Users and in recording the Fare.

5.5.13 The Independent Engineer shall undertake traffic sampling, as and when required by the Government.

## **5.6 Termination**

5.6.1 At any time, not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to such Termination, the Independent Engineer shall, in the presence of a representative of the Concessionaire, inspect the Rail System for determining compliance by the Concessionaire with the Divestment Requirements and, if required, cause tests to be carried out at the Concessionaire's cost for determining such compliance. If the Independent Engineer determines that the status of the Rail System is such that its repair and rectification would require a larger amount than the sum, it shall recommend retention of the required amount in the Escrow Account and the period of retention thereof.

5.6.2 The Independent Engineer shall inspect the Rail System once in every 15(fifteen) days during a period of 90 (ninety) days after Termination for determining the liability of the Concessionaire, in respect of the defects or deficiencies specified therein. If any such defect or deficiency is found by the Independent Engineer, it shall make a report in reasonable detail and send it forthwith to the Government and the Concessionaire.

## **5.7 Assistance in Dispute resolution**

5.7.1 When called upon by either Party in the event of any Dispute, the Independent Engineer shall mediate and assist the Parties in arriving at an amicable settlement.

5.7.2 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, the Independent Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

## **5.8 Miscellaneous**

5.8.1 The Independent Engineer shall notify its programme of inspection to the Government and to the Concessionaire, who may, in their discretion, depute their respective representatives to be present during the inspection.

5.8.2 A copy of all communications, comments, instructions, Drawings or Documents sent by the Independent Engineer to the Concessionaire pursuant to this TOR, and a copy of all the test results with comments of the Independent Engineer thereon shall be furnished by the Independent Engineer to the Government forthwith.

5.8.3 The Independent Engineer shall obtain, and the Concessionaire shall furnish in two copies thereof, all communications and reports required to be submitted, by the Concessionaire to the Independent Engineer, whereupon the Independent Engineer shall send one of the copies to the Government along with its comments thereon.

5.8.4 The Independent Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.

5.8.5 Upon completion of its assignment hereunder, the Independent Engineer shall duly classify and list all Drawings, Documents, results of tests and other relevant records, and hand them over to the Government or such other person as the Government may specify, and obtain written receipt thereof. Two copies of the said document shall also be furnished in micro film form or in such other medium as may be acceptable to the Government.

## 6. MISCELLANEOUS

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



## **APPENDIX**



APPENDIX-I  
(See Clause 2.1.3)

**PROPOSAL**  
Form-1

**Letter of Proposal**

(On Applicant's letter head)

(Date and Reference)

To:

Mr.N.V.S.Reddy,  
Managing Director, HMR and Project Director, MRTS,  
Government of Andhra Pradesh,  
Metro Rail Bhavan, Saifabad, Hyderabad-500004.  
Phone: +91-40-23388580, 23388581, Fax:+91-40-23388582  
email: nvsreddyiras@gmail.com

Sub: Shortlisting of Consultants for Appointment of Independent Engineer for  
Hyderabad Metro Rail (MRTS) Project.

Dear Sir,

With reference to your RfQ Document dated 24-08-2010, I/we, having examined all relevant documents and understood their contents, hereby submit our Proposal for shortlisting for selection as Independent Engineer for the Hyderabad Metro Rail (MRTS) Project.

1. The proposal is unconditional and unqualified.
2. 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.
3. This statement is made for the express purpose of shortlisting for appointment as the Consultant for the aforesaid Project.
4. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.

5. I/We acknowledge the right of the Authority to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/We certify that in the last three years, we/ any of the consortium members 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, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.
7. I/We declare that:
  - (a) I/We have examined and have no reservations to the RfQ Documents, including any Addendum issued by the Authority;
  - (b) I/We do not have any conflict of interest in accordance with Clause 2.3 of the RfQ Document;
  - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RfQ document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
  - (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RfQ, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. 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, without incurring any liability to the Applicants in accordance with Clause 2.8 of the RfQ document.
9. I/We declare that we/any member of the consortium, are/is not a Member of a/any other Consortium applying for shortlisting as a Consultant.
10. I/We certify that in regard to matters other than security and integrity of the country, we 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.

11. 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.
12. 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.
13. 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 Government of Andhra Pradesh in connection with the shortlisting of Consultant or in connection with the Selection Process itself in respect of the above mentioned Project.
14. I/We agree and understand that the proposal is subject to the provisions of the RfQ document. In no case, shall I/we have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened or rejected.
15. I/We have studied RfQ and all other documents carefully and also surveyed the Project site. We understand that, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.
16. I/We agree and undertake to abide by all the terms and conditions of the RfQ Document.

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

Date :

Place :

Yours faithfully,

(Signature, name and designation of the Authorised Signatory)

(Name and seal of the Applicant / Lead Member)

APPENDIX-I

Form-2

**Particulars of the Applicant**

1.1	Title of Assignment:  Appointment of Independent Engineer
1.2	Title of Project:  Hyderabad Metro Rail Project
1.3	State whether applying as Sole Firm or Lead Member of a consortium:  Sole Firm  or  Lead Member of a consortium
1.4	State the following:  Name of Company or Firm:  Legal status (e.g. incorporated private company, unincorporated business, partnership etc.):  Country of incorporation:  Registered address:    Year of Incorporation:  Year of commencement of business:

	<p>Principal place of business:</p> <p>Brief description of the Company including details of its main lines of business</p> <p>Name, designation, address and phone numbers of Authorised Signatory of the Applicant:</p> <p>Name:</p> <p>Designation:</p> <p>Company:</p> <p>Address:</p> <p>Phone No.:</p> <p>Fax No.:</p> <p>E-mail address:</p>
1.5	<p>If the Applicant is Lead Member of a consortium, state the following for each of the other Member Firms:</p> <p>(i) Name of Firm:</p> <p>(ii) Legal Status and country of incorporation</p> <p>(iii) Registered address and principal place of business.</p>
1.6	<p>For the Applicant (in case of a consortium, for each Member), state the following information:</p> <p>(i) In case of non Indian company, does the company have business presence in India?</p> <p style="text-align: right;">Yes/No</p> <p>If so, provide the office address(es) in India.</p>

	<p>(ii) Has the Applicant or any of the Members in case of a consortium been penalized by any organization for poor quality of work or breach of contract in the last five years?</p> <p style="text-align: right;">Yes/No</p> <p>(iii) Has the Applicant/ Member ever failed to complete any work awarded to it by any public authority/ entity in last five years?</p> <p style="text-align: right;">Yes/No</p> <p>(iv) Has the Applicant or any member of the consortium been blacklisted by any Government department/Public Sector Undertaking in the last five years?</p> <p style="text-align: right;">Yes/No</p> <p>(v) Has the Applicant or any of the Members, in case of a consortium, suffered bankruptcy/insolvency in the last five years?</p> <p style="text-align: right;">Yes/No</p> <p><b>Note: If answer to any of the questions at (ii) to (v) is yes, the Applicant is not eligible for this consultancy assignment.</b></p>
1.7	<p>Does the Applicant's firm/company (or any member of the consortium) combine functions as a consultant or adviser along with the functions as a contractor and/or a manufacturer?</p> <p style="text-align: right;">Yes/No</p> <p>If yes, does the Applicant (and other Member of the Applicant's consortium) agree to limit the Applicant'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 this Project in any other capacity.</p> <p style="text-align: right;">Yes/No</p>
1.8	<p>Does the Applicant intend to borrow or hire temporarily, personnel from contractors, manufacturers or suppliers for performance of the Consulting Services?</p> <p style="text-align: right;">Yes/No</p>

If yes, does the Applicant agree that it will only be acceptable as Consultant, if those contractors, manufacturers and suppliers disqualify themselves from subsequent execution of work on this Project (including tendering relating to any goods or services for any other part of the Project) other than that of the Consultant?

Yes/No

If yes, have any undertakings been obtained (and annexed) from such contractors, manufacturers, etc. that they agree to disqualify themselves from subsequent execution of work on this Project and they agree to limit their role to that of consultant/ adviser for the Authority only?

Yes/No

(Signature, name and designation of the Authorised Signatory)

For and on behalf of .....\_\_\_\_\_

APPENDIX-I

Form-3

**Financial Capacity of the Applicant**

(Refer Clause 2.2.2 (B))

<b>S. No.</b>	<b>Financial Year</b>	<b>Annual Turnover (Rs. In Crore/US \$ in million)</b>
1.		
2.		
3.		

**Certificate from the Statutory Auditor/ Chartered Accountant**

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

Name of Authorised Signatory:

Designation:

Name of firm:

(Signature of the Statutory Auditor/ Chartered Accountant)

Seal of the Firm

**Note:**

1. Please do not attach any printed Annual Financial Statement.
2. In case the Applicant does not have a statutory auditor, it may provide the certificate from its chartered accountant.

APPENDIX-I

Form-4

**Experience of the Applicant<sup>#</sup>**

(Refer Clause 3.1)

S.No	Name of Project	Estimated capital cost of Project (in Rs cr./ US\$ million)	Fee <sup>##</sup> received by the Applicant (in Rs million)
(1)	(2)	(3)	(4)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

# The Applicant should provide details of only those projects that have been undertaken by it under its own name.

## Exchange rate should be taken as Rs. [45] per US \$ for converting to Rupees.

\* The names and chronology of Eligible Projects included here should conform to the project-wise details submitted in Form-5 of Appendix-I.

[Please capture all relevant information]

APPENDIX-I

Form-5

**Eligible Assignments of Applicant**

The following information should be provided in the format below for each Eligible Assignment for which your firm, either individually as a corporate entity or as one of the major companies within a consortium, was legally contracted by the client stated below: This information shall cover the qualification requirements capable of being evaluated for pre-qualification. Add additional sheets if necessary.

Name of the Firm:

Assignment Name:
Country:
Location within Country :
Professional Staff Provided by your firm:
Name of Client :
Address :
No. of Staff :
No. of Staff Months :
Start Date (Month / Year)
Completion Date (Month / Year)
Approx. Value of Services : (in Rupees) :
Share of the firm in Fee for services (if the firm is a member of JV/ Consortium):
Role of the Firm
Whether Lead or Associate

<p>Name of Association Firm(s) if any :</p> <p>No. of months of Professional Staff provided by the Lead Firm</p> <p>No. of Months of Professional Staff provided by Associated Firm(s)</p>
<p>Name of Senior Staff (give description of the position) involved and functions performed:</p>
<p>Narrative Description of Project :</p>
<p>Description of Actual Services Provided by your Staff :</p>

**Signature of Authorised Person**

(Certificate from Employer regarding experience should be furnished)