

**Ministry of Coal
Government of India**

**Request for Bid
for
Selection of Consultant
for**

Providing strategic and implementation management consulting services to assist the Ministry of Coal in the process of setting up Coal Trading Platform/Coal Trading Exchange in the country.

25th November, 2020
Ministry of Coal, Government of India
Shastri Bhawan, New Delhi, 110001

DISCLAIMER

The information contained in this Request for Bid or subsequently provided to Bidders, whether verbally or in documentary or any other form by or on behalf of the Ministry of Coal or any of its employees or advisers, is provided to Bidders on the terms and conditions set out in this RFB and such other terms and conditions subject to which such information is provided.

This RFB is not an agreement or an offer by the Ministry of Coal to the prospective Bidders or any other person. The purpose of this RFB is to provide interested parties with information that may be useful to them in the formulation of their Bids pursuant to this RFB. This RFB includes statements, which reflect various assumptions and assessments arrived at by the Ministry of Coal in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFB may not be appropriate for all persons, and it is not possible for the Ministry of Coal, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFB. The assumptions, assessments, statements and information contained in this RFB, may not be complete, accurate, adequate or correct. Each Bidder 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 RFB and obtain independent advice from appropriate sources.

Information provided in this RFB to the Bidders may be on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Ministry of Coal accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

The Ministry of Coal, its employees and advisers make no representation or warranty and shall have no liability to any person including any Bidder 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 RFB or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFB and any assessment, assumption, statement or information contained therein or deemed to form part of this RFB or arising in any way in this Selection Process.

The Ministry of Coal also accepts no liability of any nature whether resulting from negligence or otherwise however caused arising from reliance of any Bidder upon the statements contained in this RFB.

The Ministry of Coal 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 RFB.

The issue of this RFB does not imply that the Ministry of Coal is bound to select a Bidder or to appoint the Selected Bidder, as the case may be, for the Consultancy and the

Ministry of Coal reserves the right to reject all or any of the Bids without assigning any reasons whatsoever.

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

Definitions and Interpretations:

- (i) “**Applicable Law**” shall mean all applicable statutes, laws, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any governmental authority or court or other law, rule or regulation approval from the relevant governmental authority, government resolution, directive, or other government restriction or any similar form of decision of, or determination by, or any interpretation or adjudication having the force of law in India;
- (ii) “**Conflict of Interest**” shall have the meaning set forth in clause 25 read with the provisions of RFP;
- (iii) “**Expatriate Personnel**” means such persons who at the time of being so hired had their domicile outside India;
- (iv) “**INR**” means Indian Rupees;
- (v) “**LOA**” means Letter of Award;
- (vi) “**LOI**” means Letter of Intent;
- (vii) “**RFB**” means Request for Bid;
- (viii) “**WO**” means Work Order;
- (ix) “**Deliverables**” means as defined in Section 3 and 4 of the RFB

F.No.CLD-23011/37/2020-CLD
Government of India
Ministry of Coal

Room No.120, F- Wing,
Shastri Bhawan, New Delhi - 110001

RFB No. 1/2020/CLD

Invitation and Notice for RFB

Date : 25th November, 2020

Notice: Request for Bid (RFB) for selection of consultant for providing strategic and implementation management consulting services to assist the Ministry of Coal in the process of setting up Coal Trading Platform / Coal Trading Exchange in the Country

Ministry of Coal, Government of India is planning to set up its first coal trading platform/Coal Exchange in the country. Ministry of Coal plans to take services of a Consulting firm to provide assistance in carrying out a detailed study on the current state of Indian Coal sector, International Coal sector, and Government's priorities and to recommend further course of action for successful establishment of Coal Trading platform/Coal Trading Exchange in the country. Selection will be on Quality-cum-Cost based selection (QCBS).

Bids are invited from eligible consulting firms (herein referred as bidders) to support Ministry of Coal, in the process of setting up of Coal Trading Platform/Coal Trade Exchange'. Selected bidders will provide services in accordance with the Terms of Reference of this RFB.

RFB document will be uploaded on the website of Ministry of Coal and Central Public Procurement Portal (CPPP) at www.eprocure.gov.in. Important Information & tentative dates are given in the RFB. Interested Bidders are requested to submit their response to the RFB on or before Bid Due Date and time.

The Bids must be submitted at the following address:

Room No. 120, F Wing, Shastri Bhawan, New Delhi and should be addressed to Shri Sujeet Kumar, Under Secretary, Room No. 120, F Wing, Shastri Bhawan, New Delhi – 110001.

Introduction

1.1 Government of India is planning to set up its first coal trading platform/Coal Exchange in the country, to facilitate many sellers and buyers to get together to trade coal as a commodity. The exchange is aimed at moving forward in commercial coal mining process and facilitates expansion and development of domestic coal markets/volumes. Coal Exchange would also enable efficient market-based pricing mechanisms and facilitate price discovery and signaling through transparent market mechanisms.

Schedule of Selection Process

The Ministry of Coal would endeavor to adhere to the following schedule:

#	Activity	Details –Date/Time
1.	Name of the assignment	To set up a Coal trading Platform/Coal Trading Exchange in the country
2.	RFB Issue Date	25.11.2020 (Wednesday)
3.	Last Date of submission of Queries	18.12.2020 (Friday) Queries on RFB to be submitted on E-mail id: uscpd.moc@nic.in
4.	Pre-Bid Conference	22.12.2020 (Tuesday)
5.	Release of response to queries	29.12.2020 (Tuesday)
6.	Last date & time for submission of Bid (Bid Due Date) (BDD)	08.01.2021 (Friday)
7.	Date & time for opening of Pre-qualification and Technical Bid	11.01.2021 (Monday)
8.	Date & time for Presentation of Technical Bid	In due course
9.	Date & Time of opening of Financial proposal	In due course
10.	Bid Processing Fee (Non Refundable)	NIL
11.	Bid Security (Refundable)	INR 5,00,000/- (INR five lakh only) in form of Demand Draft in favour of “PAO, Ministry of Coal” payable at New Delhi. In case of successful bidder, the Bid Security shall be returned only after receipt of the Performance Bank Guarantee.
12.	Performance Bank Guarantee	25% of the total contract value after award of contract. The Performance Guarantee should be valid for a period of 30 months.

2. Instructions to Bidders

- 2.1 The Ministry of Coal has decided to undertake the process for selection of a Consultant, which will depute a team in accordance with the Terms of this RFB. The bidder, selected in accordance with the provisions of the RFB, shall assist the Ministry of Coal by deploying dedicated professionals in order to provide assistance and coordinate various implementation aspects of the project. The project would be implemented in accordance with the terms and conditions stated in the consultancy agreement to be entered into between the Ministry of Coal and the Consultant (the "Consultancy Agreement").
- 2.2 **Requests for Bid:** The Ministry of Coal invites proposals from interested consultancy firms (the "Bids"), with knowledge and skills to appropriately advise the Ministry of Coal for the project (collectively the "Consultancy"). The Ministry of Coal intends to select the Consultant through an open competitive bidding in accordance with the procedure set out herein.
- 2.3 **Due diligence by Bidders:** Bidders are encouraged to inform themselves fully about the assignment and the local conditions before submitting the Bid by attending a Pre-Bid Conference on the date and time specified.
- 2.4 **Clarifications & Pre-Bid Conference:** Pre-Bid Conference of the Bidders shall be convened at the designated date, time and place. Bidders requiring any clarification on the RFB may send their queries in writing (e. mail) two days before the respective date, as mentioned in the beginning of the RFB at the e. mail address uscpcd.moc@nic.in. Following format is to be used:

Section of RFB	Page No.	Clause as per RFB	Clarification sought

During the course of Pre-Bid Conference, the Bidders will be free to seek clarifications and make suggestions for consideration of the Ministry of Coal. The Ministry of Coal shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Selection Process.

Written copies of the Ministry of Coal's response (including a response of the query but without identifying the source of inquiry), if any, may be published on [website \[www.coal.nic.in\]](http://www.coal.nic.in). No clarification from any other prospective bidder shall be entertained after the close of date and time for seeking clarification mentioned. It is further clarified that Ministry of Coal shall not entertain any correspondence regarding delay or non-receipt of clarification. The Ministry of Coal reserves the right not to respond to any queries or provide any clarifications, in its sole discretion, and nothing shall be construed as obliging the Ministry of Coal to respond to any question or to provide any clarification.

- 2.5 **Amendments to RFB :** At any time prior to the deadline for submission of Bid,

the Ministry of Coal may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFB document by the issuance of Addendum/ Amendment and posting it on the Official Website and by conveying the same to the prospective Bidders. All such amendments if any will be notified on website. In order to afford the Bidders a reasonable time for taking an amendment into account, or for any other reason, the Ministry of Coal may, in its sole discretion, extend the BDD.

- 2.6 **Availability of RFB Document** : The RFB document fee is Nil. The soft copy may be downloaded from the department [website \[www.coal.nic.in\]](http://www.coal.nic.in) or [e-procurement website Central Public Procurement Portal \[eprocure.gov.in\]](http://eprocure.gov.in).
- 2.7 **Validity of the Bid** : The Bid shall be valid for a period of not less than 90 days from the Bid Due Date (the "BDD").
- 2.8 **Right to seek clarifications** : To facilitate evaluation of Bids, the Ministry of Coal may, at its sole discretion, seek clarification from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by the Ministry of Coal for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing. If a Bidder does not provide clarifications sought within the specified time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Ministry of Coal may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Ministry of Coal.
- 2.9 **Payment** : All payments to the Consultant shall be made in INR in accordance with the provisions of this RFB.
- 2.10 **Eligibility** : Bidders must read carefully the minimum conditions of eligibility provided herein. Bids of only those Bidders who satisfy the Conditions of Eligibility will be considered for evaluation.
- 2.11 **Evaluation of proposals** : Bidders are advised that the selection of Consultant shall be on the basis of an evaluation by the Ministry of Coal through the Selection Process specified in this RFB. Bidders 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 Ministry of Coal's decisions are without any right of appeal whatsoever.
- 2.12 **Submission of proposal** : The Bidder shall submit its Bid in the form and manner specified in the RFB. The Technical Bid and the Financial Bid shall be submitted in the manner specified in the RFB. Upon selection, the bidder shall be required to enter into an agreement with the Ministry of Coal as specified in this RFB.
- 2.13 **Single proposal only** : No Bidder shall submit more than one Application for the Consultancy. A Bidder shall not be entitled to submit another application.

2.14 **Cost of making proposal** : The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Selection Process including visits to the Ministry of Coal, site etc. The Ministry of Coal will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

2.15 **Acknowledgement of an informed proposal** : Bidders are encouraged to submit their respective Bids after ascertaining for themselves the availability of documents and other data with the Ministry of Coal, Applicable Laws and regulations or any other matter considered relevant by them. It shall be deemed that by submitting the Bid, the bidder has:

- (a) made a complete and careful examination of the RFB;
- (b) received all relevant information requested from the Ministry of Coal;
- (c) accepted the risk of inadequacy, error or mistake in the information provided in the RFB or furnished by or on behalf of the Ministry of Coal or relating to any of the matters;
- (d) satisfied itself about all matters, things and information, including matters, necessary and required for submitting an informed proposal and performance of all of its obligations there under;
- (e) acknowledged that it does not have a Conflict of Interest as specified in Clause 25 of the RFB; and
- (f) agreed to be bound by the undertaking provided by it under and in terms hereof.

2.16 The Ministry of Coal shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFB or the Selection Process, including any error or mistake therein or in any information or data given by the Ministry of Coal.

2.17 Notwithstanding anything contained in this RFB, the Ministry of Coal reserves the right to accept or reject any Bid and to annul the Selection Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

2.18 Further, the Ministry of Coal also reserves the right to reject any Bid if:

- (a) at any time, a material misrepresentation is made or discovered, or
- (b) the Bidder does not provide, within the time specified by the Ministry of Coal, the supplemental information sought by the Ministry of Coal for evaluation of the Bid.

2.19 Misrepresentation/ improper response by the Bidder may lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Bids have been opened and the highest ranking Bidder gets disqualified/ rejected, then the Ministry of Coal reserves the right to consider the next two best Bidders, or take any other measure as may be deemed fit in the sole discretion of the Ministry of Coal, including annulment of the Selection Process.

3. Scope of Services

3.1 Scope of Work

The scope of work shall be as specified below:

- **Module I - Assessing the current state of coal sales transaction in Indian Coal Sector including following aspects:**

- Scenario on current and future coal demand and supply (domestic & imported sources) in the country (including coking coal, thermal coal, washery rejects, middlings etc.).
- Domestic and imported coal pricing regime (NCI, WPI, auction prices, notified price, global indices).
- Current form of coal trade with contractual regime (e-auction, spot e-auction, forward e-auction, exclusive auction, linkage auction, SHAKTI auction etc.).
- Regulatory (including tax structure) framework w.r.t. to coal sales.
- Coal market scenario with coal supplies in the market from coal mines allocated from commercial mining.

- **Module II - Study of global experience for development of coal trading exchanges** (covering any 2 exchanges) – Identify global coal markets having coal trading hubs/exchange and analyze their critical success factors including policy, regulatory, market and institutional dimensions to draw specific learnings for India. This may include aspects such as –

- Broad policy and regulatory framework including Industry structure.
- Supply and demand scenario.
- Evolution of Coal Trading Hub/Exchange and its ownership.
- Market design and structure including the hub design, products, market rules, settlement mechanism, role of market and system operators, etc.
- Pricing index/ benchmark / reference.
- Identify various key enablers and successful models of trading hubs and draw specific learnings for India.
- Facilitate international study visits to two countries, to understand the functioning of exchange and draw specific learnings for India.

- **Module III - Identification of various trading hub concepts/models:** On the basis of the international learnings and the analysis of the Indian coal markets, develop various models for the trading hub that are implementable in the Indian coal market. Analyse the following key aspects of the trading hub:

- Commercial and regulatory arrangements for coal trading.
 - Voluntary vs mandatory trading – the implications.
 - Institutions (regulator, market operator, settlement institutions, shipping and logistics, warehousing).
 - Market rules and core processes.

- Mapping of possible hub locations.
- Quality of coal – standardization and variance management.
- Dispute resolution mechanisms.
- Qualification requirements for market operators (experience, shareholding).
- Funding mechanism for the establishment of coal trading hub/exchange.
- Possible revenue models for sustainable operations of the coal trading hub/exchange ecosystem.
- Identify the coal trading points and associated infrastructure requirements.
- Consultation with relevant stakeholders to understand the key challenges and enablers for implementation of coal trading Hub/Exchange.
- Assessing possibility of moving current coal auctions done by Client be migrated to the coal exchange.
- Recommended model to establish a coal trading hub/exchange for trading of imported coal along with domestic coal and prepare implementable time schedule for establishment of coal trading hub/exchange in the country.
- **Module IV - Identify Regulatory pre-requisites**
 - Legal review for coal exchange establishment (including assessment of general commodity trading laws that may apply).
 - Various pre-requisites/ enablers/approvals for the trading arrangements/platforms from appropriate levels in the Government of India.
 - Detailed guidelines and authorizations to platform and players.
 - Treatment of DMF, royalty and other dues (such as additional premium, revenue share, etc.) paid on the price of the coal
- **Module V - Evaluate other aspects around coal marketing policies and recommend changes**
 - Various modes of SHAKTI e-auctions and operationalisation requirements of resultant FSAs.
 - Implication of other power market regulations on coal market such as power exchanges, sale through DEEP portal, etc.
 - Linkage auction for Non-Regulated (NR) sector amongst various sub-sectors.
 - Other sector/EUP specific auctions of Coal India/SCCL.
 - Sale of coal from other commercial mining companies, 25% production of select captive blocks, restriction on sale of coal from other captive blocks.
 - Sale of 25% qty. to MSMEs by PSU commercial mining companies.
 - Undertake sensitization sessions with all relevant industry stakeholders including various Ministries and Departments in the Government, Regulatory Bodies, industry players, consumers, etc. to inform about type of products and functioning of the coal exchange.

- **Module VI - Onboarding of implementation partners**

All activities of onboarding of implementation partners including but not limited to:

- Assist Client in deployment of IT vendor – support in bid process management (preparation of tender documents, prepare responses to queries received from participants etc.).
- Assist in onboarding of various other organisations to create different parts of the ecosystem necessary for starting of the coal exchange.
- Provide assistance in preparing responses/comments to queries received from stakeholders. Preparation and updation of tender document/other templates as may be required, covering inter alia:
 - Objectives and Scope of Services.
 - Bid Process, Evaluation and Award Schedule.
 - Eligibility Requirements.
 - Instruction to Bidders for submitting the financial proposal.
 - Description of technical and financial eligibility and bid evaluation methodology.
 - Formats of submission of bid proposal by the bidder.
- Assist the Ministry in execution of Contract Agreement with the Successful Bidder. Preparation of model contract document to be entered into between the Ministry of Coal and the Successful Bidder (Implementation Partner).
- Conducting the Bid Process which includes the following:
 - Floating the tender document.
 - Conducting the pre-bid meeting.
 - Framing draft responses to the comments and queries raised by the prospective bidders and submission of the same to the Ministry of Coal.
 - Carrying out any changes required in the tender documents.
 - Evaluation of the techno-commercial bids and submission of the same to the Ministry of Coal for selecting the Successful Bidder.

- **Module VII - Program Management during implementation:**

All activities of Program Management during implementation including but not limited to:

- Handhold client for implementation of the trading exchange for a period of 1 year post selection of implementation partner/s.

- Program, manage, augmentation/modification in the role of coal controller/ regulator.
- Program management for change in regulations,
- Assist in conducting of open houses with stakeholders,
- Detailed planning and program management of the execution of the migration of coal sales from existing platform to the new platform,
- Support in policy implementation and other related assistance.
- Regularly report the project progress along with roadblocks to ensure smooth implementation.

4. Scope Inclusions:

- The scope of work from the bidders includes legal inputs as may be required during the course of work such as legal opinion, draft of legal documents etc.
- The bidders fees under the assignment covers for any specialist advice on accounting, taxation and other investment structuring related costs.

5. Scope Limitations and Exclusions: The following matters shall be outside the scope of the Services:

- Bidder will not test or validate any information provided by the Client or any other sources, except as specified within the scope for this study.
- Activities related to certifying or attesting to any capability possessed by the Client.
- Any services related to contract negotiation, dispute resolution, representation on behalf of Client in any court of law/ arbitration court, regulatory authorities/ bodies, etc.

6. Timelines

6.1 Total duration for the Consultancy shall initially be for a period of 24 months, which can be extended for another period of maximum 24 months. The duration of the Consultancy may be extended at the sole discretion of the Ministry of Coal.

The timelines shall be as follows:

Modules	Description	Timeframe
Module I	Assessing the current state of sales transaction in Indian Coal Sector including following aspects.	Within 2 months from the issue of LoI.
Module II	Study of global experience for development of coal trading exchanges	Within 2 months from date of issue of LoI.
Module III	Identification of various trading hub	Within 3 months from the date of issue of LoI.

	concepts/models.	
Module IV	Identify Regulatory pre-requisites.	Within 4 months from date of issue of LoI.
Module V	Evaluate other aspects around coal marketing policies and recommend changes (4 months Post Completion of Module II).	Within 4 months Post Completion of Module II.
Module VI	Onboarding of implementation agency.	5 months post completion of Module V.
Module VII	Program management during implementation.	1 year post completion of Module VI.

6.2. In case the Consultant leaves the assignment at any stage without fulfilling the given targets, the Performance Bank Guarantee submitted by the Consultant shall be forfeited.

7. **Fee Structure**

The Schedule of Rates/ Fee structure shall be as follows:

Module	Description	Commercial Fee(in INR)
Module I	Assessing the current state of sales transaction in Indian Coal Sector including following aspects.	
Module II	Study of global experience for development of coal trading exchanges.	
Module III	Identification of various trading hub concepts/models.	
Module IV	Identify Regulatory pre-requisites.	
Module V	Evaluate other aspects around coal marketing policies and recommend changes.	
Module VI	Onboarding of implementation agency.	

Module VII	Program management during implementation.	
------------	---	--

60% of the payment of Module I to Module V shall be made after successful completion of each of the Modules and balance 40% after successful completion of all the Modules. As it is a turnkey nature project, in case the project work is discontinued after successful completion of any of the Modules from Module I to Module IV, the final payment of 60% of each completed module shall be payable. The cost indicated in the Financial bid for Module VI & VII should be at least 50% of the total cost.

In case, any domestic travel is required for undertaking the task at the specific request of Ministry of Coal like attending any meeting outside Delhi etc, the Consultant shall submit a visit plan and take prior approval from Ministry of Coal. The cost will include economy class air travel and per-diem stay expenses and will be reimbursed to the consultant as per the entitlement of Group-B Central Government Officers.

8. Consultancy team — Project Management Team

- 8.1 The Consultant shall form an appropriate team for undertaking this assignment. The Consultancy Team shall consist of experts who have the requisite qualifications and experience. The Personnel whose experience and responsibilities are mentioned herein would be considered for evaluation of the Technical Bid.
- 8.2 The Consultant shall maintain the time sheet/ attendance sheet of the working of all Personnel in the office.

9. Key Personnel and Reporting

Key Personnel	No. of Heads	Professional Experience
Project Leader	1	The experience should be in the area of advisory to Government(s)/regulatory bodies in the Energy sector (Oil & Gas/ Power/ Renewables/ Chemicals/ Coal/ Metals & Commodities) in various strategic areas.
Team Leader	1	The experience should be in the area of market development and regulatory advisory in the Energy/Commodity Sector (Oil & Gas/ Power/ Renewables/ Chemicals/ Coal/ Metals & Commodities).
Sector Expert	2	The experience should be in the area of related market development or regulatory advisory in the Coal/ Metals & Mining/Oil & Gas/Power/Renewables Sector.

The Ministry of Coal may, at their discretion, require the Consultant to participate in

any meetings in New Delhi or outside within the country. The Consultant shall work from the office of the Ministry of Coal and the Consultant shall provide such services at the office of the Ministry of Coal without unreasonable delay.

10. Completion of Services

All the deliverables shall be compiled, classified and submitted by the Consultant Office in soft form, to the extent possible. The documents comprising the deliverables shall remain the property of Ministry of Coal and shall not be used by the Consultant for any purpose other than that intended under this RFB without the permission of the Ministry of Coal. The Consultancy shall be deemed to be completed upon completion of Project Duration, unless extended by the Ministry of Coal in accordance with provisions of this RFB.

11. Brief description of the Selection Process

- a. The Ministry of Coal has adopted a two stage selection process (collectively the “Selection Process”) for evaluating the Proposals comprising of:
 - i) technical Bid; and
 - ii) financial Bid.
- b. The Applicants have to submit the bid in two separate sealed and signed envelopes – Envelope-A containing technical proposal and Envelope-B containing financial proposal respectively.
- c. After Proposal Due Date, in the first stage, only Envelopes-A of all the applicants containing their technical proposals will be opened and a technical evaluation will be carried out. Based on this technical evaluation, a list of short-listed applicants shall be prepared.
- d. In the second stage, Envelopes-B containing Financial Bid of only Technically Qualified Applicants shall be opened and financial evaluation will be carried out.
- e. The bidder shall keep both the envelopes (Envelope-A and Envelope-B) in a single envelope duly sealed and initialed by the authorized representative of the bidder and submit the same to the following address:-

Ministry of Coal,
R.No.120, F-Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi-110001.

12. Conditions of Eligibility: Qualification criteria

- 12.1. To be eligible for evaluation of its Bid, the Bidder shall fulfill the following:-

#	Requirement	Supporting documents to be provided
a)	The Bidder should be a Partnership Firm/ LLP / a society / company registered or incorporated under the relevant law and having operations in India.	Certificate of incorporation/ Registration.
b)	A note on legal Status of the bidder, introduction of the bidder, background, registrations and details of operations. Contained in maximum of two A4 pages.	Information to be given in bidder's letter head.
c)	The Bidder should not be currently blacklisted / debarred by the Central Government, any State Government/ UT, a Statutory Authority, or a Public-Sector Undertaking, from participating in any consulting assignment in last three years.	Undertaking in form of affidavit.
d)	The applicant should have a minimum turnover of INR 50 crore/ year in each of the last 3 financial years preceding the Bid Due Date.	CA's Certificate
e)	The Applicant signing the bid on behalf of the bidder should submit a Power of Attorney obtained from the bidder.	Power of Attorney
f)	Parties who have successfully completed at least one similar work(s), as below, during last 10 years.: The Similar Work will be defined as having proven consulting experience in Energy / Commodities Sector (Oil & Gas/Power/Renewables/Coal/Metals/Minerals/Other Commodities) carrying out of the following projects: Consulting assignments completed by the company for Government(s)/Regulator(s)/Committees constituted by Governments(s)/Regulator(s) Or Setting up a commodity risk management framework/treasury transformation for Energy / Commodities (Oil & Gas/Power/Renewables/Coal/Metals/Minerals/other commodities) trading company in India or abroad	WO/LOI on client letter head clearly mentioning the scope of work and closure letter/completion certificate satisfactory certifying completion of work.

12.2. Consortium Bids

a. Bidders are allowed to participate in consortium, with the following conditions:

(i) A consortium (the “Bidding Consortium”) shall be considered bidder provided that one of the members of the consortium shall be nominated as being in-charge (the “Lead Consortium Member”) and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the members. Maximum

number of partners in the consortium shall be limited to three.

(ii) In case the Bidder being Indian Company is having collaboration with the Company incorporated outside India (Foreign Company, having registered office in India, established with RBI approval), the Bidder shall in respect of such collaboration submit duly certified/authenticated copies of the following documents:

- Certificate of Incorporation / Registration Certificate issued by the competent authority under the law in force in the country of its incorporation;
- Memorandum and Articles of Association or document constituting the company and regulating its affairs;
- List of board of directors or regulating/controlling body;
- Address of its place of business in India, if any;
- Audited annual financial statements and financial Net-worth for the last three years only of foreign entity;
- Complete copy of agreement entered into by the Indian company with the foreign company together with gist of major terms, validity period, demarcation of scope of work, role and responsibilities of each party to the agreement, technical, financial and management aspects of the agreement;
- Commitment of the foreign company to continue partnering with agreement and to discharge its role / functions under the agreement till the completion of the project;
- Any other papers or documents required by the Ministry of Coal at a later stage or in future.

(iii) The Lead Consortium Member shall submit the Bid to the Ministry of Coal and shall be liable towards fulfilling the obligations in this RFB.

(iv) The Lead Consortium Member shall have a valid Goods and Services Tax Registration Number, Provident Fund (PF) Code and Permanent Account Number (PAN) for the Republic of India

(v) The Lead Consortium Member shall designate and authorize one person to represent the Bidding Consortium in its dealings with the Ministry of Coal through a Power of Attorney to perform all tasks including, but not limited to, providing information, responding to inquiries, signing of Bid on behalf of the Consortiums, etc.

(vi) Each member of the consortium shall have a registered office (under the Companies Act 1956 or 2013 with Registrar of Companies) and operations in India.

(vii) Every Consortium Member shall provide consent to the Lead Consortium Member and make itself aware of all the proceedings of the bidding process and Project implementation through legally enforceable consortium agreement, power of attorneys, legal undertakings, Letter of Consent etc. entered amongst all members of that Bidding Consortium including. In the absence of such documents, the Bid shall not be considered for evaluation and will be rejected.

(viii) The Bidder / member of consortium should not be blacklisted/de-barred by any Govt. Organization or Regulatory Agencies or Govt. Undertaking. Bidder should submit a self-undertaking signed by its Authorized Signatories for the same.

(ix) The bid, and in case of successful bid, the specified Form of Agreement, shall be signed so as to be legally binding on all consortium members (as per enclosed format in bidding document).

(x) The Lead Consortium Member shall be authorized to incur liabilities and receive instructions for and on behalf of any and all members of the consortium, and the entire execution of the Contract shall be done with the Lead Consortium Member and payment under the contract shall be received by the Lead Consortium Member on behalf of the consortium as per power conferred to him in the Power of Attorney.

(xi) The Lead Consortium Member shall be liable for the entire contract in accordance with the contract terms, while other Consortium Members shall be liable severally for their portion of Work. The statement to this effect shall be provided along with EOI CUM RFB submissions including the Bid Form and Contract (in case of successful bid).

(xii) Only the Lead Consortium Member shall have the authority to conduct all businesses for and on behalf of the consortium during the bidding process and, in the event the consortium is awarded the Contract, during contract execution. The composition of the consortium cannot be altered.

(xiii) Without prejudice to clause (xii) above, for the purposes of fulfilment of its obligations as laid down under the Contract where the Ministry of Coal deems fit and unless the context requires otherwise, Contractor shall refer to the Lead Member who shall be the sole point of interface between the Ministry of Coal and the Consortium and would be absolutely accountable for the performance of its own, the other members of the Consortium and/or its teams functions as also the subcontractors.

(xiv) All payments shall be made by the Ministry of Coal in favor of the Lead Consortium Member

b. **Eligibility Criteria:** In case a bid is submitted by a Consortium of two or more firms/companies, the members of the Consortium shall meet the following eligibility requirements:

- (i) All the members of the Consortium shall jointly meet the criteria given at section 12.1 (a) to 12.1 (f).
- (ii) All the members of the Consortium shall individually meet the criteria given at section 12.1(a) to 12.1 (e).

13. Preparation of Bid

- a. The Bid with all accompanying documents and all communications in relation to or concerning the Selection Process shall be in English/Hindi language and strictly as per formats provided in this RFB. No supporting document or printed literature shall be submitted with the Bid unless specifically asked for and in case any of these documents is in another language, it must be accompanied by an accurate translation of all the relevant passages in English, in which case, for all purposes of interpretation of the Bid, the translation in English shall prevail.
- b. The Bidder shall provide all the information sought under this RFB. The Ministry of Coal would evaluate only those Bids that are received in the specified forms and complete in all respects.
- c. All pages should be numbered in sequential order and properly organized.
- d. The Bid, and its copy, shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall initial each page. In case of printed and published Documents, only the cover shall be initialed. All the alterations, omissions, additions, or any other amendments made to the Bid shall be initialed by the person(s) signing the Bid. The Bid must be properly signed by the authorised representative as detailed below:
 - i. by the proprietor, in case of a proprietary firm; or
 - ii. by a partner, in case of a partnership firm and/or a limited liability partnership; or
 - iii. by a duly authorised person holding the Power of Attorney, in case of a Limited Company or a corporation; or
(A copy of the Power of Attorney certified by a notary public in the form specified shall accompany the Bid);
- e. Bidders should note the BDD, for submission of Bids.
- f. Except as specifically provided in this RFB, no supplementary material will be entertained by the Ministry of Coal, and that evaluation will be carried out only on the basis of Documents received by the closing time of BDD. Bidders 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.

14. Technical Bid

- a. Bidders shall submit the technical proposal. Incomplete proposals will be rejected. While submitting the Bid, the Bidder shall, in particular, ensure that:-
 - i. The Bid Security is provided;
 - ii. All forms are submitted and signed by the prescribed signatories;
 - iii. Power of Attorney, if applicable, is executed as per Applicable Laws;
- b. The Technical Bid shall not include any financial information relating to the Financial Bid.
- c. The Ministry of Coal reserves the right to verify all statements, information and documents, submitted by the Bidder in response of the RFB. Any such verification or the lack of such verification by the Ministry of Coal to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Ministry of Coal there under.
- d. In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect false information, the Bidder shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFB, be liable to be terminated, by a communication in writing by the Ministry of Coal without the Ministry of Coal being liable in any manner whatsoever to the Selected Bidder or consultant, as the case may be. In such an event, the Ministry of Coal shall forfeit and appropriate Bid Security or Performance Security, as the case may be and if available, as mutually agreed pre-estimated compensation and damages payable to the Ministry of Coal for, *inter alia*, time, cost and effort of the Ministry of Coal, without prejudice to any other right or remedy that may be available to the Ministry of Coal.

15. Financial Bid

- a. Bidders shall submit the financial proposal in the formats provided (the "**Financial Bid**") clearly indicating the total cost of the Consultancy in both figures and words, in Indian Rupees, and signed by the Bidder's Authorised Representative. In the event of any difference between figures and words, the amount indicated in words shall prevail. In the event of a difference between the arithmetic total and the total shown in the Financial Bid, the lower of the two shall prevail.
- b. While submitting the Financial Bid, the Bidder shall ensure the following:
 - (i) All the costs associated with the assignment shall be included in the Financial Bid. These shall normally cover remuneration for all the Personnel (Expatriate and Resident, in the field, office, etc.), accommodation, printing of documents, etc.
 - (ii) The total amount indicated in the Financial Bid 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 Bid, it shall be considered non-responsive and liable to be rejected.

- (iii) The Goods and Services Tax as applicable from time to time shall be payable by the Ministry of Coal/ Central Government on the total fee. Remaining all other taxes shall have to be borne by the Consultant. Costs shall be expressed in Indian Rupees (INR).

16. Submission of Bid

16.1 The Bidders shall submit the Bids as mentioned in the RFB. Bid should be submitted by BDD specified.

16.2 Each page of the submission shall have initials by the Authorised Representative of the Bidder as per the terms of this RFB.

16.3 Firms will have to deposit a Bid Security in the offline mode only. The bidder should enclose Bid Security, valid for 3 months from the due date of RFB.

16.3.1 The Bid Security in closed envelope with Bidder name on it must be submitted as prescribed in the tender document.

16.3.2 The Selected Bidder's Bid Security shall be returned, upon the Bidder signing the Agreement and completing the Deliverables assigned to it for the first 4 (four) months of the Consultancy in accordance with the provisions thereof.

16.3.3 Any Bid not accompanied by the Bid Security shall be rejected by the Ministry of Coal as non-responsive. The Ministry of Coal shall not be liable to pay any interest on the Bid Security and the same shall be interest free.

16.4 The Bidders should submit the Bids as per the format specified in this RFB document.

- a) Pre-Qualification and Technical Bid (Annexure-1 & Annexure-2).
- b) Financial Bid (Annexure-3).
- c) The failure to comply may lead to rejection of bids. All the pages of the proposal must be sequentially numbered and must contain the list of contents with page numbers.
- d) The proposal shall be typed with no corrections. The bid needs to be signed by the authorized signatory.

16.4.1 Bids submitted by fax, telex, telegram or e-mail shall not be entertained.

16.4.2 The Bid shall be made in the format as specified in this RFB. Any attachment to such formats 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, firm profiles, copy of contracts etc. will be entertained.

16.4.3 The Ministry of Coal may, in its sole discretion, extend the BDD by issuing an Addendum, uniformly for all Bidders.

16.4.4 Bids received by the Ministry of Coal after the specified time on BDD shall not be eligible for consideration and shall be summarily rejected.

16.4.5 The Bidder, by submitting its Application pursuant to this RFB, shall be deemed to have acknowledged that without prejudice to the Ministry of Coal's any other right or remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by the Ministry of Coal as the mutually agreed pre-estimated compensation and damage payable to the Ministry of Coal for, *inter alia*, the time, cost and effort of the Ministry of Coal in regard to the RFB including the consideration and evaluation of the Bid under the following conditions:-

- (a) If a Bidder submits a non-responsive Proposal;
- (b) If a Bidder engages in any of the Prohibited Practices specified in this RFB;
- (c) If a Bidder withdraws its Bid during the period of its validity as specified in this RFB and as extended by the, Bidder from time to time;
- (d) In the case of a Selected Bidder, if the Bidder fails to sign the Agreement or commence the assignment as specified, or
- (e) If the Bidder is found to have a Conflict of Interest as specified.

16.4.6 The Bidder, by submitting its Application pursuant to this RFB, shall be deemed to have acknowledged that without prejudice to the Ministry of Coal's any other right or remedy hereunder or in law or otherwise, the Performance Bank Guarantee shall be forfeited and appropriated by the Ministry of Coal as the mutually agreed pre-estimated compensation and damage payable to the Ministry of Coal for, *inter alia*, the time, cost and effort of the Ministry of Coal in regard to the RFB including the consideration and evaluation of the Bid under the following conditions:-

- If a Bidder engages in any of the Prohibited Practices specified in this RFB;
- if the Bidder is found to have a Conflict of Interest as specified in this RFB;
and
- if the selected Bidder commits a breach of the Agreement.

17 Evaluation of Bids

- a. The Ministry of Coal shall open the Bids, at the place specified and in the presence of the Bidders who choose to attend. "Eligibility cum Technical Bid" shall be evaluated first. Financial proposal of only those bidders will be opened that qualify technical round.
- b. Bids for which a notice of withdrawal has been submitted by the bidder before the bid opening date shall not be opened.
- c. Prior to evaluation of Bids, the Ministry of Coal will determine whether each Bid is

responsive to the requirements of the RFB. The Ministry of Coal may, in its sole discretion, reject any Bid that is not responsive hereunder. A Bid shall be considered responsive only if:-

- i. the Technical Bid is received;
 - ii. it is received by the BDD including any extension thereof;
 - iii. it is accompanied by the Bid Security;
 - iv. it is signed and marked as stipulated;
 - v. it is accompanied by the Power of Attorney;
 - vi. it contains all the information (complete in all respects) as requested in the RFB;
 - vii. it does not contain any condition or qualification; and
 - viii. it is not non-responsive in terms hereof.
- d. The Ministry of Coal reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Ministry of Coal in respect of such Bids.
- e. The Ministry of Coal reserves the right to cancel the RFB if there are less than 3 responsive bids.
- f. The Ministry of Coal shall subsequently examine and evaluate Bids in accordance with the Selection Process specified. After the technical evaluation, the Ministry of Coal shall prepare a list of pre-qualified Bidders for opening of their Financial Bids. A date, time and venue will be notified to all Bidders for announcing the result of evaluation and opening of Financial Bids. Before opening of the Financial Bids, the list of prequalified Bidders along with their Technical Scores will be read out. The opening of Financial Bids shall be done in presence of respective representatives of Bidders who choose to be present. The Ministry of Coal will not entertain any query or clarification from Bidders who fail to qualify at any stage of the Selection Process. The financial evaluation and final ranking of the Bids shall be carried out.
- g. Bidders are advised that Selection shall be entirely at the discretion of the Ministry of Coal. Bidders shall be deemed to have understood and agreed that the Ministry of Coal shall not be required to provide any explanation or justification in respect of any aspect of the Selection Process or Selection.
- h. Any information contained in the Bid shall not in any way be construed as binding on the Ministry of Coal, its agents, successors or assigns, but shall be binding against the Bidder if the Consultancy is subsequently awarded to it.

17. Criteria for Evaluation of Technical Bids

- a. In the first stage, the Technical Bid will be evaluated on the basis of Bidder's experience and the experience of its Personnel. Only those Bidders whose Technical Bids score 60 points or more out of 100 shall be ranked as per score achieved by them, from highest to the lowest technical score (Sr). The scoring criteria to be used for evaluation and the supporting documents required from the bidders shall be as follows:-

S. No.	Parameter	Max Marks	Criteria/Details	Supporting document required
1.	No. of consulting assignments completed by the company in the Energy Sector (Oil & Gas/ Power/ Coal/ Renewables/other Commodities) for Government(s)/ Regulator(s)/ Committees constituted by Government(s) / Regulator(s) Or in the area of setting up of commodity exchange/ development of energy markets in India or abroad in the last 10 years	25	<ul style="list-style-type: none"> 5 marks for each project subject to a maximum mark of 25 	<p>Work order/Letter of Intent</p> <p>AND</p> <p>Closure letter/ Completion certificate certifying satisfactory completion of work</p> <p>OR</p> <p>In case the company is bound by confidentiality agreement/NDA with Client then a Self-certification from the CEO/CFO/COO/ Chairman/Country Head of the consultant may be accepted. However, the self certification should clearly indicate the following:</p> <ul style="list-style-type: none"> Brief of work Contract Period Date of Completion Value of work executed <p>Client's references with contact details like Name, Designation, Address, Contact No.</p>
2.	Number of consulting assignments completed in management advisory including market risk management framework/ treasury transformation and operations for a company in commodity (Oil & Gas/Power/Coal/Renewables/other commodities) sector in the last 10 year	15	<ul style="list-style-type: none"> 5 marks for each project subject to a maximum mark of 15 	<p>Work order/Letter of Intent</p> <p>AND</p> <p>Closure letter/ Completion certificate certifying satisfactory completion of work</p> <p>OR</p> <p>In case the company is bound by confidentiality agreement/NDA with</p>

				Client then a Self-certification from the CEO/CFO/COO/ Chairman/Country Head of the consultant may be accepted. However, the self certification should clearly indicate the following: — Brief of work — Contract Period — Date of Completion — Value of work executed — Client's references with contact details like Name, Designation, Address, Contact No.
3.	<p><u>Strength of the Project Leader/Regulatory Expert -</u></p> <p>Overall experience of the Lead Project Leader/ Regulatory Expert who will oversee and guide the project team members The experience should be in the area of advisory to Government(s)/regulatory bodies in the Energy sector (Oil & Gas/ Power/ Renewables/ Chemicals/ Coal/ Metals & Commodities) in various strategic areas</p> <p>*Please note that the project leader/Regulatory expert to be deployed on this project will have to be present during all key meetings/discussions at the discretion of Ministry of Coal</p>	20	<ul style="list-style-type: none"> • More than 20 years– 20 marks • More than15- Upto 20 years - 15 marks • More than10- Upto 15 years – 10 • 5 – Upto 10 years- 5 • Less than 5 years- NIL 	Detailed CV's of project leader/Regulatory Expert with details on education, professional experience and details of projects executed to be submitted and the same needs to be certified by authorized signatory of the Bidder.
4.	<p><u>Strength of the Team Leader</u></p> <p>Overall experience of the Team Leader who will be the focal point of</p>	15	<ul style="list-style-type: none"> • More than 15 years– 15 marks 	Detailed CV's of project manager with details on education, professional experience

	<p>contact and will manage day to day operations as well as oversee the project team members</p> <p>The experience shall be in the area of market development and regulatory advisory in the Energy/commodity sector (Oil & Gas/ Power/ Renewables/ Chemicals/ Coal/ Metals & Commodities)</p>		<ul style="list-style-type: none"> • More than 10- Upto 15 years – 10 marks • 5 – Upto 10 years – 5 • Less than 5 years -- NIL 	<p>and details of projects executed to be submitted and the same needs to be certified by authorized signatory of the Bidder</p>
5.	<p><u>Sector Expert (2 Nos.)</u></p> <p>The experience shall be in the area of related market development or regulatory advisory in the Coal/ Metals & Mining/Oil & Gas/Power/Renewables Sector</p>	10 (5 + 5)	<ul style="list-style-type: none"> • More than 10 years – 5marks • 8- Upto 10 years – 2.5 marks • less than 8 years –NIL <p>(Marks indicated is for 1 personnel only)</p>	<p>Detailed CV's of coal sector expert with details on education, professional experience and details of projects executed to be submitted and the same needs to be certified by authorized signatory of the Bidder</p>
6.	<p>Methodology/Work Plan/Understanding of scope of work and ability to transfer knowledge</p>	15		<p>A brief presentation to be made before a team of Ministry of Coal where the following aspects are also included:</p> <ul style="list-style-type: none"> • Ability to transfer knowledge of the project team to be deployed for the project. • Qualifications and details of manpower proposed to be deployed on the project

				<ul style="list-style-type: none"> • Robustness of work plan to ensure quality and timelines for meeting the project targets. # Manpower, if more than the above specified numbers, committed by the bidder during the presentation should be deployed.
--	--	--	--	---

b. Of the Bidders ranked as aforesaid, all the Bidder(s) whose Technical Score is more than 60 shall be short-listed for financial evaluation. The Ministry of Coal reserves the right to move to the evaluation of financial bid even if only one Bidder is short-listed for financial evaluation.

19. Evaluation of Financial Bid

- a. In the second stage, the Financial Bid of only those Bidders, whose Technical Bid score 60 points or more out of 100 will be opened and financial evaluation will be carried out. Each Financial Bid will be assigned a financial score (SF).
- b. For financial evaluation, the total cost indicated in the Financial Bid will be considered.
- c. The Ministry of Coal will determine whether the Financial Bids are complete, unqualified and unconditional. The cost indicated in the Financial Bid shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the Consultant to be compensated and the liability to fulfill its obligations within the total quoted price shall be that of the Consultant. The lowest Financial Bid (LFB) will be given a financial score (SF) of 100 points. The financial scores of other proposals will be computed as follows: $SF = 100 \times LFB/F$ (where, F = amount of Financial Bid).

20. Combined and Final Evaluation

- a. Bids will finally be ranked according to their combined technical scores (ST) and financial scores (SF) as follows:
 $S = ST \times Tw + SF \times Fw$
Where, Tw and Fw are weights assigned to Technical Bid and Financial Bid that

shall be 0.6 and 0.4 respectively.

- b. The Selected Bidder shall be the Bidder having the highest combined score. In the event the composite total score is tied, the bidder securing the highest technical score will be adjudicated as the Best Value Bidder for the project. The next two highest Bidders shall be kept in reserve and may be invited in its discretion for negotiations in case the first-ranked Bidder withdraws or fails to comply with the requirements.

21. Confidentiality

- a. Information relating to the examination, clarification, evaluation, and recommendation for the selection of Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising the Ministry of Coal in relation to matters arising out of or concerning the Selection Process. The Ministry of Coal shall treat all information, submitted as part of the Bid, in confidence and shall require all those who have access to such material to treat the same in confidence. The Ministry of Coal 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 to enforce or assert any right or privilege of the statutory entity and/or the Ministry of Coal or as may be required by law or in connection with any legal process.
- b. The Consultant or its Personnel shall not, either during the term or after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Ministry of Coal to the Consultant and its Personnel; any information provided by or relating to the Ministry of Coal, its technology, technical processes, business affairs or finances or any information relating to the Ministry of Coal's employees, officers or other professionals or suppliers, customers, or contractors of the Ministry of Coal; and any other information which the Consultant is under an obligation to keep confidential in relation to the Project ("Confidential Information"), without the prior written consent of the Ministry of Coal.

22. Substitution of Key Personnel

Ministry of Coal will not normally consider any request of the selected bidder for substitution of any key Personnel named in the contract. Substitution will be permitted only in exceptional circumstances for reasons of ill health or because a staff member proves to be unsuitable, or the member is no longer working with the consultant. In such cases, the consultant shall propose other staff of at least the same level of qualifications for approval of the Ministry of Coal.

23. Indemnity

The Consultant shall, subject to the provisions of the Agreement, indemnify the Ministry of Coal, for an amount not exceeding the value of the Agreement, for any direct loss or damage that is caused due to any deficiency in services.

24. Award of Consultancy

- a. After selection, a Letter of Award (LOA) shall be issued, in duplicate, by the Ministry of Coal to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the selected Bidder is not received by the stipulated date, the Ministry of Coal may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as mutually agreed genuine pre-estimated loss and damage suffered by the Ministry of Coal on account of failure of the Selected Bidder to acknowledge the LOA, and the next highest ranking Bidder may be considered.
- b. After acknowledgment of the LOA as aforesaid by the Selected Bidder, it shall execute the Agreement within the period prescribed. The Selected Bidder shall not be entitled to seek any deviation in the Agreement.
- c. The Consultant shall commence work at the offices provided for them by the Ministry of Coal "the Project Office" within 15 (fifteen) days of the date of the Agreement or such other date as may be mutually agreed. If the Consultant fails to either sign the Agreement as specified or commence the assignment as specified herein, the Ministry of Coal may invite the next two highest ranked Bidders for negotiations. In such an event, the Bid Security of the first ranked Bidder shall be forfeited and appropriated.
- d. All documents and other information provided by the Ministry of Coal before or during the project or submitted by a Bidder to the Ministry of Coal shall remain or become the property of the Ministry of Coal. Bidders and the Consultant, as the case may be, are to treat all information as strictly confidential.
- e. The Ministry of Coal will not return any proposal or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the Consultant to the Ministry of Coal in relation to the Consultancy shall be the property of the Ministry of Coal and shall be treated as strictly confidential.
- f. Performance Guarantee: The Ministry of Coal will require the selected bidder to provide a Performance Bank Guarantee, within 15 days from the Notification of award, for a value equivalent to 10% of the total cost of the

contract, as per Form 5. The validity of the Bank Guarantee, as the case may be, shall not be less than 30 months from the date of award of contract and may be extended as may be mutually agreed between the Bidder and Ministry of Coal. The Performance Guarantee shall contain a claim period of twelve months from the last date of validity. The selected bidder shall be responsible for extending the validity date and claim period of the Performance Guarantee as and when it is due on account of non-completion of the project. In case the selected bidder fails to submit performance guarantee within the time stipulated, the Ministry of Coal at its discretion may cancel the order placed on the selected bidder without giving any notice. The Ministry of Coal shall invoke the performance guarantee in case the selected Consultant fails to discharge their contractual obligations during the period whether or not a loss has been suffered by Ministry of Coal or the Ministry of Coal incurs any loss due to Consultants negligence in carrying out the project implementation as per the agreed terms & conditions.

25. Conflict of Interest

- 25.1 Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties.
- 25.2 Conflict of interest: Prohibition of Conflicting Activities: Neither the Consulting Agency nor their Sub-consultants nor the Personnel shall engage, either directly or indirectly, in any of the following activities:
- a. during the term of this Work Order, any business or professional activities which would conflict with the activities assigned to them under this Work Order; and
 - b. after the termination of this Contact, within five years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Ministry of Coal to the Consultant and its Personnel; any information provided by or relating to the Ministry of Coal, its technology, technical processes, business affairs or finances or any information relating to the Ministry of Coal's employees, officers or other professionals or suppliers, customers, or contractors of the Ministry of Coal; and any other information which the Consultant is under an obligation to keep confidential in relation to the Project ("Confidential Information"), without the prior written consent of the Ministry of Coal.
- 25.3 The Ministry of Coal requires that the Consultant provides professional, objective, and impartial advice and at all times hold the Ministry of Coal's interests

paramount, avoid conflicts with other assignments or its own 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 clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the Ministry of Coal.

- 25.4 A Bidder shall not have a conflict of interest that may affect the Selection Process or the Consultancy. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Ministry of Coal shall forfeit and appropriate the Bid Security or Performance Security, as the case may be and if available, as mutually agreed genuine compensation and damages payable to the Ministry of Coal for, *inter-alia*, the time, cost and effort of the Ministry of Coal including consideration of such Bidder's Bid, without prejudice to any other right or remedy that may be available to the Ministry of Coal hereunder or otherwise.
- 25.5 Without limiting the generality of the above, an Applicant shall be deemed to have a Conflict of Interest affecting the Selection Process, if:
- a. the Bidder, or Associates (or any constituent thereof) and any other Bidder, or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest;
 - b. such Bidder or its Associate receives or has received any direct or indirect subsidy or grant from any other Bidder or its Associate; or
 - c. such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each others information about, or to influence the Proposal of either or each of the other Bidder; or
 - d. there is a conflict among this and other consulting assignments of the Bidder (including its personnel and other members, if any) and any subsidiaries or entities controlled by such Bidder or having common controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the Ministry of Coal 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
 - e. A firm hired to provide consulting services for the preparation or 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;
- 25.6 An Bidder eventually appointed to provide Consultancy for this Project shall be disqualified from subsequently providing goods or services related to the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 12 months from the completion of this assignment; provided further that this restriction shall not apply to consultancy services performed for the Ministry of Coal in continuation of this Consultancy or to any subsequent consultancy/ advisory services performed for the Ministry of Coal where the conflict of interest situation does not arise.

25.7 In the event that the Consultant, its Associates or affiliates are auditors or financial advisers to any of the Bidders (for System Integration or any other activity) for the Project, they shall make a disclosure to the Ministry of Coal as soon as any potential conflict comes to their notice but in no case later than 7 (seven) days from the receipt of such proposals and any breach of this obligation of disclosure shall be construed as Conflict of Interest. The Ministry of Coal shall, upon being notified by the Consultant under this Clause, decide whether it wishes to terminate this Consultancy or otherwise, and convey its decision to the Consultant within a period not exceeding 15 (fifteen) days.

25.8 a. The "Consulting Agency,/Firm" which is declared successful in the current bid and is appointed to provide its services for operationalisation of Coal Trade Exchange, in accordance with the scope of work mentioned, shall not be eligible to participate in the competitive bidding or the specified selection procedure, which may be held anytime in future, to elect a suitable agency to manage the affairs of Coal Trade Exchange.

b. The restriction on participation, as mentioned above, shall also be applicable on affiliates or associated companies of the "Consulting Agency/Firm" and on any other agency and its affiliates, which may be appointed by the Central Government, in the event of pre-mature termination of the agreement, for any of the reasons mentioned in the RFB, with the originally appointed consulting agency/firm.

26 Fraud and Corrupt Practices

The Bidders 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 RFB, Ministry of Coal shall reject a Bid without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder 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.

Without prejudice to the rights of Ministry of Coal and the rights and remedies which Ministry of Coal may have under the LOA, if a Bidder, as the case may be, is found by Ministry of Coal 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 issue of the LOA, such Bidder shall not be eligible to participate in any tender or RFB issued by Ministry of Coal during a period of 3 (three) years from the date such Bidder, as the case may be, is found by Ministry of Coal 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. 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 Ministry of Coal who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA, before or after the execution thereof, at any time prior to the expiry of 1 (one) year from the date such official resigns or retires from or otherwise ceases to be in the service of Ministry of Coal, shall be deemed to constitute influencing the actions of a person connected with the Selection Process; or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA, as the case may be, any person in respect of any matter relating to the project or the LOA, who at any time has been or is a legal, financial or technical adviser of Ministry of Coal 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 Ministry of Coal 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
- (i) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Selection Process.

27. Miscellaneous

- 27.1 The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at New Delhi, India shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 27.2 The Ministry of Coal, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
 - 27.2.1 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;
 - 27.2.2 consult with any Bidder in order to receive clarification or further information;
 - 27.2.3 retain any information and/or evidence submitted to the Ministry of Coal by, on behalf of and/or in relation to any Bidder; and/or
 - 27.2.4 independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on

behalf of any Bidder.

- 27.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Ministry of Coal, 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.
- 27.4 All documents and other information supplied by the Ministry of Coal or submitted by a Bidder shall remain or become, as the case may be, the property of the Ministry of Coal. The Ministry of Coal will not return any submissions made hereunder. Bidders are required to treat all such documents and information as strictly confidential.
- 27.5 The Ministry of Coal reserves the right to make inquiries with any of the clients listed by the Bidders in their previous experience record.

28. Termination of Contract: The contract may be terminated in the event that any Party commits a breach of term or condition of this contract (“defaulting Party”) not otherwise specified under this contract, the other Party (“Non-Defaulting Party”), shall have the right to terminate this contract after providing the Defaulting party thirty (30) days prior written notice and the breach has not been cured or rectified to the satisfaction of the Non-Defaulting Party within the said period of thirty (30) days.

Pre-Qualification Bid Format

Requirement	Supporting documents	Details enclosed (Page No.)
As per Clause 12.1		

Format for Technical Bid

Section Heading	Supporting Documents	Details enclosed (Page No.)
Technical Bid Covering Letter		
Parameter for Technical Evaluation (As per Clause 18)		

Format for Submitting Financial Proposal

To,

The Ministry of Coal 120-F Wing,
Shastri Bhawan, New Delhi – 110001

Sub: Selection of Consultant for Ministry of Coal

Ref: RFB dated [insert Date] (“**RFB**”)

Dear Sir,

I (Bidders name) provide below the Financial Proposal for selection of my/our as Consultant for above mentioned project:

Quote for total cost of the Consultancy for 24 months (in INR) ---- (in both figures and words).

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

Sincerely,

.....
Signature of Authorised Signatory:

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

Form 5: Performance Bank Guarantee

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

<Location, Date>

Whereas, <<name of the supplier and address>> (hereinafter called “the applicant/supplier”) has undertaken, in pursuance of contract no. <<insert contract no.>> dated. <<insert date>> to provide consulting services for <<name of the assignment>> to the Ministry of Coal (hereinafter called “the beneficiary”)

And whereas it has been stipulated by in the said contract that the applicant/supplier shall furnish you with a bank guarantee by a recognized bank for the sum specified therein as security for compliance with its obligations in accordance with the contract;

And whereas we, <<**Name of the Bank**>> a banking company incorporated and having its head /registered office at <<address of the registered office>> and having one of its office at <<address of the local office>> have agreed to give the supplier such a bank guarantee.

Now, therefore, we hereby affirm that we are guarantors and responsible to you, on behalf of the supplier, upto a total of **Rs. <<Insert Value>> (Rupees <<insert value in words>> only)** and we undertake to pay you, upon your first written demand declaring the supplier to be in default under the contract and without cavil or argument, any sum or sums within the limits of Rs. <<**Insert Value**>> (Rupees <<**insert value in words**>> only) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the applicant/supplier before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the contract to be performed there under or of any of the contract documents which may be made between you and the applicant/supplier shall in any way release us from any liability under this guarantee and we hereby waive notice of any such change, addition or modification.

This Guarantee shall be valid until <<*Insert Date*>>.

Notwithstanding anything contained herein:

I. Our liability under this bank guarantee shall not exceed **Rs <<Insert Value>>**
(Rupees <<insert value in words>> only).

II. This bank guarantee shall be valid up to <<*insert expiry date*>>.

III. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this bank guarantee that we receive a valid written claim or demand for payment under this bank guarantee on or before <<*insert expiry date*>> failing which our liability under the guarantee will automatically cease.