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SELECTION OF CONSULTANT

REQUEST FOR PROPOSALS

RFP No.: HQ-OPBD0BD(PROC)/1/2023

Selection of Consultant :

'Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC'

Client: Dedicated Freight Corridor Corporation of India Limited

Country: India

Issued on 05.06.2024

DISCLAIMER

1. DFCCIL does not make any representation or warranty as to the accuracy, reliability or completeness of the information in this Bid Document. Therefore, each Bidder should conduct their own investigations and analysis and check the accuracy, reliability and completeness of the information in this Bid Document and obtain independent advice from appropriate sources. The Bidder shall bear all its costs associated with the preparation and submission of its Bid including expenses associated with any clarifications which may be required by DFCCIL or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and DFCCIL shall not be liable in any manner.
2. DFCCIL will have no liability to any Bidder or any other person under the law of contract, tort, the principles of restitution or unjust enrichment or otherwise for any loss, expense or damage which may arise from or be incurred or suffered in connection with anything contained in this Bid Document, any matter deemed to form part of this Bid Document, the award of the License, the information and any other information supplied by or on behalf of DFCCIL/Railway or otherwise arising in any way from the Bidding process of the License.
3. The issue of this Document does not imply that DFCCIL is bound to select the Bidder or to appoint the Selected Bidder. DFCCIL reserves the right to reject any or all of the Bids submitted in response to this Bid Document at any stage without assigning any reasons whatsoever. DFCCIL also reserves the right to withhold or withdraw the process at any stage with intimation to all Bidders who have submitted the Bid.
4. DFCCIL reserves the right to change/ modify/amend any or all of the provisions of this Bid Document at any stage. Such changes shall be notified to all Bidders who have bought the Bid Document at any stage. Such changes shall be notified through E-Tendering by issuing Corrigendum.

Definitions/ Abbreviations and Interpretation

1. "Client" means the implementing agency *i.e.* DFCCIL.
2. "Consultant" means a legally established professional consulting firm or an entity that may provide or provides the Services to the Client under the Contract.
3. "Contract" means a legally binding written agreement signed between the Client and the Consultant.
4. "Day" means a calendar day.
5. "Experts" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant.
6. "Key Expert(s)" means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is taken into account in the technical evaluation of the Consultant's proposal.
7. "ITB" means the Instructions to Bidders that provide the Bidders with all information needed to prepare their Proposals.
8. "LOI" (this Section 1 of the RFP) means the Letter of Invitation being sent by the Client to the Consultants.
9. "MMLP" means a freight-handling facility with a larger land area and having various modes of transport access, warehouses, storage solutions, facilities for mechanized material handling and inter-modal transfer container terminals, and bulk and break-bulk cargo terminals etc.
10. "NCR" means the National Capital Region centered upon the National Capital Territory of Delhi in India.
11. "Proposal" means the Technical Proposal and the Financial Proposal submitted by the Consultant.
12. "RFP" means the Request for Proposals for calling offers for execution of specific work.
13. "Services" means the works to be performed by the Consultant in pursuant to execution of present assignment.
14. "TOR" (Section IV) means the Terms of Reference that explain the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Client and the Consultant, and expected results and deliverables of the assignment.
15. "Local Currency" means the currency of the Client's country.
16. "Party" means the Client or the Consultant, as the case may be, and "Parties" means both of them.
17. "SCC" means the Special Conditions of Contract by which the GCC may be supplemented but not over-written.
18. "Third Party" means any person or entity other than the Government, the Client, the Consultant or a Sub-consultant.

Section – I
Letter of Invitation [LOI]

NIT No. HQ-OPBD0BD(PROC)/1/2023

Dear Sir/Madam

Sub : ‘Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC’.

1. The Dedicated Freight Corridor Corporation of India Limited (hereinafter referred to as ‘**DFCCIL or Employer**’), having its Corporate office at 5th Floor, Supreme Court Metro Station Building Complex, New Delhi – 110001, India, a Public Sector Enterprise set up as a wholly owned Government Company under The Companies Act, has decided to undertake the Tendering for the selection of a Consulting firm for the following Work :

‘Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC’

2. DFCCIL, now, invites Bids, from the eligible consulting firms (hereinafter referred to as ‘Consultant’), under Single Stage Two Packet Tendering System. Detailed guidelines about Eligibility Criteria, Bid Process/ Method of Tendering, Terms of Reference and other relevant information is mentioned in the present RFP Document. The present RFP Document contains the following information/ documents :

Section	Description
Section I	Letter of Invitation
Section II	Notice Inviting Tender (NIT)
Section III	Instructions to Bidders/ Consultants
Section IV	Terms of Reference, Key Deliverables, Key Experts
Section V	Method of Tendering & Evaluation
Section VI	General Conditions of Contract (GCC)
Section VII	Special Conditions of Contract (SCC)
Section VIII	Technical and Financial Proposal – Standard Forms
Section IX	Draft Agreement

5. A complete set of RFP Document published at website <https://www.ireps.gov.in> & on DFCCIL Website is enclosed herewith and available for viewing and downloading from date 05.06.2024 at 16:00 hrs. till the closing for submission of offer on 26.06.2024 at 15:00 hrs. Only technical proposals will be opened on 26.06.2024 at 15:30 hrs.

6. The Cost of RFP Document is NIL.

7. Any information about the RFP can be obtained from this office about the uploading & submission of offer till the closing date/ time for submission of bid.

Yours sincerely,

Encl. : RFP Document

GM/OP&BD
DFCCIL, New Delhi
05.06.2024

Section – II
Notice Inviting Tender (NIT)

E-Tender Notice No. HQ-OPBD0BD(PROC)/1/2023

- Name of work : ‘Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC’.**
- The General Manager (OP&BD), DFCCIL, for and on behalf of the MD/DFCCIL invites e-tender **on Single Stage Two Packet System** for the above mentioned work with the below mentioned details :

S. No.	Item	Description
i.	Type of Tender	Special Limited E-Tender (Single stage Two Packet)
ii.	Period of Contract	02 (two) months from the date of commencement
iii.	Earnest Money	Rs. 1,20,000/- (Rupees One Lakh Twenty Thousands Only) Mode of Payment is mentioned in clause 5 of Section III. Tender without valid earnest money shall be summarily rejected.
iv.	Cost of Tender Document	Nil
v.	E-tendering website	http://www.ireps.gov.in For any help, please contact IREPS Helpdesk at 011- 23761525
vi.	Date of uploading of NIT & Bid documents (online publishing date)	On Date 05.06.2024
vii.	Date of document download (Online)	From the date of publishing of tender
viii.	Mode of communication w.r.t. Issuance of Addendum/ Corrigendum, if any	IREPS Website www.ireps.gov.in and DFCCIL’s websites www.dfccil.com
ix.	Closing Date & Time for Submission of Tender	<u>15:00 hrs on 26.06.2024</u>

x.	Date & Time for Opening of Tender (Technical bids -Packet A)	<u>15:30 hrs. on 26.06.2024</u>
xi.	Validity of offer	90 days from the date of opening of the Technical Bid of the Tender
xii.	Performance Security from successful bidder	Rs. 3,00,000/- (Rupees Three Lakhs Only) (As per details mentioned in clause 6 of Section – III)

For detailed information, please go through the RFP Document.

General Manager (OP&BD)
DFCCIL

NOTE :

1. Tenders are to be submitted online only through www.ireps.gov.in after registration on site. Bidder is required to have digital signature registered on the site.
2. The Earnest Money shall be submitted in favour of DFCCIL in the form as detailed in clause 5 of Section III. In case of EMD through Bank Guarantee, the original Bank Guarantee as Earnest Money Deposit should be dropped in Tender Box at Employer's office before the scheduled date and time of submission of the tender.
3. The Bank Guarantee shall be valid for a period of 90 days beyond the bid validity period i.e. for 180 days from the last date of bid submission (any extension of closing date shall also be taken care of). Bank Guarantee should be scanned to be submitted on IREPS and the original should be deposited to DFCCIL office.
4. Opening of Financial Bid (Packet-B) will be notified to the technically eligible bidders only.
5. Tender duly filled-in and signed must be submitted on IREPS website by Bidder's own digital signature certificate & log-in ID registered on IREPS website on or before the closing date & time.
6. For any reason if the office is closed on scheduled date of tender opening, tender will be opened on the next working day. All the required documents including the tender document, should be uploaded in the IREPS and digitally signed, duly mentioning the details and purpose of the document viz. Eligibility Criteria, NEFT, GSTIN details etc. at the time of submission of the tender. The Technical Bid shall be opened on due date and the Financial Bid will be opened after short listing of eligible Bidders duly notifying the eligible Bidders.
7. It is the responsibility of participants taking care of any Addendum & Corrigendum before submission of bid.

Section – III
Instruction to Bidders

1. **Name of the work :** ‘Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC’.
- 2.1 **Period of Contract :** 02 (Two) months from the commencement of contract. Timeline mentioned in Section – IV (Terms of Reference) shall adhere to. Period of contract can be extended on mutual agreement between the parties subject to no change in TOR and Contract Price.
- 2.2 DFCCIL may short close/ close the contract at any stage without assigning any reason to the consultant. In such case, DFCCIL will pay the remuneration for the documents/ reports already approved/ accepted. No document/ report will be further accepted by DFCCIL for approval. However, DFCCIL may, at its discretion, examine any document/ report already submitted by consultant for acceptance.
- 2.3 In case approval of any authority to Bid Document (as explained in Key Deliverable – 3) takes a period of more than 02 (two) months, Consultant shall have right to give a request to close the contract, which normally be decided by DFCCIL within 15 days by arranging the approval of authority or acceptance to the request for close. Contract will be treated as closed only after conveying the acceptance to the request of Consultant. In case, approval to Bid Document (as explained in Key Deliverable 3) is issued after close of contract on request of Consultant, no payment will be made to Consultant considering that KD-3 is approved in absence of Consultant.
- 3 **Commencement of Contract :** The successful bidder will be intimated through a “Letter of Award”. Issuance of LOA through email to the Email ID of authorised representative of consultant, will be treated as acknowledgement of LOA. Consultant shall submit an acceptance of LOA within 15th (fifteen) days from the issuance of “Letter of Award”. Confirmation about availability of Key Experts within 15th (fifteen) days from the date of issuance/ approval of the MMLP Policy by Railway Board or issuance of “Letter of Award”, whichever is later shall be treated as date of commencement of the contract. The Agreement must be signed by consultant within 15 days from the issuance of “Letter of Award” or the issuance/ approval of the MMLP Policy by Railway Board whichever is later. The MMLP Policy will be issued/ approved by Railway Board in due course of time.
- 4 **Cost of tender documents :** Nil
- 5.1 **Earnest Money Deposit :** An Earnest money of Rs. 1,20,000/- (Rupees One Lakh Twenty Thousands only) must be accompanied with the tender document. Earnest Money shall be accepted only through net banking or e-payment gateway through the website www.ireps.gov.in or as Bank Guarantee from a scheduled commercial bank of India as per Annexure-I.
- 5.2 **Forfeiture of Earnest Money Deposit :** It shall be understood that Bidder after submitting its Bid will not resile from his offer or modify the terms and conditions thereof in a manner not acceptable to the DFCCIL during the validity (or extended validity) of offer. In case, bidder resile from his offer or fail to observe or comply with the stipulation of this RFP, the EMD shall be liable to be forfeited by the DFCCIL.
- 5.3 **Refund of Earnest Money Deposit :** Earnest Money deposited by bidders who found to be unsuccessful shall be refunded after issuance of LOA to successful bidder. DFCCIL shall neither be responsible for any loss or depreciation that may happen thereto while in their possession, nor be liable to pay interest thereon. Earnest Money Deposited by the successful bidder shall be refunded after receipt of Performance Security.
- 6 **Performance Security :** Successful Bidder has to submit and maintain Rs. 3,00,000/- (Rupees Three Lakhs Only) towards performance security, after issuance of Letter of Award (LOA) but before signing of Contract Agreement. Performance Security can be

submitted through the net banking or e-payment gateway or as Bank Guarantee from a scheduled commercial bank of India as per format at Annexure-III. Performance Security shall remain valid until 60 days after the expiry of the contract.

- 7.1 Availability & submission of tender documents:** Tender document is available on the website www.ireps.gov.in of Indian Railway Electronic Procurement System (IREPS) and DFCCIL's official website www.dfccil.com . However, Offers are to be submitted online on IREPS portal only. No physical offer will be accepted.
- 7.2 Amendment of RFP :** At any time prior to the deadline for submission of Bid, DFCCIL may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFP document by the issuance of Addendum/ Amendment and posting it on the Official Website and IREPS portal (please see note 7 of NIT). In order to afford the Applicants a reasonable time for taking an amendment into account, or for any other reason, DFCCIL may, in its sole discretion, extend the closing date & time for submission of Bid.
- 8 Date fixed for bidding e-tender:** As per NIT.
- 9 Late/Delayed Tenders:** Submission of Tenders shall be closed on e-tendering website of IREPS at the date & time of submission prescribed in NIT after which no tender shall be accepted. It shall be the responsibility of the bidder to ensure that its tender is submitted online on e-tendering portal before the deadline of submission. DFCCIL will not be responsible for any delay, internet connection failure or any error in uploading of tender submission. The bidders are advised to upload their submission well before the due date and time of tender submission to avoid any problem and last-minute rush.
- 10 Validity of offers :** As per NIT, DFCCIL will make its best effort to complete the evaluation within the proposal's validity period. However, in case need arise, the DFCCIL may request, in writing, all Consultants who submitted Proposals prior to the submission deadline to extend the proposals' validity. If the bidder agrees to extend the validity of its proposal, it shall be done without any change in the original proposal and with the confirmation of the availability of the Key Experts. The Consultant has the right to refuse to extend the validity of its proposal, in such case such proposal will not be further evaluated but the remaining proposal will be evaluated.
- 11** Before submitting a Bid, the Bidder shall be deemed to have satisfied itself about eligibility criteria and other terms & conditions of the contract. It would be deemed that by submitting the bid, the bidder has made a complete and careful examination of the documents and obtained all relevant information about the project. The bidder must ensure submission of all required documents. DFCCIL shall not be liable for any mistake or error on the part of the bidder in this respect.
- 12** If any of the Key Experts become unavailable for the extended validity period, the Consultant shall provide a written adequate justification and evidence satisfactory to the Client together with the substitution request. In such case, a replacement Key Expert shall have the mandatory required minimum qualifications and experience. If the Consultant fails to provide a replacement Key Expert with minimum required qualifications and experience, or if the provided reasons for the replacement or justification are unacceptable to the client, such proposal will be rejected.
- 13** The bidders are required to submit their offer along with all required forms/ annexures attached to the RFP Document. Incomplete tender documents shall be summarily rejected. The bidder shall ensure that the bid is complete in all respects and conforms to all the requirements.
- 14 Submission of Tenders:** Tenderers shall submit their offers in **two packets in single stage** on IREPS portal, first being the Technical Bid & second being Financial Bid.
Packet 'A' (Technical bid) will contain tender document (other than financial bid), details of earnest money and documents in support of eligibility criteria etc.
Packet 'B' (Financial Bid) will contain only contract price which will be duly filled by the bidder. Contract price to be entered into Financial Bid on IREPS Website only. Contract

price and any other financial entity in any other form / letter head if attached by bidder shall render the bid invalid and shall not be considered.

This contract is a Lump-Sum contract and the Consultant is deemed to have include all prices in the Financial Proposal, so neither arithmetical corrections nor price adjustments shall be made. Where there is a discrepancy between the amount in words and the amount figures, the amount in words shall prevail.

The Price specified in the Financial Proposal (Form FIN-1) shall exclude the taxes and duties.

The Client's evaluation of the Consultant's Financial Proposal (Form FIN-1) excluding the taxes and duties shall be considered as the offered price.

15 Right of DFCCIL to Deal with Bids:

15.1 The DFCCIL reserves the right to accept a bid in whole or in part or reject any bid or bids without assigning reasons for any such action. The authority, for acceptance of the bid will rest with the DFCCIL. It shall not be obligatory on the said authority to accept the lowest bid or any other bid and no Bidders(s) shall be entitled to demand any explanation for the cause of rejection of their Bid nor the DFCCIL be responsible to assign reason for declining to consider or reject any particular Bid/s.

15.2 If the bidder(s) gives/give wrong information in his/ her/their tender or creates/ create circumstances for the acceptance of his/ her/their offer based on such wrong information, the DFCCIL reserves the right to reject such offer at any stage. In case of any wrong information submitted by bidder, the contract shall be terminated and Performance Security deposited will be forfeited.

15.3 If the bidder, whose bid has been found to be the lowest evaluated bid, withdraws or whose bid has been accepted, fails to sign the contract as may be required, or otherwise withdraws from the execution process, the authority shall cancel the process and EMD/ Performance Security will be forfeited on this ground.

Such bidder is liable for punitive actions, like banning the bidder and partners/members of the bidding firm for future dealings with DFCCIL as decided by the DFCCIL.

16 The Proposal shall comprise the documents and forms listed in the Appendix-A. The Consultant shall include a statement of an undertaking of the Consultant to observe, in competing for and executing a contract, the Client country's laws against fraud and corruption (including bribery).

17 Conflict of Interest

17.1 The Consultant is required to provide professional, objective, and impartial advice, at all times holding the Client's interests paramount, strictly avoiding conflicts with other assignments or its own corporate interests, and acting without any consideration for future work.

17.2 The Consultant has an obligation to disclose to the Client any situation of actual or potential conflict that impacts its capacity to serve the best interest of its Client. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract and blacklisting by the client. Without limitation on the generality of the foregoing, the Consultant shall not be hired under the circumstances set forth below:

(i) **Conflicting Activities** - Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Client to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be

disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.

- (ii) **Conflicting Assignments** - Conflict among consulting assignments: a Consultant (including its Experts and Sub-consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant for the same or for another Client.
- (iii) **Conflicting Relationships** - Relationship with the Client's staff: a Consultant (including its Experts and Sub-consultants) that has a close business or family relationship with a professional staff of the client who are directly or indirectly involved in any part of (i) the preparation of the Terms of Reference for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Bank throughout the selection process and the execution of the Contract.

18 Make in India Consideration:

Provisions for procurement under Public procurement (Preference to Make in India) policy will be applicable for items to be procured under Public Procurement (Preference to Make in India) order 2017 dt.15.6.2017 and its revision dt. 16.09.2020.

19 Restrictions of procurement from the bidders from countries sharing land borders with India

- i. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
- ii. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- iii. "Bidder from a country which shares a land border with India" for the purpose of this Order means:-
 - a. An entity incorporated, established or registered in such a country; or
 - b. A subsidiary of an entity incorporated, established or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
 - d. An entity whose beneficial owner is situated in such a country; or
 - e. An Indian (or other) agent of such an entity; or
 - f. A natural person who is a citizen of such a country; or
- iv. The beneficial owner for the purpose of (iii) above will be as under;
 - 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation -

- a) "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent of shares or capital or profits of the company;

- b) "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements'
- 2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership or entitlement to more than fifteen percent of capital or profits of the partnership;
- 3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals.
- 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is their Levant natural person who holds the position of senior managing official.
- 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control of ownership.
- v. An Agent is a person employed to do any act for another, or to represent another in dealings with third persons.

Certificate to be provided by the Tenders with their bid

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India. (Please strike out, whichever is not applicable)

- a. I certify that I am not from such a country; or*
- b. I am from such a country and have been registered with the Competent Authority. I hereby certify that I fulfill all requirements in this regard and is eligible to be considered. Evidence of valid registration by the Competent Authority is attached."*
- vi. The bidders may refer to Form Tech – I.

20 Language of Bid: The Bid, as well as all correspondence and document(s) relating to the bid exchanged by the Bidder and the DFCCIL, shall be written in English.

Section – IV **Terms of Reference**

Terms of Reference: ‘Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC’

1. Introduction

Government of India (GOI) established the Dedicated Freight Corridor Corporation of India Limited (DFCCIL) in 2006, under the Companies Act of 1956, as a Special Purpose Vehicle, wholly owned by the Ministry of Railways (MOR), with a mandate to Construct, Operate and Maintain Dedicated Freight Corridors (Eastern and Western Corridors). DFC was conceptualized with a view to improve the modal rail share in transport industry and reduce the transportation cost in India by utilizing it's unique features to make it capable for carrying freight trains faster with higher capacity. The DFCCIL will help Indian Railway to increase the Railway's modal share of Freight traffic.

2. Policy framework for MMLP development:

Ministry of Railways has issued revised Gati Shakti Multi Modal Cargo Terminal Policy in 2022 for development of freight terminals (Schedule 1) entirely on private land and (Schedule 2) entirely/ partially Railway's land. DFCCIL, has adopted the GCT Policy of Indian Railways *mutatis mutandis*; and is in process for granting connectivity to freight customers for development of GCT Terminals on private as well as IR/DFCCIL's land.

DFCCIL has conducted extensive discussion with the Government as well as industry stakeholders with regard to the development of MMLP. As MMLPs typically involve high capital investment and a gamut of value-added services, the consensus is that it requires a separate set of facilitative policy framework to incentive the development of MMLPs. There is an urgent need for drafting of RFP document and selection process.

3. Objective:

To strengthen the Rail based logistic system and extending the benefits of DFCCIL to the industry & public at large, there is an urgent need to develop Multimodal Logistic Parks on DFCCIL. To fulfill the expectations of logistic/ manufacturing sector/ e-commerce companies and end users from other areas, DFCCIL has planned to take on board an expert developer from the private infrastructure sector for development of MMLP through bidding process (limited tender). Developer so identified will bring in the expertise of Infrastructure planning/ construction/ management along with infusion of finance into the project. The anticipated expectation of the developer makes the project a critical one. There is an urgent need to draft a Bid Document, Concession Agreement to suit the requirement of these documents, hence, the present work is planned to be executed. Scope of the work is mentioned in para 4 of this section.

4. Scope of Work:

Scope of work is mentioned in para below, which is further divided into Key Deliverables and the payment will be made after acceptance of the Key Deliverable which requires to be submitted within the time stipulated in timeline (explained in para 5) :

- (i) Preparation of 'Bid Document' for search & selection of Developer/ Concessionaire for setting up of Multi Modal Logistic Park at New Kanpur as per DFCCIL/IR's MMLP Policy.
- (ii) Drafting of Concession Agreement to be executed between DFCCIL & Concessionaire
- (iii) Projection of anticipated annual Traffic (commodities & volumes) & annual Revenue for MMLP at New Kanpur for tenure of project [which will be the basis for fixation of Minimum Guaranteed Revenue (MGR)]; and suggest fixed Minimum Revenue Share in terms of % of Gross Revenue from the project, along with rationale.
- (iv) Calculations of reserve price based on expected (a) Minimum Guaranteed Revenue (MGR); and (b) Minimum Revenue Share (in %age of annual revenue) along with rationale/ benchmark for the same etc.

5. Key Deliverables, Timelines and Payment Schedule

Key Deliverable, the timelines for submission of deliverables and payment (%age) on approval of the same by the competent authority are mentioned below :

S. No.	Key Deliverable	Timeline for Submission – Date of Commencement of Assignment (T1)	Payment %age on approval/ acceptance of Deliverable (Total 100%)
1.	Key Deliverable – 1 (a) Anticipated Annual Traffic (commodity & volume) pattern & Annual Revenue for MMLP at New Kanpur, for the tenure of the project. (b) Calculations of minimum reserve price based on expected (i) Minimum Guaranteed Revenue (MGR); and (ii) Fixation of Minimum Revenue Share (in %age of annual gross revenue) along with rationale/ benchmark for the same.	T1 + 30 days	25%

2(a)	Key Deliverable – 2 (a) Preparation & submission of first draft Bid Document for search and selection of Developer/ Concessionaire for setting up of Multi Modal Logistic Park at New Kanpur as per DFCCIL/IR's MMLP Policy.	T1 + 45 days = T2	15%
2(b)	(b) Preparation & submission of first draft Concession Agreement to be executed between DFCCIL & Concessionaire	T1 + 45 days = T2	10%
2(c)	(c) Organizing Industry/ Stakeholders' Conference & analysing the inputs <i>(Please see note below the table)</i>	T1 + 45 days = T2	10%
3(a)	Key Deliverable – 3 (a) Preparation & submission of final draft Bid Document for search and selection of Developer/ Concessionaire for setting up of Multi Modal Logistic Park at New Kanpur as per DFCCIL/IR's MMLP Policy.	T2 + 15 days = T3	20%
3(b)	(b) Preparation & submission of final draft Concession Agreement to be executed between DFCCIL & Concessionaire	T2 + 15 days = T3	20%

Note : Cost of organizing above conference will be borne by DFCCIL, except the cost of Consultant's team including Key Expert's boarding/ lodging/ allowances etc., which is to be borne by Consultant.

6. Period of Contract : A period of 02 (two) months from the date of commencement of the work will be granted.

7.1 Key Experts: Consulting firm shall have the following key experts to complete the assignment :

S. No.	Position	Mandatory Eligibility criteria
(1)	(2)	(3)
1	Team Leader cum Supply Chain Management Expert	i. Minimum 05 years of experience in consultancy projects as team leader experience in logistics, transportation, infrastructure sectors. ii. Minimum Education Qualification: Post Graduate in Finance/ Management/ Economics.
2	Operations & Freight Business Marketing Expert	i. Minimum 05 years experience of Operations & Freight Business Marketing in consultancy projects related to transport/ logistics sector. ii. Minimum Education Qualification: Graduate in Engineering and Post Graduate in Finance/ Management.

S. No.	Position	Mandatory Eligibility criteria
(1)	(2)	(3)
3	Finance and Costing Expert	i. Minimum 05 years of experience of Finance and Costing in consultancy projects related to transport/ logistics sector. ii. Minimum Education Qualification : Post Graduate in Finance or Economics.
4	Infrastructure Expert	i. Minimum 05 years of experience of Infrastructure planning consultancy projects related to transport/ logistics sector. ii. Minimum Education Qualification : Graduate in Engineering and Post Graduate in Management/ Finance.
5	PPP and Monetization Models Expert	i. Minimum 05 years of experience of PPP or Monetization Modeling consultancy projects related to transport/ logistics sector. ii. Minimum Education Qualification : Post Graduate in Finance or Economics or Management.
6.	Bid design-cum-Procurement Expert	i. Minimum 05 years of experience of Bidding/ Procurement consultancy projects related to transport/ logistics sector. ii. Minimum Education Qualification : Post Graduate in Management/ Finance.
7.	Legal Expert	i. Minimum 05 years of experience of Infrastructure planning consultancy projects related to transport/ logistics sector. ii. Minimum Education Qualification : Graduate in Law.

7.2 Other conditions (Key Experts):

- i. During this period, the Consultant shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.
- ii. The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a pre-requisite. Failure to confirm the Key Experts' availability may result in the rejection of the Consultant's Proposal and the Client proceeding to negotiate the Contract with the next-ranked Consultant.
- iii. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive. Consultant shall not propose alternative Key Experts. Financial Proposal shall include all costs associated with the assignment, including remuneration for Key Experts and Non-Key Experts.
- iv. If it is established that any Key Expert nominated in the Consultant's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation.
- v. If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts, except as provided in para (vi) below.
- vi. If any of the Key Experts become unavailable for the extended validity period, the Consultant shall seek to substitute another Key Expert. The Consultant shall provide a written adequate justification and evidence satisfactory to the Client together with the substitution request. In such a case, a substitute Key Expert shall have the required mandatory minimum qualifications and experience.
- vii. If the Consultant fails to provide a substitute Key Expert with the minimum required qualifications and experience, or if the provided reasons for the replacement or justification are unacceptable to the Client, such Proposal will be rejected.

Section – V

Method of Tendering

1. Selection Procedure :

1.1 DFCCIL, invites Bids, from the eligible consulting firms/ Consultants, under two packet system of tendering. Scheme for submission of tenders is explained in clause 14 of Section – III.

1.2 Technical Eligibility Criteria :

(i) Eligible Consulting Firms –

- a. Sole Proprietorship
- b. Partnership Firms/ LLP Firm
- c. Company Registered under Company Act

(ii) Essential Eligibility Criteria :

S.No.	Criteria	Documents Required
a.	The firm should have minimum ten years' experience of Consultancy Services for eligible sectors i.e. Logistics or transportation or Supply Chain Management business.	<ol style="list-style-type: none">i. Registration Certificate of Incorporation of Company;ii. Memorandum of Association;iii. Article of Associationiv. Work experience certificate issued by Chartered Accountant certifying the experience from eligible sectors.

1.3. **Sole Proprietorship firm:** If the tender is submitted on behalf of a “Sole proprietorship” concern, the tenderer must submit along with the tender, the notarized copy of the affidavit for the same.

1.4. **Partnership/ LLP firm :** If the tender is submitted on behalf of a “Partnership firm/ concern”, the tenderer must submit the following documents along with the tender :

- (i) the attested copy of registered/ notarized partnership deed and
- (ii) A notarized or registered copy of Power of Attorney in favour of the individual to sign and submit the bid/ documents.

1.5. Governing Laws – The Registered Entity shall in all respect be governed by and interpreted in accordance with Indian Laws.

2. **Essential Document/ Information in support of Technical & Financial capability :** Consultant shall provide the following information alongwith the Techno-Financial Proposal towards assessment of eligibility :

2.1 **For TECHNICAL PROPOSAL (TP) [1st Inner Envelope containing the Technical Proposal]:**

- (i) TECH – 1
- (ii) TECH – 1 A (Power of Attorney to sign the Proposal)
- (iii) TECH-2
- (iv) TECH-3
- (v) TECH-4

AND

2.2 For FINANCIAL PROPOSAL (FP) [2nd Inner Envelope containing the Financial Proposal]:

(1) FIN-1 – Financial Proposal submission Form

(Financial offer to be submitted on IREPS under Financial Bid/ Offer)

2.3 Other Documents required :

S.No.	Description	Document Required to be submitted
i.	Authorized Signatory	Power of Attorney regarding authorized representative (Form Tech 1A)
ii.	Consulting Firms Document	a. PAN Card of the firm b. GST Registration Certificate
iii.	Declaration	a. Declaration about not blacklisted b. Declaration about eligibility of consultant [declaration included in Form Tech 1]

3. Test of Responsiveness : On receipt of offers by the bidding firms, all the offers will be scrutinize to assess the responsiveness of the bid. Only responsive offers will be evaluated further.

3.1 To assess the responsiveness, offers shall be received in proper format with all the Forms/ Documents mentioned in Appendix – A.

3.2 Documents mentioned in para 1 and 2 above are essentially required. Offers without accompanying these documents will be termed as unresponsive and will not be further evaluated.

3.3 Financial offer shall not be accompanied with the technical proposal. In case, financial offer is mentioned in any documents supposed to be submitted with technical offer, such offers will be treated as unresponsive and will not be further evaluated.

Offers assessed as responsive will be evaluated for technical eligibility on technical and financial parameters mentioned in para 4 of this section.

4. Evaluation of Technical and Financial offer:

4.1 Technical Evaluation of the responsive offers will be done on technical and financial parameters mentioned in para 1.2 of this section and documents mentioned in para 2 above.

4.2 The firms meeting with the technical and financial parameters will be termed as technically qualified bidders. Financial Offer of only technically qualified bidders will be opened on the date & time fixed for the same. Date & Time for opening of Financial bid will be intimated to only technically qualified bidders.

4.3 The technically qualified firm offering the lowest financial offer will be termed as successful bidder and the work will be offered to that firm.

4.4 The successful bidder will be intimated through a "Letter of Award". Issuance of LOA through email to the Email ID of authorised representative of consultant, will be treated as acknowledgement of LOA. Consultant shall submit an acceptance of LOA within 15th (fifteen) days from the issuance of "Letter of Award". Confirmation about availability of Key Experts within 15th (fifteen) days from the date of issuance/ approval of the MMLP Policy by Railway

Board or issuance of "Letter of Award", whichever is later shall be treated as date of commencement of the contract. The Agreement must be signed by consultant within 15 days from the issuance of "Letter of Award" or the issuance/ approval of the MMLP Policy by Railway Board whichever is later. The MMLP Policy will be issued/ approved by Railway Board in due course of time.

In case the Bidder does not sign the Agreement within this given time period, the DFCCIL reserves the right to cancel the offer and proceed ahead in a manner deemed fit.

5. **General Manager (OP&BD)** or the officer of DFCCIL looking after the duties will be the Nodal Officer for the overall contract.

Section VI

General Conditions of Contract

1. **Relationship between the Parties** : Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.
2. **Law Governing Contract**: This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
3. **Mode of Communications** : Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause SCC 13. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the **SCC**.
A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the **SCC**.
4. **Authorized Representatives** : Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the **SCC**. Such changes will be termed as change in SCC.
5. **Effectiveness of Contract** : This Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the **SCC** have been met.
6. **Commencement of Services** : The Consultant shall confirm availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC.
7. **Expiration of Contract** : Unless terminated earlier, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC. Both the parties may extend the period of contract, if mutually agreed, beyond the expiry with same Terms of Reference on same remuneration to complete the deliverables.
8. **Entire Agreement** : This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
9. **Modifications or Variations** : Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, shall only be made by written agreement between the Parties. This shall not be varied, altered, modified, canceled, changed, or in any way amended except by mutual agreement of the parties in a written instrument executed by the parties hereto, their legal representatives or their respective successors or assignees.
10. **Force Majeure** :
 - 10.1.1 Force Majeure : For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable,

and makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.

10.1.2 Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations hereunder.

10.1.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

10.2 No Breach of Contract : The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

10.3 Measures to be Taken :

10.3.1 A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

10.3.2 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

10.3.3 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

10.3.4 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:

(a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or

(b) continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 15, 16 & 17.

11. Suspension : The Client may, by written notice of suspension to the Consultant, suspend part or all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.

12. Termination : This Contract may be terminated by either Party as per provisions set up below:

12.1 By the Client : The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence the Client shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):

- (a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 11;
- (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- (c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 17.1;
- (d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;
- (e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- (f) If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13.3.

Furthermore, if the Client determines that the Consultant has engaged in Fraud and Corruption in competing for or in executing the Contract, then the Client may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

12.2 By the Consultant : The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Client, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause.

- a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute within forty-five (45) calendar days after receiving written notice from the Consultant that such payment is overdue.
- b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 17.1.
- d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant's notice specifying such breach.

12.3 Cessation of Rights and Obligations : Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 13.1 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and obligations of the Parties hereunder shall cease, except

- i. such rights and obligations as may have accrued on the date of termination or expiration,
- ii. the obligation of confidentiality set forth in Clause GCC 13.2,
- iii. the Consultant's obligation to permit inspection, copying and auditing of their accounts and records and to cooperate and assist in any inspection or investigation, and any right which a Party may have under the Applicable Law.

12.4 Cessation of Services : Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 13.1, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by Clauses GCC 14.1 or GCC 14.2.

12.5 Payment upon Termination : Upon termination of this Contract, the Client shall make the following payments to the Consultant:

- (a) payment for Services satisfactorily performed prior to the effective date of termination; and
- (b) in the case of termination pursuant to paragraphs (d) and (e) of GCC Clause 13.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

13. Obligations of Consultant :

13.1 Standard of Performance : The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with the third parties.

The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.

The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

13.2.1 Confidentiality : Except with the prior written consent of the Client, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or as a result of, the Services. The Consultant shall not use the *documents related to the assignment* for purposes unrelated to this Contract without the prior written approval of the Client.

13.2.1.1 All reports and other documents (collectively referred to as "Consultancy Documents") prepared by the Consultant (or any Third Party) in performing the Consultancy Services shall become and remain the property of the Client, and all intellectual property rights in such Consultancy Documents shall vest with the Client. The Consultant shall hold the Client harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as "Claims") which may arise from or due to any unauthorized use of such Consultancy Documents, or due to any breach or failure on part of the Consultant or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the Client.

"The Consultant shall not infringe any Intellectual Property Rights of any third party in supplying the services and the consultant shall, during and after the contract period indemnify and keep indemnified and hold the Client harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the client may suffer or incur as a result of or in connection with any breach of this clause.

13.2.2 Pre-Contract Integrity Pact : Prospective bidders shall be required to sign Pre-Contract Integrity Pact in format enclosed with RFP as Annexure-II. Before submission of bid in IREPS, the Pre-Contract Integrity Pact will be endorsed from DFCCIL office and notarised to be attached with bid.

13.3. Description of Key Experts : The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.

13.3.1 Replacement of Key Experts :

- (a) Except as the Client may otherwise agree in writing, no changes shall be made in the Key Experts.
- (b) Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person holding minimum qualifications and minimum experience.

13.3.2 Removal of Experts:

- (a) If the Client finds that any of the Experts has committed serious misconduct or has been charged with having committed a criminal action, or if the Client determines that a Consultant's Expert has engaged in Fraud and Corruption while performing the Services, the Consultant shall, at the Client's written request, provide a replacement.
- (b) In the event that any of Key Experts, Non-Key Experts is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Consultant to provide a replacement.
- (c) Any replacement of the removed Experts shall possess minimum eligibility qualifications and experience and shall be acceptable to the Client.
- (d) The Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.

14. Obligations of DFCCIL :

14.1 Change in the Applicable Law Related to Taxes and Duties : If, after the date of this Contract, there is any change in the applicable law in the Client's country with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Contract price amount specified in Clause GCC 14.4.

14.2 Services, Facilities and Property of the Client : The Client shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference at the times and manner specified in TOR.

14.3 Payment Obligation : In consideration of the Services performed by the Consultant under this Contract, the Client shall make such payments to the Consultant for the deliverables specified in TOR and in such manner as is provided by SCC Clause 7.

14.4. Contract Price : The Contract price is fixed and is set forth in the clause 6 of SCC. The Contract price breakdown is provided in Form Fin-I.

14.5. Taxes and Duties :

The Consultant and Experts are responsible for meeting any and all tax liabilities arising out of the Contract.

14.6 Mode of Billing and Payment : The total payments under this Contract shall not exceed the Contract price set forth in Clause SCC.

14.6.1 The payments under this Contract shall be made in lump-sum installments against deliverables specified in **TOR**. The payments will be made according to the payment schedule stated in the **TOR**.

14.6.2 *The Lump-Sum Installment Payments.* The Client shall pay the Consultant within sixty (60) days after the receipt by the Client of the deliverable(s) and the cover invoice for the related lump-sum installment payment. The payment can be withheld if the Client does not approve the submitted deliverable(s) as satisfactory in which case the Client shall provide comments to the Consultant within the same sixty (60) days period. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.

14.6.3 *The Final Payment.* The final payment under this Clause shall be made only after the final report have been submitted by the Consultant and approved as satisfactory by the Client. The Services shall then be deemed completed and finally accepted by the Client. The last lump-sum installment shall be deemed approved for payment by the Client within ninety (90) calendar days after receipt of the final report by the Client unless the Client, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.

14.6.4 All payments under this Contract shall be made to the accounts of the Consultant specified in the **TOR**.

14.6.5 With the exception of the final payment under 14.3 above, payments do not constitute acceptance of the whole Services nor relieve the Consultant of any obligations hereunder.

15. Settlement of Disputes :

15.1 Amicable Settlement : The Parties shall seek to resolve any dispute amicably by mutual consultation.

15.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 17 shall apply.

16 Dispute Resolution : Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the provisions specified in the clause 17.

17. Arbitration :

17.1 The arbitration shall be carried out as per 'The Arbitration and Conciliation Act, 1996' and its amendments thereof.

17.2 Demand for Arbitration: (i) If the dispute is not settled through above process, it shall be decided by reference to arbitration. Arbitration shall be carried out as per provisions of "The Arbitration and Conciliation act, 1996" and its amendments which shall apply to the arbitration proceedings under this clause) The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item wise. Only such dispute or difference, in respect of which the demand has been made, together with counter claims or set off, given by the DFCCIL, shall be referred to arbitration and other matters shall not be included in the reference Place of Arbitration: That the place of arbitration shall be New Delhi/Delhi) The language of the arbitration proceeding shall be in English language.

17.3 Obligation during Pendency of Arbitration: Work under the Consultant shall continue during the arbitration proceedings, and no payment due or payable by the DFCCIL shall be withheld on account of such proceedings, provided, however, it shall be open for

Arbitral Tribunal to consider and decide whether or not such work should continue during arbitration proceedings.

17.4 Appointment of arbitrator

- a) In cases where the total value of all claims in question added together is upto ₹1,50,00,000/- (Rupees One Crore Fifty Lakh), the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be appointed 'Out of the approved panel of arbitrators in DFCCIL. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by Managing Director/DFCCIL.
- b) In cases where the total value of all claims in question added together exceeds ₹1,50,00,000/-, the Arbitral Tribunal shall consist of a Panel of three Arbitrators. For this purpose, the DFCCIL will send a list of more than 3 names of DFCCIL empaneled Arbitrators which may also include the name(s) of empaneled Arbitrator(s) to the contractor within 60 days from the day when a written and valid demand for Arbitration is received by the MD/DFCCIL. Consultant will be asked to suggest to MD/DFCCIL at least 2 names out of the list for appointment as Consultant's nominee within 30 days from the date of dispatch of the request by DFCCIL. The MD/DFCCIL shall appoint at least one out of them as the Consultant's nominee and will, also simultaneously appoint the second Arbitrator.
- c) The third member, who will also act as the presiding Arbitrator, will be appointed by mutual consent of the first two Arbitrators from the list of empaneled Arbitrators. If these two Arbitrators fail to reach an agreement on the third Arbitrator then, on request by either or both parties, appointment will be made by the Managing Director/DFCCIL.

17.5 If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as arbitrator for any reason whatsoever or dies or in the opinion of the MD/DFCCIL fails to act without undue delay, the MD/DFCCIL shall appoint new arbitrator/arbitrators to act in his/their place in the same manner in which the earlier arbitrator/arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator(s).

17.6 Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.

17.7 The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s), as per the rates fixed by the DFCCIL from time to time and the fee shall be borne equally by both the parties. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by DFCCIL from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the DFCCIL or by the court of law unless specifically directed by Hon'ble court otherwise on the matter.

17.8 All disputes are subject to the territorial jurisdiction of Courts located in New Delhi only. That both the parties shall hereby submit to the jurisdiction of the courts situated at New Delhi for the purpose of actions and proceedings arising out of the contract and the courts at Delhi shall have the sole and exclusive jurisdiction to hear and decide such actions and proceedings.

Section VII

Special Conditions of Contract

1. **Period of Contract** : Two months from the commencement of contract. Timeline mentioned in Para 5 of Section – IV (Terms of Reference) shall adhere to.
2. **Agreement** : The successful bidder will be intimated through a “Letter of Award”. Issuance of LOA through email to the Email ID of authorised representative of consultant, will be treated as acknowledgement of LOA. Consultant shall submit an acceptance of LOA within 15th (fifteen) days from the issuance of “Letter of Award”. The Agreement must be signed by consultant within 15 days from the issuance of “Letter of Award” or the issuance/ approval of the MMLP Policy by Railway Board whichever is later. The MMLP Policy will be issued/ approved by Railway Board in due course of time.
3. **Commencement of Contract** : Confirmation about availability of Key Experts within 15th (fifteen) days from the date of issuance/ approval of the MMLP Policy by Railway Board or issuance of “Letter of Award”, whichever is later shall be treated as date of commencement of the contract.
4. **Office Address** : For field work the consultant shall operate either from his existing office from NCR or can set up a new office in NCR for efficient and coordinated performance of its services.
5. **Applicable Laws** : The Contract shall be construed in accordance with the law of India. “Applicable Laws” shall mean all laws, bye-laws, statutes, rules, regulations, orders, ordinances, codes, guidelines, notices, directors, judgments, decrees or other requirements or official directives and/or of any statutory authority in the Republic of India.
6. **Contract Price** : The Contract price is _____
[amount from financial offer accepted to be inserted – to be filled during agreement only] [indicate offer excluding tax(es)]. Financial offer of eligible bidder will become the contract price after acceptance of offer.
7. **Payment schedule** : Payment schedule for the contract price mentioned above will be as under :

Payment Schedule	Deliverable	Payment
1.	Key Deliverable -1	25%
2.	Key Deliverable – 2 (a)	15%
3.	Key Deliverable – 2 (b)	10%
4.	Key Deliverable – 2 (c)	10%
5.	Key Deliverable – 3 (a)	20%
6.	Key Deliverable – 3 (b)	20%

The detail showing Key Deliverable, Timelines and Payment Schedule is mentioned in Clause 5 of Section – IV.

8. **Earnest Money** : An Earnest money of Rs. 1,20,000/- (Rupees One Lakh twenty Thousands only) must be accompanied with the tender document.
9. **Performance Security** : Successful bidder has to submit and maintain a Performance Security to the tune of Rs. 3,00,000/- (Rupees Three Lakhs only) towards Performance Security, before signing of Contract Agreement.

10. **DFCCIL's Bank Account :** The DFCCIL's Bank Account details for depositing amount towards EMD/ Performance Security is as under:
Name of Account: Dedicated Freight Corridor Corporation of India Limited
Name of Bank: Punjab National Bank
Account No: 05021091000019
Type of Account: Current
IFSC Code: PUNB0050210
11. **Address of Authorized Representative/ Nodal Officer in DFCCIL : General Manager (OP&BD)** or any other officer of DFCCIL looking after the duties will be the Nodal Officer for the overall contract.:

Ms. Shilpi Bishnoi
General Manager/Operations & Business Development
Room no.304, 3rd Floor,
Dedicated Freight Corridor Corporation of India Ltd.,
Supreme Court Metro Station Building Complex, New Delhi-110001 (India)
Tel.011 23454980, Email - shilpi.bishnoi@dfcc.co.in

DFCCIL's additional Email ID for outward communication : roshansingh@dfcc.co.in

12. **Address of Authorized Representative/ Nodal Officer of Consultant :** **Consultant shall provide the details of authorized contact person on his behalf** for the overall contract in Form Tech 2.B.
13. **Language of Bid:** The Bid, as well as all correspondence and document(s) relating to the bid exchanged by the Bidder and the DFCCIL, shall be written in English.

Section VIII

Technical and Financial Proposal – Standard Forms

{Notes to Consultant shown in brackets { } throughout Section 3 provide guidance to the Consultant to prepare the Technical Proposal; they should not appear on the Proposals to be submitted.}

Checklist of Required Forms/ Documents

S.No.	FORM	DESCRIPTION
1.	TECH-1	Technical Proposal Submission Form.
2.	TECH-1A (Power of Attorney)	Format for Power of Attorney for signing of Bid
3.	TECH-2	Consultant's Organization and Experience, (A) Consultant's Organization, (B) Company Profile
4.	TECH-3	Work Schedule and Planning for Deliverables
5.	TECH-4	Team Composition, Key Expert's Inputs, and attached Curriculum Vitae (CV)
6.	FORM FIN-1	Financial Proposal Submission Form (Financial offer to be submitted on IREPS under Financial Bid/ Offer)

All pages of the original Technical and Financial Proposal shall be initialed by the same authorized representative of the Consultant who signs the Proposal.

TECHNICAL PROPOSAL SUBMISSION FORM

{Location, Date}

To

Ms. Shilpi Bishnoi**General Manager/Operations & Business Development**

Room no.304, 3rd Floor,

Dedicated Freight Corridor Corporation of India Ltd.,

Supreme Court Metro Station Building Complex, New Delhi-110001 (India)

Tel.011 23454980, Email - shilpi.bishnoi@dfcc.co.in

Sub: **'Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC'**

Dear Madam,

We, the undersigned, offer to provide our services regarding **'Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC'** in accordance with your Request for Proposals (RFP) dated [Insert Date] as per our Proposal. Our Proposal includes the –

- (i) Technical Proposal and
- (ii) Financial Proposal as per instructions in RFP.

We hereby declare that:

- a) All the information and statements made in this Proposal are true and I/we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Client.
- b) The Proposal shall be valid and remain binding upon us for the period of time specified in para 10 of Section – III.
- c) I/ We have no conflict of interest in accordance with clause 18 of Section - III.
- d) I/ We meet the eligibility requirements as stated in clause 1.2 of Section - V.
- e) I/ We, along with any of the suppliers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a blacklist/ debarment imposed by the client, or a blacklist/ debarment imposed by Ministry of Railways or other enterprises under Ministry of Railways.
- f) We are not in-eligible under the Client's country laws or official regulations.
- g) I/ We accept that the substitution of Key Experts for reasons other than those stated in para 13.3 of Section - VI may lead to the termination of Contract.
- h) I/ We have observed all laws against fraud and corruption (including bribery) prevailing in the Client's country.
- i) Our Proposal is binding upon us.
- j) *"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India. (Please strike out, whichever is not applicable)*
 - i. *I certify that I am not from such a country; or*

- ii. I am from such a country and have been registered with the Competent Authority. I hereby certify that I fulfill all requirements in this regard and is eligible to be considered. Evidence of valid registration by the Competent Authority is attached.”*

I/ We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment not later than the date of commencement of contract.

We understand that the Client is not bound to accept any Proposal that the Client receives.

We remain,

Yours sincerely,

Signature (of Consultant's authorized representative) *{In full and initials}*:

Full name: *{insert full name of authorized representative}*

Title: *{insert title/position of authorized representative}*

Name of Consultant (company's name):

Capacity: *{insert the person's capacity to sign for the Consultant}*

Address: *{insert the authorized representative's address}*

Phone/fax: *{insert the authorized representative's phone and fax number, if applicable}*

Email: *{insert the authorized representative's email address}*

Note – Instructions are mentioned in italicized letters which shall be deleted from the format at the time of submission of proposal.

Format for Power of Attorney for signing of Bid

Know all men by these presents, I/ We _____ (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr./ Ms. _____ (name), _____ son/ daughter/ wife of _____ and presently residing at _____, who is presently employed with us and holding the position of _____, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the Project proposed or being developed by the Dedicated Freight Corridor Corporation of India Ltd. New Delhi, 110001, India (the "Authority") including but not limited to signing and submission of all Bids and other documents and writings, participate in Pre-Bid and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Licensee agreement and undertakings consequent to acceptance of our Bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Bid for the said Project and/ or upon award thereof to us and/or until the entering into of the Licensee Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, _____, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 2.....

For

(Signature, name, designation and address) of person authorized by Board Resolution

(in case of Firm/ Company/ partner in case of Partnership firm)

Witnesses:

1.

2.

Accepted

.....

(Signature)

(Name, Title and Address of the Attorney)

(Notarized)

Person identified by me/ personally appeared before me/
Attested/ Authenticated* (*Notary to specify as applicable) (Signature Name and Address
of the Notary)

Seal of the Notary Registration No. of the Notary

Date:.....

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Appostille certificate.*

Note: Paragraphs in curly parenthesis may be omitted by the Bidder, if not applicable to it, and 'Deleted' may be indicated there.

FORM TECH-2

CONSULTANT'S ORGANIZATION AND EXPERIENCE

Form TECH-2: a brief description of the Consultant's organization and an outline of the recent experience of the Consultant that is most relevant to the assignment. In the case of a joint venture, information on similar assignments shall be provided for each partner. For each assignment, the outline should indicate the names of the Consultant's Key Experts and Sub-consultants who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Consultant), and the Consultant's role/involvement.

A - Consultant's Organization

1. Provide here a brief description of the background and organization of your company..
2. Include organizational chart, a list of Board of Directors, and beneficial ownership

B - COMPANY PROFILE

S.No.	Description	Information
1.	Name of Company/ Consulting Firm	
2.	Nature of Company (Sole Proprietor/ LLP/ Company)	
3.	Year of Incorporation	
4.	Experience of Consultancy Services (Number of Years to be mentioned)	
5.	Registered Office of the firm	
6.	a. Correspondence Address for the project b. Address of Branch in Delhi/ NCR	
7.	Name, Designation & Contact Details of Authorized Representative	

FORM TECH – 3

WORK SCHEDULE AND PLANNING FOR DELIVERABLES

N°	Deliverables ¹ (D-...)	Days											
		5	10	15	20	25	30	n	TOTAL
D-1													
D-2(a)													
D-2(b)													
D-3(a)													
D-3(b)													
												
												
n													

1. List the deliverables with the breakdown for activities required to produce them and other benchmarks such as the Client's approvals. For phased assignments, indicate the activities, delivery of reports, and benchmarks separately for each phase.
2. Duration of activities shall be indicated in a form of a bar chart.
3. Include a legend, if necessary, to help read the chart.

CURRICULUM VITAE (CV)

Position Title and No.	{e.g., K-1, TEAM LEADER}
Name of Expert:	{Insert full name}
Date of Birth:	{day/month/year}
Country of Citizenship/Residence	

Education: {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}

Employment record relevant to the assignment: {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous clients and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}

Period	Employing organization and your title/position. Contact information for references	Country	Summary of activities performed relevant to the Assignment
[e.g., May 2015-present]	[e.g., Organization, advisor/consultant to... For references: Tel...../e-mail.....; Mr....., CEO]		

Expert's contact information: (e-mail, phone.....)

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am eligible and available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Client.

{day/month/year}

Name of Expert, Signature & Date

{day/month/year}

Name of authorized Representative of the Consultant, Signature & Date

(The same who signs the Proposal)

Note : Separate CV to be submitted for all experts separately

FINANCIAL PROPOSAL SUBMISSION FORM

(Financial offer to be submitted on IREPS under Financial Bid/ Offer)

{Location, Date}

To:

Ms. Shilpi Bishnoi
General Manager/Operations & Business Development
Room no.304, 3rd Floor,
Dedicated Freight Corridor Corporation of India Ltd.,
Supreme Court Metro Station Building Complex, New Delhi-110001 (India)
Tel.011 23454980, Email - shilpi.bishnoi@dfcc.co.in

Dear Madam,

I/ We, the undersigned, offer to provide the consulting services for '**Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC**' in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal.

Our attached Financial Proposal is for the amount of _____ {Indicate the corresponding to the amount(s)} {Insert amount(s) in words and figures} [*indicate offer excluding tax(es)*].

Our Financial Proposal shall be binding upon us, up to expiration of the validity period of the Proposal.

We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in bribery.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature {In full and initials}:

Name and Title of Signatory:

In the capacity of:

Address:

E-mail: _____

Appendix-A

Checklist of Required Documents

S.No.	Form/ Annexure	Description
1.1	-	Consulting Firms Documents a. PAN Card of the firm b. GST Registration Certificate <i>[Please refer to clause 2.3(ii) of Section V]</i>
1.2	-	Notarized copy of the affidavit from Sole Proprietorship firm <i>[Please refer to clause 1.3 of Section V]</i>
1.3	-	"Partnership firm/ concern" must submit the following documents along with the tender : (i) the attested copy of registered/ notarized partnership deed and (ii) A notarized or registered copy of Power of Attorney in favour of the individual to sign and submit the bid/ documents. <i>[Please refer to clause 1.3 of Section V]</i>
2.1	-	Essential Eligibility Criteria i. Registration Certificate of Incorporation of Company; ii. Memorandum of Association; iii. Article of Association <i>[Please refer to clause 1.2(ii) of Section V]</i>
2.2	-	Work experience certificate issued by Chartered Accountant certifying the experience from eligible sectors. <i>[Please refer to clause 1.2(ii.a.iv) of Section V]</i>
3.	TECH-1	Technical Proposal Submission Form.
4.	TECH-1A (Power of Attorney)	Format for Power of Attorney for signing of Bid
5.	TECH-2	Consultant's Organization and Experience, (A) Consultant's Organization, (B) Company Profile
6.	TECH-3	Work Schedule and Planning for Deliverables
7.	TECH-4	Team Composition, Key Expert's Inputs, and attached Curriculum Vitae (CV)
8.	FORM FIN-1	Financial Proposal Submission Form (Financial offer to be submitted on IREPS under Financial Bid/ Offer)
9.	Earnest Money Deposit	Earnest Money Deposit <i>(For details please refer to clause 5.1 of Section – III)</i>
10.	Annexure – I	Bid Security (If applicable) <i>[Original to be dropped in earmarked Tender Box kept in DFCCIL Office before closing time/ date of tender]</i>
11.	Annexure – II	Pre-Contract Integrity Pact <i>[Original to be dropped in earmarked Tender Box kept in DFCCIL Office before closing time/ date of tender]</i>

(Bid Security)

Bank Guarantee from any scheduled commercial bank of India

(On non-judicial stamp paper, which should be in the name of the Executing Bank).

Name of the Bank: -----

Managing Director, DFCCIL

Acting through,

DFCCIL,

Beneficiary: Dedicated Freight Corridor Corporation of India Limited

Date:.....

Bank Guarantee No.:

Date:-----

In consideration of the Managing Director, DFCCIL acting through----- (***Designation & address of Contract Signing Authority***), Dedicated Freight Corridor Corporation of India Limited,, (hereinafter called "DFCCIL") having invited the bid for_____through Notice inviting tender (NIT) No._____, We have been informed that [***Insert name of the Bidder***]..... (***hereinafter called "the Bidder"***) intends to submit its bid (hereinafter called "the Bid") .

WHEREAS, the Bidder is required to furnish Bid Security for the sum of [***Insert required Value of Bid Security***], in the form of Bank Guarantee, according to conditions of Bid.

AND

WHEREAS, [***Insert Name of the Bank***], with its Branch [***Insert Address***] having its Headquarters office at..... [***Insert Address***], hereinafter called the **Bank**, acting through [***Insert Name and Designation of the authorised persons of the Bank***], have, at the request of the Bidder, agreed to give guarantee for Bid Security as hereinafter contained, in favour of DFCCIL.:

1. KNOW ALL MEN that by these present that I/We the undersigned [***Insert name(s) of authorized representatives of the Bank***], being fully authorized to sign and incur obligations for and on behalf of the Bank, confirm that the Bank, hereby, unconditionally and irrevocably guarantee to pay to the DFCCIL full amount in the sum of [***Insert required Value of Bid Security***] as above stated.

2. The Bank undertakes to immediately pay on presentation of demand by the DFCCIL any amount up to and including aforementioned full amount without any demur, reservation or recourse. Any such demand made by DFCCIL on the Bank shall be final, conclusive and binding, absolute and unequivocal on the Bank notwithstanding any disputes raised/ pending before any Court, Tribunal, Arbitration or any Authority or any threatened litigation by the Bidder or Bank.

3. The Bank shall pay the amount as demanded immediately on presentation of the demand by DFCCIL without any reference to the Bidder and without DFCCIL being required to show grounds or give reasons for its demand of the amount so demanded.

4. The guarantee hereinbefore shall not be affected by any change in the constitution of the Bank or in the constitution of the Bidder.

5. The Bank agrees that no change, addition, modifications to the terms of the Bid document or to any documents, which have been or may be made between DFCCIL and the Bidder, will in any way absolve the Bank from the liability under this guarantee; and the Bank, hereby, waives any requirement for notice of any such change, addition or modification made by DFCCIL at any time.

6. This guarantee will remain valid and effective from.....***[insert date of issue]***till***[insert date, which should be minimum 90 days beyond the expiry of validity of Bid]***. Any demand in respect of this Guarantee should reach the Bank within the validity period of Bid Security.

7. The Bank Guarantee is unconditional and irrevocable.

8. The expressions Bank and DFCCIL herein before used shall include their respective successors and assigns.

9. The Bank hereby undertakes not to revoke the guarantee during its currency, except with the previous consent in writing of the DFCCIL. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No.758.

10. The Bank hereby confirms that it is on the SFMS (Structured Financial Messaging System) and shall invariably send the advice of this Bank Guarantee to the following bank details –

IFSC CODE	
IFSC TYPE	
BANK NAME	
BRANCH NAME	
CITY NAME	
ADDRESS	
DISTRICT	
STATE	
BG ENABLED	

11. The Guarantee shall be valid in addition to and without prejudice to any other security Guarantee(s) of Bidder in favour of the DFCCIL. The Bank, under this Guarantee, shall be deemed as Principal Debtor of the DFCCIL.

Date

Place.....

Bank's Seal and authorized signature(s)

[Name in Block letters]

[Designation with Code No.].....

[P/Attorney] No.

Witness:

1 Signature, Name & Address & Seal

2 Signature, Name& address & Seal

Bank's Seal

[P/Attorney]No.

Note: All italicized text is for guidance on how to prepare this bank guarantee and shall be deleted from the final document.

PRE CONTRACT INTEGRITY PACT

General

This pre-bid pre-contract Agreement (hereinafter called the Integrity Pact) is made on----- day of the month of----- 20xx, between, on one hand, the DFCCIL acting through Shri ----- Designation of the officer, (hereinafter called the CLIENT, which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns) of the First Part and M/s----- represented by Shri Chief Executive Officer (hereinafter called the "BIDDER/SELLER" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second part.

WHEREAS the CLIENT proposes to procure (Name of the Stores/Equipment/Item, Name of the Consultancy Service, Name of Works Contract, Name of Services) and the [A] is willing to Offer/has offered for stores or works.

WHEREAS the [A] is a private company/ public company/ Government undertaking/ partnership/ registered export agency, constituted in accordance with the relevant law in the matter and the CLIENT is a PSU performing its functions.

NOW, THEREFOR,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the CLIENT to obtain the desired said (Name of the Stores/Equipment/Item, Name of the Consultancy Service, Name of Works Contract, Name of Services) at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling BIDDERS to abstain from bribing or indulging in any corrupt practice in order to secure [B] by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the CLIENT will commit to prevent corruption, in any form, by its Officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

Commitments of the CLIENT

1. The CLIENT undertakes that no official of the CLIENT, connected directly or indirectly with the [B], will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the [A] either for themselves or for any person, organization or third party related to the [B], in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the [B].

1.1 The CLIENT will, during the pre-contract stage, treat all BIDDERS alike, and will provide to all BIDDERS the same information and will not provide any such information to any particular BIDDER which could afford an advantage to that particular [A] in comparison to other BIDDERS.

1.2 All the officials of the CLIENT will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

2. In case any such preceding misconduct on the part of such official(s) is reported by the [A] to the CLIENT with full, and verifiable facts and the same is prima facie found to be correct by the CLIENT, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the CLIENT and such a person shall be debarred from further dealings related to the [B] process. In such a case while an enquiry is being conducted by the CLIENT the proceedings under the [B] would not be stalled.

Commitments of BIDDERS

3. The [A] commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage) in order to secure the [B] contract or in furtherance to secure it and in particular commit itself to the following:-

3.1 The [A] will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission fees, brokerage or inducement to any official of the CLIENT, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the [B] in exchange for any advantage in the bidding, evaluation, contracting and implementation of the [B].

3.2 The [A] further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any Material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the CLIENT or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the [B] or any other [B] with the Government for showing or forbearing to show favour or disfavor to any person in relation to the [B] or any other [B] with the Government.

3.3 * [A] shall disclose the name and address of agents and representatives and Indian [A] shall disclose their foreign principals or associates.

3.4 * [A] shall disclose the payments to be made by them to agents/brokers or any other intermediary, in connection with this bid/contract.

3.5 The [A] further confirms and declares to the CLIENT that the [A] is the original manufacturer/integrator/authorized government sponsored export entity of the defense stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the CLIENT or any of its functionaries, whether officially or unofficially to the award of the [B] to the [A] nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.

3.6 The [A] either while presenting the bid or during pre-contract negotiations or before signing the [B] shall disclose any payments he has made, is committed to or intends to make to officials of the CLIENT or their family members, agents, brokers or any other intermediaries in connection with the [B] and the details of services agreed upon for such payments.

3.7 The [A] will not collude with other parties interested in the [B] to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the [B].

3.8 The [A] will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.

3.9 The [A] shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the CLIENT as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The [A] also undertakes to exercise due and adequate care lest any such information is divulged.

3.10 The [A] commits to refrain from giving any complaint directly or through any other manner without Supporting it with full and verifiable facts.

3.11 The [A] shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

3.12 If the, [A] or any employee of the [A] or any person acting on behalf of the [A], either directly or Indirectly, is a relative of any of the officers of the CLIENT, or alternatively, if any relative of an officer of the CLIENT has financial. Interest/stake in the Bidder's firm, the same shall be disclosed by the [A] at the time of filling of tender.

The term 'relative' for this purpose would be as defined in section 6 of the companies act 1956.

3.13 The [A] shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the CLIENT.

4. Previous Transaction

4.1 The [A] declares that no previous transgression occurred in the last three years immediately before signing of this integrity Pact, with any other company in any country in respect of any corrupt practices

envisaged hereunder or with any public sector enterprise in India or any Government department in India that could justify BIDDER's from the tender process.

4.2 The [A] agrees that if it makes incorrect statement on this subject, [A] can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

5. Earnest Money (Security Deposit)

5.1 The Earnest money/ Bid Security/ Security Deposit/ Retention money/ Performance guarantee shall be as per the provisions of Bid document.

6. Sanctions for Violations

6.1 Any breach of the aforesaid provisions by the [A] or any one employed by it or acting on its behalf (whether with or without the knowledge of the [A]) shall entitle the CLIENT to take all or any one of the following actions, wherever required :-

(i) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the [A]. However, the proceedings with the other BIDDER(s) would continue.

(ii) The earnest money deposit (in pre-contract stage) and/or security Deposit/performance Bond (after the [B] is signed) shall stand forfeited fully and the CLIENT shall not be required to assign any reason therefore.

(iii) To immediately cancel the [B], if already signed, without giving any compensation to the [A].

(iv) To recover all sums already paid by the CLIENT, and in case of an Indian [A] with interest thereon at 2% higher than the prevailing prime lending rate of state bank of India, while in case of a [A] from the country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to [A] from the CLIENT in connection with any other [B], such outstanding payment could also be utilized to recover the aforesaid sum and interest.

(v) To encash the advance bank guarantee and performance bond, if furnished by the [A], in order to recover the payments, already made by CLIENT, along with interest.

(vi) To cancel all or any other contracts with the [A]. The [A] shall be liable to pay compensation for any loss or damage to the Client resulting from such cancellation/rescission and the client shall be entitled to deduct the amount so payable from the money(s) due to the [A].

(vii) To debar the [A] from participating in future bidding processes of the Government of India for a minimum period of five years, which may be further extended at the discretion of the CLIENT.

(viii) To recover all sums paid in violation of this pact by [A] to any middleman or agent or broker with a view to securing [B] the contract.

(ix) In cases where irrevocable letters of credit have been received in respect of any [B] signed by the client with the [A], the same shall not be opened.

(x) Forfeiture of Performance Bond in case of a decision by the client to forfeit the same without

assigning any reason for imposing sanction for violation of this pact.

6.2 The client will entitled to take all or any of the actions mentioned at para 6.1(i) to (x) of this pact also on the commission by the [A] or any one employed by it or acting on its behalf (whether with or without the knowledge of the [A], of an offence as defined in chapter IX of the Indian penal code, 1860 or prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

6.3 The decision of the CLIENT to the effect that a breach of the provisions of this pact has been committed by the [A] shall be final and conclusive on the [A]. However, the [A] can approach the Independent Monitor(s) appointed for the purposes of this Pact.

7. Fall Clause

7.1 The [A] undertakes that it has not supplied/is not supplying similar product/systems or subsystems at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India or PSU and if it is found at any stage that similar product/system or sub systems was supplied by the [A] to any other Ministry/Department of the Government of India or a PSU at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the [A] to the CLIENT, if the [B] has already been concluded.

8. Independent Monitors

8.1 The CLIENT has appointed Independent Monitors (hereinafter referred to as Monitors) for this pact in consultant with the central vigilance commission (Names and addresses of the Monitors to be given)

8.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this pact.

8.3 The monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.

8.4 Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement, including minutes of meetings.

8.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Authority designated by the CLIENT

8.6 The BIDDER(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the CLIENT including that provided by the BIDDER. The [A] will also grant the Monitor, upon his request and demonstration of a valid Interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor shall be under contractual obligation to treat the information and documents of the [A] with confidentiality.

8.7 The client will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the Monitor the option to participate in such meetings.

8.8 The monitor will submit a written report to the MD/DFCCIL within 8 to 10 weeks from the date of reference or intimation to him by the CLIENT/BIDDER and, should the occasion arise, submit proposal for correcting problematic situations.

9. Facilitation of Investigation

In case of any allegation of violation of any provisions of this Pact or payment of commission, the CLIENT or its agencies shall be entitled to examine all the documents including the Books of Accounts of the [A] and the [A] shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

10. Law and Place of Jurisdiction

This pact is subject to Indian law. The place of performance and jurisdiction is the seat of the CLIENT.

11. Other Legal Actions

The actions stipulated in this integrity pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

12. Validity

12.1 The validity of this integrity pact shall be from date of its signing and extend upto ___ years or the complete execution of the [B] to the satisfaction of both the CLIENT and the [A] including warranty period, whichever is later. In case [A] is unsuccessful, this integrity pact shall expire after six months from the date of the signing of the [B].

12.2 Should one or several provisions of this pact turn out to be invalid; the remainder of this pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions.

13. The parties hereby sign this integrity pact at on

CLIENT

BIDDER

Name of the officer

Name

Deptt./Ministry/PSU

CHIEF EXECUTIVE OFFICER/ Designation

Witness

Witness

1.
2.

Note:

[A]- To be replaced by BIDDER/Seller/Consultant/Consultancy firm/Service provider as the case was may be

[B]- To be replaced by contract/supply contract/consultancy contract/works contract as the case was may be.

PERFORMANCE GUARANTEE BOND

Name of the Bank :

Managing Director/ DFCCIL

Acting through (Designation and address of contract signing authority)

Bank Guarantee Bond No. Dated

In consideration of the Managing Director/ DFCCIL acting through _____, GM/OP&BD, Dedicated Freight Corridor Corporation of India Limited, (hereinafter called "DFCCIL") having agreed under the terms and conditions of Letter of Acceptance No. _____ dated _____ or Contract Agreement made between _____ (Designation & address of contract signing Authority) and _____ (hereinafter called "the said contractor(s)" for the work (hereinafter called "the said agreement"), having agreed for submission of an irrevocable Bank Guarantee Bond for Rs. (Rs. only) as a performance security Guarantee Bond from the consultant/ contractor(s) for compliance of his obligations in accordance with the terms & conditions in the said LOA/ Agreement.

1. We (indicate the name of the Bank) hereinafter referred to as the Bank, under take to pay the DFCCIL an amount not exceeding Rs. _____ (Rs. _____ only) on demand by the DFCCIL

2. We (indicate the name of the bank, further agree that (and promise) to pay the amounts due and payable under this guarantee without any demur merely on a demand from the DFCCIL through the Deputy Chief Project Manager/ FINANCE, Dedicated Freight Corridor Corporation of India Limited or CGM/ GM Co-ord, DFCCIL stating that the amount claimed is due by way of loss or damage caused to or would be caused or suffered by the DFCCIL by reason of any breach by the said contractor of any of the terms or conditions contained in the said agreement or by reason of the contractor failure to perform the said agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. (Rs. _____ only).

3. (a) We (indicate the name of Bank) further undertake to pay to the DFCCIL any money so demanded notwithstanding any dispute or dispute raised by the contractor (s) in any suit or proceeding pending before any court or Tribunal relating to liability under this present being absolute and unequivocal.

(b) The payment so made by us under this bond shall be valid discharge of our liability for payment there under and the contractor(s) shall have no claim against us for making such payment.

4. We, (indicate the name of bank) to further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said agreement and that it shall continue to be enforceable till all the dues of the DFCCIL under or by virtue of the said agreement have been fully paid and its claims satisfied or discharged by CGM/ GM Co-ord DFCCIL (Designation & Address of contract signing authority) on behalf of the

DFCCIL, certify that the terms and conditions of the said agreement have been fully and properly carried out by the said contractor (s) and accordingly discharges this guarantee.

5. (a) Notwithstanding anything to the contrary contained herein the liability of the bank under this guarantee will remain in force and effect until such time as this guarantee is discharged in writing by the DFCCIL or until (date of validity/extended validity) whichever is earlier and no claim shall be valid under this guarantee unless notice in writing thereof is given by the DFCCIL within validity / extended period of validity of guarantee from the date aforesaid.

(b) Provided always that we (indicate the name of the Bank) unconditionally undertakes to renew this guarantee to extend the period of guarantee form year to year before the expiry of the period or the extended period of the guarantee, as the case may be on being called upon to do so by the DFCCIL. If the guarantee is not renewed or the period extended on demand, we (indicate the name of the Bank) shall pay the DFCCIL the full amount guarantee on demand and without demur.

6. We (indicate the name of Bank) further agree with the DFCCIL that the DFCCIL shall have the fullest liberty without our consent and without effecting in any manner out of obligations hereunder to vary any of the terms and conditions of the said contract from time to time or to postpone for any time or from time to time any to the powers exercisable by the DFCCIL against the said contractor (s) and to forbear or enforce any of the terms and conditions of the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said contractor (s) or for any bearance act or omission on the part of the DFCCIL or any indulgence by the DFCCIL to the said contractor (s) or by any such matter or thing whatsoever which under the law relating to sureties for the said reservation would relive us from the liability.

7. This guarantee will not be discharged by any change in the constitution of the Bank or the Contractor (s).

8. We (indicate the name of the Bank) lastly undertake not to revoke this guarantee except with the previous consent of the DFCCIL in writing.

9. This guarantee shall be valid upto (Date of completion plus 60 days beyond that). Unless extended on demand by DFCCIL. Notwithstanding anything to the contrary contained herein before, our liability under this guarantee is restricted to Rs. _____ only) unless a demand under this guarantee is made on us in writing on or before we, shall be discharged from our liabilities under this guarantee thereafter.

Dated _____

for _____ (indicate the name of Bank)

Signature of Bank Authorize official
(Name):
Designation:
Full Address :

Witness:

Section – IX

CONTRACT FOR CONSULTING SERVICES

dd/mm/yyyy

CONTRACT No. [insert]

CONTRACT FOR CONSULTANT'S SERVICES

Lump-Sum

Name of Work – ‘Consultancy Service for Drafting of RFP document, Concession Agreement etc. to select the Developer/ Concessionaire for Development of MMLP at New Kanpur over EDFC’

Contract No. _____

between

Dedicated Freight Corridor Corporation of India Limited

and

[Name of the Consultant]

Dated : _____

Form of Contract – LUMP-SUM

(Text in brackets [] is optional; all notes should be deleted in the final text)

This CONTRACT (hereinafter called the "Contract") is made the *[number]* day of the month of *[month]*, *[year]*, between, on the one hand, Dedicated Freight Corridor Corporation of India Ltd, a Govt. of India Enterprise under Ministry of Railways and a company incorporated under the provisions of the Companies Act, 1956 having it's registered office at 5th Floor, Supreme Court Metro Station Complex, New Delhi-110001 represented through its Designation of concerned DFCCIL Official (hereinafter referred to as "DFCCIL/Client" which expression shall, unless repugnant to the context, be deemed to include it's successors and assigns (hereinafter called the "Client") and, on the other hand, *[name of consultant]* (hereinafter called the "Consultant") Which expression shall, unless repugnant to the context, be deemed to include it's successors and assigns.

WHEREAS

- a) the Client has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the "Services").
- b) the Consultant, having represented to the Client that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract.

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- a) The General Conditions of Contract.
- b) The Special Conditions of Contract.
- c) Section IV: (i) Terms of Reference
(ii) Key Experts
- d) Form Fin 1: Financial Proposal Submission Form
- e) Letter of Award (LOA)

In the event of any inconsistency between the documents, the following order of precedence shall prevail: the Special Conditions of Contract; the General Conditions of Contract, including Section IV (i) Terms of Reference, (ii) Key Experts. Any reference to this Contract shall include, where the context permits, a reference to these documents.

2. The mutual rights and obligations of the Client and the Consultant shall be as set forth in the Contract, in particular:

- a) the Consultant shall carry out the Services in accordance with the provisions of the Contract; and
 - b) the Client shall make payments to the Consultant in accordance with the provisions of the Contract.
3. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of *[Name of Client]*

[Authorized Representative of the Client – name, title, and signature]

For and on behalf of *[Name of Consultant]*

[Authorized Representative of the Consultant – name and signature]