

Dedicated Freight Corridor Corporation of India Limited

Consultancy Services on Track Access Charges and Key Performance Indicators on DFCCIL Network

DRFP No. HQ/OP&BD/CS/TAC & KPI/DFCCIL/2019

[If any prospective applicant desires to see the earlier studies i.e. CSNDAD and DMCS, the applicant is requested to attend this office with authorized letter from their firm in this regard.]

Para wise responses to the Pre-Bid queries of the applicants:

1. Railistics GmbH,

S No.	Reference Clauses of RFP	Existing clause of RFP	Modification/Amendment Suggested by the Bidders	Reply to queries
1.	General		With the holiday season approaching, it will be difficult to build a consortium and submit a competitive tender by January 3 rd . We would like to request an extension of the submission deadline to January 31 st .	The date has been extended to 31/01/2020. Please see Addendum no.2 in DFCCIL official website.
2.	General		The tender documents include a Form Tech-3 and two different Form Tech-4s (Pages 43, 44, 45). The form Tech-4 on page 45 appears to be a combination of the forms on page 43 and 44. Which should we use?	Tech – 4 at Page 43 and 44 should be used.
3.	General		Regarding turnover - must all firms that are part of a consortium meet the turnover requirements	JV as a whole or any member should meet

			of INR 50 Cr or, does this need to be met by only one company in a consortium. If so, is the company meeting the turnover requirement required to be the lead member of the consortium	turnover requirement. Turnover not necessarily to be of lead member.
4.	General		At numerous points in the ToR there are mentions of data that will be made available e.g. traffic forecasts/projections. How have these been compiled and who carried this out? Are they fully finalised or are they subject to change? In what format will this data be provided and will we be required to do further work on it?	Actual traffic data, related indices as from documents, FOIS etc will be provided.
5.	General		The chosen TAC level could potentially have an impact on the future traffic. How is this to be considered in the project?	Negative influence of high TAC and the way out will be considered in consultation with MOR.
6.	General		How will TAC be coordinated with the PPP operator? Has any decision been made already in this regard?	<p>PPP section (Sonnagar – Dankuni) is not under scope of this study.</p> <p>Work of TAC will be carried out for WDFC and EDFC sections as below:</p> <p>EDFC –</p> <ul style="list-style-type: none"> • New Chawapail – New Sonnagar/New Chirailapauthu • New Khurja Jn – New Boraki – New Dadri <p>WDFC –</p>

				New Dadri – New JNPT
7.	Note iv on page 72	<p>Note:</p> <p>(iv) After completion (approval) of KD-2, it may be possible that consultant has to wait for data from accounting division regarding capitalization of assets.</p>	<p>Regarding Note iv on page 72. A large portion of the time-line depends on the availability of information from the accounting division. If a deliverable cannot be submitted on time due to a delay in information becoming available, how will this be accommodated in the overall time schedule. Additionally, how will this delay impact on the payment schedule?</p>	<p>The work of accounting division has already been started on capitalization of assets by the selected consultant. Therefore, it will be provided timely. Due consideration of delays will be made. Payments will be on completion of work (deliverables).</p>

2. DB Engineering & Consulting

S No.	Reference Clauses of RFP	Existing clause of RFP	Modification/Amendment Suggested by the Bidders	Reply to queries
8.	General		is there a limitation of pages / word for each section of the document that needed to be written by us?	Scope of work should be covered in all respect. No limitation of word has been fixed.
9.	General		Days onsite: is there a minimum amount of days for the experts being onsite or is that all up to our work plan?	No. As per requirement of work, experts will perform without compromising on the contents of deliverables.
10.	General		Technical and Financial Proposal shall be like in the tender document using this as a template or could be create our own document e.g. PowerPoint?	Proposals will be submitted as per specified forms mentioned in DRFP. Additional information may be provided along with technical proposal. Financial proposal information will not be allowed in Technical proposal, it may cause rejection of proposal.
11.	General		CVs: is it possible to attach our standardized CVs or do we have to fill in the template for each CV?	CVs should be submitted as per given Tech forms.
12.	General		Timeline at Deliverables: is that working days or regular days?	Regular days
13.	Clause 12.3	If it is established that any Key Expert nominated in the	12. Proposal Validity - 12.3.Availability of Key Expert; could you please clarify what is meant	Nominated Key Expert details should be available on documents

		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, and may be subject to sanctions in accordance with ITC 5.	by "Availability" here: "If it is established that any Key Expert nominated in the Consultant's Proposal was not available at the time of Proposal submission [...]"?	with all undertakings given in Tech form during bid.
14.	Clause 15.1.1	Consultant shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.	15.1.1.: "Consultant shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position" -> could you please , confirm that the substitution doesn't apply in the event of the Key Expert ' becoming unavailable during the extended validity period as outlined in ' 12.7: "If any of the Key Experts become unavailable for the extended validity period, the Consultant shall seek to substitute another Key Expert."	Single nomination should be given against particular Key Expert. For substitution read clause 12.7.
15.	Data sheet 15.2 & 17.1	15.2 The format of the Technical Proposal to be submitted is: FTP 17.1 The Consultants shall not have the option of submitting their Proposals electronically.	15.2. Submission format: "The format of the Technical Proposal to be submitted is: FTP (file transfer protocol!)" -> this requirement is in conflict with 17.1 "The Consultants shall not have the option of submitting their Proposals electronically.". Please clarify.	Proposals will not be submitted on-line. FTP means Full Technical Proposal.
16.	General		Shall project references of the firm be included as well? Or will only those of the proposed Consultants count?	Question is not clear. Eligibility of firm/JV will be considered on the basis of their own

				experience/credentials. Firm/JV will give their experience in related project.
17	General Tech-1, Pg.39		Capacity, How shall this be shown {in %, in days, etc.)	It will be in the capacity of Authorized representative of applicant firm. This shall be shown in % and in days with all clarity.
18	General Tech-2 Pg 41		P. 41: Consultants Experience: List only those assignments for which the Consultant was legally contracted by the Client as a company or was one of the joint venture members.... Shall we list all project done by the consultant just project related to Track Access Charges Projects ?	List only previous similar assignments successfully completed in the last 7 years.
19	General Clause 6.1		Key Deliverable 3: With co-ordination of accounting division consultant, report on TAC, KPIs. payment mechanism of TAC, incentives / penalties and provide over all IT solution for TAC & KPIs. <ul style="list-style-type: none">• Shall a whole IT solution be developed by the consultancy and implemented within the suggested time frame? In other section, it says "Consultant will provide IT solution framework for TAC/KPI."• In another section it is mentioned to build the framework for the IT System.	No IT design or software is to be developed. Only type of solution module, IT framework as per international trend is to be advised and explained.

			<ul style="list-style-type: none"> Which one is demanded within the scope of work? 	
20	General		International best practice: do you have any favorable countries which shall be included in the analysis?	Advance Freight Railways study in developed countries desirable.
21	General		"Consultant will also provide inputs to calculate the TAC through automatic process (IT module adopted by DFCCIL)" : Is that a module you will provide? If so, how do we get access to that?	DFCCIL is working on development of SAP module in ERP which may be platform for TAC as well.
22	Clause 5 of TOR		10 days' Workshop: <ul style="list-style-type: none"> How many people will be participating in the workshop / training? Time and place of training? What is the aim of the training? Who will be the participants? Desired Language of Training? 	Approximately 12 to 15 officials will participate. Training will be given by consultant to DFCCIL TAC unit, so that knowledge may be enriched of this unit on TAC. Language will be English and place will be DFCCIL Corporate Office.
23	Clause 6.3 of TOR		Needed Clarification for the following paragraph: "Other support: Consultant will remain associated with DFCCIL till final stage of commissioning of both the corridors (which is divided in three phases). DFCCIL would inform the consultant at start and end of each of the three phases. Consultant will have to be an advisor and provide necessary assistance to DFCCIL at regular intervals irrespective of table timeslots mentioned under Section 4	The total duration of the consultancy would be Ten Months spread on an intermittent basis across three years' period. Commitment required is only for 3 years. In general, DFCCIL will consider whether services can be further taken on mutual terms after three

			<p>without linking to pay mechanisms. Bui Consultant will not be engaged not more than contract period. As per Railway Board guideline, DFCCIL has to submit TAC before two months of commissioning of DFC. Hence, the consultant will have to submit TAC original calculation of various stages at least three months prior to commissioning which will be submitted to Railway Board."</p> <ul style="list-style-type: none"> • This means we will be just needed for the mentioned 10 months even if the phases of building the new corridors will delay?, 	<p>years. It is not binding on any party. For commissioned section within three years, related deliverable specified is to be ensured by consultant.</p>
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3 PricewaterhouseCoopers Private Limited

S No.	Reference Clauses of RFP	Existing clause of RFP	Modification/Amendment Suggested by the Bidders	Reply to queries
24	Section 2 Instruction to Consultant Clause 17.7 and 17.9 Page No. 32	The proposal must be submitted no later than: Date: 03 January 2020 Time 15:00	The project of such nature requires through study and appropriate allocation of resources. Also, being one of a kind project in the country, it requires involvement of multiple key expert across the globe. Considering above,	The date has been extended to 31/01/2020. Please see Addendum no.2 in DFCCIL official website.
25	Section 2 Instruction to Consultant Clause 21.1 Page No. 33	a) The eligibility criteria..... (iii) The firm should have an annual turnover of at-least INR 50 Cr. during the last three financial year's i.e. FY 2018-19, 2017-18 & 2016-17.	We understand that this project requires the estimation of Track Access charges and KPIs on entire DFCCIL network. Since this is a large format project with a considerable financial impact, the size of the Consultants needs to match the size of the potential impact envisaged. Therefore, we request the Client to increase the requirement of annual turnover from existing INR 50 Cr. to INR 500 Cr.	No change is required.

26	Section 2 Instruction to Consultant Clause 21.1 Page No. 33	(i) Specific experience of the Consultant (as a firm) relevant to the Assignment.	The total marks provided for specific experience of the firms is 10. However, there is no minimum projects provided that the Consulting firm needs to provide. As part of such studies, it is important for consulting firms to have undertaken similar assignments. Therefore, we request the Client to revise the Clause as “Minimum 4 projects as specific experience of the Consultant (as a firm) relevant to the Assignment”	No change is required.
27	Section 2 Instruction to Consultant Clause 21.1 Page No. 34	b) Point system for the (ii) Adequacy and quality of the proposed methodology, and work plan...	We understand the evaluation of the proposal is based on Technical expertise which the consultant brings on during the execution which is exhibited from the maximum weightage given to the “Key Experts’ qualifications and competency for the Assignment”. Therefore, we would like the Client to consider the following marking scheme: (i) Specific experience of the Consultant (as a firm) relevant to the Assignment: [10] (ii) Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs): [30] a. Technical Approach & Methodology: 05 15 b. Work Plan: 05 c. Organisation and Staffing: 20 Presentation on Technical Approach & Methodology: 10	Please see Addendum no.2 in DFCCIL website.
28	Section 2 Instruction to Consultant Clause 21.1	c) Point system for the (iii) Key Experts: qualifications and competence for the Assignment	We understand that there is scoring breakup for the qualification and adequacy of the assignment for the experts that are proposed in the RFP. However, to bring more objectivity in the evaluation of the experts’ qualification and adequacy of the assignment, we would like the Client to consider the following evaluation methodology:	No change is required in percentage parameter as suggested. Experience of the experts has been modified. Please see

		<p>The number of points to be assigned to each of the above positions shall be determined considering the following three sub-criteria and relevant percentage weights:</p> <p>1) General Qualifications (general education, training and experience): 20% 25%</p> <p>2) Adequacy for the Assignment (relevant education, training, experience in the sector): 70%</p> <p>3) [If relevant to the task, add the 3d sub-criterion: Relevant experience in the region (working level fluency in local language(s)/knowledge of local culture or administrative system, government organization, etc.): 10 %</p> <p>2) Adequacy for the Assignment (relevant education, training, experience in the sector/similar assignments) with maximum weightage of 75% with following weightage for fulfilment of minimum requirement and additional marks in case of more qualification / experience than minimum requirement</p> <table border="1"> <tr> <th>Expert</th><th>Mininum Requirement</th><th>Weightage for Fulfilment of minimum requirement</th><th>Additional weightage in case of more qualification / experience than minimum requirement</th></tr> <tr> <td></td><td></td><td></td><td></td></tr> </table>	Expert	Mininum Requirement	Weightage for Fulfilment of minimum requirement	Additional weightage in case of more qualification / experience than minimum requirement					Addendum no.2 in DFCCIL website.
Expert	Mininum Requirement	Weightage for Fulfilment of minimum requirement	Additional weightage in case of more qualification / experience than minimum requirement								

			Team Leader cum Rail Access Specialist (International Expert)	10 Assignments covering : Experience of dealing in track access charges for Railways. Appropriate experience in rail TAC and rail tariff/rail traffic surveys /rail infrastructure management consultancy.	75%	5% per additional assignment up to a maximum of 5 additional assignments	
			Railway Expert	10 Assignments covering: Experience in Traffic related work in railways sector and/or experience in rail operations to be able to advice on appropriate KPIs and railway traffic costing/charging or consultancy experience in the	85%	5% per additional assignment up to a maximum of 3 additional assignments	

				field of Rail Traffic Transportation/Rail Infrastructure.				
			Traffic Expert	10 Assignments covering: Experience in Track Access Charge formulation/ calculation in the Railway transportation/Rail infrastructure. Appropriate experience in transportation assignments or related consultancy	85%	5% for per additional assignment up to a maximum of 3 additional assignments		
			Accounting cum tax Expert	5 Assignments covering: Experience in accounting in transport/ infrastructure sector or should have engaged as accounting	80%	4% per additional assignment up to a maximum of 5 additional assignments		

			expert consultancy service in transport/Infrastructure related fields.				
29	Section 3: Technical Proposal – Standard Forms Form Tech-1 Page No. 39	Technical Proposal Submission Form conflict of interest declaration [point c, p. 39]	<p>We request the client to include the following language in the declaration for the conflict of interest declaration [point c]:</p> <p>"The bidding entity for this engagement is PricewaterhouseCoopers Private Limited ("PwCPL" or "we"). PwCPL is a private limited company registered under the Companies Act, 1956, and we are engaged in providing the professional services in the areas of tax, consulting and business advisory.</p> <p>I, XXXXXXXXX, Partner of PwCPL, do hereby declare that after using standard commercially reasonable conflict checking procedures, nothing has come to our attention which would cause us to reasonably believe that members of the Board of PwCPL, or the project teammembers under this engagement, are indulged in activities which can be termed as conflicting activities in terms of [Insert Clause reference] of the tender dated [Insert Date]."</p>				The provision has been made in accordance with SRPF of World Bank.

30	Section 3 Tech-4 Page No. 44-45	Technical Proposal – Standard Forms Form TECH 4	There are two formats for Form TECH 4. Client is requested to clarify which form has to be used for preparation of Technical Proposal.	Tech-4 in page no.44 is to be used for submission of proposal.
31	Section 7 Terms of Reference Page No. 63	2. Objective of the Study EDFC – New Chawapail – New Sonnagar/New Chirailapauthu New Khurja Jn – New Boraki – New Dadri WDFC – New Dadri – New JNPT	There seems to be an ambiguity on the sections of EDFC for which TAC has to be formulated and calculated. This clause indicates that TAC on EDFC would be formulated for New Chawapail – New Sonnagar/ New Chirailapauthu & New Khurja Jn – New Boraki – New Dadri. Whereas, Section 7, Clause 6.1 (page no. 71) “Key deliverable 6” indicates EDFC section of New Khurja – New Bhaupur (Phase I) and New Bhaupur – New Mughalsarai (Phase II). Client is requested to clarify sections of EDFC for which TAC has to be calculated & formulated.	PPP section (Sonnagar – Dankuni) is not under scope of this study. It has been clarified in clause 2 (i) of TOR in RFP. Work of TAC will be carried out for WDFC and EDFC sections as below: EDFC – <ul style="list-style-type: none"> • New Chawapail – New Sonnagar/New Chirailapauthu • New Khurja Jn – New Boraki – New Dadri WDFC – <ul style="list-style-type: none"> • New Dadri – New JNPT
32	Section 7 Terms of Reference Clause 6 Page No. 70	Deliverables, timelines and payment schedule	The duration of consultancy is 10 months (300 days) spread over 3 year period. As the assignment entails work of intermittent nature after submission of final report, client is requested to clarify staff deployment requirement during the course of assignment i.e. 10 months (300 days)	Staff deployment will be done as per scope of work.

33	Section 7 Terms of Reference Clause 6 Page No. 70- 71	Deliverables, timelines and payment schedule	We understand that the major effort towards preparation will be towards calculation of O&M cost, estimation of KPIs, estimation of TAC, design of payment mechanisms and overall IT solution along with the preparation of Final report. (KD-2 to KD-4) while there will be less effort. required in the “ Phase-wise assistance for claiming TAC from IR upto fully commissioned stage” (KD-6) Therefore, the Client is requested to consider the following payment structure:			No change is required.
			Deliverable	Timeline for submission (T: date of commencement of assignment)	Payment % on approval of the reports/deliverable	
			Key deliverable 1: Inception Report summarizing the initial client consultations, team organogram for the assignment, detailing of the entire assignment in tasks, sub-tasks and other elements and strategy of undertaking the work described in the TOR.	T + 15 days.	10%	
			Key deliverable 2: submit Sample templates/ formats (blank) as required for	T + 2 months.	10% 15 %	

			data collation and data repositories. After getting the data related to O&M cost, submit draft O&M cost with methodology of calculation of O&M cost Establish KPIs, with involvement of incentives/penalties.				
			Key deliverable 3: With co-ordination of accounting division consultant, Report on TAC, KPIs, payment mechanisms of TAC, incentives/penalties and provide over all IT solution for TAC & KPIs.	T + 3 months (Subject to availability of accounting division data)	10% 15 %		
			Key deliverable 4: Draft Final Report incorporating recommendations on TAC, KPIs, payment mechanisms of incentives/penalties and Organizing a workshop.	T + 3.5 months	10% 15 %		
			Key deliverable 5: Final Report incorporating observations, modifications	T + 4 months	15%		

			and suggestions from DFCCIL/IR.				
			Key deliverable 6: Phase-wise assistance for claiming TAC from IR upto fully commissioned stage	Phase I: New Khurja – New Bhaupur section of EDFC and New Rewari-New Palanpur section of WDFC (above sections are indicative) 2 Month	15% -10 %		
				Phase II: New Bhaupur – New Mughalsarai in EDFC New Palanpur – JNPT in WDFC (above sections are indicative) 2 Month	15% -10 %		
				Phase III 2 Month	15% -10 %		
34	Page No. 72 Section 7 Terms of Reference Clause 6	Deliverables, timelines and payment schedule Key Deliverable 6: Phase-wise assistance for claiming TAC from IR upto fully	We understand that the section details under Phase -III have not been given. Client is requested to specify the section details under Phase-III.			It has been mentioned in Key deliverable 6 that sections are indicative. Section will be communicated to the consultant well in time before commissioning of the sections.	

		commissioned stage Phase-III		
35	Section 7 Terms of Reference Clause 6 Page No. 72	Deliverables, timelines and payment schedule Section 6.2 Sections mentioned in Phase 1, Phase 2 and Phase 3 under Key Deliverables 6, are subject to change as per DFCCIL project requirements: At the time of final report stage of the consultancy, if both corridors are not in operational stage, consultant will assist DFCCIL for claiming TAC and setting up KPIs upto fully commissioned stage.	We understand from the RFP that if the corridors are not in operational stage at the time of the final report stage of the consultancy, the consultant will need to assist DFCCIL for claiming TAC and setting up KPIs upto fully commissioned stage. This represents a commercial risk for the consultant which involves factors outside of the Consultant's control. We request the client to clarify the method and schedule of payments, in this case.	The period of this consultancy is three years. Till this period, consultant will assist for section which is going to be commercially operational. No commitment is asked beyond three years.
36	Section 7 Terms of Reference Clause 6	2. Railway Expert	It is understood that Railway Expert should be graduate in any discipline preferably Post Graduate diploma in management or MBA from a reputed institute. Client is requested to clarify whether Post Graduate diploma or MBA is compulsory. Also, Client is requested to clarify the	Addendum no.1 may be seen in DFCCIL website. Preferable qualification is not mandatory, but additional weightage will be given.

	Page No. 73		scoring criteria in case only graduate and graduate with post graduate or MBA.	Scores will be decided before bid opening.
37	Section 8 Clause 16 Page No. 90	II General Condition of Contract Clause 16: Modifications or Variations 16.1 Any modification or variation of the terms and conditions of this Contract, including any.....	Client is requested to incorporate an objective scope change process to address any changes to the agreed scope of work, timelines or duration of the project, in a mutual consultative manner. This would ensure that neither side is expected to assume any implied obligations.	No change is required. Formula is to be shaped in consultation with MOR finally. Sections actually commissioned may vary in length. Scope will vary in these respects.
38	Section 8 Clause 18 Page No. 92	Section 8 II General Conditions of Contract Clause 18: Suspension	We wish to agree objective, well-defined acceptance criteria for our work, and an agreed acceptance procedure. We request the that a structured acceptance process should be incorporated in the Contract such that our draft deliverables are evaluated in a timely manner by Client. There is a need to expressly document that the number of rounds for the procedure for attaining acceptance and iterations thereof for PwC's deliverables shall be limited to two rounds (the concept of deemed acceptance should also be built in). Thereafter, if the matter still remains unresolved, it shall be escalated to an empowered Steering Committee comprising of senior representatives from both sides.	No change is required.
39	Section 8 Clause 19.1.1 Page No. 92	II General Conditions of Contract Clause 19.1.1: Termination	If the consultants do not remedy a failure in the performance of their obligations within 30 days of being notified then the agreement can be terminated by the Client. We wish the Client to add the following in the Contract: “An objective and consultative process should precede before the Client chooses to exercise its termination rights under this clause.	The provision has been made in accordance with SRPF of World Bank.

			To ensure that the clause is not interpreted in a subjective manner, a mechanism should be put in place to objectively capture service related defaults and allocate the accountability to an appropriate party in a transparent manner. Upon termination, PwC should be paid for the services performed by PwC till the date of termination. Additionally, given our audit independence requirements, we would also require the right to terminate in circumstances where continued performance under this contract would breach our legal, professional or regulatory requirements.”	
40	Section 8 Clause 20 Page No. 74	II General Conditions of Contract, Clause 20: General 20.3 The Consultant may Sub contract part of the services to an extent.....	We wish to clarify from the Client that, is approval for sub-contracting from Client a pre-requisite for the bidder before submitting the Technical and Financial Proposal on or before the bid due-date.	Sub-Contractor is to be nominated in the technical bidding. Successful bidder to take formal approval before actual deployment.
41	Section 8 Clause 21 Page No. 95	II General Conditions of Contract Clause 21: Conflict of Interest	<p>A number of widely worded conflict of interest obligations.</p> <ul style="list-style-type: none"> • To ensure that this clause is not interpreted as an "exclusivity clause" by the Client, we wish to clarify that <ul style="list-style-type: none"> ◦ PwC is already in the business of providing similar advisory services to its clients and shall continue to do so. It is presumed that this clause shall not be interpreted in any manner to restrict PwC from providing such services to its other Clients. ◦ There should be an outer time limit prescribed for the survival of the conflict clause 	The provision has been made in accordance with SRPF of World Bank.

			The restriction should be limited only to the team members working directly on this project. In the event the restrictions extends to PwC as a firm, then it should be expressly clarified to the client, that the restrictions under the conflict clause extends only to PricewaterhouseCoopers Private Limited and not to any other network firm within the PricewaterhouseCoopers network	
42	Page No. 96	Section 8 II General Conditions of Contract Clause 22: Confidentiality	Widely worded confidentiality obligations. We wish to clarify to the Client subject to confidentiality restrictions, PwC should be given a one-time approval to refer to this engagement for client citation purposes. Also, definite outer boundaries for the survival of confidentiality obligations need to be documented.	The provision has been made in accordance with SRPF of World Bank.
43	Section 8 Clause 25 Page No. 97	II General Conditions of Contract Clause 25 : Accounting, Inspection and Auditing 25.2 Pursuant to paragraph 2.2 e. of Appendix to the General Conditions the Consultant shall permit and shall cause its subcontractors and sub-consultants to permit.....	The audit rights are widely worded. Due to client confidentiality & internal data policy reasons, we would be unable to provide such unqualified access to our systems, premises and records. However, we are agreeable to a review by Client to the extent that: (i) It is restricted to providing access to PwC's fees/ invoicing related records relating to the services under this project; (ii) It is carried out within 6 months of the expiry or termination of the agreement. Consultant should not be expected to provide any information which may cause it to breach confidentiality vis-a-vis other parties. If an audit is contemplated to be conducted by an external/third party auditor, we would need such third party to sign an NDA with us (in a format suggested by us). Client is requested to confirm on the same.	It will be limited to papers/documents related to this contract and bid documents, etc.

44	Section 8 Clause 23.1 Page No. 96	Section 8 II General Conditions of Contract Clause 23.1 Subject to additional provisions, if any, set forth in SCC, the consultant's liability	<p>The limitation of liability upon PwC has not been documented. Therefore, we request the following to be clarified:</p> <ul style="list-style-type: none"> • PwC's overall liability would be capped at an amount not exceeding one time the fees paid to PwC under this engagement without any exceptions and exclusions. • In no event should PwC be liable or responsible for any consequential, incidental, indirect, punitive, exemplary or special damages of any nature whatsoever. • For the avoidance of doubt, it is hereby clarified that the relationship of PricewaterhouseCoopers Private Limited under this Agreement is solely with Client, and accordingly, no person who is not an executing party to this Agreement, shall have any rights to enforce this Agreement (whether in contract, tort or otherwise) 	The provision has been made in accordance with SRPF of World Bank.
45	Section 8 Clause 24 Page No. 96	II General Condition of Contract Clause 24 24.1 The Consultant (i) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and.....	<p>Numerous insurance requirements are sought in the contract. Basis our standard policy, we would maintain appropriate professional indemnity insurance cover in respect of the professional services we provide - the other insurance requirements should be disappplied; as such, we wish to clarify the following with the Client:</p> <p>“PricewaterhouseCoopers Private Limited maintains appropriate professional indemnity insurance cover with underwriters to protect against all reasonable risks in respect of all professional services provided by the firm. The policies are issued on a broad form Professional Indemnity Insurance wording. Whilst the levels of cover must be kept confidential, we believe that our insurance cover is at least adequate to enable us to meet valid claims.</p>	No change is required.

			<p>Furthermore, although we carry insurance cover, it is the firm's policy to limit our liability in our contracts to minimize our potential exposure to a reasonable level unless we are prohibited by law or regulation from so doing. We expect the outcome of any current action or aggregate of actions to be within our insurance cover and other resources, such that our ability to continue to render services will not be impaired.”</p> <p>Also, disclosing the amounts of insurance is again an onerous obligation on PwC. Therefore, we wish to clarify that due to confidentiality reasons, we do not share the policies or disclose the limits of insurance availed</p>	
46	<p>Section 8</p> <p>Clause 27</p> <p>Page No. 97 and Page No. 107</p>	<p>Section 8 II General Condition of Contract Clause 27 and III Special Condition of Contract Clause 27.2 The Consultant shall not use these documents for Purposes unrelated to this contract without the prior written approval of the Client.</p>	<p>We wish to clarify following to the client:</p> <ul style="list-style-type: none"> • Subject to payment in full of the professional fees for the relevant Deliverables, the final Study Reports or other material or graphic (collectively “Deliverables”), prepared by us for, and submitted to Client under this engagement shall belong to and remain the property of Client excluding the pre-existing intellectual property rights/ proprietary materials of Consultant incorporated in the Deliverables which shall continue to belong to the Consultant. • Specifically, with respect to our pre-existing IPR, we are agreeable to provide Client with a non-exclusive & non-transferable license to use the same (to the extent incorporated in the deliverables) for its internal use in connection with the services provided by us under this Agreement. 	<p>Pre-existing IPR /proprietary materials will continue to belong to the concerned consultant.</p>

			<ul style="list-style-type: none"> Also, we shall continue to retain ownership over its draft deliverables/internal working papers. Additionally, subject to its confidentiality obligations under the RFP, we should also be allowed to use the general skills, knowledge, know-how, etc. created during the course of this engagement for its subsequent engagements. Moreover, any third party licenses, necessary for the performance of the services, would need to be procured by the client. 	
47	22.Section 8 Clause 27 Page No. 97	Section 8 II General Condition of Contract Clause 27: Proprietary Rights of the Client in Reports and Records Clause 27 .1	While we are ok to return hard copies of confidential information made available by client and/or delete or make reasonably inaccessible any electronic copies thereof - however we need to retain our internal working papers and central IT archives as per our organizational data policies. That said, we are ok to state that any retained copies of confidential information by us shall be maintained in confidence as per the terms of this agreement.	The provision has been made in accordance with SRPF of World Bank.
48	Page No. 97	No clause in RFP	Client is requested to incorporate clauses in the Contract to specify that consultant's deliverables are meant for Client's sole use and benefit; and that there would be no third party beneficiaries. The deliverables should not be shared with third parties without our consent. Also, consistent with industry practice, we would look to Client to keep us protected/reimbursed from third party claims arising out of the services, say claims which arise on us due to you sharing or deliverables with third parties. This is standard consulting/ Big 4 practice.	No change is required.

4. Deloitte Touche Tohmatsu India LLP

S. No	Reference Clauses of RFP	Existing clause of RFP	Modification/Amendment Suggested by the Bidders	
49	Section 2: Instructions to Consultants Clause 3 (iii) Page 10-11	c. Conflicting Relationships (iii) “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 Borrower (or of the Client, or of implementing agency, or of a recipient of a part of the Bank’s financing) 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.”	Given the large size and scale of Deloitte’s operations, it may be difficult to confirm/adhere to the extant clause. Accordingly, we request DFCCIL to restrict the applicability of the clause only to the proposed engagement delivery team.	It is clear, as specified.
50	Section 2: Instructions to Consultants Clause 5.2 Page 11	“In further pursuance of this policy, Consultants shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Bank to inspect all accounts, records and other documents relating to any shortlisting process, Proposal submission, and	We note the requirement of DFCCIL/Bank inspecting all accounts, records and other documents relating to the submission of bid and contract performance. However, we would like to submit that our accounts and systems may have data and documents for several clients and hence allowing	This para is limited to the proposed contract related records/ documents/information, etc.

		contract performance (in the case of award), and to have them audited by auditors appointed by the Bank.”	any kind of inspection/audit by DFCCIL/Bank and/or persons appointed by them would lead to breach of confidentiality in respect of other clients. We will, however, be in a position to make project-specific documents, system reports and accounts available at the Client’s premises for inspection. We request your confirmation with this submission.	
51	Section 2: Instructions to Consultants E. Data Sheet General Clause 2.4 Page 29	“The Client will provide the following inputs, project data, reports, etc. to facilitate the preparation of the Proposals: N/A.”	As part of the Scope of Work provided in Section 7 (Page 65) of the RFP, the Consultant is required to refer to the TAC calculation methods provided in earlier studies i.e. DMCS and CSNDAD including TAC committee report. Given that these aforementioned reports, prepared by the potential bidders of this RFP, are not available in the public domain, we would request DFCCIL to ensure provision of such documents to all the invited bidders to ensure a fair competition.	Previous studies will be shared with awardee bidder/consultant only.
52	Section 2: Instructions to Consultants E. Data Sheet Clause 12.1	“Proposals must remain valid for 04/03/2020 (120 days) after the proposal submission deadline.”	We would like to bring to the Client’s knowledge that 120 days from the proposal submission deadline would be in May 2020. Accordingly, we request DFCCIL to correct the typographical error in the extant clause to say, “Proposals must remain valid up to 04/05/2020 (120 days) after the proposal submission deadline.” Also, pertaining to our subsequent	It has been modified as per last date of submission of bid. Please see Addendum no.2 in DFCCIL website.

	Page 31		query #8 below, we request that authority clarifies and considers the validity period from the revised submission deadline date.	
53	Section 2: Instructions to Consultants E. Data Sheet Clause 16.2 Page 31	“A price adjustment provision applies to remuneration rates: No”	We have noted that Phase 2 is likely to be executed over a three-year period and the same could be accounted by the Consultant during the submission of the bid. However, there could be potential delays in commissioning of the sections leading to delays in consultants work. To account for any such delays and to ensure that the Consultant is not at an unfair disadvantage given its commitment of resources and professionals, we request that there should be provisions for change in rates in case the project gets extended beyond the three-year period. Request DFCCIL to confirm the same and make necessary.	No compulsion of working beyond three years’ period as per contract. Work, if any will be on mutual agreement.
6.	Section 2: Instructions to Consultants E. Data Sheet Clause 17.7 and 17.9 Page 31	“The Proposals must be submitted no later than: Date: 03 January 2020 Time: 15:00”	The responses / amendments will be issued only towards end of December. Further, considering the proposal’s requirements of international experts, it would be challenging to submit a proposal in the given timeframe. Most of the consulting firms, especially the international ones, go on mandatory leaves from mid- December to mid-January. Accordingly, we request DFCCIL to kindly extend the proposal submission deadline by at least four weeks’ time after the	The date has been extended to 31/01/2020. Please see Addendum no.2 in DFCCIL official website.

			<p>provision of response to pre-bid queries. This will provide bidders enough time to strategise and plan bid preparation in line with the responses issued and undertake competitive pricing of the same. Accordingly, we propose the following changes:</p> <p>“The Proposals must be submitted no later than: Date: 03 February 2020 Time: 15:00 ”</p> <p>In case the responses are provided only in the next calendar year, we request Authority to provide 4 clear weeks from the date of issuance of responses.</p>	
54	<p>Section 2: Instructions to Consultants E. Data Sheet Clause 21.1 a) (ii) Page 33</p>	<p>“The firms has experience of similar assignments which are as below:</p> <ul style="list-style-type: none"> • Pertaining to Non-discriminatory access for Railways & Developing framework for access regulatory in Railways sector, Formulating methodology for the infrastructure access charges for Railways.” 	<p>While we appreciate the requirement of having non- discriminatory access related engagements in railways, we believe similar exercises undertaken in other transportation sectors such as aviation would also be relevant. In such engagements, work has included defining the regulation / tariff determination approach, modelling etc. Accordingly, we request DFCCIL to consider tariff determination engagements in the transportation sector as eligible experience. Accordingly, we propose the following amendment:</p>	<p>No change is required.</p>

			<p>“The firms has experience of similar assignments which are as below:</p> <ul style="list-style-type: none"> • Pertaining to Non-discriminatory access for Railways & Developing framework for access regulatory in Railways sector, Formulating methodology for the infrastructure access charges for Railways, • Pertaining to tariff determination in all sub-sectors of transportation including air transport / aviation, ports” 	
55	Section 2: Instructions to Consultants E. Data Sheet Clause 21.1 b) (iii) Page 33	“...3)[If relevant to the task, add the 3d sub-criterion: Relevant experience in the region (working level fluency in local language(s)/knowledge of local culture or administrative system, government organization, etc.): 10 %”	As mentioned above, consultancy assignments on track access charges has remained relatively limited and therefore, the proposed experts, particularly the international expert, may not have enough relevant experience in the region. They may therefore, not be aware of India’s local language and culture. Such a requirement may unfairly compromise on their ability to score well. In such a scenario, we request the removal of this criterion from the RFP.	The provision has been made in accordance with SRPF of World Bank.
56	Section 3: Technical Proposal – Standard Forms	“We, along with any of our sub-consultants, subcontractors, 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	<p>We propose the following amendment to the existing clause:</p> <p>“We hereby declare that we, for any part of the contract, are not subject to, and not controlled by any entity or individual that is</p>	No change is required.

	Form TECH-1 (e) Page 38	debarment imposed by the World Bank Group or a debarment imposed by the World Bank Group in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the World Bank and other development banks. Further, we are not ineligible under the Client's country laws or official regulations or pursuant to a decision of the United Nations Security Council;"	subject to, a temporary suspension or a debarment imposed by the Word Bank Group or a debarment imposed by the World Bank Group in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the World Bank and other development banks in India. Further, we are not ineligible under the Client's country laws or official regulations and a decision of the United Nations Security Council	
57.	Section 3: Technical Proposal – Standard Forms Form TECH-2 B Page 41	List only previous similar assignments successfully completed in the last 7 years	As mentioned above, given the limited number of similar completed assignments pertaining to TAC globally, DFCCIL is requested to increase the project horizon from the existing seven (7) years to a 10 year period for consideration of eligible assignments. Accordingly, the proposed change in the passport is as follows: "List only previous similar assignments successfully completed in the last 10 years. "	No change is required.
58.	Section 4: Financial Proposal – Standard Forms Form FIN-2	"in Indian Rupees (Rs.)"	While point 16.4 in the Data Sheet of the RfP, allows the Consultant to submit their financial proposals in a single currency and/or in a combination of up to three foreign currencies, the information provided in Form FIN-2 on Page 54 only allows for submisison of costs in INR. We request the Client to allow for	It has been modified and allowed for submission of the form with inputs upto three currencies.

	Page 54		submission of the form with inputs in up to three currencies	Please see addendum no.1 in DFCCIL Website.
59.	Section 7: Terms of Reference 3.1 Collection of data/ Calculation of Track Access Charges (ii) Page 65	“The consultant shall consider the Track Access Charges (TAC) calculation methods as suggested in earlier two studies (DMCSD and CSNDAD) including TAC committee report and as was approved by Railway Board.”	<p>The current clause recognizes the aforementioned reports as guidelines accepted by the Client in framing TAC. However, as mentioned above, we would like to submit that such reports are not publicly available. Secondly, a few of the currently invited bidders are authors of these aforementioned reports and may have an unfair advantage over others while preparing their bid. In this context, we request the Client to share these reports with all the invited bidders to ensure a level playing ground.</p> <p>Further, given that the scope involves a review of past formula prepared in the above mentioned reports, please confirm if any team member or firm associated with drafting the reports would have a conflict of interest for this study?</p> <p>Finally, please confirm that it will be the responsibility of DFCCIL to provide all Traffic projections as may be required for estimation of TAC including additional inputs that may lead to differentiated TAC such as train types or weight slabs, train length, empty trains, light engines,</p>	IR/DFCCIL will provide projections, data, etc.

			commodity class slabs among others. We also understand that the Consultant is not liable to review for accuracy and quality or update the traffic projections and other data inputs as provided by DFCCIL.	
60.	Section 7: Terms of Reference 3.1 Collection of data/ Calculation of Track Access Charges (ii) Page 65	“The consultant, however, may suggest improvement in the methodology to calculate the TAC comparing with the best internationally adopted practices within the purview of Concession Agreement between IR and DFCCIL. In case of any conflict with the Railway Board Committee recommendation, the matter shall be brought to GGM(BD) for resolution.”	Based on the listed objectives of the study, it is our understanding that the consultant shall be free to evaluate various options and propose an entirely new methodology developed from scratch based on industry best practices and suitability to DFCCIL’s context. We would like to highlight that while this new methodology must be compliant with DFCCIL’s concession agreement, it may significantly differ from the methodology as proposed in past studies and agreed by TAC committee report. We request DFCCIL to confirm this understanding and interpretation of the scope.	Yes, but methodology should be acceptable to DFCCIL/IR.
61.	Section 7: Terms of Reference 3.1 Collection of data/ Calculation of	“The consultant will suggest methodology of cross checking with audited account for TAC. The same exercise shall be done for other sections which will be commissioned subsequently or simultaneously.”	We understand that the cross-checking exercise mentioned herein would only be limited to a reconciliation of the projected cost with the costs provided in the audited books of accounts as shared by DFCCIL. The Consultant will not be in a position to review the audited accounts of DFCCIL. Further, we understand that the Consultant is	As per scope of work, implementation has been divided in three phases which has been indicated in the TOR. It is not three sections.

	Track Access Charges (vi) Page 66		only required to undertake calculation of TAC / cross checking based on its recommended methodology only for the three sections identified in the RFP and not any additional sections. DFCCIL is requested to confirm the same.	
62.	Section 7: Terms of Reference 3.1 Collection of data/ Calculation of Track Access Charges (x) Page 67	“The Consultant will analyze the calculated TAC on traffic projection basis and reconcile with actual data during the operations period...”	We understand that the Consultant needs to undertake the calculation of TAC based on the projected traffic, costs and other elements and reconcile later based on the audited data only as a one-time exercise.	Maximum two times (two years) actual data reconciliation required. In view of reconciled actual data of previous phase, final calculation may be done. Traffic projection will differ according to sections actually opened.
63.	Section 7: Terms of Reference 3.1 Collection of data/ Calculation	“While computing TAC, consultant shall keep in mind all variables relating to infrastructure use, commodity, etc leading to variable cost originations for the Infrastructure Manager i.e. DFCCIL: While calculating/computation of TAC, the Consultant shall keep in mind the following	We would like to point out that while the Consultant shall recommend the list of all variables leading to variable cost originations in consultations with subject matter experts and DFCCIL, the responsibility for the provision of data on all such elements in a time-bound manner will remain with DFCCIL. We request	DFCCIL will help for factual data from its repository/data bank.

	of Track Access Charges (xii) and (xiii) Page 69	<p>factors, but not limited to–</p> <ul style="list-style-type: none"> • Infrastructure use – <ul style="list-style-type: none"> ○ Siding charges ○ Shunting charges, etc. • Differential TAC for – <ul style="list-style-type: none"> ○ Long haul ○ Heavy haul ○ Commodity class slab wise ○ Type of stock/standard rakes ○ Empty train ○ Light engine/loco consists <p>Track occupancy due to detention of trains by IR will also be considered for computation of TAC.”</p>	DFCCIL to confirm the same.	
64.	Section 7: Terms of Reference 3.3 Involvement of Information Technology (IT) in TAC (i) Page 69	<p>“Consultant shall assist for providing data/inputs for IT system and design the formula for IT enabled system (SAP, if it is ready at the time of implementation or any other suitable and available software compatible to DFC requirement) for entire functioning of TAC. This shall include consolidation of various inputs which would be required for computation of TAC, integration of KPIs with TAC, invoicing for TAC, tracking of collections and MIS generation. This would need to be designed in sync with existing IT tools which may already be functioning within DFCCIL. Consultant will provide all forms and reports related to data</p>	<p>We understand that the Consultant’s role will only be limited to providing data/inputs towards user functionalities and not pertain to providing any technical functionalities, development and implementation of a IT system. We request DFCCIL to confirm the same.</p> <p>Accordingly amend the extant SoW as follows: “Consultant shall assist only for providing data/inputs including user functionalities required for the IT system (SAP, if it is ready at the time of implementation or any other suitable and available software compatible to DFC requirement) for entire functioning of TAC. This shall include consolidation of various user functionality inputs which would be</p>	<p>Only suggest the broad-level features and functionalities of the proposed IT system for TAC. Designing of software is not required.</p> <p>Best of IT solution used in other railways and best suited need to be suggested by the consultant. Read in conjunctions with related clauses in TOR.</p>

		feeding and report generation. In case of SAP, Consultant will interact with the customization agencies for the purpose of inclusion of TAC in SAP or any other IT process decided for TAC implementation/automation.”	required for computation of TAC, integration of KPIs with TAC, invoicing for TAC, tracking of collections and MIS generation. This would need to be designed in sync with existing IT tools which may already be functioning within DFCCIL. Consultant will provide all forms and reports related to data feeding and report generation. In case of SAP, Consultant will interact with the customization agencies for the purpose of inclusion of TAC in SAP or any other IT process decided for TAC implementation/automation.”	
65.	Section 7: Terms of Reference 3.3 Involvement of Information Technology (IT) in TAC (ii) Page 69	“Consultant shall liaison with SAP/IT consultant to accomplish compatibility of IT tool with designed TAC format and formula. This shall involve undertaking of a review and preparing comprehensive report of changes required in SAP/IT programme in sync with capitalization policy and O&M cost inputs.”	For any exercise pertaining to IT implementation, various factors need to be considered, some of which have been listed below: i) Have the inputs already been captured in SAP or are they stored somewhere else?, ii) Frequency of change of inputs, iii) Condition of data warehouse, iv) Complexities involved in case of any system customisation requirements, v) Reporting requirements vi) Would there be visualization requirements later? vii) Are there any boundary systems to SAP? DFCCIL is requested to provide the same to ensure a robust system design and implementation. However, as mentioned in the	DFCCIL is working on development of SAP module in ERP which may be platform for TAC as well. A solution framework (IT)

			<p>query above, the Consultant’s role shall only be limited to provision of inputs on user functionality. Therefore, the Consultant shall not be liable for ensuring implementation of the IT system and the liability will remain with DFCCIL’s SAP/IT consultant. Accordingly, the Consultant will only be able to provide limited inputs and a thorough review of the system’s technical design and preparation of report recommending changes shall not be under the Consultant’s purview. We request DFCCIL to confirm the same.</p>	<p>for automation of TAC computation is required. No system design is expected from consultant in present contract.</p>						
66.	Section 7: Terms of Reference: 6 6.1 Page 70-72	<p>“The schedule of deliverables which will cover clauses 2 to 5 mentioned above and payments is provided below.</p> <table><tr><th>Deliverable</th><th>Timeline for submission (T: date of commencement of assignment)</th><th>Payment % on approval of the reports/deliverable</th></tr><tr><td>Key deliverable 1: Inception Report</td><td>T + 15 days</td><td>10%</td></tr></table>	Deliverable	Timeline for submission (T: date of commencement of assignment)	Payment % on approval of the reports/deliverable	Key deliverable 1: Inception Report	T + 15 days	10%	<p>It is observed that the Consultant's efforts are segregated into two phases: Project Planning and Project Implementation. We would like to highlight that the Consultant’s efforts are significantly concentrated in the first phase, wherein majority of the tasks including finalizing the methodology, modelling and analysis pertaining to TAC are undertaken and KPIs are formulated.</p> <p>Given that the second phase is primarily an implementation-based exercise of principles / models developed in the first phase, the Consultant sincerely requests for a change in the payment schedule to ensure more emphasis till submission of KD 5.</p>	<p>No change is required.</p>
Deliverable	Timeline for submission (T: date of commencement of assignment)	Payment % on approval of the reports/deliverable								
Key deliverable 1: Inception Report	T + 15 days	10%								

		summarizing the initial client consultation, team organogram for the assignenment in tasks, sub-tasks and other elements and strategy of undertaking the work described in the TOR.			In this context, the proposed changes to the payment schedule are presented in the table below with changes marked in bold (in the payments column).						
		Key deliverable 2: Submit Sample templates/formats (blank) as required for data collation and data repositories. After getting the data related to O&M cost, submit draft O&M cost with methodology of calculation O&M cost. Establish KPIs, with involvement of incentives/penalties.	T+2 months.	10%		<table><tr><th>Deliverable</th><th>Timeline for submission (T: date of commencement of assignment)</th><th>Payment % on approval of the reports/deliverable</th></tr><tr><td>Key deliverable 1: Inception Report summarizing the initial client consultations, team organogram for the assignment, detailing of the entire assignment in</td><td>T+15 Days</td><td>10%</td></tr></table>	Deliverable	Timeline for submission (T: date of commencement of assignment)	Payment % on approval of the reports/deliverable	Key deliverable 1: Inception Report summarizing the initial client consultations, team organogram for the assignment, detailing of the entire assignment in	T+15 Days
Deliverable	Timeline for submission (T: date of commencement of assignment)	Payment % on approval of the reports/deliverable									
Key deliverable 1: Inception Report summarizing the initial client consultations, team organogram for the assignment, detailing of the entire assignment in	T+15 Days	10%									

		Key deliverable 3: With coordination of accounting division consultant, Report on TAC, KPIs, payment mechanisms of TAC, incentives/penalties and provide over all IT solution for TAC & KPIs.	T+3 months (subject to availability of accounting division data)	10%		tasks, sub-tasks and other elements and strategy of undertaking the work described in the TOR.			
		Key deliverable 4: Draft Report incorporating recommendations on TAC, KPIs, payment mechanisms of incentives/penalties, IT solution and Organizing a workshop.	T + 3.5 months.	10%		Key deliverable 2: submit sample templates/formats (blank) as require for data collation and data repositories. After getting the data related to O&M cost, submit draft O&M cost with methodology of calculation of O&M cost: Establish KPIs, with involvement of incentives/penalties.	T+2 months	20%	
		Key deliverable 5: Final report incorporating observations, modifications and suggestions from	T + 4 months	15%					

		DFCCIL/IR.				Key deliverable 3: With coordination of accounting division consultant, Report on TAC, KPIs, payment mechanisms of TAC, incentives/penalties and provide over all IT solution for TAC & KPIs.	T+3 months (subject to availability of accounting data)	20%	
		Key deliverable 6: Phase-wise assistance for claiming TAC from IR upto fully commissioned stage.	Phase I: New Khurja- New Bhaupur section of EDFC and New Rewari- New Palanpur section of WDFC (above sections are indicative) 2 Month	15%		Key deliverable 4: Draft Final Report incorporating recommendations on TAC, KPIs, payment mechanisms of incentives/penalties, IT solution and Organizing a	T+3.5 months	15%	
			Phase II New Bhaupur – New Mughalsar ai in EDFC New Palanpur – JNPT in	15%					

			WDFC (above sections are indicative) 2 month			workshop.			
						Key deliverable 5: Final report incorporating observations, modification and suggestions from DFCCIL/IR.	T+4 months	15% %	
			Phase III 2 month	15%		Key deliverable 6: Phase-wise assistance for claming TAC from IR upto fully commissioned stage.	Phase I: New Khurja-New Bhaupur section of EDFC and New Rewari- New Palanpur section of WDFC (above sections are indicative) 2 month	10%	
							Phase II New Bhaupur - New Mughalsarai in EDFC New Palanpur	5%	

			<table><tr><td></td><td>- JNPT in WDFC (above sections are indicative) 2 Month</td><td></td></tr><tr><td></td><td>Phase III 2 Month</td><td>5%</td></tr></table>		- JNPT in WDFC (above sections are indicative) 2 Month			Phase III 2 Month	5%	
	- JNPT in WDFC (above sections are indicative) 2 Month									
	Phase III 2 Month	5%								
67	Section 7: Terms of Reference: 6 Page 72		<p>We understand that while collation of data is an extensive exercise requiring coordination with different departments, there needs to be a time limit to ensure completion of the project in the specified duration.</p> <p>Accordingly, we request DFCCIL to prescribe a time limit for the provision of data and accordingly amend the extant clause as follows:</p> <p>“Note: iv. After completion (approval) of KD-2, it may be possible that consultant has to wait for data from accounting division regarding capitalization of assets. However, DFCCIL shall ensure that all requested data is made available to the Consultant in the requisite template shared by the Consultant within a month of such request being made.”</p>	<p>The work of accounting division has already been started on capitalization of assets by the selected consultant.</p> <p>Therefore, it will be provided timely.</p>						

68.	Section 7: Terms of Reference: 7: Proposed Project Team Page 73						We request the Client to also include post-graduation in economics as an eligible educational qualification for the proposed position of Railways Expert. Accordingly, we request the eligibility requirement to be amended as below:					Modified as below: Railways Expert Minimum Educational Qualification Graduate in any discipline preferably Post Graduate diploma in management or MBA from a reputed institute. Please see Addendum no.1 and 2 in DFCCIL official website.
		S No.	Position	No. of Experts	Minimum Educational Qualification	Working Experience	Sl. No.	Position	No. of experts	Minimum Educational Qualification	Working Experience	
		2	Railway expert	1	Graduate in any discipline preferable Post Graduate diploma in management or MBA from a reputed institute and minimum 10 years service in Railways Operation/Traffic field	Minimum 10 years of experience in Traffic related work in railways sector and/or should have 10 yrs experience in rail operation to be able to advice on appropriate KPIs and railway traffic costing/charging or 10 yrs consultancy	2	Railways expert	1	Graduate in any discipline preferable Post Graduate diploma in management or MBA or post graduate degree in economics from a reputed institute and minimum 10 years service in Railways	Minimum 10 years of experience in Traffic related work in railways sector and/or should have 10 yrs experience in rail operation to be able to advice on appropriate KPIs and railway	

		<table><tr><td></td><td></td><td></td><td></td><td>y experience in the field of Rail Traffic Transporta tion/Rail Infrastructr ue</td></tr><tr><td colspan="5"></td></tr></table>									y experience in the field of Rail Traffic Transporta tion/Rail Infrastructr ue						<table><tr><td></td><td></td><td></td><td>Operatin/Tra ffic field</td><td>traffic costing/char ging or 10 yrs consultancy experience in the field of Rail Traffic Transportati on/Rail Infrastructr ue</td></tr><tr><td colspan="5"></td></tr></table>				Operatin/Tra ffic field	traffic costing/char ging or 10 yrs consultancy experience in the field of Rail Traffic Transportati on/Rail Infrastructr ue						
				y experience in the field of Rail Traffic Transporta tion/Rail Infrastructr ue																								
			Operatin/Tra ffic field	traffic costing/char ging or 10 yrs consultancy experience in the field of Rail Traffic Transportati on/Rail Infrastructr ue																								
69	Section 7: Terms of Reference: 7: Proposed Project Team Page 74	<table><tr><td>Sl. No.</td><td>Position</td><td>No. of experts</td><td>Minimum Educationa l Qualificati on</td><td>Working Experience</td></tr><tr><td>3</td><td>Tar iff Exp ert</td><td>1</td><td>Graduate in economics, finance or commerce and preferable Post</td><td>Minimum 05 years of experience in Track Access Charge formulation/C alculation in the Railway</td></tr></table>	Sl. No.	Position	No. of experts	Minimum Educationa l Qualificati on	Working Experience	3	Tar iff Exp ert	1	Graduate in economics, finance or commerce and preferable Post	Minimum 05 years of experience in Track Access Charge formulation/C alculation in the Railway	Consultancy projects on track access charges have been limited in the country. However, several tariff modelling exercises have been undertaken in other sub-sectors of transportation and learnings from such experiences would be extremely relevant for application in the proposed engagement. Accordingly, we request DFCCIL to consider tariff determination engagements in the transportation sector as eligible experience. Accordingly, we propose the following amendment:	Modified as below: Tariff Expert Minimum Educational Qualification Graduate in economics, finance or commerce and preferably Post Graduate Diploma in management or MBA or Cost accountant from a reputed														
Sl. No.	Position	No. of experts	Minimum Educationa l Qualificati on	Working Experience																								
3	Tar iff Exp ert	1	Graduate in economics, finance or commerce and preferable Post	Minimum 05 years of experience in Track Access Charge formulation/C alculation in the Railway																								

					Graduate Diploma in management or MBA, Cost accountant from a reputed Institute.	transportation /Rail Infrastructure. Overall 10 years' experience in transportation assignments or related consultancy (including 5 years in railway field).		Sl. No.	Position	No. of experts	Minimum Educational Qualification	Working Experience	institute or qualified Chartered Accountant.
								3	Tariff Expert	1	Graduate in economics, finance or commerce and preferable Post Graduate Diploma in management or MBA, Cost accountant from a reputed Institute.	Minimum 05 years of experience in Track Access Charge formulation/tariff determination in the transportation sector Overall 10 years' experience in transportation assignments or related consultancy (including	<p>Tariff Expert should have overall consultancy experience of three tariff related rail projects in transportation/ traffic assignments. Out of these experiences minimum two projects study by him/her should be in TAC formulation /computation for international railway.</p> <p>Please see Addendum no.1 & 2 in DFCCIL official website.</p>

							5 years in railway field).	
70	Section 8: Conditions of Contract and Contract Forms (Lump-Sum) 19. Termination Page 93	b. By the Consultant Add new sub-point after sub-point (d)	For the conditions provided for termination of the contract by the Consultant, we would request DFCCIL to add the following condition: “If Consultant determines that a law, regulation or anything having similar import, or a circumstances (including cases where Client’s ownership or constitution has changed), makes Consultant performance of the Contract impermissible or in conflict with independence or professional rules applicable to Consultant.”					The provision has been made in accordance with SRPF of World Bank.
71	Section 8: Conditions of Contract and Contract Forms (Lump-Sum) 19.	c. Cessation of Rights and Obligations (19.1.4) “Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 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 22, (iii) the Consultant’s obligation to permit inspection,	It is pertinent to note that upon termination of contract by either parties, the terms of the contract cease to exist and so do the rights and obligations of the parties. Accordingly, we understand that the Consultant is no longer obliged to permit any kind of review, inspection and audit of its records and documents. In addition, our office have data and documents for several clients and hence allowing DFCCIL and/or persons appointed by DFCCIL to visit					The provision has been made in accordance with SRPF of World Bank.

	Termination Page 93	copying and auditing of their accounts and records set forth in Clause GCC 25 and to cooperate and assist in any inspection or investigation, and (iv) any right which a Party may have under the Applicable Law.”	our office for such inspection would lead to breach of confidentiality in respect of other clients. Accordingly, we request the following amendment to the existing clause: “Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 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 22, and (iii) any right which a Party may have under the Applicable Law.”	
72	Section 8: Conditions of Contract and Contract Forms (Lump-Sum) 19. Termination	e. Payment upon Termination (19.1.6) “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 Clause GCC 19.1.1, 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.”	We would like to highlight to DFCCIL that the term “satisfactorily performed” brings in scope for subjectivity, which may hinder objective judgment. To eliminate the chances of any biases creeping in that may leave the Consultant at an unfair disadvantage, we would request the Client to clarify the acceptance criteria for deliverables. Further, we would like to submit that with respect to approval of key deliverables and release of payments, deliverables to be deemed approved in case the Consultant does not receive any written comments from the Client within a	No change is required.

	n Page 94		<p>month of the Submission of the deliverables. Accordingly, we request the following amendment to the extant clause.</p> <p>“Upon termination of this Contract, the Client shall make the following payments to the Consultant:</p> <ul style="list-style-type: none"> (a) payment for Services approved/deemed approved prior to the effective date of termination; and (b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, 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.” 	
73	<p>Section 8: Conditions of Contract and Contract Forms (Lump-Sum) 22.</p> <p>Clause 22.1 Confidentiality</p>	<p>“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.”</p>	<p>We request the Client to define a time period for the applicability of this clause and accordingly propose the following to be added to the extant clause:</p> <p>“The confidentiality obligations shall survive the termination of this Contract / up to one year after completion of services, whichever is earlier.”</p>	No change is required.

	Page 96			
74.	Section 8: Conditions of Contract and Contract Forms (Lump-Sum) 24. Insurance to be taken out by the Consultant Clause 24.1 Page 96	“The Consultant (i) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants’, as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Client’s request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.”	We would like to clarify that Deloitte has already in place an appropriate and required insurance policy. However, on account of the administrative burden and costs involved, it is not possible to obtain such insurance policies for each engagement on terms and conditions to be approved by clients subsequently. We request the Client to confirm that we can continue to have recourse to our existing insurance policy and request appropriate modification of the existing clause.	No change is required. It is proper and self-speaking. If required insurance coverage already exists, it should cover validity of contract.
75.	Section 8: Conditions of Contract and Contract Forms (Lump-Sum) 25. Accounting , Inspection	“Pursuant to paragraph 2.2 e. of Appendix to the General Conditions the Consultant shall permit and shall cause its subcontractors and sub-consultants to permit, the Bank and/or persons appointed by the Bank to inspect the Site and/or the accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the Bank if requested by the Bank. The Consultant’s and its Subcontractors’ and sub-consultants’ attention is	We note the requirement of DFCCIL/Bank inspecting Site and/or all accounts and records relating to the performance of the Contract and submission of bid. We would like to submit that there is no specific project site for this engagement. Our office have data and documents for several clients and hence allowing DFCCIL/Bank and/or persons appointed by it to visit our office for such inspection would lead to breach of confidentiality in respect of other clients. We	This is only in respect of documents related with this contract and submission of bids. It is proper.

	and Auditing Clause 25.2 Page 97	drawn to Sub-Clause 10.1 which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank's prevailing sanctions procedures)."	will, however, be in a position to make such documents available at the Client's premises for inspection. We request your confirmation with this submission	
76.	Section 8: Conditions of Contract and Contract Forms (Lump-Sum) Clause 27.1	"Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client."	We request the Authority to note that although the Consultant can give ownership of deliverables to the client, pre-existing Intellectual Property Rights in the deliverables shall still remain with the Consultant. Accordingly, we propose the following be added to the clause: "The pre-existing IPR of Consultant will still be with Consultant and the Authority shall ensure there is a proper bifurcation of the documents and property to identify the IPR."	Pre-existing IPR /proprietary materials will continue to belong to the concerned consultant.
77.	Section 8: Conditions of Contract and	"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	As mentioned above, the term "satisfactory" brings in scope for subjectivity, which may hinder objective judgment. To eliminate the chances of any biases creeping in that may leave	The provision has been made in accordance with SRPF of World

	<p>Contract Forms (Lump-Sum)</p> <p>41. Mode of Billing and Payment Clause</p> <p>41.2.2</p> <p>Page 101</p>	<p>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.”</p>	<p>the Consultant at an unfair disadvantage, we would request the Client to clarify the acceptance criteria for deliverables. Further, we would like to submit that with respect to approval of key deliverables and release of payments, deliverables to be deemed approved in case the Consultant does not receive any written comments from the Client within a month of the submission of the deliverables.</p> <p>We propose the following changes to the extant clause:</p> <p>“The Lump-Sum Installment Payments. The Client shall pay the Consultant within thirty (30) 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), in which case the Client shall provide comments to the Consultant within the same thirty (30) days period. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. However, in the absence of any written comments received by the Consultant from the Client within the thirty-day period, the deliverables to be deemed approved and payment to be released by the Client.”</p>	<p>Bank.</p>
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78.	Section 8: Conditions of Contract and Contract Forms (Lump-Sum) 41. Mode of Billing and Payment Clause 41.2.3 Page 101-102	<p>“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. 41.2.4 All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.”</p>	<p>We propose the following changes to the extant clause: “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/deemed approved 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 sixty (60) calendar days after receipt of the final report by the Client unless the Client, within such sixty (60) 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. 41.2.4. However, in the absence of any written comments received by the Consultant from the Client within the thirty-day period, the deliverables to be deemed approved and payment to be released by the Client. All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.”</p>	The provision has been made in accordance with SRPF of World Bank.
79.	Section 8: Conditions of Contract	Additional clause	<p>We propose the addition of the following clause: “Notwithstanding anything contained in the contract, Client agrees that</p>	No change is required.

	and Contract Forms (Lump- Sum) III. Special Conditions of Contract Page 105- 111		the Consultant shall not be liable to Client, for any losses, claims, damages, liabilities, cost or expenses (“Losses”) of any nature whatsoever, for an aggregate amount in excess of the fee paid under the contract for the services provided under the contract, except where such Losses are finally judicially determined to have arisen primarily from fraud or bad faith of the Consultant. In no event shall the Consultant, be liable for any consequential (including loss of profit and loss of data), special, indirect, incidental, punitive, or exemplary loss, damage, or expense relating to the services provided pursuant to this Contract.”	
80.	Section 8: Conditions of Contract and Contract Forms (Lump- Sum) III. Special Condition	“employer’s liability and workers’ compensation insurance in respect of the experts and Sub-consultants in accordance with the relevant provisions of the applicable law in the Client’s country, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate;”	We request the Client to note that workers’ compensation insurance is not applicable to Deloitte and hence, adherence to this clause is not possible. We request the Client’s exemption for the same.	The provision has been made in accordance with SRPF of World Bank.

	s of Contract Clause24. 1 (d)			
81.	Section 8: Conditions of Contract and Contract Forms (Lump- Sum) Clause45.1 (1. a-c)	“... (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by	Given that the contract will be as per the applicable laws in India, we propose the following amendments: “... (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole	The provision has been made in accordance with SRPF of World Bank.
82.	III. Special Conditions of Contract Page 105- 111	the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to the Secretary General of the International Center for Settlement of Investment Dispute, Washington, D.C. for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names there from, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, the Secretary	arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to the Indian Council of Arbitration, New Delhi for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names there from, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty	This may be decided at the time of negotiation.

		<p>General of the International Center for Settlement of Investment Dispute, Washington, D.C. shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.</p> <p>(b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary General of the International Center for Settlement of Investment Dispute, Washington, D.C.</p> <p>(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary General of the International Center for</p>	<p>(60) days of the date of the list, the Indian Council of Arbitration, New Delhi shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.</p> <p>(b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Indian Council of Arbitration, New Delhi</p> <p>(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Indian Council of Arbitration, New Delhi to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole</p>	
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		Settlement of Investment Dispute, Washington, D.C. to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.	arbitrator for that dispute.”	
83.	Section 8: Conditions of Contract and Contract Forms (Lump-Sum) III. Special Conditions of Contract Clause 45.1 (5. a) Page 105-111	“(a) proceedings shall, unless otherwise agreed by the Parties, be held in Singapore/ Dubai;”	Given that the contract will be as per the applicable laws in India, we propose the following amendments: “(a) proceedings shall, unless otherwise agreed by the Parties, be held in Mumbai/Delhi ,”	This may be decided at the time of negotiation. No change contemplated at this stage.
84	General		a) Payment Terms - During the pre-bid meeting, a number of bidders raised the issue of the proposed payment terms. As highlighted during the meeting, we would like to re-iterate that the scope of work can be broadly categorized in two parts viz. Phase 1 : developing / finalizing the track access charge regime, KPI identifications etc. (under two scenarios viz. Single Operator and Multi-	Changes are not possible at this stage.

			<p>Operator); and phase 2 – support DFCCIL in the determination of track access charge for specified sections.</p> <p>We would like to highlight that the current payment structure is highly back loaded. It is pertinent to note that while the majority of the efforts (more than 80-85%) for this engagement including the efforts of the international experts would be in phase 1 viz. however, only 55% of the total payment is proposed to be made till completion of phase 1 (up till KD-5). In phase 2, the efforts of the consultant are limited as the scope only involves implementation of principles/models developed in the first phase.</p> <p>These back-loaded payment terms present multiple risks to the consultant:</p> <ol style="list-style-type: none"> 1) Cash flow issues – As most of the efforts are expended upfront (till month 4) and the consultant will not receive payments till year 2/3 2) Risk of contract foreclosure and no payments received – A back laded payment structure poses a huge risk for the Consultant in case the work in phase 2 does not go ahead- on account of delays in the operationalization of the sections et. In suich a scenario, not only would 	
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			<p>the Consultant have exerted considerable efforts in terms of the commitment of its resources to complete the first phase of the engagement, but not get any payment on account of such foreclosure.</p> <p>Further, we would like to point out that a critical requirement of the proposed engagement is the involvement of international experts, who would bring on board their expertise of determining and implementing track access charges globally. We would like to point out that typically, international expert would not be amenable to such back loaded payments structures- given their involvement would be mostly upfront. Therefore, as mentioned during the pre-bid meeting, such a payment structure may negatively affect bidders' decision to proceed on this RFP. We would like to humbly submit that in case the payment milestones are not amended, we would not be able to submit a bid for this RFP.</p> <p>In light of the reasons cited above, we request DFCCIL to change the payment schedule such that majority of the payments (i.e. 80%) are made by KD 5 and leave the remaining 20% for payment after submission of KD 6 (detailed breakdown given in our query # 16.</p>	
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85			<p>b) Relevant Experience of Firm – Another important issue is that the RFP currently considers only Railway track access charge as relevant experience of the Consultant. While we appreciate DFCCIL’S requirement, we would like to highlight that similar exercises undertaken in other transportation & infrastructure sectors such as aviation, ports, metro rail, power etc. would also provide suitable reference points and comparators for the proposed engagement and should be considered as relevant experience.</p> <p>Work undertaken in similar engagement for other infrastructure sectors including transportation, electricity et. Has encompassed defining the regulation/tariff determination approach, modelling, review of tariff proposals, et. For instance, for tariff determination of airports in the country due consideration is given to determination of the regulatory building blocks viz. O&M expenses, depreciation, taxation etc. Further, assessment is also undertaken of the Key performance indicators and their implications on charges. Additionally, similar to the requirement of considering variables/coefficient in the case of TAC, coefficients are identified, including weight,</p>	No change is required.
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			<p>duration of operations etc. for preparing the tariff card for airports.</p> <p>Similarly, for other infrastructure sectors such as metro rail, electricity among others tariff regulation has involved consideration of similar access regimes, review/finalization of key performance indicators etc. and hence would be relevant for the current engagement.</p> <p>Accordingly, we believe experience in other infrastructure sectors (transportation / electricity) is relevant and such sectors should also be considered as eligible experience as part of the technical assessment.</p>	
86			<p>c) Relevant Experience of Tariff specialist – As discussed during the pre-bid, we would like to highlight that currently the minimum experience requirement of tariff specialist only allows for railway track access charge experience. As we highlighted during the pre-bid, in India there are unlikely to be experts having this experience, especially the specific requirement of DFCCIL – in terms of having the understanding of nuances around multi-rail operator scenario, KPIs for the dedicated corridors etc. Considering this, and as highlighted above, we request DFCCIL to re-consider the experience requirement of the</p>	<p>Experience requirement of Tariff Expert has been modified. Please see Addendum no.2 in DFCCIL website.</p>

			<p>Tariff Specialist and allow for experience in other infrastructure sectors like transportation, electricity etc. As highlighted in the point above, such sectors have adopted global best practices including considering various building blocks (as are expected to be for railways), access regimes etc. Further, we would also like to highlight that the Rails Access Specialist and Team Leader is expected to bring in the necessary rail access/ track access charge experience and could guide the tariff specialist for specific nuances of track access. In case DFCCIL decides not to consider the experience of tariff modelling in the sectors such as airports, metro rail, we request DFCCIL to kindly mandate the tariff modeling in other sectors such as airports, metro rails, we request DFCCIL to kindly mandate the tariff specialist to be an international expert having experience of track access charge in international context – which will then meet the specific requirements of DFCCIL and also ensure that there is a level playing field for all bidders.</p>	
87			<p>d) Access to reports for previously undertaken work – As highlighted during the pre-bid, we request that the reports of previously undertaken work regarding non-discriminatory access and</p>	<p>The applicant may attend this office to see the previous reports (CSNDAD</p>

			<p>track access charge are released to all bidders prior to the bid submission. This would be critical to ensure a level playing field across potential bidders. In the current case, the fact that a bidder has already undertaken related work in the past, provides them an unfair advantage over the others – as they have access to data, methodologies, recommendations etc. which does not result in a level playing field.</p> <p>Typically, in case where the Government is not in a positions to share the previously undertaken work at the time of bidding, the previous consultant is barred from participating in the procurement process. Even in the current RFP, Conflict of Interest Clauses states:</p> <p>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</p>	<p>& DMCS D) with authorized letter from his firm in this regard.</p>
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			<p>subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation of implementation.</p> <p>As can be seen from the above, in any consulting flowing out of a previously undertaken consulting engagement, the incumbent/previous consultant is generally conflicted and debarred.</p> <p>Accordingly, it is crucial that the previous reports are released, which allows bidders to make as assessment of the available data, methodologies and recommendations and create a level playing field for the bidders and ensure fairness to the tendering process.</p> <p>However, in case DFCCIL decides not to release the reports at this stage, we would request DFCCIL to have reference to Government contracts and disqualify the previous consultants to participate in the procurement given their unfair advantage.</p> <p>We hope that DFCCIL will take a considered view on this matter.</p>	
88			<p>e) Termination of Engagement- Another issue that may unjustly compromise the Consultant would be in case of termination/closure of the engagement by DFCCIL for various reasons outside the control of the Consultant. As</p>	<p>No change is required.</p> <p>No compulsion of working beyond</p>

			<p>highlighted during the pre-bid, given the nature of support in Phase 2 viz. implementation of track access regime for specific sections, it is likely that consultant has initiated and undertaken significant amount of work for the last proposed section, however, on account of reasons outside the control of the consultant, computations have not been completed for the full section. You may note that in these situations, considering the current terms, consultant would not be paid for the last milestone as they would have completed the milestone. Accordingly, to safeguard the interests of the Consultant and protecting them from such an unfair situation, we would urge DFCCIL to include as part of the contract that if such a situation were to arise, DFCCIL would discharge payments as follows:</p> <ol style="list-style-type: none"> 1. Discharge full payments corresponding to the last milestone if consultant has satisfactorily completed substantial part of the scope for the last section, or 2. Discharge payment for services rendered by the Consultant till the time of issue of notice of such a termination/closure. 	three years' period as per contract.
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89			<p>f. Bid Submission deadline- Finally, it is expected that the responses to queries and clarifications will only be issued towards the last week of this month/January 2020. This may not leave the bidders with enough time to understand and respond to the amended RfP. Additionally, considering the proposal's requirements of proposing international experts for key positions, it would be challenging to submit a proposal in the given timeframe. This is because majority of the global consulting firms go on mandatory leaves from mid-December to mid-January and are only available after 10th January. Accordingly, DFCCIL to kindly consider our request in the pre-bid queries for extending the proposal submission deadline by at last four weeks time after the issuance of pre-bid query responses and not keep the bid submission deadline before 3rd February 2020. This would be important to provide bidders sufficient time to strategies and plan bid preparation in line with the responses issued by DFCCIL and undertake competitive pricing of the same.</p>	<p>The date has been extended to 31/01/2020.</p> <p>Please see Addendum no.2 in DFCCIL official website.</p>
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5. KPMG

S. No	Reference Clauses of RFP	Existing clause of RFP	Modification/Amendment Suggested by the Bidders	
90	Page 73, Clause 7.1	<p>Team Leader cum Rail Access Specialist (International Expert)- Working Experience: Minimum 05 years of experience in consultancy projects as team leader dealing in Track Access Charges for Railway.</p> <p>Minimum one international Railway project should have been handled by him.</p> <p>Overall 10 years' experience in rail TAC and rail tariff/rail traffic surveys /rail infrastructure management consultancy.</p>	<p>The Team Leader (Rail Access Specialist) would perform a key role in the assignment and would be required to have experience in economic regulation in the railways sector. In view of the above, we would like to suggest the following modifications: Working Experience: Minimum 10 years of experience in consultancy projects in transport/ logistics sector.</p> <p>Minimum 3 international railway projects should have handled in transportation and logistics field with at least two international assignments in the field of economic regulation in railways sector.</p>	No change is required.
91	Page 74, Clause 7.3	<p>Tariff Expert Graduate in economics, finance or commerce and preferably Post Graduate Diploma in management or MBA, Cost accountant from a reputed institute.</p>	<p>We would like to suggest the following modifications: Graduate in economics/commerce / engineering and Post-graduate diploma in Economics / Management/MBA/Cost accountant from a reputed institute.</p>	<p>Modified as below: Tariff Expert Minimum Educational Qualification Graduate in economics, finance or commerce and preferably Post Graduate Diploma in management or MBA or</p>

		Minimum 05 years of experience in Track Access Charge formulation/calculation in the Railway transportation/Rail infrastructure. Overall 10 years' experience in transportation assignments or related consultancy (including 5 years in railway field).	Minimum 05 years of experience in Tariff setting/calculation in the infrastructure sector and at least 1 assignment in the field of economic regulation in Railway transportation/Rail infrastructure. Overall 10 years' experience in similar assignments in infrastructure sector.	Cost accountant from a reputed institute or qualified Chartered Accountant. Please see Addendum no.1 in DFCCIL official website.
92	Page 73, Clause 7.2	Railways Expert Graduate in any discipline preferably Post Graduate diploma in management or MBA from a reputed institute and minimum 10 years' service in Railways Operation/Traffic field.	We would like to request that this clause may be please modified as follows: Graduate in any discipline preferably Post Graduate in Management or MBA or Economics or Engineering from a reputed institute and minimum 10 years' service in Railways Operation/Traffic field.	Modified as below: Railways Expert Minimum Educational Qualification Graduate in any discipline preferably Post Graduate diploma in management or MBA from a reputed institute. Please see Addendum no.1 in DFCCIL official website.
93	Page 64, Clause (ii)	Establish a detailed methodology (giving formula) for calculating track access charges as approved by Railway Board at start up and at later stage in view of phase-wise opening of sections in both corridors and also strategy for future corridors.	We understand that a detailed study was undertaken by DFCCIL to ascertain the methodology for computation of TACs. Please let us know if the consultant shall follow the earlier methodology itself or would be required to propose a new methodology and formula for TAC. This is because proposing a new methodology would take considerable time, in case this is required.	To develop his own methodology in keeping with international trend in TAC and policy as decided by MOR/DFCCIL.
94	Page – 64, Clause (viii)	Study and suggest the IT solutions for calculation/computation of Track Access	We would like to request DFCCIL to please clarify whether the consultant would be	Only suggest the broad-level features and functionalities of the proposed IT

		Charges and Key Performance Indicators through SAP and other software module,	required to design and implement the IT system or only suggest the broad-level features and functionalities of the proposed IT system for TAC.	system for TAC. Designing of software is not required.
95	Page – 66, Clause (vii)	The Consultant shall, after a detailed study and collection of cost data, calculate TAC for phase wise opening of sections of Eastern and Western DFCs based on the projected and actual traffic offering by IR.	We would like to request DFCCIL to please clarify whether the consultant would be required to collect data pertaining to cost on its own or whether DFCCIL would help in collection of such data. Also, kindly clarify if such data would be available at the DFCCIL H.O. or at the regional offices.	DFCCIL will help in data collection and it requires to collect from both locations.
96	General	--	We note that there is no express limitation on our liability under the RFP. In accordance with standard industry practice, our aggregate liability under this RFP and in connection with the services shall be for direct damages and shall be limited to one time the fees paid to us.	This consultancy services is funded by World Bank and World Bank guidelines will be followed.
97	Page 41, Clause B.1	List only previous similar assignments successfully completed in the last 7 years.	We would like to request that this clause may be modified to the following: “List only previous similar assignments completed / ongoing in the last 7 years”. This is because (like this current opportunity with DFCCIL) some assignments are multi-year duration assignments and hence can be on-going.	No change is required.
98	Page 70, Clause 6.1	The total duration of the consultancy would be Ten Months (300 days) spread on an intermittent basis across three years period.	We would like to request clarification on this since the schedule of deliverables mentions that KD-1 to 5 are to be completed and submitted within 4 months of	The total duration of the consultancy would be Ten Months spread on an intermittent basis across three years period.

			<p>commencement of the assignment. Following these deliverables, KD-6 would cover a total of 6 months.</p> <p>Kindly clarify how these deliverables are likely to be spread over a period of three years. This would help the consultant plan the work and tasks accordingly.</p>	In KD-6, phase-wise assistance will be required for claiming TAC from IR upto fully commissioned stage.
99	Page 70, Clause 6.1	The total duration of the consultancy would be Ten Months (300 days) spread on an intermittent basis across three years period.	<p>We understand that the key personnel would be required for attending presentations for the Key Deliverables and the training session for the DFCCIL and IR officials. For the remaining duration of the engagement, the key personnel can continue working on the assignment from their respective office locations.</p> <p>We would like to request DFCCIL to kindly clarify if this understanding is correct.</p>	Yes, but it is not limited to attend presentation and training session, but also required for consultations otherwise.
100	General	--	<p>We understand that clarifications to the bidders' queries would require some time. Also, since international experts are required for this, and since offices across the world are going to be (or already closed) on account of Christmas and New Year, we would like to request DFCCIL to extend the proposal submission due date by a period of at least 4 weeks.</p>	<p>The date has been extended to 31/01/2020.</p> <p>Please see Addendum no.2 in DFCCIL official website.</p>
101	General	--	We note that Joint Ventures are allowed. We understand this includes Consortiums are	Yes

			also allowed to bid for this opportunity. Kindly help clarify our understanding.	
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6. Ernst & Young LLP

S. No	Reference Clauses of RFP	Existing clause of RFP	Modification/Amendment Suggested by the Bidders	Reply to queries
102	21.1 (ii) c	‘Organization and staffing 20 marks’	As per previous World Bank tenders, the highest marks are allotted to “Technical Approach and Methodology” and not to “Organisation and Staffing”. Considering above, it is requested to allot 5 marks to Organization and Staffing and 20 marks to Technical Approach and Methodology	No change is required.
103	7 (1) - Team Leader cum Rail Access Specialist	‘Minimum 05 years of experience in consultancy projects as team leader dealing in Track Access Charges for Railway	It is requested to change the criteria to number of projects ‘Minimum 1 project as team leader dealing in Track Access Charges for Railway’. World Bank technical proposal format for submitting project details is designed to enable the expert to submit “number of projects” and not “number of years of experience”. Request if advisory engagements carried out with train operators involving assessment on franchisee bids, financial analysis are also considered in eligible projects. Such engagements involve preparation of financial models, setting KPIs and computation of track access charges.	<p>i. Team Leader should have overall experience of consultancy in 5 projects related to Rail freight tariff/Rail traffic surveys/ rail freight terminal consultancy etc as team leader.</p> <p>ii. Out of above experiences as Team Leader in Consultancy, at least 3 Project should involve formulation/setting/ calculation of rail freight tariff/pricing.</p>

				Please see Addendum no.1 & 2 in DFCCIL website.
104	7 (3) - Tariff Expert	Minimum 05 years of experience in Track Access Charge formulation/calculation in the Railway transportation/Rail infrastructure'	It is requested to change the criteria to number of projects "Minimum 1 project in Track Access Charge formulation/calculation in the Railway transportation/Rail infrastructure in India". World Bank technical proposal format for submitting project details is designed to enable expert to submit "number of projects" and not "number of years of experience". It is requested if experience of working on track access charges in Indian context is considered. We understand that since not many assignments have been done in the field of track access charges in India, it is requested that an overall experience of working on engagements in railways sector in India may kindly be considered. Request if advisory engagements carried out with train operators involving assessment on franchisee bids, financial analysis are also considered in eligible projects. Such engagements involve preparation of financial models, setting KPIs and computation of track access charges.	<p>It has been modified as below:</p> <p>i. Tariff Expert should have overall consultancy experience of three tariff related rail projects in transportation/traffic assignments. Out of these experiences minimum two projects study by him/her should be in TAC formulation /computation for international railway.</p> <p>Please see Addendum no.1 & 2 in DFCCIL website.</p>

105	21.1 (a) Note (ii)	‘Only those assignments should be included, which have been carried out by the Firms/JV/Consortium. The assignments carried out by Subcontractor/consultant companies should not be included.’	Kindly confirm whether the assignments undertaken by sister/member firms from different geographies can also be included? Also, in that case, will a consortium with the sister firm be required for submitting their assignments? In World Bank tenders whether the associated firm is a sub-contractor of a consortium members, in both cases, the credentials of the associated firm are allowed for evaluation. Request if the same can be followed in the current tender. Request if this can be allowed at least for sister/ member firms.	Single applicant or JV (members) in totality (or members) should have requisite experience.
106	Section-8, III. Special conditions of contract, SCC Clause 24.1	The insurance coverage against the risks shall be as follows: (a) Professional liability insurance, with a minimum coverage of _____ [insert amount and currency which should be not less than the total ceiling amount of the Contract]; (b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Client’s country by the Consultant or its Experts or Subconsultants, with a minimum coverage of [insert amount and currency or state “in accordance with the applicable law in the Client’s	It is requested if the following modifications can be made in the clause. The insurance coverage against the risks shall be as follows: (a) Professional liability insurance, with a minimum coverage of _____ [insert amount and currency which should be not less than the total ceiling amount of the Contract]; (b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Client’s country by the Consultant or its Experts or Subconsultants, with a minimum coverage of [insert amount and currency or state “in accordance with the applicable law in the Client’s country”]; (c) Third Party liability insurance, with a minimum coverage of [insert	No change is required.

		country”]; (c) Third Party liability insurance, with a minimum coverage of [insert amount and currency or state “in accordance with the applicable law in the Client’s country”]; (d) employer’s liability and workers’ compensation insurance in respect of the experts and Sub-consultants in accordance with the relevant provisions of the applicable law in the Client’s country, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant’s property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.	amount and currency or state “in accordance with the applicable law in the Client’s country”]; (d) employer’s liability and workers’ compensation insurance in respect of the experts and Sub-consultants in accordance with the relevant provisions of the applicable law in the Client’s country, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant’s property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.	
107	Section-8, III. Special conditions of	Disputes shall be settled by arbitration in accordance with the following provisions:	It is requested if the following changes can be made in the clause	This may be decided at the time of negotiation.

	contract, SCC Clause 45.1	<p>1. Selection of Arbitrators. Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions:</p> <p>(a) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary General of the International Center for Settlement of Investment</p>	<p>Disputes shall be settled by arbitration in accordance with the following provisions:</p> <p>1. Selection of Arbitrators. Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions:</p> <p>(a) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary General of the International Center for Settlement of Investment Dispute, Washington, D.C. shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.</p>	No change is contemplated at this stage.
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		<p>Dispute, Washington, D.C. shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.</p> <p>(b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary General of the International Center for</p>	<p>(b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary General of the International Center for Settlement of Investment Dispute, Washington, D.C.</p> <p>(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary General of the International Center for Settlement of Investment Dispute, Washington, D.C. to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed</p>	
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		<p>Settlement of Investment Dispute, Washington, D.C.</p> <p>(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary General of the International Center for Settlement of Investment Dispute, Washington, D.C. to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.</p> <p>2. Rules of Procedure. Except as otherwise stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.</p>	<p>pursuant to such application shall be the sole arbitrator for that dispute.</p> <p>2. Rules of Procedure. Except as otherwise stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.</p> <p>3. Substitute Arbitrators. If for any reason an arbitrator is unable to perform his/her function, a substitute shall be appointed in the same manner as the original arbitrator.</p> <p>4. Nationality and Qualifications of Arbitrators. The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) through 1(e) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant's home country [If the Consultant consists of more than one entity, add: or of the home country of any of their members or Parties] or of the Government's country. For the</p>	
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	<p>3. Substitute Arbitrators. If for any reason an arbitrator is unable to perform his/her function, a substitute shall be appointed in the same manner as the original arbitrator.</p> <p>4. Nationality and Qualifications of Arbitrators. The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) through 1(c) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant's home country [If the Consultant consists of more than one entity, add: or of the home country of any of their members or Parties] or of the Government's country. For the purposes of this Clause, "home country" means any of:</p> <p>(a) the country of incorporation of the Consultant [If the Consultant consists of more than one entity, add: or of any of their members or Parties]; or</p>	<p>purposes of this Clause, "home country" means any of:</p> <p>(a) the country of incorporation of the Consultant [If the Consultant consists of more than one entity, add: or of any of their members or Parties]; or</p> <p>(b) the country in which the Consultant's [or any of their members' or Parties'] principal place of business is located; or</p> <p>(c) the country of nationality of a majority of the Consultant's [or of any members' or Parties'] shareholders; or</p> <p>(d) the country of nationality of the Sub-consultants concerned, where the dispute involves a subcontract.</p> <p>5. Miscellaneous. In any arbitration proceeding hereunder:</p> <p>(a) proceedings shall, unless otherwise agreed by the Parties, be held in Singapore/ Dubai;</p> <p>(b) the English language shall be the official language for all purposes; and</p> <p>(c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third</p>	
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		<p>(b) the country in which the Consultant's [or any of their members' or Parties'] principal place of business is located; or</p> <p>(c) the country of nationality of a majority of the Consultant's [or of any members' or Parties'] shareholders; or</p> <p>(d) the country of nationality of the Sub-consultants concerned, where the dispute involves a subcontract.</p> <p>5. Miscellaneous. In any arbitration proceeding hereunder:</p> <p>(a) proceedings shall, unless otherwise agreed by the Parties, be held in Singapore/ Dubai;</p> <p>(b) the English language shall be the official language for all purposes; and</p> <p>(c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and</p>	<p>arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement</p>	
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		binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement		
108	NA	NA	Request for addition of a new clause in the contract The Client shall not recover from the Consultant, in contract or tort, under statute or otherwise, any amount with respect to loss of profit, data or goodwill, or any other consequential, incidental, indirect, punitive or special damages in connection with claims arising out of this Agreement or otherwise relating to the Services, whether or not the likelihood of such loss or damage was contemplated. The Client shall not recover from the Consultant, in contract or tort, under statute or otherwise, aggregate damages in excess of the fees actually paid for the Services that directly caused the loss in connection with claims arising out of this Agreement or otherwise relating to the Services.	No change is required.
109	NA	NA	Request for addition of a new clause in the contract –	No change is required.

			The Consultant may terminate this Agreement, or any Services, immediately upon written notice to the Client if the Consultant reasonably determines that it can no longer provide the Services in accordance with applicable law or professional obligations.	
110	21.1 Eligibility criteria	The eligibility criteria for shortlisting of the Consulting firms (“Consultants”) shall be as under: The firms has experience of similar assignments which are as below: Pertaining to Non-discriminatory access for Railways & Developing framework for access regulatory in Railways sector, Formulating methodology for the infrastructure access charges for Railways.	Request if advisory engagements carried out with train operators involving assessment on franchisee bids, financial analysis are also considered in eligible projects at firm level. Such engagements involve preparation of financial models, setting KPIs and computation of track access charges.	No changes is required.
111	7.3 Tariff Expert	Minimum educational qualification Graduate in economics, finance or commerce and preferably Post Graduate Diploma in management or MBA, Cost accountant from a reputed institute.	It is requested that the minimum educational qualification for Tariff Expert be kindly considered as follows: Minimum educational qualification Graduate in economics , or finance or commerce or engineering and preferably Post Graduate Diploma in management or MBA, Cost accountant from a reputed institute.	Modified as below: Tariff Expert Minimum Educational Qualification Graduate in economics, finance or commerce and preferably Post Graduate Diploma in management or MBA or Cost accountant from

				a reputed institute or qualified Chartered Accountant. Please see Addendum no.1 in DFCCIL official website.
112	21.1 (a) (iii) Eligibility criteria	(iii)The firm should have an annual turnover of at-least INR 50 Cr. during the last three financial year's i.e. FY 2018-19, 2017-18 & 2016-17.	Request if the below suggested change in eligibility criteria be considered: (iii) The firm should have an annual turnover of at-least INR 50 250 Cr. during the last three financial year's i.e. FY 2018-19, 2017-18 & 2016-17.	No change is required.
113	17.7 and 17.9 C. Submission, Opening & Evaluation	The Proposals must be submitted no later than: Date: 03 January 2020 Time: 15:00	It is requested if an extension of three weeks is provided in the date of submission. The Proposals must be submitted no later than: Date: 03 24 January 2020 Time: 15:00	The date has been extended to 31/01/2020. Please see Addendum no.2 in DFCCIL official website.

7. **Ecorys India Pvt. Ltd.**

S. No	Reference Clauses of RFP	Existing clause of RFP	Modification/Amendment Suggested by the Bidders	Reply to queries
114	Section 2: Instructions to Consultants – Data Sheet C: Submission, Opening and Evaluation	17.7 and 17.9 - the proposal must be submitted no later than: Date:03 January 2020	Currently Christmas season is approaching and international experts, who are likely to be key team members, will not be fully available for proposal preparation. Therefore, we request you to provide extension of four weeks for the submission of proposal from the given date.	The date has been extended to 31/01/2020. Please see Addendum no.2 in DFCCIL official website.
115	Eligibility criteria	21.1 part a) sub part (iii) – financial turnover of the firm should be at least INR 50 Cr for last three years	During the pre-bid meeting, some prospective bidders suggested that the eligibility criteria for turn over shd be enhanced to INR 500 Cr per annum. We believe this will be restrictive and limit the participation to some 3-4 firms which provide extensive consultancy services not relevant to the assignment but consider them in reporting as ‘revenue from consultancy work’. The subject assignment is a specialised assignment and several niche firms with lesser turnover can provide real value to the DFCCIL if selected.	No change is required.
116	Section 2: Instructions to Consultants - Data Sheet	21.1 (b) (ii) - Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs):	20 marks for organization and staffing and 5 marks for approach & methodology is not justified as this is a QCBS bid. Firms quoting higher on-site deployment are likely to get higher marks even if their approach & methodology to deliver may not be the most appropriate. Since the current criteria	Noted, details of marking are decided transparently before bid is opened. Clause 21.1(b) (ii) has been modified. Please see Addendum no.2 in DFCCIL website for updated modification.

	C: Submission, Opening and Evaluation	a) Technical approach and methodology – 05 c) Organization and staffing - 20	introduces subjectivity and approach and methodology is more critical, therefore, we request you to change marks of technical approach and methodology to 20 and of organization and staffing to 5.	
117	Section 2: Instruction to consultants	21.1 (b)(iii) Key experts' qualification and competence for the assignment 3) [If relevant to the task, add the 3d sub-criterion: Relevant experience in the region (working level fluency in local language(s)/knowledge of local culture or administrative system, government organization, etc.): 10 %	Kindly elaborate and clarify about relevant experience in region/ knowledge of local culture or administrative system, government organization etc. Team criteria should be made more objective with a graded approach for evaluation. This will avoid any subjectivity in the evaluation process.	No change is required.
118	Section 7: Terms of Reference	6. Deliverables, timelines and payment schedule Key Deliverables 1- 5: total payment is 55% Key Deliverable 6: total payment is 45%	Significant effort of the consultants will be consumed during stages 1 to 5 in the preparation of the draft TAC formula and application framework. Deliverable 6 & 7 are contingent on progress of corridor implementation and not in control of the consultants. This is mainly an implementation test phase which will involve iterative effort. Therefore, we request you to change the payment percentage of the following deliverables:	No change is required.

			Key Deliverables 1- 5: from total 55% to total 75% (independent phase) Key Deliverable 6 & 7: from total 45% to total 25% (contingent phase)	
119	Section 7: Terms of Reference	6. Deliverables, timelines and payment schedule	It is understood that payment will be released on approval of consultant's submissions by DFCCIL and also by Railway board. The approval process is likely to take 2-3 months and consultants' payments will be delayed for a process beyond their control. We therefore, request you to split payment for each stage into two parts as - 50% on submission and 50% on approval	No change is required.
120	Section 7: Terms of Reference	7. The proposed project team should consist of the following minimum personnel. The bidder may include additional experts in the team as considered appropriate:	We request you to specify minimum staff input required for the project. Minimum expectations should be mentioned for proper allotment of time of the consultants on project. This will also help in fair and objective assessment of the bids. Eg. Whether a firm committing 6 months of Team leader and 8 months of Railway expert is to be higher marked to a firm committing 8 months of Team leader and 6 months of Railway expert is subjective. Minimum team time commitment expectation from DFCCIL will also help the consultant's price their offers more realistically.	The clause is proper and self-explanatory.
121	Section 7: Terms of Reference	4. IT Expert 5. Accounting cum tax Expert	Kindly clarify the role of IT expert and Accounting cum tax expert in the project which is not clear currently.	Experts will work as per role assigned to them in scope of work.

8. CRISIL Infrastructure Advisory

S. No	Reference Clauses of RFP	Existing clause of RFP	Modification/Amendment Suggested by the Bidders	Reply to queries
122	Section 2 – 17.7 and 17.9 on Page 32	The Proposals must be submitted no later than: Date: 03 January 2020	We understand that the proposed engaged shall require some international experts that have relevant experience with respect to track access charge regime. Given that Christmas season is approaching, most of the international experts will not be completely available for preparation of a robust and competitive proposal. Therefore, we request the authority to kindly provide an extension of at least 4 weeks from the mentioned bid due date.	The date has been extended to 31/01/2020. Please see Addendum no.2 in DFCCIL official website.
123	Section 2 – 21.1 (b) (ii) on Page 34	(ii) Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (ToRs): a) Technical approach and methodology - 05 b) Work Plan – 05 c) Organisation and staffing - 20	Given the considerable complexity of the scope of work, we understand that the approach and methodology/technical framework to be adopted by the Consultant shall be of utmost importance for the engagement. Further, keeping things to schedule shall also be important in order to ensure that the engagement is executed in tandem with the progress of DFC works. Therefore, we request the authority to kindly modify the given criteria: a) Technical approach and methodology - 15 b) Work Plan – 10 c) Organisation and staffing - 5	No change is required.

124	Section 2 – 21.1 (b) (iii) on Page 34	<p>Key Experts’ qualifications and competence for the assignment: The number of points to be assigned to each of the above positions shall be determined considering the following three sub-criteria and relevant percentage weights:</p> <p>1) General qualifications (general education, training, and experience): 20 %</p> <p>2) Adequacy for the Assignment (relevant education, training, experience in the sector/similar assignments)” 70%</p> <p>3) {If relevant to the task, add the 3rd sub-criterion:</p> <p>Relevant experience in the region (working level fluency in local language (s)/Knowledge of local culture or administrative system, government organization, etc.</p>	<p>We request the authority to kindly elaborate on the 3rd point on percentage weights for evaluation of CVs for individual experts. Further, in order to ensure objectivity of the evaluation process, we request the authority to modify the evaluation criteria adopting a graded approach.</p>	<p>Noted, details of marking are decided transparently before bid is opened..</p>
125	Section 7 – 6 on Page 70	Deliverables, timelines and payment schedule	<p>We understand that the payment for each deliverable shall be released on approval of consultant’s submissions by DFCCIL and IR. The approval from both the agencies might take long time (2-3 months) leading to delays in payment. We therefore, request the authority to kindly provide a cut-off timeline for approval of the deliverables. Alternatively, the authority may also divide the payments for each milestone as – 50% on submission and 50% on approval</p>	<p>Approval on the deliverable reports will be given by DFCCIL Methodology and TAC should be acceptable to MOR.</p>
126	Section 7 – 6.1 on Page 70	The total duration of the consultancy would be Ten Month (300 days) spread on an	<p>We appreciate DFCCIL for drafting a comprehensive and elaborate scope of work,</p>	<p>No change is required.</p>

		<p>intermittent basis across three years period. The schedule of deliverables which will cover clauses 2 to 5 mentioned above and payments is provided below:</p> <table><tr><th>Deliverable</th><th>Timeline for submission (T: date of commencement of assignment)</th><th>Payment % on approval of the reports/deliverable</th></tr><tr><td>Key deliverable 1: Inception Report summarizing the initial client consultations, team organogram for the assignment, detailing of the entire assignment in tasks, sub-tasks and other elements and strategy of undertaking the work described in the TOR.</td><td>T + 15 days</td><td>10%</td></tr></table>	Deliverable	Timeline for submission (T: date of commencement of assignment)	Payment % on approval of the reports/deliverable	Key deliverable 1: Inception Report summarizing the initial client consultations, team organogram for the assignment, detailing of the entire assignment in tasks, sub-tasks and other elements and strategy of undertaking the work described in the TOR.	T + 15 days	10%	<p>providing the Consultant a fair understanding of the tasks to be undertaken. However, we understand that the Key deliverable 1 to 5 shall entail maximum efforts from the consultant towards designing the TAC formula and the implementation framework. The subsequent deliverables shall be contingent on progress of DFC that shall not be in control of the consultants. We understand that this shall be largely pilot implementation phase and shall require iterative efforts. Therefore, we request the authority to kindly modify the payment milestones as per the table given below:</p> <table><tr><th>Deliverable</th><th>Timeline for submission (T: date of commencement of assignment)</th><th>Payment % on approval of the reports/deliverable</th></tr><tr><td></td><td></td><td></td></tr></table>	Deliverable	Timeline for submission (T: date of commencement of assignment)	Payment % on approval of the reports/deliverable				
Deliverable	Timeline for submission (T: date of commencement of assignment)	Payment % on approval of the reports/deliverable														
Key deliverable 1: Inception Report summarizing the initial client consultations, team organogram for the assignment, detailing of the entire assignment in tasks, sub-tasks and other elements and strategy of undertaking the work described in the TOR.	T + 15 days	10%														
Deliverable	Timeline for submission (T: date of commencement of assignment)	Payment % on approval of the reports/deliverable														

		<p>Key deliverable 2: submit Sample templates/ formats (blank) as required for data collation and data repositories. After getting the data related to O&M cost, submit draft O&M cost with methodology of calculation of O&M cost. Establish KPIs, with involvement of incentives/penalties.</p>	T + 2 months	10%	<p>Key deliverable 1: Inception Report summarizing the initial client consultations, team organogram for the assignment, detailing of the entire assignment in tasks, sub-tasks and other elements and strategy of undertaking the work described in the TOR.</p>	T + 15 days	10%	
		<p>Key deliverable 3: With co-ordination of accounting division consultant, Report on TAC, KPIs, payment mechanisms of TAC, incentives/penalties and provide over all IT solution for TAC & KPIs.</p>	T + 3 months (subject to availability of accounting division data)	10%	<p>Key deliverable 2: submit Sample templates/ formats (blank) as required for data collation and data repositories. After getting the data related to O&M cost, submit draft O&M cost with methodology of calculation of O&M cost. Establish KPIs, with involvement of incentives/penalties.</p>	T + 2 months	15%	

			Key deliverable 4: Draft Final Report incorporating recommendations on TAC, KPIs, payment mechanisms of incentives/ penalties, IT solution and Organizing a workshop.	T + 3.5 months	10%	Key deliverable 3: With co-ordination of accounting division consultant, Report on TAC, KPIs, payment mechanisms of TAC, incentives/penalties and provide over all IT solution for TAC & KPIs.	T + 3 months (subject to availability of accounting division data)	15%		
			Key deliverable 5: Final Report incorporating observations, modifications and suggestions from DFCCIL/IR.	T + 4 months	15%		Key deliverable 4: Draft Final Report incorporating recommendations on TAC, KPIs, payment mechanisms of incentives/ penalties, IT solution and Organizing a workshop.	T + 3.5 months		15%
			Key deliverable 6: Phase-wise assistance for claiming TAC from IR upto fully commissioned stage	Phase I: New Khurja - New Bhaupur section of EDFC and New Rewari- New Palanpur section of WDFC	15%		Key deliverable 5: Final Report incorporating observations, modifications and suggestions from DFCCIL/IR.	T + 4 months		15%

			(above sections are indicative) 2 Month		Key deliverable 6: Phase-wise assistance for claiming TAC from IR upto fully commissioned stage	Phase I: New Khurja - New Bhaupur section of EDFC and New Rewari- New Palanpur section of WDFC (above sections are indicative) 2 Month	10%	
			Phase II New Bhaupur – New Mughalsarai in EDFC New Palanpur – JNPT in WDFC (above sections are indicative) 2 Month	15%		Phase II New Bhaupur – New Mughalsarai in EDFC New Palanpur – JNPT in WDFC (above sections are indicative) 2 Month	10%	
			Phase III 2 Month	15%				

				Phase III 2 Month	10%	
127	Section 7 – 7 on Page 73	The proposed project team should consist of the following minimum personnel. The bidder may include additional experts in the team as considered appropriate:	We request the authority to kindly provide the minimum staff inputs required for the assignment. This shall enable the consultant to determine the financial quote taking into account client expectations. Further, this shall also enhance objectivity in evaluation process by ensuring information symmetry amongst the bidders.			No change is required.
128	General	The failure of a Party to fulfil 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	We request the authority to kindly modify the clause into following: “Except in case of the obligation of client to make timely payment, the failure of a Party to fulfil 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”.			No change is required.
129	Section 8 Suspension in Page 92	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	We request the Authority that prior to the suspension a notice to be given to the Consultant to rectify the breach of its obligations.			No change is required.

		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.		
130	Section 8; Termination on Page 92	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).	We request the authority to kindly modify the clause into following: 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 thirty day (30) calendar days' written notice in case of the event referred to in (f).	No change is required.
131	Section 8; 19.1.1 (c) on Page 92	If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 45.1;	We request the authority for the deletion of this provision.	The provision has been made in accordance with SRPF of World Bank.
132	Section 8; 19.1.1 (e) on Page 93	If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;	We request the authority for the deletion of this provision.	The provision has been made in accordance with SRPF of World Bank.

133	Section 8; 19.1.4 on Page 93	Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 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 22, (iii) the Consultant's obligation to permit Section 8. Conditions of Contract and Contract Forms (Lump-Sum) 92 inspection, copying and auditing of their accounts and records set forth in Clause GCC 25 and to cooperate and assist in any inspection or investigation, and (iv) any right which a Party may have under the Applicable Law.	We request the authority to kindly modify the clause as following: Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and obligations of the Parties hereunder shall cease, except the obligation of confidentiality set forth in Clause GCC 22.	The provision has been made in accordance with SRPF of World Bank.
134	Section 8; 19.1.6 (b) on Page 94	in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC19.1.1, 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.	We request the authority for the deletion of this provision.	The provision has been made in accordance with SRPF of World Bank.
135	Section 8; 21.1. on Page 95	The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.	We request client to clarify whether any other company associated with the consultant cannot enter into any agreement with the employer for services relating to only this particular project.	This is hypothetical question. Conflict, if any will decide whether such engagements will happen.

136	Section 8; 21.1.3 on Page 96	The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.	We request client to clarify whether any other company associated with the consultant cannot enter into any agreement with the employer for services relating to only this particular project.	
137	Section 8; 23 on Page 96	Subject to additional provisions, if any, set forth in SCC, the Consultant's liability under this Contract shall be provided by the Applicable Law.	We request the authority for the deletion of this provision.	The provision has been made in accordance with SRPF of World Bank.
138	Section 8; 23 on Page 96	No additional provisions.	We request client to add following: "In no event will the aggregate liability of the Consultant ever exceed the amount of fees paid by Client to Consultant pursuant to the Proposal to which the claim relates during the twelve (12) month period immediately preceding the date such claim arose."	No change is required.
139	Section 8; 27 on Page 97	Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall, not later	We request the client to add following Clause: "The Client however acknowledges that all right, title and interest in the methodologies, processes, techniques, ideas, concepts, trade secrets and know-how (all collectively referred to as the "Knowledge Material") of the Consultant continue to remain those of the Consultant even if any of them is embodied in the reports, developed or supplied in connection	No change is required.

		than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client.	with the Services. The Client shall have the nonexclusive perpetual license to use the reports (including any Knowledge Material provided as a part of the report to the Client) to the extent necessary for the Client to use the reports in accordance with this Contract."	
140	Section 8; 45.1 (a) on Page 109	Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to [name an appropriate international professional body, e.g., the Federation Internationale Des Ingenieurs-Conseil (FIDIC) of Lausanne, Switzerland] for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, [insert the name of the same professional body as above] shall appoint, upon the request of either	We request the authority for the deletion of this provision.	The provision has been made in accordance with SRPF of World Bank.

		Party and from such list or otherwise, a sole arbitrator for the matter in dispute.		
141	Section 8; 45.1 (4) on Page 110	Nationality and Qualifications of Arbitrators. The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) through 1(c) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant's home country [If the Consultant consists of more than one entity, add: or of the home country of any of their members or Parties]or of the Government's country. For the purposes of this Clause, "home country" means any of: (a) the country of incorporation of the Consultant [If the Consultant consists of more than one entity, add: or of any of their members or Parties]; or (b) the country in which the Consultant's [or any of their members' or Parties'] principal place of business is located; or (c) the country of nationality of a majority of the Consultant's [or of any members' or Parties'] shareholders; or (d) the country of nationality of the Sub consultants concerned, where the dispute involves a subcontract.	We request the authority for the deletion of this provision.	The provision has been made in accordance with SRPF of World Bank.
142	Section 8; 45.1 (5) on Page 111	Miscellaneous. In any arbitration proceeding hereunder:	We request the authority to modify clause into following:	No change is needed.

		<p>(a) proceedings shall, unless otherwise agreed by the Parties, be held in [select a country which is neither the Client's country nor the Consultant's country];</p> <p>(b) the English language shall be the official language for all purposes; and</p> <p>(c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.</p>	<p>Miscellaneous. In any arbitration proceeding hereunder:</p> <p>(a) proceedings shall, unless otherwise agreed by the Parties, be held in [select a country which is neither the Client's country nor the Consultant's country];</p> <p>(b) the English language shall be the official language for all purposes; and</p> <p>(c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction,</p>	
143	NA	Additional Clauses to the Draft Contract	<p>We request the addition of the following clauses to the draft contract:</p> <p>Economic And Trade Sanctions:</p> <p>As of the date of this Agreement, (a) neither Client nor any of its subsidiaries, or any director or corporate officer of any of the foregoing entities, is the subject of any economic or trade sanctions or restrictive measures issued by the United Nations, United States or European Union ("Sanctions"), (b) Client is not 50% or more owned or controlled, directly or indirectly, individually or collectively, by one or more persons or entities that is or are the subject of Sanctions, and (c) to the best of Client's knowledge, no entity 50% or more owned or controlled by a direct or indirect parent of Client</p>	No change is needed.

			<p>is the subject of Sanctions. For purposes of clause (c) in this section, “parent” is a person or entity owning or controlling, directly or indirectly, 50% or more of you. For so long as this Agreement is in effect, you will promptly notify the Consultant if any of these circumstances change. If the Consultant reasonably determines that it can no longer provide the services to Client in accordance with applicable law, then the Consultant may terminate this Agreement, or any particular services, immediately upon written notice to Client.</p> <p>Anti- Bribery & Anti-Corruption: Each Party represents, warrants and undertakes that:</p> <p>(a) It has not and shall not offer, promise, give, encourage, solicit, receive or otherwise engage in acts of bribery or corruption in relation to this Agreement (including without limitation any facilitation payment), or to obtain or retain business or any advantage in business for any member of its group, and has and shall ensure to the fullest extent possible that its employees and agents and others under its direction or control and directly involved in providing Services under the Agreement do not do so. For the purposes of this clause it does not matter if the bribery or corruption is (i) direct or through a third party;</p>	
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			<p>(ii) of a public official or a private sector person; (iii) financial or in some other form; or (iv) relates to past, present, or future performance or non-performance of a function or activity whether in an official capacity or not, and it does not matter whether or not the person being bribed is to perform the function or activity to which the bribe relates, or is the person who is to benefit from the bribe. For the purposes of this clause, a “person” is any individual, partnership, company or any other legal entity, public or private.</p> <p>(b) Each Party shall, adhere to applicable anti bribery and corruption laws.</p> <p>(c) Each Party shall, immediately upon becoming aware of them, give the other Party all details of any non-compliance with Clause (a) and Clause (b).</p> <p>(d) It is a condition of this Agreement that each Party fully complies with this Clause. If it does not do so, without prejudice to any other remedy available to a party, the non-breaching party shall have the right (but not the obligation) in its absolute discretion to terminate the whole of this Agreement, or that part of this Agreement to which the bribery or corruption relates. For the avoidance of doubt, any breach of this Clause shall be deemed to be incapable of remedy</p> <p>Non-Exclusivity: The Client acknowledges that Consultant or its associates may have other commercial</p>	
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			transactions with the Client, other parties reviewed for the Client or referred in the agreement (if any) and the services provided under the agreement shall be on a non-exclusive basis.	
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