

**PRE QUALIFICATION GUIDELINES
FOR
SELECTION OF VENDOR
FOR
ANDHRA PRADESH TECHNOLOGY SERVICES**

National Institute for Smart Government



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List of Abbreviation

Abbreviation	Description
CMMI	Capability Maturity Model Integration
CapEx	Capital Expenses
EOI	Expression of Interest
ISO	International Organization for Standardization
LLP	Limited Liability Partnerships
NeGP	National E-Governance Plan
OpEx	Operational Expenses
PBG	Performance Bank Guarantee
POA	Power of Attorney
PQ	Pre-Qualification
RFP	Request for Proposal
SI	System Integrator

1 Introduction

The Eligibility / Pre-Qualification (PQ) criteria set out in any RFP document aims to invite proposals from the genuine bidders and solution providers. The criteria should be set so as to encourage competition and quality responses/bidding.

The guidelines to keep in mind when establishing a set of Eligibility Criteria are:

- Ensure that the PQs criteria or conditions to participate in the bidding process are flexible and practical; allowing international bidders too
- PQs have direct and perceptible linkage with scope of work, project's financial worth and risk
- PQs are focused towards quality of solution and bidder competence

If the <Nodal Agency> wishes to limit the number of bidders responding to the RFP, in case the market assessment resulted in too many bidders, then the following additional PQ criteria can be provided:

- Suggested Solutions (one or more than one)
- Bidder's Experience in "Similar" Projects (for which Work Order / Completion Certificates can be provided)
- Bidder's Competence

It may be noted that the Pre-qualification criterion is not required for cases where the agencies have been shortlisted on the basis of Expression of Interest (EOI).

2 Financial Stability: Sales Turnover and Net Worth

Financial stability of a Bidder is vital for large CapEx and OpEx projects.

- Sales Turnover and Net worth requirements should be included only for System Integration Turnkey projects that require significant initial investments from the bidders and reasonably high levels of operating expenditure. The Sales Turnover should be based on the upfront investment required and the nature of work. The Net Worth requirements should be set as "Positive".
- Since Sales Revenue is a criterion to assure the <Nodal Agency> about the financial strength of the bidder, the <Nodal Agency> may, instead of using Sales turnover and Net worth as criteria to assess the financial strength of a bidder, choose an increased amount of Performance Bank Guarantee (PBG) as a replacement to provide assurance.

3 Nature of Work> Related Turnover

This criterion is important for the Nodal agency as it ensures a free and fair competition by encouraging eligible bidders. The Nodal Agency should ensure that any of the shortlisted bidders should have the ability to execute the assignment. The minimum Nature of work related turnover should be that it attracts at least 8 bidders.

Further the Nodal Agency should keep in mind that the “Nature of Work” is not too specific as the Bidders may not be keeping their books of accounts if the nature of work is too specific. Typically “Systems Implementation” is a term which most of the bidders would be able to back it up with in the Annual Reports or be able to provide the statement / certificate.

4 Project Experience: Number & Value of Projects

The PQ for project experience required from the bidder with reference to the context of the solution to be delivered, as defined in the RFP document, should aim to achieve the following:

- a) One project of similar nature costing not less than the amount equal to 80 – 100% of the estimated value of assignment to be awarded
- b) Two projects of similar nature costing not less than the amount equal to 50 – 60% of the estimated value of assignment to be awarded
- c) Three projects of similar nature costing not less than the amount equal to 40-50% of the estimated value of assignment to be awarded

The following should also be ensured:

- Definition of “similar” work should be clearly defined with references to domain, sector or industry and functional area of scope of work
- Also anything more specific than this requirement, may result in restricting competition and should be done when only for cases when there is significant justification for its requirement. However, in any case, at least 8 potential bidders attending pre-bid conference should qualify

5 Power of Attorney

Power of Attorney's (POA) of the listed companies are made with the approval of the Board of the Company. It may be noted that the Board's approval is a time consuming process and hence it is not possible for having customized POA's for every bid. Hence the POA of a listed company should be accepted in the format available with the bidding agency, as long as it authorizes the signatory to sign on the bid documents on behalf of the company.

6 Manpower Strength

In general, Manpower requirements (restrictive numbers) should NOT be applicable to Systems Implementation / System Integration projects, as before or during delivery, the resources can be hired by the bidder and deployed on such large projects.

The same may be mandated, when the requirement of manpower is more than 20 resources on full time/ near full time.

7 Certifications

Certification requirements (Quality, Capability maturity etc.) should be linked purely with the nature of work being delivered on the project. The following should be understood in this regard:

- ISO 9001:2008 Certification - ISO 9001:2008 certification is a standard related to quality management system. ISO 9001:2008 is based on eight quality management principles (all fundamental to good business practice). These principles are – Customer focus, Leadership, Involvement of people, Process approach, System Approach to management, Continual improvement, Fact based Decision making and Mutually beneficial supplier relationship. Hence this certification is relevant for projects needing industry accepted quality management standards for the processes and transactions involved in solution delivery
- ISO 27001 Certification formally specifies a management system that is intended to bring information security under explicit management control. The security controls in operation typically address certain aspects of IT or data security, specifically, leaving non-IT information assets (such as paperwork and proprietary knowledge) less well protected on the whole. This should be asked for only for cases, where the scope of work specifically mentions security assessment and design of security system. Hence this is relevant for projects requiring Information security standards, such as Network security, database/data security.
- ISO 20000 is the international standard for IT service management. ISO/IEC 20000 certification is relevant where projects need standards on service management, such as Application support and Hardware support. Its latest version is ISO/IEC 20000-2:2012

- (SEI) CMMI certification is relevant for projects where software implementation or application development is being done
- ISO 14001 certification is relevant to projects having need of Environmental management standards, such as those involving Site preparation, large power consuming Hardware installations

The Nodal Agency should assure that any certification should add value to the Bid and should not lead to limiting the competition.]

8 Blacklisting

Currently the Blacklisting process in NeGP is not an institutionalized process. In absence of this, there is no central repository where the Nodal Agency (or at times, large bidders) can verify if the bidders has been blacklisted.

Till that time, GoI (DeitY) centralizes this process; blacklisting clause should only be used as a PQ criterion if the <Nodal Agency> has blacklisted the bidder for breach of ethical conduct or fraudulent practices.

9 Registered Legal Entity

Companies registered under companies Act 1956 is one of the Pre-qualifications criterion in the SI Bids. This may limit the competition to a few Indian firms for assignments of specific size or may not generate response from agencies which may have a niche in a specific area.

Accordingly, it is suggested that the Nodal Agency should may start allowing partnership firms registered under Limited Liability Partnerships (registered under LLP Act, 2008) to participate in bid process for e-Governance projects in India.

10 Consortiums and Sub-Contracting

i) Consortiums

Consortiums, it should be noted, are mostly encouraged to allow multiple (different) Bidders to participate in Government projects for the Capital, Sharing the risks, Skills, Resources, Maturity and the characteristics of the market, facilitating participation of smaller bidders, facilitate the company to protect its core interests and Intellectual Property rights or trade secrets or copyrights.

It has been observed that in many cases, the detailed understanding of the roles and responsibilities between the consortium members gets finalized after the bid has been won. This leaves a lot of “grey” areas for the Nodal Agency as it may be completely oblivious to the details terms and conditions between the consortium members at the time of evaluation of the bids.

On the other side, Consortiums also bring value to the end client as it allows the lead bidder to leverage the strengths of the other co-bidders (Consortium members) and also ensure their commitments. It is suggested that Consortiums may be allowed if it meets any of the following conditions:

- The value of the project is large (for e.g. more than Rs. 50 crores)
- There are very few potential bidders which have the competence required to execute the entire project
- There is a merit in promoting a consortium vis-à-vis sub-contracting.

In such a situation, it is suggested that the RFP should be structured in such a manner which allows or disallows the consortium based on the “value” brought in the procurement process.

The RFP should lay down some of the basic conditions if the consortium route is to be proposed by the bidder:

- The lead bidder should be responsible for works which are estimated to be at least 50% of the total value of the contract
- The lead bidder should be liable for the entire scope of work and risks involved thereof (the liability should be for the entire value of the contract)
- The non-lead bidders should be liable for the scope of work for which they are responsible along with the lead bidder (Liability should be limited to the value of the scope of work; while the lead bidder still carries the liability for the entire scope of work. Hence the Nodal agency has 2 entities that are liable for the work carried out by the consortium partner)
- Any change in the consortium member at a later date should not be allowed for cases where the consortium has benefited from the non-lead bidders credentials / experience

In case consortiums are to be allowed, the Nodal agency should

- Request clarity on the roles and responsibility of each consortium member
- Enforce a condition that a particular company can be a member of only one consortium
- Enforce that all the members are part of the contractual arrangement between themselves before submitting the bid
- All member of the Consortium should be registered legal entity in India
- Allow for some pre-qualification criterions to be met by any of the consortium members

In any case, the nodal agency should assure itself that there would be at least 8 agencies which will meet the PQ & Technical evaluation's minimum requirements – either independently or through consortiums.

For large and complex projects, where the value of project is significantly high (*for e.g. more than Rs. 500 crores*) there may be a merit in allowing consortiums, through formation of a Special Purpose Vehicle for execution of the assignment. This recommendation is as per with the Report of the Technical Advisory Group for Unique Projects (TAGUP) '2011.

ii) Sub-Contracting

Especially for large end-to-end turnkey projects, it has been observed that none of the Bidders would have the capacity to implement the project without any sub-contracting. Even for the large Implementation Agencies, it has been observed that they may require outsourcing a part of their work (for e.g. related to data entry, site preparation, training, internet / internet bandwidth etc.).

The nodal agency should provide the flexibility to bidders to sub-contract part of the work, provided it is not more than 50% of the estimated fair value of the contract. However allowing sub-contracting should not dilute the responsibility & liability of the bidder.

Further the Vendor may change the sub-contractor, provided it does not impact the quality of services being delivered. However the Vendor needs to inform the Nodal Agency on its intention to change the sub-contractor and reason thereof.

Accordingly the liability for performance rests with the lead bidder and not with the sub-contractor (The lead bidder may separately have a contract with the sub-contractor where it is free to define the liabilities. However the Nodal Agency is generally not a party to this contract.)

11 Conflict of Interest

The RFP specifies that the “Conflict of interest” situation should not arise. The concerned agencies / individuals are required to give an undertaking that there is no conflict of interest situation. In case there is a conflict of interest situation, the concerned agency/individual should not be involved / considered for that particular activity. The below paragraphs detail out the situations where conflict of interest situation may exist.

For a Systems Implementation Agency / System Integrator

Conflict of interest would exist if:

- There are existing contracts of the bidder with the concerned Nodal Agency / Government entity/department.
- There is clear and certain possibility that the services executed / delivered by the bidder as part of the scope of work would lead to outcomes wherein the bidder can have vested business interests / benefits

The following Guidance Notes further explain and illustrate the provisions of conflict of interest for Engaging “System Integrators/Implementation Agencies” for E-Governance Projects.

- a. The process for selection of System Integrators/Implementation Agencies should avoid both actual and perceived conflict of interest. System Integrators/Implementation Agencies should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. Hence, the System Integrators/Implementation Agencies should not be allowed to take up the directly derived SI work in the same area of department/agency (area of influence).
- b. Conflict of interest may arise between the Nodal Agency and a SI or between SI and present or future Consultants/Contractors/System Integrators/Implementation Agencies. Some of the situations that would involve conflict of interest are identified below:

i. Nodal Agency and SI vendor:

- (i) Potential SI vendor should not be privy to information from the Nodal Agency/Government Department which is not available to others.
- (ii) Potential SI vendor should not have recently worked for the Nodal Agency overseeing the project in a role which is even perceived as “influential role” for drafting of SOW and evaluation criterion.

ii. SI vendor and Consultants:

- (i) No SI vendor should have an ownership interest or a continuing business interest or an on-going relationship with an existing Consultant working with the Nodal Agency under the same “Program” or “Scheme” and interacting with the same officials of the Nodal Agency.
- (ii) No SI vendor should be involved in owning or operating entities resulting from the project (unless upfront indicated in case an SPV is required to be formed).
- (iii) One of the normal ways to identify conflicts of interest is through self-declaration by SI. (it is expected that wherever a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Nodal Agency, for which the Nodal Agency should seek clarification). All conflicts must be declared as and when the SI becomes aware of them.

For the Nodal Agency & Proposal Evaluation Committee

A conflict of interest or the appearance of a conflict of interest may occur if member(s) of the Evaluation team are directly or indirectly involved with an organization that has submitted a proposal for evaluation.

Prior to reviewing any proposals, member(s) of the Evaluation team must inform the Nodal Agency of any potential conflicts of interest or the appearance thereof. If members of the Evaluation team become aware of any potential conflict of interest as they review a proposal, they must immediately notify the Proposal Evaluation Committee chairman.

Member(s) of the Evaluation team may withdraw as an RFP evaluator if they find themselves in a way that could create the appearance of bias or unfair advantage with or on behalf of any competitive bidder, potential bidder, agent, subcontractor, or other business entity, whether through direct association with contractor representatives, indirect associations, through recreational activities or otherwise.

It is suggested that the members of Proposal Committee should sign a self-declaration. A sample Self-Declaration Proforma, for this case, can be of the following form:

“I have read the RFP document and understand my obligations as explained in the document.
I declare that myself or any of my family members are part of the organizations which have bid for the proposal.
I further understand that I must advise the Nodal Agency if such a situation currently exists or arises during my term of service as a Proposal evaluator.
I further understand that I must sign and deliver this statement to the Nodal Agency prior to participating in the evaluation process.
Date:
RFP#:
Evaluator Signature:
Evaluator Name (Printed)”