

**Guidance Notes on Preparation of RFP  
For  
Selecting Consulting Agencies  
For  
Andhra Pradesh Technology Services**

**National Institute for Smart Government**



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## 1. Objective

A **Request for Proposal (RFP)**, also at times known as Request for Tender (RFT), is issued at a stage in a procurement process, where an invitation is presented to the potential bidders, to submit a proposal on a specific service. The RFP process brings structure to the procurement decision and is meant to allow the risks and benefits to be identified clearly upfront, so that the bidders can factor in while responding to the invitation.

The RFP is aimed towards selecting the most competent bidder with the economically advantageous price. The RFP directly addresses Government's need and intent to procure.

## 2. Situations for Use / Context of Issuance

**This RFP for Consulting Assignment (Deliverable Based) should be ISSUED under the following typical circumstances:**

- Scope of work and deliverables are standard, reasonably well known and/or can be clearly specified
- Typically involves time bound delivery
- Budget is known, approved OR availability of budget is assured
- Need to procure the most economical tender, through open competitive bidding - generate competition by ensuring at least with 3 to 5 bidders

This RFP may consist of Technical evaluation criteria and/or Pre-qualification criteria with financial details.

**An RFP should NOT be published if:**

- Scope of work and deliverables are not known and not clearly understood by the Nodal agency
- There's lack of a known budget (or there is no commitment of funds)
- There is only one vendor which has the requisite skills to deliver the project
- When already a rate empanelment has been done by the Line Ministry/State Government responsible for executing the project (In this case the empaneled agencies should be contacted directly and evaluated on the basis of a presentation & profiles of resources proposed to be deployed in the engagement.

### **3. Procedures to Issue**

#### **3.1. Market Assessment**

Before inviting Bidders, it is recommended that the Nodal Agency should:

- Assess the capability and maturity of the market by capturing details on the likely number of interested suppliers and solutions
- Try to identify around 8 potential interested consulting agencies for this RFP – this would ensure that eventually 3-5 would bid

This would ensure that the RFP being developed would generate a fair competition & the Government would get best economical deal.

#### **3.2. Advertise / Invitation of Expression of Interest**

- a) The advertisement should be published in/conveyed to at least
  - i.) One national daily newspaper
  - ii.) A popular website for Government tenders, for e.g.: <http://tenders.gov.in/>
  - iii.) Website of the Government Department (the end procurer of the consulting service) or Nodal agency.
  - iv.) Additionally the Government entity may also send an email to all concerned Consultants in the market, specifically the empaneled consultants carrying out various consulting assignments with the Government Department, Nodal Agency and Department of Information Technology
- b) The RFP document should include a copy of the advertisement whereby consultants are invited to submit their RFP. The advertisement must, amongst other things, include
  - Time frame and timing for purchasing/obtaining the RFP
  - How to get a copy of the RFP document
  - Contact information of the Issuing agency with name of contact person
  - The last date of submission of RFP
- c) The Nodal Agency should give adequate time for the response. The time allowed shall depend on the assignment, but normally shall not be less than three weeks and more than three months. In cases, where participation of international consultants is contemplated, a period of not less than eight weeks should normally be allowed.

### **3.3. Background Information**

The RFP document should contain the following information, at the minimum.

#### **3.3.1. Project Details**

The Nodal Agency should mention the genesis of the project and what is the objective which the project is trying to achieve. The Nodal Agency should also clearly mention what are the dependencies of the project, such as:

- Availability/provision of certain information/infrastructure or people that could affect the deliverables or timelines
- Buy in requirements from other Stakeholders (define the stakeholder & area of buy in required)
- Sign offs required at relevant stages from stakeholders

#### **3.3.2. Stakeholder Involvement Details**

The Stakeholder(s) and their involvement details should also be provided:

- Designated Stakeholders who would be driving the project and those who would be impacted by its outcomes
- Definition of stages and levels of Stakeholder dependent deliverable approvals and the involvement of Stakeholders at various levels of sign offs and final payments
- Designated Stakeholders for interim Quality Assessment and review of deliverables
- Provide a detailed matrix table of Roles and responsibilities for all stakeholders
- Designated stakeholders involved in Change requests

The above would help ensure that the Consultant coming on board would be clear on its role and responsibilities for delivering the service/solution and would also know what level of stakeholder buy in would be required.

### 3.4. Typical RFP Structure

A typical RFP, as researched and developed from study of International and Indian procurement best practices, would have a structure as represented here

S. No.	Request For Proposal Sections / Clauses	Desirability
1.	Fact Sheet	Mandatory
2.	Invitation for Request for Proposal (RFP)	Mandatory
3.	Background Information	Mandatory
4.	Instructions to Bidders	Mandatory
5.	Pre-Qualifications (PQ) / Eligibility Criteria	Mandatory
6.	Evaluation Methodology	Mandatory
7.	Scope of Work	Mandatory
8.	Deliverables	Mandatory
9.	Timelines	Mandatory
10.	Payment Schedules	Mandatory
11.	Commercial Bid	Mandatory
12.	Legal Terms & Contract Conditions	Mandatory
13.	Skills Required	Recommended
14.	Outcomes of Scope of Work	Recommended
15.	Exit Criteria	Recommended
16.	Deliverable Approval Mechanism/Process	Recommended
17.	Change Request Mechanism	Recommended
18.	Funds Available for the Project	Recommended
19.	Project Extension	Optional
20.	Success Fee	Optional

Mandatory : Necessarily should be put in the RFP Document

Optional : Should be put depending on the situation

Desirable : As a best practice should be included

### 3.5. Instruction to the Bidders

#### 3.5.1. Bid Submission Extension due to Corrigendum Issuance

If the RFP has a Corrigendum issued, then the RFP response submission date for the Bidders should be revised and ***extended to at least 2 weeks (14 days)***.

### **3.5.2. Handling Deviations**

The bidders should be allowed the flexibility to provide deviations to the RFP terms and conditions. It may be noted that once the deviations are provided, the bidder would not be allowed to withdraw the deviations submitted. The tender Evaluation Committee would evaluate each of the deviations proposed by the bidder and classify them as “**Material Deviation**” or “**Non-Material Deviation**”. In case of Material Deviations, the Committee may decide to monetize their value, which has to be added to the price bid submitted by the bidder. The bidders would be informed on the Committee’s decision on the deviation, prior to the announcement of technical scores.

### **3.5.3. Negotiations with Successful Bidder**

#### **Central Vigilance Commission**

#### **Office Order No.68/10/05**

#### **The relevant extracts of the Order are provided below**

1. “Following the deliberations in the above mentioned Workshop, the following issues are clarified with reference to para 2.4 of Circular No.8(1)(h)/98(1) dated 18th November, 1998 on negotiation with L-1, which reflect the broad consensus arrived at in the workshop.
  - a. There should not be any negotiations. Negotiations if at all shall be an exception and only in the case of proprietary items or in the case of items with limited source of supply. Negotiations shall be held with L-1 only. **Counter offers tantamount to negotiations and should be treated at par with negotiation.**
  - b. Negotiations can be recommended in exceptional circumstances only after due application of mind and recording valid, logical reasons justifying negotiations. In case of inability to obtain the desired results by way of reduction. In rates and negotiations prove infructuous; satisfactory explanations are required to be recorded by the Committee who recommended the negotiations. The Committee shall be responsible for lack of application of mind in case its negotiations have only unnecessarily delayed the award of work/contract.
2. Further, it has been observed by the Commission that at times the Competent Authority takes unduly long time to exercise the power of accepting the tender or negotiate or retender. **Accordingly, the model time frame for according such approval to completion of the entire process of Award of tender should not exceed one month from the date of submission of recommendations. In case the file has to be approved at the next higher level a maximum of 15 days may be added for clearance at each**

**level. The overall time frame should be within the validity period of the tender/contract.**

3. In case of L-1 backing out there should be re-tendering as per extant instructions”

The Nodal Agency shall reserve the right to negotiate with the bidder(s) whose proposal has been ranked best value bid on the basis of Technical and Commercial Evaluation to the proposed Project, as per the guidance provided by CVC (please see the box below).

**Central Vigilance Commission:**

**Office Order No.68/10/05**

**The Relevant Extracts of the Order are:**

“(i) As post tender negotiations could often be source of corruption, it is directed that there should be no post-tender negotiations with L-1, except in certain exceptional situations. Such exceptional situations would include, procurement of proprietary items, items with limited sources of supply and items where there is suspicion of a cartel formation. The justification and details of such negotiations should be duly recorded and documented without any loss of time.

(ii) In cases where a decision is taken to go for re-tendering due to the unreasonableness of the quoted rates, but the requirements are urgent and a retender for the entire requirement would delay the availability of the item, thus jeopardizing the essential operations, maintenance and safety, negotiations would be permitted with L-1 bidder(s) for the supply of a bare minimum quantity. The balance quantity should, however, be procured expeditiously through a re-tender, following the normal tendering process.

(iii) Negotiations should not be allowed to be misused as a tool for bargaining with L-1 within dubious intentions or lead to delays in decision-making. Convincing reasons must be recorded by the authority recommending negotiations. Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated so that the time taken for according requisite approvals for the entire process of award of tenders does not exceed one month from the date of submission of recommendations. In cases where the proposal is to be approved at higher levels, a maximum of 15 days should be assigned for clearance at each level. In no case should the overall timeframe exceed the validity period of the tender and it should be ensured that tenders are invariably finalized within their validity period.

(iv) As regards the splitting of quantities, some organizations have expressed apprehension that pre-disclosing the distribution of quantities in the bid document may not be feasible, as the capacity of the L-1 firm may not be known in advance. It may be stated that if, after due processing, it is discovered that the quantity to be ordered is far more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities, then the quantity being finally ordered should be distributed among the other bidders in a manner that is fair, transparent and equitable. It is essentially in cases where the organizations decide in advance to have more than one source of supply (due to critical or vital nature of the item) that the Commission insists on pre-disclosing the ratio of splitting the supply in the tender itself. This must be followed scrupulously.

(v) Counter-offers to L-1, in order to arrive at an acceptable price, shall amount to negotiations. However, any counter-offer thereafter to L-2, L-3, etc., (at the rates accepted by L-1) in case of splitting of quantities, as pre-disclosed in the tender, shall not be deemed to be a negotiation.

2. It is reiterated that in case L-1 backs out, there should be a re-tender.

#### **3.5.4. Earnest Money Deposit**

The primary objective of submission of earnest money deposit is to establish the earnestness of the bidder so that the bidder does not withdraw, impair or modify the offer within the validity of the bid. It also helps in restricting if not eliminating 'speculative', 'frivolous' or 'wait and see' bids. Since any relaxation regarding submission of earnest money deposit has financial implications besides giving encouragement to the bidders to submit frivolous bids as indicated above; the terms & conditions should clearly stipulate that the offers without earnest money deposit would be considered as unresponsive and rejected. The EMD amount should be within **2-5% of the estimated<sup>3</sup>** cost of the bids, under ordinary circumstances. The option should be provided to the bidder to submit the EMD in the form of Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee from any of scheduled nationalised/ commercial banks.

It may be noted that EMD should not be asked for when the RFP is circulated amongst the Empaneled list of Consultancy agencies.

<sup>3</sup> ***In places where there are no estimates available, the same may be estimated by discussing with the experts in the Government or industry***

**EXCERPTS FROM GENERAL FINANCIAL RULES' 2005**

**Rule 157 on Bid Security / Earnest Money Deposit**

i. To safeguard against a bidder's withdrawing or altering its bid during the bid validity period in the case of advertised or limited tender enquiry, Bid Security (also known as Earnest Money) is to be obtained from the bidders except those who are registered with the Central Purchase Organization, National Small Industries Corporation (NSIC) or the concerned Ministry or Department. The bidders should be asked to furnish bid security along with their bids. Amount of bid security should ordinarily range between two percent to five percent of the estimated value of the goods to be procured. The exact amount of bid security, should be determined accordingly by the Ministry or Department and indicated in the bidding documents. The bid security may be accepted in the form of Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee from any of the commercial banks in an acceptable form, safeguarding the purchaser's interest in all respects. The bid security is normally to remain valid for a period of forty-five days beyond the final bid validity period.

ii. Bid securities of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity and latest on or before the 30th day after the award of the contract.

**Rule 158 on Performance Security**

i. Performance Security is to be obtained from the successful bidder awarded the contract. Performance Security is to be obtained from every successful bidder irrespective of its registration status etc. Performance Security should be **for an amount of five to ten percent of the value of the contract**. Performance Security may be furnished in the form of an Account payee Demand Draft, Fixed Deposit Receipt from a Commercial bank, Bank Guarantee from a Commercial bank in an acceptable form safeguarding the purchasers interest in all respects.

ii. Performance Security should remain valid for a period of sixty days beyond the date of completion of all contractual obligations of the supplier including warranty obligations.

iii. Bid security should be refunded to the successful bidder on receipt of Performance Security.

#### **4. Defining Pre-Qualification (PQ) Criteria**

The Eligibility / Pre-Qualification (PQ) criteria set out in an RFP document aims to shortlist bids from only the genuine reputed consulting Agencies. 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 criteria/PQs or conditions to participate in the bidding process are flexible and practical; allowing international bidders to participate in the process
- PQs have direct and perceptible linkage with scope of work, project's financial worth and risk
- PQs are focused towards quality of advisory capacity and bidder competence

Hence, after significant deliberations with various Government and Industry Stakeholders, on eligibility criteria, the following advisory (in the sub-sections below) has been prepared. It is suggested that these should be followed under normal circumstances to prevent the eligibility criteria from becoming restrictive in nature.

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

##### **4.1. Sales Turnover in Consulting (or IT Consulting)**

It was observed that a typical Pre-Qualification contains the requirements linked to Annual Reports, such as Sales Turnover, Turnover in the area of IT Consulting, Networth etc.

It was observed that most of the balance sheets / annual reports of the companies do not categorize the revenues from e-Governance. The closest criterion which is commonly observed in the Annual Reports is "Consulting Revenues" or "IT Consulting Revenues". Depending upon the nature of consulting work, the Nodal Agency can choose either of the two areas. However, if the bidder is able to demonstrate work experience in other areas of e-Governance like Change Management, Business Process Re-engineering, Training etc., the same may be accepted by the Nodal Agency.

The intention of putting this criterion is that the Bidding agency has a minimum size and experience in the area of e-Governance to deliver the project. The other criterions linked to overall Sales Turnover, net worth etc., should be avoided as this may result in restricting competition. Hence it is recommended that only one criterion linked to "Sales turnover in IT Consulting/Consulting" should be used.

***As a thumb rule, one can keep the minimum sales turnover in Consulting / IT Consulting at Five (5) times the estimated value of the assignment being tendered.***

## 4.2. Project Experience: Number and 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 tender document, should aim to achieve the following:

- **One project** of similar nature costing not less than the amount equal to 80 – 100% of the estimated value of assignment to be awarded
- **Two projects** of similar nature costing not less than the amount equal to 50 – 60%% of the estimated value of assignment to be awarded
- **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, it is recommended that the Nodal Agency should assure itself that at least 8 potential bidders attending pre-bid conference would be in a position to pre-qualify.*

## 4.3. 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 tender. 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.

## 4.4. Manpower Strength

In general, Consulting /IT Consulting Manpower requirements (numbers) should **NOT** be applicable to Consulting Services projects, as delivery is more about the quality of resources deployed and the team’s domain knowledge.

However this requirement may be introduced as a pre-qualification requirement **ONLY** when the estimated requirement of Consulting /IT consulting manpower is more than 5 resources on full time/ near full time basis.

In such cases, the Consulting / IT Consulting Manpower requirements should not be more than the 5 times the estimated requirement of Consulting/ IT consulting manpower on full time/ near full time basis. For e.g. if the estimated requirement of Consulting /IT Consulting manpower is 10 resources on full time/ near full time basis, then the responding Company must have on its rolls, consulting staff of at least 50 technically qualified personnel in the area of e-Governance, Program / Project Management, IT infrastructure, IT security and IT procurement and who possess relevant degrees/credentials with prior experience in providing the above consultancy services.

#### **4.5. Quality Certifications**

The requirement of any certification as a part of Pre-Qualification criterion in an EOI should not be generally encouraged. Wherever it is put as a PQ criterion, the Nodal Agency should ensure that it is inherently linked to the Scope of work. Further it should be clear how these certifications would affect the quality of the Deliverables and what checks and balances have been designed to ensure that such certifications would add value.

However in case of specific Scope of Work, the following Certifications may add value and may be put as a Pre-Qualification criterion:

- **ISO 9001 certification**

ISO 9000/9001 certification is a certification required for quality systems. It provides a set of generic requirements relating to the processes of development and production, and how they will be managed, reviewed and improved in order achieve customer satisfaction. This is a basic hygiene check for a company bidding and should be a requirement in normal case

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**

ISO/IEC 27001 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

It was also observed during this assignment that various certifications like CMMi are being put as Pre-Qualification criterion in the EOI document for projects which are not related to

software development or its consulting. Hence the Nodal Agency should assure that any certification should add value to the tender and should not lead to limiting the competition.

#### **4.6. Blacklisting**

It was observed that 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, Gol (DeitY) centralizes this process; Blacklisting clause should only be used as a PQ criterion if the Government Department, Ministry or Agency has blacklisted the bidder for breach of ethical conduct or fraudulent practices.

#### **4.7. Registered Legal Entity**

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

Several of the government reforms in India / developing countries are directly led by foreign firms with local offices in respective countries. Hence the Nodal Agency should assess the requirement of the legal entity being registered under the Companies Acts.

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.

#### **4.8. Consortiums**

**Consortiums, it should be noted, are mostly encouraged to participate in Government projects for the** Capital, Sharing the risks, Skills and expertise, Resources, Maturity and the characteristics of the market, Facilitating participation of smaller vendors, facilitate the company to protect its core interests and Intellectual Property rights or trade secrets or copyrights.

However in Consulting Services these do not apply really well, as:

- Most of the Consulting skills required for providing e-Governance Consulting are commonly available with most of the bidders
- This could lead to potential issue of “name lending” by the vendors, in case this has not been addressed by having the same PQ criteria for each member of the Consortium

In case the project has a requirement in niche areas (like legal experts, or Bio Metric expert or Domain experts), the bidders may not have experts which can be deployed on the project. In such cases where the skill gap exists, the bidders may be encouraged to go in for *SUBCONTRACTING* as it could help bridge the competency gap.

It may also be noted that certain international funding institutions allow the consortiums in the Consulting bids to allow for local/country-specific representation. This also helps in capacity building of consulting industry in the domain/geography of that particular country.

However the Nodal agency should evaluate whether to allow the consortium or disallow. The Nodal Agency should evaluate the value add which a consortium can bring in which a sub-contracting cannot bring in. Further it should evaluate the benefit of having single point of ownerships or it has the capacity to manage multiple points of ownerships.

#### **4.9. Additional PQ Criterion**

In case it is expected that more than 8 bidders would be able to qualify the basic eligibility criterion, the additional requirement may be added to restrict this list to the best 8 contenders. The additional clauses may be added **ONLY** when more than 8 bidders are expected to bid. In case there are only 8 or less bids, these requirements may be relaxed.

The following additional PQ criteria suggested are:

Suggested Scope of Work and Approach & Methodology (A&M)

Request for Bidder's Experience in "Similar" Projects – Learning on Issues, Challenges, Solution proposed, and Client Recommendations

Request for Bidder's Business Profile in terms of Research Work/Centers, Patents, and Assets in the given project's domain

#### **4.10. Conflict of Interest**

##### **4.10.1. For a Consultant**

Conflict of Interest would exist if:

- There are existing contracts of the bidder with the concerned 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 Consulting Assignments for e-Governance projects.

- a) Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
- b) Conflict of interest may arise between the Nodal Agency and a consultant or between consultants and present or future SI Vendors/contractors. Some of the situations that would involve conflict of interest are identified below:

i.) **Nodal Agency and consultants:**

- 1. Potential consultant should not be privy to information from the Nodal Agency/Government Department which is not available to others.
- 2. Potential consultant should not have defined the project when earlier working for the Nodal Agency or as a part of the current engagement.
- 3. Potential consultant 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.
- 4. No situation should arise where the Consultant engaged by the Nodal Agency is reviewing the deliverables, status reports, monitoring, assessing, auditing, and coordinating the work done by itself as a part of engagement with some other Government Department / Agency.

ii.) **Consultants and Implementation Agency**

- 1. No consultant should have an ownership interest or a continuing business interest or an on-going relationship with a potential contractor save and except relationships restricted to project-specific and short-term assignments.
  - 2. No consultant should be involved in owning or operating entities resulting from the project.
  - 3. No consultant should bid for works arising from the project
- c) One of the normal ways to identify conflicts of interest is through self-declaration by bidders / Consultants. (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 Consultant becomes aware of them.
  - d) Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be

more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Nodal Agency.

- e) Another form of conflict of interest called “scope–creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Nodal Agency but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.
- f) Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Nodal Agency at the earliest. Officials of the Nodal Agency involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process

The following CVC Guidelines exist when considering and /or exercising Conflict of Interest Clause:

Conflict of Interest: - The consultant shall not receive any remuneration in any connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting or other activities that conflict with the Government entity/department under the contract.

The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm’s consulting services in accordance with following requirements:

The consultants shall provide professional, objective, and impartial advice and at all times hold the Government entity/department’s interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other Government entity/departments, or that may place them in a position of being unable to carry out the assignment in the best interest of the Government entity/department. Without limitation on the generality of the foregoing consultants, consultants shall not be hired under the circumstances set forth

below:

i. **Conflict between consulting activities and procurement of goods, works or non-consulting services (i.e. services other than consulting services covered by these Guidelines)** – A firm that has been engaged by the Government entity/department to provide good, works, or non-consulting services for a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, 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 affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be disqualified from subsequently providing goods, works, or services (other than consulting services covered by these guidelines) resulting from or directly related to the consulting services for such preparation or implementation. This provision does not apply to the various firms (consultants, contractors, or suppliers) which together are performing the Contractor's obligations under a turnkey or design and build contract.

ii. **Conflict among consulting assignments** – Neither consultants (including their personnel and sub-consultants), nor any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be hired for any assignment that, by its nature, may be in conflict with another assignment

iii. **Relationship with Government entity/department's Staff** – Consultants (including their experts and other personnel, and sub-personnel) that have a close business or family relationship with a professional staff of the Government entity/department (or of the project implementing agency) who are directly or indirectly involved in any part of:

(i) The preparation of the TOR for the assignment

(ii) The selection process for the contract

(iii) The supervision of such contract may not awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Government entity/department throughout the selection process and the execution of the contract

iv. A Consultant shall submit only one proposal, either individually or as a joint venture partner in another proposal. If a consultant, including a joint venture partner, submits or participates in more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a consulting firm to participate as a sub-consultant, or an individual to participate as a team member, in more than one proposal when circumstances justify and if permitted by the RFP.

**1. Unfair Competitive Advantage** – Fairness and transparency in the selection process

require that consultants or their affiliates convincing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Government entity/department shall make available all the short listed consultants, together with the RFPs, all information that would in that respect give a consultant a competitive advantage.

**2. Professional Liability** – The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant’s liability to the Government entity/department will be governed by the applicable law, the contract need not deal with this matter. The client (purchaser) may, however, prescribe other liabilities depending on the requirement in each case without any restriction on the Consultant’s liability as per the applicable law.

Further it may be appreciated that at times the Nodal Agency/Department may engage the services of a Consulting Agencies as a capacity augmentation (i.e. man-month basis), without a firm scope of work. It is suggested that in these situations, the Nodal Agency should establish impartially whether the knowledge acquired by the person deputed by the Consulting Agency has acquired knowledge which would give an unfair advantage to the Consulting Agency. In such cases, the Nodal Agency can either share the same knowledge to all the participants OR disallow the consulting agency to bid.

To avoid the situation, clarity should be provided to the Consulting agency during the RFP stages itself through which the Consulting agency was selected.

#### **4.10.2. For the Nodal Agency & Tender 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 a 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)”

**Examples of potentially biasing affiliations or relationships are listed below:**

1. Member(s) of the Evaluation team’s solicitation, acceptance, or agreement to accept from anyone any benefit, pecuniary or otherwise, as consideration for your decision or recommendation as it pertains to your evaluation of any proposal.
2. Member(s) of the Evaluation team’s affiliation with a bidding company or institution. For example, a conflict may exist when they or their immediate family members :
  - a. are employed by or are being considered for employment with the company or institution submitting any bid or hold a consulting, advisory, or other similar position with said company or institution;
  - b. hold any current membership on a committee, board, or similar position with the company or institution;
  - c. hold ownership of the company or institution, securities, or other evidences of debt;
  - d. are currently a student or employee in the department or school submitting a proposal, such as the case.



## 5. Designing the 2nd Stage Evaluation Process

The Evaluation phase covers the procurement process from close of offers to the selection of the successful bidder. The key components of an Evaluation process could also be illustrated as:

- Evaluation model
- Rating Scale
- Panel decision making process
- Evaluation criteria
- Due diligence requirements

This outcome is achieved by carefully considering each offer on an equal basis, against the evaluation criteria. In providing a broad framework for the selection of the best value-for-money supplier, the following have been covered.

The Evaluation Process (depending on whether a one- or two-stage procurement method is used) will generally follow the following steps:

### **{General Financial Rules (2005) Rule 172**

*Receipt and opening of proposals: Proposals should ordinarily be asked for from consultants in 'Two-bid' system with technical and financial bids sealed separately. The bidder should put these two sealed envelopes in a bigger envelop duly sealed and submit the same to the Ministry or Department by the specified date and time at the specified place. On receipt, the technical proposals should be opened first by the Ministry or Department at the specified date, time and place.}*

- Evaluation team members complete conflict-of-interest declarations
- Evaluation team members are briefed on the evaluation process and receive training if necessary.
- Copies of the suppliers' offers, scoring scale and evaluation forms are distributed to each evaluation team member.

**Note:** *If a two-envelope method is being used (i.e. price has been requested in separate, sealed envelopes) only the non-price parts of the offers are distributed to the evaluation team members, with the price envelopes remaining unopened and securely stored*

- Evaluation team members complete individual assessments of the suppliers' offers. This ensures each evaluation team member has adequately reviewed the offers prior to the team evaluation meeting and that no single team member is able to exert inappropriate influence on the outcome by being better prepared.

**Note:** *In some simple evaluations, such as the evaluation of quotes using the LPC method, it may not be necessary for the evaluation team members to complete individual evaluations. In these cases the evaluation team will just meet and complete a team evaluation*

- The evaluation team members meet and complete a “team” evaluation. Team scores may be reached by a number of methods, with averaging the individual scores and reaching a team consensus score being the two most common. Of the two, the consensus scoring method is the most frequently used, as it allows a score to be agreed based on consideration of all the evaluation team members’ opinions and observations. The averaging method does ensure a persuasive or dominant individual is not able to exercise undue influence. However, it also

means an individual’s scores that, based on reconsideration of the supplier response in light of other team members’ comments would have been higher or lower, still form part of the calculation for a final score

- If price has been requested in separate, sealed envelopes, these envelopes are opened after the team scoring of the non-price criteria and a ranking agreed by the evaluation team. The ranking method will be determined by the evaluation model used. For example:

lowest-priced conforming (LPC) offer is automatically is the most responsive bidder

highest-scoring bidder based on an QCBS assessment is the most responsive bidder

- As a matter of “Good Practice” Technical score ***should not be given to the presentation.*** The key reason being that the presentations are quite often delinked from the proposal submitted and hence may not be contractually binding on the bidder. The bidders may be invited to come and discuss the areas requiring clarifications in the bids OR they can be asked to present the documents in the form submitted to the Nodal Agency highlighting all the evaluation areas. In this manner the evaluation committee can review the evaluation done by one member / support team. However this may require a higher time to be budgeted for such discussions. It may be noted that the bidders should not be allowed to change any documents (for e.g. new project citation and work order cannot be taken into cognizance at this stage). However any document substantiating the clarifications asked by the evaluation team, may be provided.
- Reference-checking or further due diligence is carried out if the bidder is not well known to the nodal agency. The purpose of the reference-checking is to verify the assessed level of performance, capability or expertise and to satisfy the agency generally that the supplier is likely to deliver what it has offered. Further due diligence, such as financial viability checks, is generally only conducted where the procurement is high risk, high profile or high value

A rightfully defined and objective technical evaluation criteria & methodology ensures that the most competent bidder offering the right quality solution/service and price is selected - the **Most Responsive Bidder– best solution and not just best price.**

## 5.1. Designing Technical Evaluation

As a part of the design for Technical evaluation, the Nodal Agency has to make decisions/choices on the following, but not limited to:

- Evaluation model: lowest price/weighted attribute etc.
- Develop Rating Scale to guide evaluation panel scoring
- Determine panel decision making process: mathematical average/panel moderation
- Identify the information required from suppliers: supplier details/response to requirements/pricing/format etc.
- Identify any required additional steps: interview/presentation/site visit(s) etc.
- Identify any optional additional steps: reserve the right to interview/presentation/site visit etc.
- The need for Government department, Ministry due diligence requirements (if any).

### 5.1.1. Technical Evaluation Models and Methods

**Technical Evaluation Methods** define the process that would be adopted to select the most competent and bidder with the best value solution offering.

Snapshot of few Evaluation Methods	
Criterion	How it works?
<b>Quality and Cost Based Selection (QCBS)</b>	Under QCBS, the technical proposals will be allotted weightage of 70% (or 80%) while the financial proposals will be allotted weightages of 30% (or 20%)
<b>Quality Based Selection (QBS)</b>	Under QBS method, the consultant who has secured first rank in technical evaluation alone shall be called for further negotiation after opening and evaluation of its financial proposals. The QBS method is not used ordinarily. It should often be preferred before going for “Nomination” based procurement decision and vendor selection.
<b>Fixed Budget Selection (FBS)</b>	The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget

<p><b>Cost Based Selection (CBS)</b></p>	<p>This method of selection may be used for the assignments of following nature:</p> <p>i. Assignment where any experienced consultant can deliver the services without requirement of specific expertise. Examples are traffic surveys, market surveys etc. and</p> <p>ii. Cost of which <b><i>shall not exceed Rs. 10 Lakhs ( As per DETY Guidelines).</i></b></p>
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### Quality Cum Cost Based Selection

QCBS uses a competitive process among firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost, as a factor of selection, is to be used judiciously. ***The relative weight to be given to the quality and cost will be determined for each case, depending on the nature of the assignment.***

The weight associated with Quality i.e. Technical Proposal may be as high as 80% and that associated correspondingly with cost i.e. Financial Proposal may be 20%. This method is the preferred method for many of the consultancy assignments relating to works to be undertaken for World Bank and Asian Development Bank aided projects.

However the most common & effective QCBS which may be used in 70:30 & 80:20 (Technical Score weightage : Financial Score Weightage)

### Quality Based Selection

QBS is used in the following types of assignments:

- a) Complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposal
- b) Assignments that have a high downstream impact and in which the objective is to deploy the services of the most eminent expert; and
- c) Assignments that can be carried out in substantially different ways, such that proposals will not be comparable

This is not a common procurement process in the e-Governance procurement.

### Cost Based Selection

This method will be used when the assignment is simple and can be precisely defined, and when the budget is fixed. The RFP should indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. TOR should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks.

In this case, the Nodal Agency should be cautious about the risk that bidders who have not understood the scope of work OR may be targeting to get the work order without having the technical competence to execute the project. This risk can be mitigated by having a rigorous evaluation of the technical bid and fixing a high score as minimum qualification for opening of financial bid.

### **Selection Under A Fixed Budget (FBS)**

This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. Evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the price proposals shall be opened in public and prices shall be read out aloud. Proposals that exceed the indicated budget shall be rejected. The Consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract

This is not a prevalent method of procurement as of now, but is relevant for the situations in which e-Governance procurements are done.

**Minimum Qualifying Score** in Technical Evaluation for moving to the subsequent stage of opening of Financial Bid is suggested as follows:

- 75% of the total maximum score in case of L1 (lowest price bid) based selection, because in a lowest cost bid the risk of any vendor bidding frivolously without understanding the scope of work or having the strengths to deliver it is high, so Evaluation committee is responsible to ensure that the proposal has a high degree of Quality in the Technical Proposal
- 60 % of the total maximum score in case of QCBS, as it is possible for the bidder to propose a less effort Approach and Methodology, which may be priced lower. This is valid possibility as it is expected that the bidder may get lesser marks in technical evaluation, but may score high in financial scores. Also this provides a better leverage to differentiate Quality amongst the bidders.

#### **5.1.2. Technical Evaluation Criteria**

**Technical Evaluation Criteria** are the bid response parameters on which the evaluation is carried out to arrive at a final (technical) score for each qualified agency.

Hence, the Technical Evaluation Criteria **SHOULD**:

- Be as objective as possible, breaking the scoring down to individual identifiable components
- Have direct and perceptible linkage to nature and scope of work
- Provide weights / maximum marks for each Technical evaluation criterion; weights should be as per their importance to the project or project's outcomes and must be disclosed in the tender document.
- Perform evaluation on the basis of the following characteristics of a solution:
  - Quality
  - Technical merit
  - Running Costs
  - Cost Effectiveness
  - Delivery date/delivery period/period of completion
- Have scoring for each component of the solution rather than an overall score for the solution
- Include negative scoring incase vendor's solution does not use Industry tools and standards

It is advised that the evaluations should be done with the maximum score of 1000 marks, so that appropriate resolution could be provided to the criterions having less marks / sub-criterions.

Bidders, whose bids are responsive, based on minimum qualification criteria / documents as in Pre-Qualification Criteria and score at least minimum marks specified in the RFP would be considered technically qualified. Price Bids of such technically qualified bidders alone shall further be opened.

## **5.2. Bid Evaluation Process**

The evaluation of the proposals should be carried out in three stages:

- Pre-Qualification / Eligibility evaluation
- Technical (bid) evaluation
- Commercial bid evaluation

### **STAGE 1: PRE-QUALIFICATION EVALUATION**

#### **Step 1: Basic Data**

Before starting the actual evaluation it is necessary to collect all the key information pertaining to the bidding so that it is readily available and the evaluation process is kept in proper perspective.

### **Step 2: Record of Bid Opening**

All bids received prior to the deadline fixed for submissions shall be opened at the time, date and place specified in the bidding documents. All bidders that have submitted bids and their representatives shall be permitted to be present at the opening of bids, and all those present at the bid opening shall be required to sign the attendance sheet.

A Record of Bid Opening, identifying all the bids received, alternative bids if any, and the presence or absence of the requisite EMD, read out at the public opening of bids, should be formally prepared.

The record of the bid opening should be signed by all members of the bid opening committee or persons responsible for bid opening. It is also recommended that all bidders present sign the record of the bid opening in order to ensure that the data has been read out and recorded correctly.

### **Step 3: Preliminary Examination for Completeness of Bids**

The purpose of this step is to examine whether the bids received were complete as required by the bidding documents before further detailed evaluation. The areas to be covered by the examination are (i) whether required Bid securities have been furnished or not; (ii) whether bid documents have been properly signed or not; (iii) whether a power of attorney for the authorized person has been submitted or not; (iv) whether documents establishing the eligibility of bidders and goods have been furnished or not; (v) whether Technical Bid & Financial Bids in separate sealed envelope documents required to assess the post qualification of a bidder with respect to its financial and technical capability to undertake the contract have been provided or not; and (vii) whether bids are generally in order for further evaluation.

### **Step 4: Pre-qualification /Eligibility evaluation**

Based on the pre-qualification criterion mentioned in the RFP document, the documents / proofs submitted by the bidder should be verified to establish the eligibility of the Bidder. The subsequent process for evaluation of the bids would be carried out only if the bidder qualifies through the pre-qualification requirement.

## **STAGE 2: TECHNICAL BID EVALUATION**

The scrutiny of bids for substantial responsiveness to the provisions of the bidding documents is one of the most important aspects of the evaluation of bids. A bid is considered substantially responsive if it does not contain any "material Deviations" from the bidding documents or conditions which cannot be determined reasonably in terms of monetary value for financial adjustment. A material deviation is one which (a) has an effect on the validity of the bid; or (b) has been specified in the bidding documents as grounds for

rejection of the bid; or (c) is a deviation from the commercial terms or the technical specifications in the bidding documents.

In case of material deviation, the committee may decide to “monetize” the value of the deviations, which will be added to the price bid submitted by the bidder OR declare the bid as non-responsive.

The bidders would be informed in writing on the committee’s decision on the deviation, prior to the announcement of technical scores. The bidders would not be allowed to withdraw the deviations at this stage. No correspondence in this matter will be entertained.

In case of non-material deviations, the deviations would form a part of the proposal & contract.

**Step 1: Preparation of Table of Bidders with technical evaluation details.**

The information contained in the Record of Bid Opening needs to be supplemented with the actual bid evaluation and comparison of technical evaluation criterion. Therefore, it will be necessary to prepare the Table of Bidders and technical evaluation criterion setting out details such as Nature of work related turnover, relevant experience, approach & methodology, work plan etc. for detailed comparison.

**Step 2: Substantial Responsiveness to Technical Requirements.**

All bids must be checked for substantial responsiveness to the technical requirements of the bidding documents. Example of nonconformance to technical requirements, which are justifiable grounds for rejection of a bid are as follows:

- a) failure to bid for the required scope of work (e.g., for the entire SOW or a complete schedule) as instructed in the bidding documents and where failure to do so has been indicated as unacceptable;
- b) failure to meet major technical requirements (e.g., offering completely different types of solution from the types specified).

**Step 3: Preparation of Table of Substantive Responsiveness of Bids**

In order to ensure that a thorough check of the substantive responsiveness of all bids is carried out, a Table of Substantive Responsiveness to Technical evaluation criterion should be prepared. The tables should list all major conditions for Technical evaluation criterion which the bidders must meet for their bids to be considered substantially responsive. The responsiveness of each bid received should then be checked against this list and its conformance or partial conformance, or nonconformance to each item should be entered in the tables. Bids which fail to conform to any of the major conditions should normally be considered nonresponsive and should be rejected.

In the process of evaluation, bidders may be requested to provide clarifications of their bids where such clarifications are deemed necessary. Bidders are not permitted, however, to change the substance or price of their bids. The records of all clarifications sought and received must be kept by the Nodal Agency responsible for bid evaluation.

#### **Step 4: Detailed Evaluation.**

The next step is to scrutinize the selected bids systematically in order to compare and evaluate the bids on a common basis. The appropriate way to present the evaluation is in the form of tables, so as to record and compare the salient features of all bids to be evaluated in detail for technical requirements.

The Table of Technical Requirements should set out the technical evaluation criterion and their performance characteristics. Every bid being evaluated should then be scrutinized in detail and its salient features entered into the table against the listed items of the bidding documents. Any substantial advantage /disadvantage / highlight from the technical requirements of the bidding documents should be listed and it should be determined whether a financial adjustment to the bid is necessary or the bid should be rejected as non-complying.

The Nodal Agency may wish to correspond with the bidders for clarifications of their bids. Almost invariably the Nodal Agency will require meetings/presentations separately with all eligible bidders who are selected for detailed evaluation, in order to clarify their bids. Details of approach & Methodology, scheduling and resourcing are usually the principal subjects of such bid clarification meetings. Since the information provided by bidders in such meetings often forms the basis of the conclusions of the Nodal Agency, the minutes of the meetings should be recorded and these minutes should be attached to the evaluation report for the use of the Tender evaluation Committee in reviewing the findings of the Nodal Agency.

The bidders should be evaluated on the basis of the above table prepared against the marks allocated to each of the technical evaluation criterion. The evaluator must be cautious to apply the same yardstick of evaluation for each of the bidders. Post evaluation, the bidders who meet the minimum qualifying marks in the technical evaluation, are eligible for opening of the financial bid.

### **STAGE 3: COMMERCIAL BID EVALUATION**

Evaluators of technical proposals should not have access to the commercial bids until the technical evaluation is concluded. The envelope containing the financial proposal is not opened till the technical evaluation is complete.

#### **Step 1: Preparation of Table of Bidders and Bid Prices.**

The financial bids should be opened in front of the bidders who have secured the minimum marks in the technical evaluation.

Firstly, the bids should be examined for arithmetical errors and the errors, if any, should be corrected as specified in the bidding documents. The bidders must accept the corrections of arithmetical errors in accordance with the bidding documents. If a bidder refuses to accept the corrections of errors calculated in accordance with the provisions of the bidding documents, its bid shall be rejected and its EMD shall be forfeited.

**Step 2: Substantial Responsiveness to Commercial Terms and Conditions.**

All bids must be checked for substantial responsiveness to the commercial terms and conditions of the bidding documents. Examples of nonconformance to commercial terms and discussed below:

- a) Failure to sign the Commercial Bid Form and Price Schedules by the authorized person or persons;
- b) conditional bids, i.e., conditions in a bid which limit the bidder's responsibility to accept an award (e.g. acceptance of the award is subject to government's approval for availability of critical material available in the market, or a bid submitted with a price escalation condition when a fixed price bid is specified, or qualifications to the Conditions of Contract);
- c) inability to accept the price adjustment formulae of the bidding documents;

**STAGE 4: DETERMINATION OF MOST RESPONSIVE BID**

After going through the above three stages, the most responsive bid shall be determined in accordance with the provisions of the bidding documents.

**5.3. Rejection of Bids which are Outliers**

- a) It has been seen that certain bidders bid frivolously low to be competitive and get the contract. However these bidders may not be having necessary competence to execute the project. There is various institutionalized mechanism to reject such outliers. Some of these are as follows:

Outlier Elimination Approach	Description
Financial Extremes	Commercial bids on financial extremes (lowest & highest) of the estimated cost of the project should be <b>eliminated</b> , to limit only best value offers and ensure economic advantage
Median Approach	Commercial bids which are more & less than a particular % off the calculated median of all Commercial bids are <b>eliminated</b>

Cluster Approach	Commercial bid values which are closest to each other and form a cluster can be the ones considered for further evaluation, rest being <b>eliminated</b>
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However given the simplicity of usage, the following approach is suggested for all the Cost Based Selection and Quality Cum Cost Based Selection:

“Financial Bids that are less than <30>% of the average bid price will be disqualified [the average bid price is computed by adding all Financial Bid values of ALL the qualified bidders and dividing the same by the number of bidders]. “

#### **5.4. Evaluation Team**

The composition of the evaluation team depends on the size and complexity of the particular procurement, however as a general rule the evaluation team includes:

- a sourcing/procurement specialist, who in addition to any other role ensures the evaluation process is managed in a fair, robust and defensible manner, understands the rules of the evaluation and ensures they are followed
- commercial/financial expertise
- appropriate technical expertise required for E-Governance, Consulting and IT projects
- In most small to medium-size procurements, a team of three or four is adequate, however in particularly large or complex procurements there may be separate teams for the different components of the evaluation e.g. telecommunications, security, commercial.

#### **5.5. Bidder Debriefing Post Score Announcement**

Bidder debriefing is considered an important part of the evaluation process, as this provides suppliers with the opportunity to receive feedback on their offers and gain an understanding of where they can improve their offers to better meet the needs of the agency in future. It is a good practice for debrief to be provided to a supplier where one is requested

#### **5.6. Risks in Evaluation Phase**

Generic risks identified by agencies relating to the evaluation phase of the procurement life cycle include:

- • failure to plan the evaluation as part of the procurement planning phase, which may result in an evaluation process that is not aligned to the RFP document – and which results in an evaluation process that does not identify the best value-for money offer

- • failure to brief and train the evaluation team adequately in the evaluation rules and process, which may lead to an evaluation process that does not identify the best value-for-money offer:
  - breaches of the evaluation rules, which result in an adverse public profile, embarrassment to the agency and/or formal complaints from the bidders
  - failure to confirm the availability of evaluation team members as part of the planning process, which may lead to delays and slippage in the evaluation
  - failure to ensure all evaluation team members complete conflict-of interest declarations, which may lead to: -delays once a conflict of interest has been identified while a replacement person is found -a need to repeat the tender or evaluation process if the conflict of interest is not identified until after the evaluation process
  - embarrassment to the agency if a conflict of interest comes to light after the procurement is completed, and possible

## 6. Scope of Work

Scope of Work (SOW) is the most of important component of any tendering process. It is for this that the whole bidding process is entered – to execute the scope of work and deliver outcomes that the Government strives for.

Scope of work directly affects:

- Time to deliver the project
- Cost of delivering the project
- Intended business outcome for the Government
- Delivery of Citizen benefits/services

### 6.1. Scoping Process

Scope of the work should be defined in such a manner that the activities to be carried out and the deliverables are unambiguous.

Defining the Scope of Work for Consulting Services is a bit different as the *products, solutions and outcomes* are knowledge based. The quantification of knowledge items to be developed and delivered is one part, but the primary aim should be to ensure that what these knowledge items should contain.

Some key guiding principles for drafting scope of work in Consulting services are:

- “Detailed” specification of requirements is extremely critical – please ensure even standard assumptions on scope of work are laid down and described
- Make sure the specifications are endorsed by key stakeholders
- Identify mandatory and non-mandatory requirements in scope of work
- It should clearly provide the outcomes expected from solution/service delivery
- The scope of work should mention what the outcome is based upon – time or material?
- A check should be made that the final specification of requirements:
  - o addresses the targeted outcomes and business objectives
  - o meets the agreed stakeholder needs
  - o covers whole-of-life of the contract deliverables
- The objective, structure and expected set of contents of each knowledge item/deliverable should be laid down, in as much detail as possible, rendering the best level of clarity to it
- The coverage of services needed in the form of activities like client visits, geographies to be studied, stakeholder meetings / interviews / workshops to be conducted, must be detailed out to avoid delivery compromises.

In general, the Consulting Services for E-Governance contain the following Scope of work :

<b>Conceptualization</b>
• Solution Design
• Business Process Reengineering (BPR)
• Change and Capacity Building
• Implementation Planning
• Functional Requirement

<b>Design and Development</b>
• User Acceptance
• Benefit Realization
• Knowledge Transfer
• Certification

<b>Implementation</b>
• SLA Monitoring
• Contract Management
• Knowledge and Exit Management
• Impact Assessment



## 6.2. Key Validating Questions for Scoping

The following questions may help in developing the specifications of requirements:

- **Why** are we doing this?
- **What** results do we need to achieve?
- **How** will the services be delivered?

- **How well** – what quality and standards apply?
- **How much** – what business/process reports, knowledge pieces, insight, research output are required?
- **Where** will the services be delivered?
- **When** will the services be delivered – term of contract?
- **Who** will be involved in the delivery: supplier / contract manager etc.?

Characteristic	Explanation
<b>Complete</b>	The specification of requirements is contained in one document with no missing information. If the nature of the procurement requires more than one document, the documents must be clearly structured and linked with no repetition or overlap.
<b>Unambiguous</b>	Each requirement is concisely stated without recourse to technical jargon, acronyms (unless defined elsewhere in the document). It expresses objective facts, not subjective opinions. Vague language is avoided. Negative statements and compound statements are discouraged.
<b>Consistent</b>	Each requirement is consistent with all others and any external documents that are referenced.
<b>Current</b>	Each requirement is current and can, in some cases, be future focused to meet planned or predicted future needs.
<b>Feasible</b>	Each requirement can be implemented within the constraints of the project including the budget.
<b>Traceable</b>	Each requirement can be traced back to a stated public policy / business / stakeholder need and is authoritatively documented.
<b>Verifiable</b>	The implementation of the requirement can be determined through one of four possible methods: inspection, demonstration, test or analysis.

### The Rights

Don't forget to test your specification of requirements against the following **Rights**:

- Right quality

- Right place
- Right time
- Right price

### **6.3. Templates for Different Types of Scope of Work**

Different templates for Scope of work for various e-Governance projects are provided in this section. The user has to contextualize and make necessary changes in these documents before using it in the RFP document.

#### **6.3.1. Template for Preparation of Detailed Project Report (DPR)**

**a. Visioning:** It will be essential to draw up a vision by involving all key stakeholders. Identification of key departments in consultation with project sponsors and chalking out their level of involvement would be a pre-requisite at this stage. Current functional constraints in achieving efficiencies, similar initiatives in other States and best practices from industry should be enumerated to the stakeholder group with active facilitation for drawing up the vision statement.

**b. Establishment of Scope & Strategy:** Consultant is expected to draw up a strategy for deployment of the solution. The consultant is required to evaluate the merits and risks of a pilot deployment followed by statewide roll-out after consolidation of pilot learning. The pilot should cover the complete functionalities of the <concerned department/function>. The study of the department shall include functionalities at all levels starting from headquarters, generally located at <Location of HQ> and covering field offices situated in two other districts. All related sub-modules <exemplify> should be included as may be decided by the Project sponsors. The pilot project schedules with all key tasks and dependencies, factoring in realistic time requirements based on the effort that needs to be expended, roles and responsibilities of various user departments should be defined by the consultant.

**c. Analysis of Business Processes:** Given the specific nature of this engagement, it would be necessary to study the business process both at <provide levels at which analysis has to take place> and their interactions. Improvements resulting from introduction of ICT should be duly recognized to draw up a set of new processes. The draft operational procedure would need to be defined as a result of this exercise. This exercise should span the entire scope of operations, even if phased/partial implementation is envisaged.

The new work approach should clearly identify the role and involvement of various stakeholder agencies/departments <provide details> needed for effective execution of work at the back office. Any changes resulting from the revision of existing processes and introduction of new processes should be clearly articulated and a formal concurrence obtained from the concerned Department(s).

**d. Assessment of Current Status of IT:** Critical evaluation of existing applications and IT infrastructure and the gaps in supporting the future vision should be assessed. Given this requirement, it would be necessary to involve Departments where such applications are in reasonable use. In case multiple applications are in use, a comprehensive criteria for qualifying such applications would need to be defined along with a functional gap assessment so that the same could be considered for re-engineering select software application(s), especially where investments have already been made by the state in getting these developed through NIC or a third party vendor.

**e. Study of Comparable other state solutions:** The motive is here to bring in the learning's from other states which have already undertaken such initiatives. This may include visit to those states (may be two states) to study their approach, key learning/success factors etc.

**f. Electronic Forms & Data Standards:** Consistent with the proposed method of operation, all forms should be changed and optimized for electronic use, where applicable. In addition a strategy for data interchange across departments would need to be evolved, so that there is no need for any repeated manual data entry. All forms will be standardized for the state and no separate forms for the department are envisaged at this stage. This would signify that the data formats and standards for interchange are defined.

**g. Enabling Provisions:** The <relevant procedures, Circulars, rules, guidelines, Orders, Acts etc>, should be examined. Specific recommendations to be made by the consultant to ensure that the new process could be adopted without any problems. The same to be planned and initiated within the pilot / project deadlines.

**h. Formulation of Requirements:** The department will provide the base set of process and high level requirements. Based on the proposed set of processes and high level requirements, a comprehensive set of functional and non-functional requirements should be documented. Such requirements should be holistic, end-to-end and cover macro and micro level functions including MIS, data archival and analysis that would be necessary both at operational level and policy decisions.

**i. Solution Architecture:** Based on the revised process structure, consultant should create an open-ended architecture for back office functions that can be adopted uniformly across all the Departments in the State. The architecture, while addressing the needs of <Department concerned> in totality, should allow for easy evolution to allow interfacing of other functions, since both these modules generally impact all other areas.

During Solution architecting feasibility of usage of ERP or other off the shelf Products as a whole or as base shall also be undertaken. The solution architecture should not be biased towards any technology/platform. It is very much possible that some of the other departments are already using an IT solution <the names of such applications and broad

features of the software should be provided>. The proposed architecture shall have provision of integration of such systems to the proposed Solution.

Examination and adoption of some best practices to the extent possible is also envisaged to be part of this sub-phase.

**j. Data Migration Plan and Strategy:** There needs to be critical mass of data to enable operational effectiveness of the new solution. This may involve transfer of data both from current system that are in electronic form as well as paper documents. Additional effort may be required to map existing data items to possible new codifications schemes/structures that could be introduced as part of the new processes. The guidelines related to the migration of data, estimation of data volumes; formats/standards to be adopted for data elements (including digitization of documents, if applicable), data/document retention period and approach to be adopted in respect of data migration need be laid down by the consultant. Specifically, consultant would need to provide mechanisms on co-existence of paper and electronic records including digital authentication mechanisms where necessary (depending on the approach that has been proposed).

For any data entry work, the consultant should conduct a time and motion study for data entry and quality check for sample records. This would help the consultants, department and the potential bidders in estimation of the time and effort.

**k. Mode of Operation:** Alternative methods of deployment, if feasible, should be analyzed so as to determine the most optimal method of operation. Identification of offices for Pilot roll-out of shall be made.

There could be multiple approaches for deployment, like a centralized deployment which are used by all functions. The consulting agency is required to evaluate the various deployment approaches and recommend the best suited one for the state. The finalization of the mode of operations would determine on aspects such as ease of maintenance and further expansion of functionality, managing changes and the overall costs of ownership arising out of such factors. Since some of the self service functions will not be accessible to those without knowledge or access to the digital infrastructure, suitable arrangements will need to be proposed by the Consultant to facilitate inclusion. Security issues and access rights should be specifically included.

**l. Estimation of Project Cost:** An estimate of the pilot project cost and rollout cost and the model for cost allocation to various functions/department should be computed by the Consultant. These costs should be categorized into capital and operational expenditure over a five year operations period based on approximate market values. Cost items should be clearly segregated into cost of common components and Department specific items and include all support costs such as data migration, costs associated with certification, etc. Cash flow projections based on the estimated cost shall form part of this exercise.

In case of significant deviations of these costs from the budget available, the consultants would suggest the most pragmatic manner of taking up of this project. This could be based on the following :

- a) Whether there is a feasibility of State Department funding the incremental costs
- b) Whether there is a possibility of increasing the citizen charges to meet the deficit, in which case
- c) Whether there is a possibility of reduction of the costs/hardware by relooking at the solution proposed

**m. Consolidation of inputs from various targeted activities for the e-Governance and preparation of DPR.** The components of the DPR Documents should be consistent with the outcomes of the “Mission Mode Project” should be available at the concerned Ministry website).

The consultant should facilitate the Department in obtaining Central Assistance in accordance with the *Guidelines for operational Model for Implementation of State MMPs issued by the Department of Information Technology, Government of India* (available at <http://www.mit.gov.in/content/templates-guidelines> ).

### **6.3.2. Assistance in Carrying out Business Process Re-engineering (BPR)**

#### **As -Is Assessment**

- a) Field-level study in the department for a sample offices
- b) Interaction with employees/officials and understanding the key issues faced currently in various roles/functions to be covered under the initiative
- c) Facilitate stakeholder consultation (to be organized by the Department) to obtain feedback on pain areas, areas for improvement, roles and responsibilities etc.
- d) Analysis of data collected during field study and stakeholder consultation.
- e) Defining project vision, objectives, expected outcomes
- f) Listing of the different services offered by the department, Assessment of the current level of performance of these services (in case it is manual, random sample should be taken for estimation of the current service levels)
- g) Compilation of the ICT infrastructure in terms of networks, hardware, application etc. at various office locations, which are to be covered under this initiative
- h) Identification of the processes behind the services, assessment of the bottlenecks in the processes, assessment of the performance of the processes
- i) Mapping of the Work flow (not IT enabled workflow) and the administrative processes for the services to be covered
- j) Study the Internal and external interfaces of the Department/Ministry E.g. – internal interfaces will include interactions with other departments, between other offices,

between the different hierarchies of the government at center, state and district; external interfaces etc.

- k) Assessment of the organization structures and the Roles and responsibilities as related to delivering the services to the stake holders.
- l) Assessment of the current capacities in terms of the skills of the employees to deliver the services
- m) Assessment of the statutory requirements, provisions, legal framework, policies, rules and norms
- n) Assessment of the needs of policy makers for effective Interventions in the departments

**Deliverable**

- 1. The needs and expectations of stakeholders
- 2. Current state of systems, processes, and ICT infrastructure
- 3. The services & service levels
- 4. The performance of the different processes
- 5. The performance problems and the root cause analysis
- 6. The impact of the processes on the overall performance of the Employment Exchanges
- 7. The possibilities of automation / IT enablement and the candidate technologies

**National & International Best Practice Study**

As a part of the assignment, the consultant is required to study the best practices from strategy, process, people & technology perspective and prepare the report with recommendations to add value in the initiatives envisaged under the project. As a part of the assignment, the consultant shall undertake the following key activities:

- a) Study the practices of the private initiatives relevant for the services provided by the Department.
- b) Study the IT initiatives in same department in advanced States / Nations (cover at least 2 national / International)
- c) The Best practices report shall contain those practices which have the potential of being incorporated in the proposed project.

**Deliverable**

- 1. The processes and practices of comparable nature
- 2. The ideas which can be adopted
- 3. The solution options / possibilities

#### 4. Possible targets for process performance / service levels

##### **To-be Processes**

As part of scope of work under this section, the consultant is required to list all the processes of the priority zed services and arrive at the most impacting and feasible (core & common) processes. The consultant is required to re-engineer these processes.

The size and nature of the process reengineering efforts must be balanced with the degree of feasibility of implementation of the outcome of such efforts. In addition to this, a required balance must be maintained between the efforts in the areas of process reengineering, technology and change management. However, if required, the consultant may recommend Organization redesign (restructure) to implement the outcome of BPR exercise.

The Process Redesign activity will take inputs from the As-is report, the benchmarking survey and the lessons learnt from the implementation of other eGovernance. Each process flow shall clearly identify the input, process, output, and control elements together with the success/ failure criteria for that particular process/ service. As a part of “Process Redesign”, Consultant is required to undertake the following key tasks:

- i. Designing the process maps & process metrics
- ii. Designing the service levels
- iii. Designing the work flow
- iv. Reengineering customer interface
- v. Designing optimum organization structure
- vi. Recommending rules & procedures
- vii. Reengineering application forms
- viii. Designing interfaces with external entities and systems

The study by the Consultant in the area of BPR should be aligned with the spirit of rules and regulations framed by GOI & State governments.

##### **Deliverable**

1. As-is Report
2. Best practices report
3. The Business Process Re-engineering (BPR) Report

### **6.3.3. Development of Technical Requirements and Solution Design**

It should be expected that the consultants design the Technical Solution on at least 2-3 different stacks covering various suite of products. This exercise should be done prior to the publishing of the SI RFP. The SI bidders should be provided to choose any of the options for their bids.

This should be based on the exact requirements identified during this phase. It should be kept in mind that the end solution proposed by the SI Bidders is the responsibility of the consultants and hence it should not be left to any interpretation of the bidders. Hence the consultants should provide enough details in each of the areas of the Scope of work, which helps the bidders in right estimation of current and future demands.

**a. Software Development:** The Functional Requirement specification & Software requirements and Use case Analysis should be provided to estimate the effort. Sufficient details for each module and sub-module must be provided, so that there is no duplication of effort by the SI at a subsequent stage. These details can be categorized as mandatory and desirable.

**b. Hardware Requirement:** The Consultant should carry out an exercise to identify the hardware present in each of the office locations. The objective is to identify the existing hardware which can be leveraged for the project. During this exercise, the specifications of the hardware should also be captured, so that the compatibility and end-of-life for the hardware can be forecasted and the correct estimation of the hardware can be made.

**c. Data Centre Hardware, software and database:** The consultant should identify the hardware and licenses availability with the State Data Centre / (existing data centre of the department) and plan the solution in a manner that the existing assets are optimally utilized. Hence the Consultants should prepare a gap assessment for the hardware /licensed software/database requirements and specified for various stacks.

**d. Data Digitization:** The Consultants should identify the data which can be a) ported from the existing systems and b) records which needs to be scanned and digitally kept and c) data entry.

a) Data ported from the existing system: The Consultant should study the quality of the data existing in the current application. Secondly the technical feasibility of migration of the data needs to be carried

b) Records which needs to be scanned : The Consultants should identify the records which needs to be scanned, catalogued digitally for reference purposes

c) Data Entry: The consultant need to identify the records/files and the period for which the data entry has to be done. The consultant should also carry out a “time and motion study” for data entry of the existing records selected randomly. This can be done on

\*.rtf and \*.docx file for understanding the effort involved in data entry. The consultant should also discuss and finalize the commitment of the resources to carry out the data quality check, post data entry.

**e. Site Preparation:** The site preparation requirement should be assessed by the Consultant and it should include amongst other things specifications for earthing and power back-up requirements. Consultants should carry out the cost-benefit analysis of procuring items like modular furniture, flooring, roof etc. by the SI versus procuring it separately.

**f. Training:** The consultant should identify the training needs assessment of the users of the system. The consultant should recommend appropriate trainings for the various training groups. An assessment of the number of trainees and the training course for each one of them should be provided.

**g. Networking:** The Consultant should carry out a technical feasibility study of the establishing/extending the SWAN network to the offices. The hardware and service requirements at each of the location for connecting to the SWAN / any other network should be identified and provisioned in the Bill of Material. The existing contracts of the network services provider should be studied and gaps in hardware / responsibility should be identified and recommended

The solution proposed by the consultant should adhere to the industry acceptable RFP information standards.

**Deliverables:**

1. 2-3 solution stacks as options for the bidders
2. Bill of material
3. Detailed Scope of work for the SI Vendor

**6.3.4. Assistance in Bid Process Management (Including RFP Preparation)**

- a) Preparation of RFP Document: Consolidation of inputs and Preparation of RFP Documents. The components of the RFP Documents should be consistent with the outcomes of issues finalized in DPR. Consultant should facilitate the Department in obtaining necessary approvals to initiate the Bid process and engage a project implementation partner. This should be done as per the DeitY(GoI) Guidelines and Model RFP template.
- b) Selection and scoring criteria: Determination of qualification criteria, method of selection and scoring patterns for the prospective project implementation partner.
- c) Preparation of Contract: A draft contract agreement for the prospective project implementation partner should be prepared by the consultant and the same is to be vetted with the Department and with the Legal Department of the State Government, if necessary. This draft contract will form part of the RFP Document.

- d) Bid Management Support: Facilitation / support for release of tender, pre-bid meeting, proposal evaluation and finalization of implementation partner as part of the bid management. Consultant should work in tandem with the Department and the various committees that have been set up for this purpose.
- e) Contracting: Facilitation for contract finalization with the selected implementation partner.

**Deliverables:**

1. RFP Document
2. Draft Contract
3. Bid Evaluation Report
4. Tender Completion Report

**6.3.5. Project Management and Change Management Support**

**Key Tasks:**

- a) Implementation and Pilot Rollout: Facilitate the implementation and pilot rollout activities as per the plan defined including the data migration task. As envisaged the pilot scope should also be provided.
- b) Incorporation of Pilot Learning and State wide rollout: The consulting agency shall consolidate the learning's of the pilot phase and propose the course correction to be performed by the Implementing agency. It shall also ensure that such corrections are made before the state-wide roll-out.
- c) Steady State Operations: It is essential to achieve steady state operation within an optimal timeframe and also facilitate the establishment of Help Desk that would be needed to address various technical problems encountered by the Departmental users as well as external stakeholders.
- d) Establish Measurement Framework: Consultant shall arrive at a complete understanding with the Implementation Partner on the interpretation and approach to the measurement of the SLA at the initial stage itself.
- e) Monitor Performance: Consultant shall ensure measurement of the SLAs as per the agreed model and shall, at all times, ensure the reliability and accuracy of such measurements. Consultant shall ensure that the measurements are formally recorded in support of the award of incentives and/ or penalties to the Implementation Partner.
- f) Recommend Payments: Based on these measurements and conclusions drawn thereon, the Consultant shall recommend to the Department the payments to be made to the Implementation Partner.
- g) Corrective Measures: In case the performance parameters are not found to be conforming to the required levels, the Consultant shall proactively inform the

Implementation Partner and suggest appropriate corrective measures and ensure that these are implemented.

- h) Escalation: Escalate project issues to the Implementation Partner and/or the Department to monitor resolution thereof in a timely and conducive manner.
- i) Change Management: Facilitate change management processes limited to items covered within the scope of the solution including validation to changes that may be implemented. In addition, oversee the version control of software and its controlled deployment in the production environment.
- j) Oversight: Monitor Implementation partner's engagement/ agreement/ contract with other third parties as may be reasonably required to meet with Performance obligations and SLA requirements.
- k) Asset Control: Facilitate transfer of IT and software assets to the Department as may be specified in the agreement with the Implementation Partner.
- l) Audits, Assessments and Surveys: Assist in annual audits and user surveys as may be reasonably aligned with the objectives of the Service Delivery needs of the Department. Also ensure that periodic assessments are done to ensure compliance to standards and guidelines, Security Requirements, Capacity Management and such other planned tasks.
- m) Exception Management: Assist the Department to manage exceptional and contingency situations.

**Deliverables:**

- 1. Provide Project Monitoring Functions consistent with the requirements;
- 2. Periodic Reports on routine / exceptional matters and Review Meetings

**6.3.6. User Acceptance Testing (UAT) Management**

**User Acceptance Testing**

- a. The Acceptance Testing would be carried out in order to ensure that the application put in place by the Implementation Agency (IA) / System Integrator (SI) meets requirements, standards, specifications and performance as spelt out in the RFP and fulfill the functional requirements of the department. The Consultant shall prepare the acceptance test plan.
- b. The SI would be responsible for preparing detailed test cases for UAT and Functional Compliance Test. The Consultant shall verify these test cases and ensure that they cover all aspects of the application requirement. In case it identifies any shortcomings, it should immediately be brought to the notice of the SI and the department.
- c. The Consultant shall use test cases to test and report functional, technical and operational compliance of the application. It shall execute the test cases to test and report whether the IT infrastructure and system software procured and set-up by the SI meets the standards and performance metrics as set out in the RFP for the IA/SI.

- d. The Consultant should report whether the IT infrastructure (at Data Centre, DR, SWAN) and system software complies with applicable standards, best practices, requirements and specification of the RFP for SI to meet the project and service objectives. The Consultant shall review the business continuity/ disaster recovery plans of the SI under typical user loads of volume and mix (involving 50% switchover to DR site and contingency plans). As part of the IT infrastructure acceptance, the Consultant will also scrutinize configuration of implemented infrastructure against Bill of Material and certify compliance. It should be noted that while the primary responsibility of providing tools for testing rests with the SI and it is the responsibility of the Consultant to ensure that this should be a part of the RFP.
- e. As part of this acceptance process, the Consultant shall also test the accurateness and usability of the SLA monitoring tools deployed by the SI. The objective of this exercise would be to verify whether the tools deployed provide an accurate, correct, measurable and verifiable estimation of the system performance, as per the Service Level Requirements listed in the RFP.

### **Performance Testing**

- a) The SI will propose guidelines and standards, as per best known International standards that will be followed for the testing of the performance in relation to compliance with SLA metrics and compliance with all the technical and functional requirements of the RFP and the related agreement. These documents shall be reviewed by the Consultant and in case of any modification required the same shall be proposed by the Consultant.
- b) The SI shall develop exhaustive test cases to test aspects of the application like security, infrastructure, etc. for compliance with the RFP including test cases for performance and load testing. The Consultant shall verify these test cases and ensure that they cover all aspects of the application. In case if it identifies any shortcomings, it shall immediately bring the same to the notice of the SI and the department.
- c) The Consultant shall use the test cases to test and report whether the application/system performs optimally as per the Technology and Performance SLA criteria stated in the RFP. While the SI would be responsible for providing tools required to perform this audit yet in case the Consultant finds such tools to be insufficient in meeting its objectives it would be required to bring in customized tools from its own inventory. The tools which have been proposed by bidder in the technical criterion shall be used while performing this audit.

### **Security Audit**

- a) The consultant (or Third Party Assessor-TPA) should propose guidelines and standards, as per the requirements set out in the RFP and known International standards that will be followed for testing the Security features of the application.

- b) The Consultant would be responsible for preparing a detailed audit plan consisting of test cases for performing Security & Implementation audit. These test cases shall be prepared in conjunction with the SI and shall cover all aspects of the system security.
- c) The test cases shall ensure that all loopholes within the system are identified. The test cases shall cover all security related requirements suggested in the RFP as well as the prevailing best global standards.
- d) The TPA shall execute the test cases to test and report whether the IT system complies with the security requirements stated in the “RFP for Implementation and Maintenance of Project” and that the application is safe and secure for handling ‘live’ transactions. Only when the security audit report is received detailing the security readiness of the hardware infrastructure, the Project Director will allow ‘live’ transactions to begin through the IT system. The security audit should include activities of Penetration testing, vulnerability assessment of critical systems, application security and assessment.
- e) While the primary responsibility of providing tools for testing rests with the SI, in case the TPA finds such tools to be insufficient for meeting its objectives then it may use those proposed by it in its Technical Proposal. The Department shall not provide any tools required for the audit.

#### **Deliverables**

- 1. Publishing guidelines and standards for design, development, test and acceptance of the IT system; including its hardware, software, security, performance, etc. The report will be prepared in conjunction with the SI.
- 2. Monthly reports on compliance to guidelines and standards specified previously and actions required / taken to ensure compliance.
- 3. Publishing of detailed test cases for performing security and penetrative audit of the system.
- 4. Report on enhancements required over test cases drafted by SI.
- 5. Review Report on security implementation and security readiness of the hardware infrastructure.
- 6. Individual Final Audit reports on defects and deficiencies (if any found), including actions to ensure compliance for the following:
  - a) Functional, Technical and Operational Compliance;
  - b) Performance and SLA compliance Audit of IT system;
  - c) IT infrastructure and system software compliance audit of the IT system;
  - d) Security audit of the IT system

The Consultant and the Department may agree on any additional reports or deliverables which may be required for delivering services under this RFP. Such reports or deliverables would be based upon the factual assessment done by both the parties and have to be listed out as part of the agreement signed. Any additional reports during the course of the contract will be mutually agreed by both the Consultant and Department.

#### **6.3.7. Third Party Assessments**

Consultant (or specifically the Third Party Assessor – TPA) is required to provide dedicated manpower for various periodic audit activities, monitoring of SLA parameters as per the Agreement and provide suitable manpower for functional and security audit of the software.

- a) Third Party Audit shall include monitoring the performance SI with a view to ensure desired Quality of Service (QoS) as defined in the SLA, signed between Department and SI. These Guidelines define the broad areas of work, which TPA shall perform for a period <insert period> from the date of issue of Work Order/LOI. However, the agreement can be extended for a further period of one year on the same terms and conditions.
- b) To understand the Project, TPA would be required to
  - i.) Study the contract signed between the <Nodal Agency>and the SI
  - ii.) Study the software, network architecture & design and the services envisaged.
  - iii.) Review communication process among the stakeholders.
  - iv.) Create frameworks and procedures for audit
  - v.) Study the functionalities of the IT Systems installed in the Department and identify gaps, if any, required for TPA scope of work. The additional module/tool including hardware/software required for the same will be procured by <Nodal Agency> and TPA would assist the state with the procurement process for the same.
  - vi.) Review of the escalation mechanisms being followed to resolve any issues between <Nodal Agency>and SI related to the project.
  - vii.) TPA would also conduct audit of the process, plan and results of the System implemented by SI. TPA shall verify availability of all the defined services as per the contract signed between <Nodal Agency> and SI.
- c) **Inventory**
  - i.) TPA audit would include verification of completeness of bill of material for each location.
  - ii.) TPA audit would include review that all hardware and software items have been installed at the sites as per the contract.
  - iii.) TPA audit would include maintenance of an inventory register to have office location wise equipment list, including hardware and software. TPA audit would also include updating inventory register in event of any changes in the inventory.

- iv.) iv. Inventory Audit is to be performed annually and the relevant changes in the year of the audit shall be recorded. Inventory Details shall be provided by the SI and TPA shall maintain a record at its end, which shall be updated by TPA based on information provided by the SI. Also, the verification will be done through tools and through site visits.

These exercises would include review of documentation, physical verification of 20% locations every year.

**d) SLA Monitoring Audit**

SLA monitoring would include audit of the performance of SI including the components provided by Department. TPA would carry out the following tasks:

- a) TPA audit would include preparation of templates for reports to be submitted by SI vendor to Department and report to be submitted by the TPA to Department. TPA shall also tabulate measurable parameters as defined in the respective SLA's.
- b) TPA would proactively convey to the stakeholders any concerns based on the information generated using the reports.
- c) TPA would provide **quarterly certification of work** carried out by SI and perform penalty computation for each bill, as per the SLA and payment conditions mentioned in the agreement between SI and Department (on Monthly basis).
- d) TPA would also undertake **proactive monitoring of the links** provided by the bandwidth service provider.
- e) TPA audit would also include **site inspection** to verify those parameters of the SLA which cannot be monitored using Software Tools. These site visits would be done for at least 5% of the sites per quarter.
- f) **Usage Audit** : TPA would appraise <Nodal Agency> about the health of the Software Application, Hardware and Network through reports indicating the utilization, scalability requirements as per the current and envisaged State level applications etc.
  - i.) Security Audit
  - ii.) TPA would perform security audit of complete system as per standard Industry Norms and submit recommendations to <Nodal Agency> indicating the risk elements in the system.
  - iii.) TPA would perform the penetration testing and vulnerability testing on the system.
  - iv.) TPA would review the rules and policies for network components such as firewall, IDS etc.

- v.) TPA would review the network security policy of the system and suggest recommendations if any.
- vi.) TPA would review the policy of granting access to the application.
- vii.) TPA would conduct the Security Audit yearly.
- viii.) TPA would review the mechanism of obtaining data on user satisfaction, feedback on quality of service & post analysis of the same, and would submit a report with recommendations to <Nodal Agency>. This task would be done on a yearly basis.

#### **i. Exit Process Support**

This role is envisaged with the objective of ensuring preparedness of <Nodal Agency> at all the time for any eventuality resulting in termination of contract. TPA audit includes support/ advice in the event of exit of the BOOT operator. The Agency would:

- i.) Review the exit process as per the contract.
- ii.) Advise the <Nodal Agency> on documentation, process and procedures necessary for taking over the system from the SI.
- iii.) Provide advisory support during the transition period from the current SI to the new operator.
- iv.) Conduct audit readiness of the State for such an eventuality on a Yearly basis

#### **6.4 Deliverables**

The specification of requirements will lead to the identification of a deliverable or set of deliverables. A deliverable is something that must be provided under the contract. It is a tangible/real output. One, or several, deliverables may result in an outcome. Examples of deliverables include: a report, a training session, a strategic plan etc.

Contract deliverables can be tied to milestones. A milestone is a measurement of progress toward an outcome. For a typical review project, milestones might be the completion of review and delivery of a draft report, then revision of draft report and delivery of the final report.

Where a contract adopts a milestone approach payment to the supplier can be tied to the successful completion of each milestone. This allows for implementation to be tracked and monitored against budget.

Deliverables form the most critical outcome of a project. When specifying the deliverables, the following should be borne in mind:

- Government must be clear on what it is expecting from the vendor and from the project, and differentiate between the two
- The deliverables of two or more vendors involved in different phases of a project must also be clearly laid out and differentiated
- The deliverables must clearly specify whether they would be time & material based or outcome/performance measure based
- Time & material based services are those where scope of work is not clear at the beginning to both the Government client and the Consulting vendor/consultant. In this situation, to move things forward, working on a time and material basis the consultant can start to scope and plan the assignment and be paid on a 'pay as you go' basis
- The deliverable for PMU Consulting services should be man-months/hours of commitment on the project and not based on project performance/outcomes
- It should also be clearly specified whether the deliverable for a Consultant is its report OR SI vendor's delivery outcome(s); it cannot be both
- If two deliverables are dependent on each other or have dependent activities, then their delivery timelines should accommodate for that and be set accordingly

## 7. Payment Terms and Schedule

Payment terms and schedule help define the mechanism of paying the vendor for the successful delivery of services and products during the project.

For Payment terms and schedule, the Government should practice the following:

- Ensure payment value reflects the actual effort to be put by the Consultant
- Payments must be linked to only one form of delivery – service (manpower availability) or solution outcome, not both
- Payment milestones must be clearly defined and (if possible) linked to a deliverable or to a completion of a particular phase of scope of work
- Payment for time & material based services should have just time period (man-months/hours) as measure for approving payments
- All payments for the delivered services, as mandated in the tender document, should be made to vendor within the stipulated time. Please ensure fund approvals and required stakeholder sign offs on this planned and executed in time
- Include provision for some incentive (or success fee) to the Consultant for the defined positive outcome of the project
- No penalty on payments, that have not been specified on the contract, should be levied
- Payments terms should clearly indicate what are Out of Pocket Expenses (OPEs), by detailing the following:
  - Will be borne/reimbursed by Government or Vendor
  - Frequency and/or number of out of (base) location travel
  - Domestic or international travel
  - Number of persons required to travel
  - Suggested mode of travel
  - Boarding and lodging expenses
  - Daily allowances for people travelling
  - Capping percent of the project value on the OPE
- Changes in Government taxes should not be imposed on the vendor by making payment adjustments. The net revenue for the Consultant should remain the same as was factored in during the financial estimation of the project

### 7.1. Timelines

Timelines are dependent on the Scope of work. The timelines should be decided on the practicality in achieving them. Further the timelines should be mentioned for approval of the deliverables – currently they are not budgeted separately.

Once the timelines for approval are budgeted it would help the Nodal Agency to plan for subsequent activities more proactively. This will also help the consulting agency to plan for their resources.

## **7.2. Success Fee**

Most of the Government tenders have penalty clauses / liquidated damages as a clause in the agreement. But it has been observed that rarely any project has been completed in time.

The penalty clauses are rarely invoked, as it becomes very difficult to establish that the delay happened only due to the fault of the Consultant. Hence it may be worthwhile to consider rewarding the Consultant for timely completion of the project. This clause should be used cautiously and at places where the Consultant's role is to mobilize and work with several stakeholders and get the necessary inputs / approvals etc. Further it should also be ensured that there is a monetary benefit for the Government in achieving the project before the planned timelines. Further it should also be ensured that there is a monetary benefit for the Government in achieving the project before the planned timelines, before including this clause.

The Nodal Agency may be required to obtain appropriate approvals before inclusion of this clause in the RFP.

This clause is recommended to be introduced for initial period of 2 years and then basis the improvement in the completion rate, this clause may be revised accordingly. On achieving the eligibility for Success Fee, the SI Vendor would inform the <Nodal Agency> and on confirmation made by the <Nodal Agency> in writing, will submit the invoice for the Success fee.

## **8. Dispute Resolution / Arbitration process**

The objective of any contract's dispute resolution mechanism is generally to achieve a workable business solution between the contracting Parties, before resorting to formal procedures, such as arbitration or litigation. The Nodal Agency and Bidders should attempt to resolve issues prior to getting caught in legal issues.

There are various steps of informal dispute avoidance and resolution procedures. These may be considered for including in the contract agreement.

However for consulting projects, resolving a dispute through a mechanism in contract agreement is not practical given the basic nature of relationship between the Consultant and the client. Hence these measures have not been recommended in the Model Contract Agreement. However, the user is free to consider these as a part of the Contract Agreement.

### **8.1. STEP 1: Internal Escalation**

The Parties should attempt to resolve disputes between themselves, if an issue cannot be settled under a more formal structure for the Parties to attempt to resolve their differences.

The major difference between this provision and the Project Management Procedure is that the Project Management Group is in place and holding periodic progress meetings as a forum in the project for avoiding disputes throughout the Contract Period, whereas the people involved in the internal escalation procedure may be brought in to the project to decide a pre-existing issue between the Parties ("Dispute").

The internal escalation procedure works by escalating the Dispute through various levels within the Nodal Agency, and corresponding levels within the Vendor's organization, starting with the Parties' Representatives, then the project team leader and the Vendor's counterpart, then a member of the Nodal Agency's Executive Board (or equivalent) and a director of the Vendor. The intention behind this internal escalation Clause is that if the Dispute cannot be resolved at a lower level, a more senior person will be able to take a strategic view.

The success of such internal escalation can work only when both the parties are represented by people who can take decisions including those of Financial in nature. This may be a challenge for a Nodal Agency to take financial decision in such a meeting, hence such meetings should involve pre-work, from both the parties which should involve the following :

1. Understanding the key reason for the dispute and the responsibility. The potential reasons should be attributable to the Vendor OR Nodal Agency OR both depending on

the understanding of the information provided in the RFP document, Proposal and subsequent instruction/ decision.

2. The commitments made by the Nodal Agency either in the RFP document or in project meetings earlier
3. The commitments and assumptions made by the vendor in their proposal
4. Establishing the deviations made by either of the parties from
  - a) the written commitments made by the Vendor or the Nodal Agency in meetings or letters
  - b) the assumptions in the Approach & methodology, Solution, Work Plan of the Vendor & Nodal Agency
  - c) Comparing with other similar projects (if relevant)
  - d) any previous communication made by either of the party on the identified deviations and the reasons thereof
  - e) any unforeseen
5. Based on the above, the potential resolution should be classified as either Financial OR Non-Financial
6. In case the potential resolution involves financial consideration, the financial impact of such a deviation for either of the party should be computed on the basis of Commercial Proposal or industry standards.

Based on the above, both parties should attempt as a resolution.

If internal escalation does not resolve the Dispute, the Parties can either agree to mediation (see below) or proceed directly to Adjudication/Expert Determination or Arbitration.

The Parties must arbitrate the Dispute if it relates to Changes and Change in Law, Security, Compensation on Termination, unless they agree to resolve the Dispute using Adjudication/Expert Determination.

Arbitration is not used for other types of Dispute as it is generally a more complex, costly and lengthy process than Adjudication/Expert Determination and its additional features are not needed for these other types of Dispute which will be decided by Adjudication/Expert Determination if they are not resolved by internal escalation or mediation.

## 8.2. STEP 2: Mediation

If the Parties cannot reach agreement using the internal escalation provisions within 20 Business Days of any internal escalation meeting, the next step may be for the dispute to be referred to mediation. Mediation is, however, not a binding step in the Dispute Resolution Procedure and can only be undertaken on a consensual basis.

Mediation is a process whereby an independent mediator seeks to facilitate a settlement, but he will not make a decision. Instead, the mediator hears the Parties' arguments and tries to make sure they consider their commercial interests and deal with what is necessary to achieve a settlement. As mediation is (in effect) a form of subtle diplomacy, the co-operation of the Parties to the process is necessary – a mediator cannot compel either Vendor or the Nodal Agency to do anything they do not wish to do.

If mediation fails, or the Parties do not agree to mediate, the next step to resolve the Dispute is either Adjudication/Expert Determination or Arbitration, depending on the nature of the Dispute.

## 8.3. STEP 3: Adjudication/ Expert Determination

Adjudication/Expert Determination is similar to arbitration in that a single person decides the Dispute, but the procedures are less complex than for arbitration and the costs of deciding the Dispute are therefore likely to be lower.

Adjudication/Expert Determination is contractual adjudication, which differs from the statutory adjudication imposed on the Contractor by the Housing

Expert determination is a procedure in which a dispute or a difference between the parties is submitted, by agreement of the parties, to one [or more] experts who make a determination on the matter referred to it [them]. The determination is binding, unless the parties agreed otherwise.

Notable features of expert determination are:

- i. **Expert determination is consensual:** Expert determination can only take place if both parties have agreed to it. In the case of future disputes/differences arising under a contract, the parties insert an expert determination clause in the relevant contract. An existing dispute/difference can be referred to expert determination by means of a submission agreement between the parties. In contrast to mediation, a party cannot unilaterally withdraw from expert determination.
- ii. **The parties choose the expert(s) with relevant expertise:** The parties can select an expert together. If the parties have not agreed on the person of the expert or on a different procedure for appointing the expert, the expert will be appointed by the State after consultation with the parties.

- iii. **Expert determination is neutral and flexible:** In addition to their selection of an expert with appropriate qualifications, the parties are able to choose such important elements as the language of the expert determination or the place of any meeting.
- iv. **Expert determination is a confidential procedure:** Subject to specifically defined exceptions, the confidentiality of the existence of the expert determination, any disclosures made during that procedure, and the resulting determination.
- v. **The determination of an expert is binding, unless the parties agree otherwise:** In principle, the determination of an expert is binding and as such it has contractual effect between the parties. Alternatively, by party agreement, the determination may have effect as a recommendation to the parties.

**Expert determination is a flexible procedure:** Expert determination can operate on a more informal and expeditious manner than broader processes such as arbitration. Expert determination may be used on a stand-alone basis or in connection with an arbitration, mediation or court case.

#### **8.4. STEP 4: Arbitration**

The provisions of the Arbitration and Conciliation Act, 1996 will be applicable and the award made there under shall be final and binding upon the parties hereto, subject to legal remedies available under the law. Such differences shall be deemed to be a submission to arbitration under the Indian Arbitration and Conciliation Act, 1996, or of any modifications, Rules or re-enactments thereof.