Request For Qualification –
Design, Build, Finance, Own and Operate
(RFQ - DBFOO)

Invitation for e-Tender on

Telecommunications Consultants India Limited (TCIL)

Portal for Long Term Procurement of Power with

Fuel supply as per B(IV) of SHAKTI under

DBFOO model

Department of Power,
Government of West Bengal

On behalf of
The West Bengal State Electricity Distribution Company Limited (WBSEDCL)

GLOSSARY

Allocated Coal Linkage	As defined in Appendix VII.
Applicant(s)	As defined in Clause 1.2.1
Application	As defined in the Disclaimer
Application Due Date	As defined in Clause 1.1.5
Appointed Date	As defined in Model PSA-DBFOO (Article 39)
Associate	As defined in Clause 2.2.9
Bids	As defined in Clause 1.2.3
Bid Due Date	As defined in Clause 1.2.3
Bid Security	As defined in Clause 1.2.4
Bidders	As defined in Clause 1.1.1
Bidding Documents	As defined in Clause 1.2.3
Bidding Process	As defined in Clause 1.2.1
Bid Stage	As defined in Clause 1.2.1
BOLT	Build, Own, Lease and Transfer
BOO	Build, Own and Operate
BOOT	Build, Own, Operate and Transfer
BOT	Build, Operate and Transfer
Capacity Required	As defined in Clause 1.1.1
CIL	As defined in Clause 1.2.8
Conflict of Interest	As defined in Clause 2.2.1(c)
Consortium	As defined in Clause 2.2.1(a)
Eligible Experience	As defined in Clause 3.2.1
Eligible Projects	As defined in Clause 3.2.1
E-Reverse Bidding	As defined in Appendix-VIII
Financial Capacity	As defined in Clause 2.2.2 (B)
Government	Government of India/State
Joint Bidding Agreement	As defined in Clause 2.2.6(g)
Lead Member	As defined in Clause 2.2.6 (c)
LOA	Letter of Award
Lowest Bidder	As defined in Clause 1.2.8
Member	Member of a Consortium
Net Worth	As defined in Clause 2.2.4 (ii)
PSA-DBFOO	As defined in Clause 1.1.2
PPP	Public Private Partnership
Qualification	As defined in Clause 1.2.
Qualification Stage	As defined in Clause 1.2.1
Re. or Rs. or INR	Indian Rupee
Real Estate	As defined in Annex-I, Schedule-A of MPSA-DBFOO
Request for Proposals - DBFOO or RFP - DBFOO	As defined in Clause 1.2.1
Request for Qualification – DBFOO or RFQ - DBFOO	As defined in the Disclaimer
SCCL	As defined in Clause 1.2.8
SPV	As defined in Clause 2.2.6
Supplier	As defined in Clause 1.1.2
Tariff	As defined in Clause 1.2.8
Technical Capacity	As defined in Clause 2.2.2 (A)
Threshold Technical Capacity	As defined in Clause 2.2.2 (A)
Utility	As defined in Clause 1.1.1

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

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DISCLAIMER

The information contained in this Request for Qualification-DBFOO (the "**RFQ-DBFOO**") document or subsequently provided to Applicant(s), whether verbally or in documentary or any other form, by or on behalf of the Utility or any of its employees or advisors, is provided to Applicant(s) on the terms and conditions set out in this RFQ-DBFOO and such other terms and conditions subject to which such information is provided.

This RFQ-DBFOO is not an agreement and is neither an offer nor invitation by the Utility to the prospective Applicants or any other person. The purpose of this RFQ-DBFOO is to provide interested parties with information that may be useful to them in the formulation of their application for qualification pursuant to this RFQ-DBFOO (the "**Application**"). This RFQ-DBFOO includes statements, which reflect various assumptions and assessments arrived at by the Utility in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFQ-DBFOO may not be appropriate for all persons, and it is not possible for the Nodal Agency & Utility, its employees, or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFQ-DBFOO. The assumptions, assessments, statements, and information contained in this RFQ-DBFOO may not be complete, accurate, adequate, or correct. Each Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements, and information contained in this RFQ-DBFOO and obtain independent advice from appropriate sources.

Information provided in this RFQ-DBFOO to the Applicant(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Nodal Agency on behalf of the Utility accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Nodal Agency & Utility, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFQ-DBFOO or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFQ-DBFOO and any assessment, assumption, statement or information contained therein or deemed to form part of this RFQ-DBFOO or arising in any way with pre-qualification of Applicants for participation in the Bidding Process.

The Nodal Agency on behalf of the Utility also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Applicant upon the statements contained in this RFQ-DBFOO.

The Nodal Agency on behalf of the Utility may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFQ.

The issue of this RFQ-DBFOO does not imply that the Nodal Agency on behalf of the Utility is bound to select and pre-qualify Applications for Bid Stage or to appoint the selected Bidder or Supplier, as the case may be, for the Project and the Nodal Agency on behalf of the Utility reserves the right to reject all or any of the Applications or Bids without assigning any reasons whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Application including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Nodal Agency on behalf of the Utility or any other costs incurred in connection with or relating to its Application. All such costs and expenses will remain with the Applicant and the Nodal Agency on behalf of the Utility shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Application, regardless of the conduct or outcome of the Bidding Process.

West Bengal State Electricity Distribution Company Limited

1. INTRODUCTION

1.1 Background

1.1.1 **Department of Power, Govt. of West Bengal (Nodal Agency[1])** is responsible to assess the need for long term perspective planning for generation of power and execution of power projects in the state of West Bengal. Nodal Agency looks after planning and oversees appropriate investments in the West Bengal Power sector, both in the public and private domains, and is also entrusted with the responsibilities of cohesively coordinating and dovetailing the activities of various power generation and distribution utilities in the state.

West Bengal State Electricity Distribution Company Limited (WBSEDCL) (the **"Utility"**), is a State owned entity engaged in the distribution of electricity in the state of West Bengal and as part of this endeavor to ensure energy security for its populace, the Utility has decided to procure electricity on a long term basis from a "**New 2 x 800 MW Supercritical/Ultra-Super Critical Thermal Power Unit**" to be set up on the available land inside **Santaldih Thermal Power Station (STPS) of The West Bengal Power Development Corporation Limited (WBPDCL),** existing plant premises and additional land if any require in the vicinity. The proposed plant shall be connected to the STU (State Transmission Utility) Network. The New 2x800 MW Supercritical/Ultra-Super Critical Thermal Power Unit shall be located in Santaldih, Dist.– Purulia, State-West Bengal, where the current installed & operational capacity is 500 MW (2 X 250 MW). The "Project" is proposed to be constructed through Public-Private Partnership (the "**PPP**") on Design, Build, Finance, Own and Operate (the **"DBFOO"**) basis by sourcing fuel as per clause 1.2.8 (a.). The **Nodal Agency** shall be carrying out the Bidding Process on behalf of the "**Utility**", for selection of a corporate entity(ies) as the Successful Bidder to whom the contract may be awarded for setting up of the coal based thermal power station of 1600 MW for production of electricity and supply thereof to the **Utility** as per the terms and conditions specified in the Bidding Documents**.**

The term "New 2x800 MW Supercritical/Ultra-Super Critical Thermal Power Unit," "Coal-based Thermal Power Station," or "Project" for the purpose of this RFQ-DBFOO shall mean unit of the generating station to be set up within identified land in the premises of STPS, in accordance with the terms & conditions of the Power Supply Agreement (PSA) specified in the Bidding Documents. For the avoidance of doubt, it is clarified that construction for this purpose would mean that the Bidder has placed the order for supply of Boiler, Turbine and Generator (BTG) package after the date of Letter of Award (LoA).

Land has been identified within STPS's existing premises (currently with STPS's possession). The land will remain under STPS's possession, and a lease agreement will be signed with the successful bidder for handover of the demarcated plots in the existing premises of STPS, for which the **lease agreement and terms** will be detailed at the RFP stage. Preliminary information available on the earmarked land is mentioned in **Appendix-VI.**

STPS has also identified some common infrastructures from its existing operational

[1] Department of Power, GoWB shall perform the responsibility as the Nodal Agency wherein it shall be responsible for bid process management for setting up of New thermal power station of 1600 MW, arranging coal linkage allocation under Shakti para B (iv.), 2017 on behalf of utility. Nodal Agency shall also be responsible for coordinating activities between the state utility STPS, the state discom WBSEDCL,WBSETCL and potential bidders.

500 MW capacity plant, which may be utilized on sharing basis after necessary upgradation/ modernization. Preliminary information available on the common infrastructures and other facilities identified for sharing are mentioned in Appendix-VI. Financial modalities on usage of sharing infrastructure shall be intimated during the RFP stage.

Brief particulars of the Project are as follows:

Installed Capacity (in MW)	**Offtake Capacity (in MW)**	**Period when supply must commence**
1600 MW	**1492 MW**[2]	**Unit-1: 48 months** **Unit-2: 54 months** **from Appointed Date**

The Nodal Agency on behalf of the Utility intends to pre-qualify suitable Applicants (the "**Bidders**") who will be eligible for participation in the Bid Stage, for awarding the Project through an open competitive bidding process in accordance with the procedure set out herein.

1.1.2 The Bidder who is issued Letter of Award (LoA) (the "**Selected Bidder**") shall accept the LoA (the "**Successful Bidder**"). The Successful Bidder, who is either a company incorporated under the Companies Act, 1956/2013 or undertakes to incorporate as such prior to execution of the Power Supply Agreement-DBFOO (the **"Supplier"**) shall be responsible for designing, engineering, financing, procurement, construction, operation and maintenance of the power station under and in accordance with the provisions of a long term agreement for supply of Electricity (the **"Power Supply Agreement- DBFOO"** or the **"PSA- DBFOO"**) to be entered into between the Supplier and the Utility in the form provided by the Utility as part of the Bidding Documents pursuant hereto.

1.1.3 The scope of work will broadly include designing, financing, operation and maintenance of the Power Station and supply of power in accordance with the terms of the PSA. The Successful Bidder shall be responsible to obtain all the necessary clearances & approvals including Environment and Forest Clearance for the proposed Coal-based Thermal Power Station as applicable for the purpose of development and operation of the Project.

1.1.4 Omitted

1.1.5 The Nodal Agency on behalf of the Utility shall receive Applications pursuant to this RFQ - DBFOO in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by the Nodal Agency on behalf of the Utility, and all Applications shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Applications (the "**Application Due Date**").

[2] The Net Capacity after deduction of Auxiliary Consumption which shall be made 100% available to WBSEDCL for its offtake.
a.)If TPP is having IDCT then Contracted Capacity under the Power Supply Agreement will be 1492 MW and allowed Auxiliary Consumption is 6.75%. (5.75% as per CERC Tariff Regulation 24-29 for Super-critical Units with IDCT+ 1% Aux. Consumption for FGD Systems)
b.)If TPP is having NDCT then Contracted Capacity under the Power Supply Agreement will be 1500 MW and allowed Auxiliary Consumption is 6.25%. (5.25% as per CERC Tariff Regulation 24-29 for Super-critical Units with NDCT+ 1% Aux. Consumption for FGD Systems) as per CERC Regulations.

1.2 Brief description of Bidding Process

1.2.1 The Nodal Agency on behalf of the Utility has adopted a two-stage bidding process (collectively referred to as the **"Bidding Process"**) for selection of the Bidder for award of the Project. The first stage (the **"Qualification Stage"**) of the process involves qualification (the **"Qualification"**) of interested parties/ consortia who make an Application in accordance with the provisions of this RFQ - DBFOO (the **"Applicant",** which expression shall, unless repugnant to the context, include the Members of the Consortium). Prior to making an Application, the Applicant shall pay to the Utility a sum of **Rs. 1,60,000 (Rupees One Lakh Sixty thousand)** after adding applicable taxes as the cost of the RFQ - DBFOO process by Demand Draft/ Online Payment[3] in the name of "West Bengal State Electricity Distribution Company Limited" payable at Kolkata and submit the same in the office of the Utility at Kolkata or as provided for in Clause 5.1 and obtain the acknowledgement of the Demand Draft/ Online Payment. At the end of this stage, the Nodal Agency on behalf of the Utility will announce a list of suitable pre-qualified Applicants who shall be eligible for participation in the second stage of the Bidding Process including an E-Reverse Bidding as mentioned in Clause 1.2.8 (the **"Bid Stage"**) comprising Request for Proposals (the "**Request for Proposals-DBFOO" or "RFP-DBFOO**").

Government of India has issued guidelines (see **Appendix-V**) for qualification of Bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply *mutatis mutandis* to this Bidding Process. The Nodal Agency on behalf of the Utility shall be entitled to disqualify an Applicant in accordance with the aforesaid guidelines at any stage of the Bidding Process. Applicants must satisfy themselves that they are qualified to Bid, and should give an undertaking to this effect in the form at **Appendix-I.**

1.2.2 All the Applicants would be able to participate in the e-Bidding events on making payment of the requisite fees as applicable to be paid to tendering portal i.e., **Telecommunications Consultants India Limited (TCIL).**[4]

1.2.3 In the Qualification Stage, Applicants would be required to furnish all the information specified in this RFQ - DBFOO. Only those Applicants that are pre-qualified by the Nodal Agency on behalf of the Utility shall be invited to submit their Bids for the Project. The Nodal Agency on behalf of the Utility is likely to provide a comparatively short time span for submission of the Bids for the Project. The Applicants are, therefore, advised to familiarise themselves with the terms of the Model PSA - DBFOO that will govern the structure of this Project. The said Model PSA - DBFOO has been notified by the Government of India under section 63 of the Electricity Act 2003 for tariff-based bidding by the Utilities.

1.2.4 In the Bid Stage, the Bidders will be called upon to submit their financial offers (the "**Bids**") in **TCIL portal** in accordance with the RFP-DBFOO and other documents to be provided by the Nodal Agency on behalf of Utility (collectively the "**Bidding Documents**"). The Bidding Documents for the Project will be provided to every pre-qualified Bidder on payment to be notified during issuance of RFP. The Bid shall be valid for a period of not less than 120 days from the date specified in Clause 1.3 for submission of Bids (the "**Bid Due Date**"). In terms of the RFP-DBFOO, a

[3] Details regarding NEFT/ RTGS payment has been added as Appendix IX

[4] ElectronicTender System (ETS)

Bidder will be required to deposit, along with its Bid, a Bid security of Rs**. 48 Crores** (Rupees Forty Eight Crores) (the **"Bid Security"**), refundable no later than 120 (One Hundred Twenty) days from the Bid Due Date, except in the case of the Successful Bidder whose Bid Security shall be retained till it has provided a Performance Security under the PSA-DBFOO. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Nodal Agency on behalf of Utility[5]. The demand draft shall be kept valid for a period not less than 180 (one hundred and eighty) days from the Bid Due Date, by submitting another demand draft before expiry of the existing demand draft and may be further extended as may be mutually agreed between the Nodal Agency on behalf of Utility and the Bidder from time to time. In case a bank guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days and may be extended as may be mutually agreed between the Nodal Agency on behalf of Utility and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

1.2.5 Generally, the Lowest Bidder shall be the selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFP-DBFOO, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Lowest Bidder, the Nodal Agency on behalf of the Utility may, in its discretion, may invite fresh Bids from the remaining Bidders or annul the Bidding Process, as may deemed fit.

1.2.6 During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the contract including implementation of the Project.

1.2.7 As part of the Bidding Documents, the Nodal Agency on behalf of the Utility will provide a draft PSA-DBFOO and other information pertaining/ relevant to the Project available with it.

1.2.8 Bids will be invited for the Project on the basis of a tariff to be offered by a Bidder for production and supply of electricity from the proposed new 2 x 800 MW thermal power station, in accordance with the terms of the draft PSA-DBFOO forming part of the Bidding Documents. For the purposes of bidding hereunder, the **Fixed Charge** and **Fuel Charge** will constitute the tariff for the Power Station (the "**Tariff**"). The element of coal transportation and transit losses may vary from case to case and shall also form part of the Fuel Charge by way of adjustment. The contract period shall be pre-determined and will be indicated in the draft PSA-DBFOO.

Explanation

(a) Since the Bidder is expected to source linkage coal from Coal India Limited (the "**CIL**") from the Allocated Coal Linkage as per SHAKTI Policy arranged by the Nodal Agency on behalf of the Utility, the cost of Fuel which shall be included in the Fuel Charge shall be a "pass through" in accordance with the terms of the PSA-DBFOO. However, the element of coal transportation and transit losses may vary from case to case and shall affect the Fuel Charge offered by each Bidder. The Bid for the Project shall, therefore, comprise the Fixed Charge and Fuel Charge, which shall be specified separately, and the Bidder seeking the lowest Tariff shall be the Selected Bidder. Also, while quoting the tariff the bidder should take cognizance of

[5] The format for the bank guarantee has been published as part of the Model RFP-DBFOO document.

the fact that the Base Fixed Charge shall not be more than 70% of the Tariff and the Base Fuel Charge shall not be more than 50% of the Tariff.

The Nodal Agency on behalf of the Utility shall follow an E-Reverse Bidding process through **TCIL portal**. The Project shall be awarded to the Bidder quoting the lowest Tariff in E-Reverse Auction Stage. Applicable Steps to be followed on the E-Reverse Bidding Stage has been mentioned under **Appendix-VIII**.

In this RFQ - DBFOO, the term **"Lowest Bidder"** shall mean the Bidder who is offering the lowest Tariff.

1.2.9 The Selected Bidder shall surrender the proportionate quantity of any existing Letter of Assurance /Fuel Supply Agreement to the supplier of the coal, not being the Letter of Assurance/ Fuel Supply Agreement arranged by the Utility, corresponding to the tenure of the Letter of Assurance /Fuel Supply Agreement arranged by the Utility. Further and other details of the process to be followed at the Bid Stage and the terms thereof will be spelt out in the Bidding Documents.

1.2.10 Any queries or request for additional information concerning this RFQ - DBFOO shall be submitted in writing by speed post/ courier/ special messenger and e-mail attaching the queries in Microsoft word file so as to reach the officer designated in Clause 2.13.3 by the specified date. The envelopes/ communications shall clearly bear the following identification/ title:

"Queries/ Request for Additional Information: RFQ - DBFOO for Setting Up New 2x800 MW Supercritical / Ultra Supercritical Thermal Power Plant Unit".

1.3 Schedule of Bidding Process

The Nodal Agency on behalf of the Utility shall endeavour to adhere to the following schedule:

Qualification Stage

Sr. No	Event Description	Date
1	Site Visit and Presentation	20th May 2025- 4th June 2025#
2	Last date for receiving queries	10th June 2025
3	Pre-Application Conference	17th June 2025
4	Nodal Agency's response to queries latest by	23rd June 2025
5	Application Due Date	8th July 2025
6	Announcement of Pre-qualified Applicants	22nd July 2025

 # Interested parties must submit a written request via email to the Nodal Agency for the site visit by 19th May 2025. The Nodal Agency will communicate the schedule to the applicants. Applicants should also email their presentation, along with pre-application queries, to the Nodal Agency. The presentation aims to demonstrate their understanding of the project location, available infrastructure, and proposed usage plans. For in-person or online presentations, a written request must be submitted to the Nodal Agency by 29th May 2025.

Bid Stage

Sr. No.	Event Description	Estimated Date
1.	Sale of Bid Documents	[To be specified]
2.	Last date for receiving queries	[To be specified]
3.	Pre-Bid Conference – 1	[To be specified]
4.	Utility response to queries latest by	[To be specified]
5.	Bid Due Date	[To be specified]
6.	Opening of Bids	On Bid Due Date
7.	Mock E-Reverse Bidding on TCIL Portal	[To be specified]
8.	E-Reverse Bidding on TCIL Portal	[To be specified]
9.	Letter of Award (LOA)	Within 30 days of Bid Due Date
10.	Validity of Bids	120 days of Bid Due Date
11.	Signing of PSA-DBFOO	Within 30 days of award of LOA

1.4. Pre-Application Conference

The date, time and venue of the Pre-Application Conference shall be:

Date: 17th June 2025

Time: 02:30 PM IST

Venue: Department of Power Government of West Bengal Bidyut Unnayan Bhavan 3/C, LA Block, 5th & 6th Floor, Sector-III, Salt Lake City, Kolkata- 700 106.

Online Meeting Link (if any) to be shared separately.

2. INSTRUCTIONS TO APPLICANTS

A. GENERAL

2.1 Scope of Application

2.1.1 The Nodal Agency on behalf of the Utility wishes to receive Applications for Qualification in order to pre-qualify experienced and capable Applicants for the Bid Stage.

2.1.2 Pre-qualified Applicants may be subsequently invited to submit the Bids for the Project.

2.2 Eligibility of Applicants

2.2.1 For determining the eligibility of Applicants for their pre-qualification hereunder, the following shall apply:

(a) The Applicant for pre-qualification may be a single entity or a group of entities (the **"Consortium"**), coming together to implement the Project. However, no applicant applying individually or as a member of a Consortium, as the case may be, can be member of another Applicant. The term Applicant used herein would apply to both a single entity and a Consortium.

(b) An Applicant may be a natural person, private entity, government-owned entity, or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.6 below.

(c) An Applicant shall not have a conflict of interest (the "**Conflict of Interest**") that affects the Bidding Process. Any Applicant found to have a Conflict of Interest shall be disqualified[6]. An Applicant shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

(i) the Applicant, its Member or Associate (or any constituent thereof) and any other Applicant, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an Applicant, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be) in the other Applicant, its Member or Associate is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. For the purposes

[6] The provisions of sub-clauses (i), (iii) and (v) shall not apply to government companies.

of this Clause 2.2.1(c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "**Subject Person**") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

(ii) a constituent of such Applicant is also a constituent of another Applicant; or

(iii) such Applicant, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Applicant, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Applicant, its Member or any Associate thereof; or

(iv) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or

(v) such Applicant, or any Associate thereof has a relationship with another Applicant, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Application of either or each other; or

(vi) such Applicant, or any Associate thereof has participated as a consultant to the Nodal Agency on behalf of the Utility in the preparation of any documents, design, or technical specifications of the Project.

(d) An Applicant shall be liable for disqualification if any legal, financial, or technical adviser of the Nodal Agency on behalf of the Utility in relation to the Project is engaged by the Applicant, its Member, or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Applicant, its Member or Associate in the past but its assignment expired or was terminated prior to the Application Due Date. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

Explanation: In case an Applicant is a Consortium, then the term Applicant as used in this Clause 2.2.1, shall include each Member of such Consortium.

(e) Other eligibility conditions shall include the following:

(i) Only Applicants who agree and undertake to procure the boilers, turbines,

and generators of the proposed Project from manufacturing facilities situated in India and are entities that are owned and operated in India by an Indian company, a foreign company, or a joint venture between an Indian and foreign company, shall be eligible hereunder.

(ii) Applicant/Consortium Member or any of its Associates should not have been referred to National Company Law Tribunal (NCLT) and proceedings are pending in such Tribunal.

2.2.2 To be eligible for pre-qualification, an Applicant shall fulfill the following conditions of eligibility:

(A) **Technical Capacity**: For demonstrating technical capacity and experience (the **"Technical Capacity"**), the Applicant shall, over the past 5 (five) financial years preceding the Application Due Date, have:

(i) paid for, or received payments for, construction of Eligible Project(s); and/ or

(ii) paid for development of Eligible Project(s) in Category 1 and /or Category 2 specified in Clause 3.2.1; and/ or

(iii) collected and appropriated revenues from Eligible Project(s) in Category 1 and /or Category 2 specified in Clause 3.2.1,

such that the sum total of the above is more than **Rs. 8000 Crores (Rupees Eight Thousand Crores)** (the **"Threshold Technical Capacity"**).

(B) **Financial Capacity**: The Applicant shall have a minimum Net Worth (the **"Financial Capacity"**) **equivalent to Rs. 2400 Crores (Rupees Twenty Four Hundred Crores)** at the close of the preceding financial year.

In case of a Consortium, the combined technical capacity and net worth of those Members, who shall have an equity share of at least 26% (twenty six per cent) each in the SPV, should satisfy the above conditions of eligibility; provided that each such Member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity of the SPV; and (ii) 5% (five per cent) of the Total Project Cost[7] as per the PSA-DBFOO.

The Applicant or any of its Affiliates (as defined in the Company's Act) must not have been declared insolvent and/or undergone any insolvency proceeding over a consideration period of past 5 completed financial years preceding the Appointed Date & the Applicant must not have been blacklisted by any Government institution/ Statutory Authority/ PSU in past 5 completed financial years preceding the Appointed Date.

2.2.3 **O&M Experience**: The Applicant shall either enter into an agreement for entrusting its operation & maintenance (O&M) obligations to an entity having the requisite experience or undertake O&M through qualified and experienced staff of its own.

2.2.4 The Applicants shall enclose with its Application, to be submitted as per the format

[7] Total Project Cost" means the capital cost incurred on construction and financing of the Contracted Capacity and shall be limited to the lower of: (a) (b) the capital cost of the Contracted Capacity as set forth in the Financial Package; and the actual capital cost of the Contracted Capacity upon completion of Construction as mentioned in Article 39.1 of MPSA-DBFOO.

at Appendix-I, complete with its Annexes, the following[8]:

(i) Certificate(s) from statutory auditors/ practicing Chartered Accountant of the Applicant or its Associate or the concerned client(s) stating the payments made/ received or works commissioned, as the case may be, during the past 5 years in respect of the projects specified in paragraph 2.2.2 (A) above. In case a particular job/ contract has been jointly executed by the Applicant (as part of a consortium), it should further support its claim for the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or the client; and

(ii) Certificate(s) from statutory auditors/ practicing Chartered Accountant of the Applicant or its Associates or, specifying the Net Worth of the Applicant, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such Net Worth conforms to the provisions of this Clause 2.2.4 (ii). For the purposes of this RFQ - DBFOO, net worth (the "**Net Worth**") shall mean the sum of subscribed and paid-up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity shareholders.

2.2.5 The Applicant should submit a Power of Attorney as per the format at Appendix-II, authorising the signatory of the Application to commit the Applicant. In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member as per format at Appendix-III.

2.2.6 Where the Applicant is a single entity, it may be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 1956/ 2013 (the "**SPV**"), to execute the PSA-DBFOO and implement the Project. In case the Applicant is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

(a) Number of members in a consortium shall not exceed **4 (four**);

(b) Subject to the provisions of sub-clause (a) above, the Application should contain the information required for each member of the Consortium;

(c) Members of the Consortium shall nominate one member as the lead member (the **"Lead Member"**), who shall have an equity share holding of at least 26% (twenty-six per cent) of the paid up and subscribed equity of the SPV and who shall have prior experience and / engaged into Thermal Power Generation business. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-III, signed by all the other members of the Consortium;

(d) The Application should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical, and O&M obligations;

(e) An individual Applicant cannot at the same time be member of a Consortium

[8] In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.2.4 (i). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant may provide the certificates required under this RFQ- DBFOO.

applying for pre-qualification. Further, a member of a particular Applicant Consortium cannot be member of any other Applicant Consortium applying for pre-qualification;

(f) The members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;

(g) Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-IV (the "**Joint Bidding Agreement**"), for the purpose of making the Application and submitting a Bid in the event of being pre-qualified. The Joint Bidding Agreement, to be submitted along with the Application, shall, *inter alia*:

i. convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this RFQ - DBFOO, which would enter into the PSA-DBFOO and subsequently perform all the obligations of the Supplier in terms of the PSA-DBFOO, in case the contract to undertake the Project is awarded to the Consortium;
ii. clearly outline the proposed roles and responsibilities, if any, of each member;
iii. commit the minimum equity stake to be held by each member;
iv. commit that each of the members, whose experience will be evaluated for the purposes of this RFQ - DBFOO , shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV and (ii) 5% (five per cent) of the Total Project Cost as per the Power Supply Agreement-DBFOO.
v. members of the Consortium undertake that they shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid up equity of the SPV at all times until the first anniversary of the commercial operation date of the Project; and
vi. include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Supplier in relation to the Project until the Financial Close of the Project is achieved in accordance with the PSA-DBFOO; and

(h) except as provided under this RFQ - DBFOO and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of the Nodal Agency on behalf of the Utility.

2.2.7 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Application, would not be eligible to submit an Application, either individually or as member of a Consortium.

2.2.8 An Applicant including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial

pronouncement or arbitration award against the Applicant, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Applicant, Consortium Member or Associate. Provided, however, that where an Applicant claims that its disqualification arising on account of any cause or event specified in this Clause 2.2.8 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any willful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Nodal Agency on behalf of the Utility for seeking a waiver from the disqualification hereunder and the Nodal Agency on behalf of the Utility may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.

2.2.9 In computing the Technical Capacity and Net Worth of the Applicant/ Consortium Members under Clauses 2.2.2, 2.2.4 and 3.2, the Technical Capacity and Net Worth of their respective Associates would also be eligible hereunder.

For purposes of this RFQ - DBFOO, Associate means, in relation to the Applicant/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Applicant/ Consortium Member (the **"Associate"**). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

2.2.10 The following conditions shall be adhered to while submitting an Application:

(a) Applicants should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Applicants may format the prescribed forms making due provision for incorporation of the requested information;

(b) information supplied by an Applicant (or other constituent Member if the Applicant is a Consortium) must apply to the Applicant, Member or Associate named in the Application and not, unless specifically requested, to other associated companies or firms. Invitation to submit Bids will be issued only to Applicants whose identity and/ or constitution is identical to that at pre-qualification;

(c) in responding to the pre-qualification submissions, Applicants should demonstrate their capabilities in accordance with Clause 3.1 below; and

(d) in case the Applicant is a Consortium, each Member should substantially satisfy the pre-qualification requirements to the extent specified herein.

2.2.11 While Qualification is open to persons from any country, the following provisions shall apply:

(a) Where, on the date of the Application, 25% (twenty-five per cent) or more

of the aggregate issued, subscribed, and paid up equity share capital in an Applicant or its Member is held by persons resident outside India or where an Applicant or its Member is controlled by persons resident outside India; or

(b) if at any subsequent stage after the date of the Application, there is an acquisition of 25% (twenty-five per cent) or more of the aggregate issued, subscribed, and paid up equity share capital or control, by persons resident outside India, in or of the Applicant or its Member;

then the Qualification of such Applicant or in the event described in sub clause (b) above, the continued Qualification of the Applicant shall be subject to approval of the Nodal Agency on behalf of the Utility from national security and public interest perspective. The decision of the Nodal Agency on behalf of the Utility in this behalf shall be final and conclusive and binding on the Applicant.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Nodal Agency on behalf of the Utility shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, or any substitute thereof, as in force on the date of such acquisition.

The Applicant shall promptly inform the Nodal Agency on behalf of the Utility of any change in the shareholding, as above, and failure to do so shall render the Applicant liable for disqualification from the Bidding Process.

2.2.12 Notwithstanding anything to the contrary contained herein, in the event that the Application Due Date falls within three months of the closing of the latest financial year of an Applicant, it shall ignore such financial year for the purposes of its Application and furnish all its information and certification with reference to the 5 (five) years or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of an Application hereunder, mean the accounting year followed by the Applicant in the course of its normal business.

2.3 Change in Composition of the Consortium

2.3.1 Change in the composition of a Consortium will not be permitted by the Nodal Agency on behalf of the Utility during the Qualification Stage.

2.3.2 Where the Bidder[9] is a Consortium, change in the composition of a Consortium may be permitted by the Nodal Agency on behalf of the Utility during the Bid Stage, only where:

(a) the application for such change is made no later than 15 (fifteen) days prior to the Bid Due Date; and

(b) the Lead Member continues to be the Lead Member of the Consortium.

(c) the substitute is at least equal, in terms of Technical Capacity, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification criteria for Applicants; and

[9] The option of change in composition of the Consortium which is available under Clause 2.3.2 may be exercised by any Applicant who is pre-qualified either as a Consortium or as a single entity. In the case of a single entity Applicant adding a Consortium Member at the Bid Stage, the single entity Applicant shall be the Lead Member of the Consortium. Provided, however, that no member of such Consortium shall be an Applicant or the member of a Consortium which has been pre-qualified.

(d) the new Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally and is not an Applicant/Member/Associate of any other Consortium bidding for this Project.

2.3.3 Approval for change in the composition of a Consortium shall be at the sole discretion of the Nodal Agency on behalf of the Utility and must be approved by the Utility in writing.

2.3.4 The modified/ reconstituted Consortium shall submit a revised Joint Bidding Agreement before the Bid Due Date.

2.3.5 Notwithstanding anything to the contrary contained in sub-clause (c) (i) of Clause 2.2.1, an Applicant may, within 10 (ten) days after the Application Due Date, remove from its Consortium any Member who suffers from a Conflict of Interest, and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof.

2.4 Number of Applications and costs thereof

2.4.1 No Applicant shall submit more than one Application for the Project. An applicant applying individually or as a member of a Consortium shall not be entitled to submit another Application either individually or as a member of any Consortium, as the case may be.

2.4.2 The Applicants shall be responsible for all of the costs associated with the preparation of their Applications and their participation in the Bid Process. The Utility will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.5 Site visit and verification of information

Applicants are encouraged to submit their respective Applications after familiarizing themselves with the information and physical conditions relevant to the Project, feasibility for co-operation of proposed shared infrastructure as listed in **Appendix-VI**, including the transmission capacity, the site conditions, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them. The site visit shall be followed by brief presentation from the bidders which shall be concluded as per timeline outlined in Clause 1.3. Nodal Agency on behalf of the Utility seeks necessary input and observations as well as any additional relevant points, during the presentation following the site visit.

2.6 Acknowledgement by Applicant

2.6.1 It shall be deemed that by submitting the Application, the Applicant has:

(a) made a complete and careful examination of the RFQ - DBFOO; and

(b) received all relevant information requested from the Nodal Agency on behalf of the Utility; and

(c) accepted the risk of inadequacy, error or mistake in the information provided in the RFQ - DBFOO or furnished by or on behalf of the Nodal Agency on behalf of the Utility relating to any of the matters referred to in Clause 2.5 above; and

(d) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.6.2 The Nodal Agency on behalf of the Utility shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFQ - DBFOO or the Bidding Process, including any error or mistake therein or in any information or data given by the Utility.

2.7 Right to accept or reject any or all Applications/ Bids

2.7.1 Notwithstanding anything contained in this RFQ - DBFOO, the Nodal Agency on behalf of the Utility reserves the right to accept or reject any Application and to annul the Bidding Process and reject all Applications/ Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore. In the event that the Nodal Agency on behalf of the Utility rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.7.2 The Nodal Agency on behalf of the Utility reserves the right to reject any Application and/ or Bid if:

(a) at any time, a material misrepresentation is made or uncovered, or
(b) the Applicant does not provide, within the time specified by the Nodal Agency on behalf of the Utility, the supplemental information sought by the Nodal Agency on behalf of the Utility for evaluation of the Application.

If the Applicant/Bidder is a Consortium, then the entire Consortium may be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified/ rejected, then the Nodal Agency on behalf of the Utility reserves the right to:

a) invite the remaining Bidders to match the Lowest Bidder/ submit their Bids in accordance with the RFP-DBFOO; or
b) take any such measure as may be deemed fit in the sole discretion of the Nodal Agency on behalf of the Utility, including annulment of the Bidding Process.

2.7.3 In case it is found during the evaluation or at any time before signing of the PSA-DBFOO or after its execution and during the period of subsistence thereof, including the contract thereby granted by the Nodal Agency on behalf of the Utility ,that one or more of the pre- qualification conditions have not been met by the Applicant, or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Supplier either by issue of the LOA or entering into of the PSA-DBFOO, and if the Applicant/SPV has already been issued the LOA or has entered into the PSA-DBFOO, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQ - DBFOO, be liable to be terminated, by a communication in writing by the Nodal Agency to the Applicant, without the Nodal Agency on behalf of the Utility being liable in any manner whatsoever to the Applicant and without prejudice to any other right or remedy which the Nodal Agency on behalf of the Utility may have under this RFQ - DBFOO , the Bidding Documents, the PSA-DBFOO or under applicable law.

2.7.4 The Nodal Agency on behalf of the Utility reserves the right to verify all statements, information and documents submitted by the Applicant in response to the RFQ - DBFOO. Any such verification or lack of such verification by the Nodal Agency on behalf of the Utility shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Nodal Agency on behalf of the Utility thereunder.

B. DOCUMENTS

2.8 Contents of the RFQ - DBFOO

This RFQ - DBFOO comprises the glossary; disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.10.

Invitation for Qualification

Section 1. Introduction
Section 2. Instructions to Applicants
Section 3. Criteria for Evaluation
Section 4. Fraud & Corrupt Practices
Section 5. Pre-Application Conference
Section 6. Miscellaneous

Appendices

I. Letter comprising the Application
II. Power of Attorney for signing of Application
III. Power of Attorney for Lead Member of Consortium
IV. Joint Bidding Agreement for Consortium
V. Guidelines of the Department of Disinvestment
VI. Information Memorandum
VII. Details of Allocated Coal Linkage
VIII. E- Reverse Bidding Steps to be Followed.
IX. WBSEDCL Requisite Details for Payment of Fees

2.9 Clarifications

2.9.1 Applicants requiring any clarification on the RFQ - DBFOO may notify the Nodal Agency in writing by speed post/ courier/ special messenger / by e-mail attaching the queries in Microsoft word file in accordance with Clause 1.2.10. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3. The Nodal Agency on behalf of Utility shall endeavor to respond to the queries within the period specified therein, but no later than 7 (seven) days prior to the Application Due Date. The responses will be sent by e-mail. The Nodal Agency on behalf of Utility will forward all the queries and its responses thereto, to all purchasers of the RFQ - DBFOO without identifying the source of queries.

2.9.2 The Nodal Agency on behalf of the Utility shall endeavour to respond to the questions raised or clarifications sought by the Applicants. However, the Nodal Agency on behalf of the Utility reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Nodal Agency on behalf of the Utility to respond to any

question or to provide any clarification.

2.9.3 The Nodal Agency on behalf of the Utility may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Applicants. All clarifications and interpretations issued by the Nodal Agency on behalf of the Utility shall be deemed to be part of the RFQ - DBFOO. Verbal clarifications and information given by Nodal Agency on behalf of the Utility or its employees or representatives shall not in any way or manner be binding on the Nodal Agency/Utility.

2.10 Amendment of RFQ - DBFOO

2.10.1 At any time prior to the deadline for submission of Application, the Nodal Agency on behalf of the Utility may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFQ - DBFOO by the issuance of Addenda.

2.10.2 Any Addendum thus issued will be sent in writing to all those who have purchased the RFQ - DBFOO.

2.10.3 In order to afford the Applicants a reasonable time for taking an Addendum into account, or for any other reason, the Nodal Agency on behalf of the Utility may, in its sole discretion, extend the Application Due Date[10].

C. PREPARATION AND SUBMISSION OF APPLICATION

2.11 Language

The Application and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Applicant with the Application may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the Applicant. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Application, the English language translation shall prevail.

2.12 Format and signing of Application

2.12.1 The Applicant shall provide all the information sought under this RFQ - DBFOO. The Nodal Agency on behalf of the Utility will evaluate only those Applications that are received in the required formats and complete in all respects. Incomplete and /or conditional Applications shall be liable to rejection.

2.12.2 The Applicant shall prepare 1 (one) original set of the Application (together with the documents required to be submitted pursuant to this RFQ - DBFOO) and clearly marked as “ORIGINAL”.

2.12.3 The Application shall be typed or written in indelible ink it shall be signed by the authorized signatory of the Applicant who shall also initial each page of the Application (including each Appendix and Annex) in blue ink. In case of printed and published documents, only the cover shall be initialed. All the alterations, omissions, additions, or any other amendments made to the Application shall be initialed by the person(s) signing the Application. The Application shall contain page numbers and shall be bound together in a manner that does not allow replacement of any page.

[10] While extending the Application Due Date on account of an addendum, the Utility shall have due regard for the time required by Bidders to address the amendments specified therein. In the case of significant amendments, at least 15 (fifteen) days shall be provided between the date of amendment and the Application Due Date, and in the case of minor amendments, at least 7 (seven) days shall be provided.

2.13 Sealing and Marking of Applications

2.13.1 The Applicant shall submit the Application in the format specified at Appendix-I, together with the documents specified in Clause 2.13.2, and seal it in an envelope and mark the envelope as "APPLICATION". The envelope shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.13.2 and 2.13.3.

2.13.2 The envelope shall contain:

i. Application in the prescribed format (Appendix-I) along with Annexes and supporting documents;
ii. Power of Attorney for signing the Application as per the format at Appendix-II;
iii. if applicable, the Power of Attorney for Lead Member of Consortium as per the format at Appendix-III;
iv. copy of the Joint Bidding Agreement, in case of a Consortium, substantially in the format at Appendix-IV;
v. copy of Memorandum and Articles of Association, if the Applicant is a body corporate, and if a partnership then a copy of its partnership deed;
vi. copies of Applicant's duly audited balance sheet and profit and loss account for the preceding five years; and If the Applicant is a Consortium, the duly audited balance sheets and profit and loss accounts for the preceding five completed financial years for all Consortium Members must be provided.
vii. The copy of the receipt for payment of the cost of RFQ-DBFOO.

The envelope shall clearly bear the following identification: **"Application for Qualification for Setting Up New 2x800 MW Supercritical / Ultra Supercritical Thermal Power Plant Unit".**
and shall clearly indicate the name and address of the Applicant. In addition, the Application Due Date should be indicated on the right-hand corner of ~~each of~~ the envelope.

2.13.3 The envelope shall be addressed to:

ATTN. OF:	Shri Pralay Majumdar
DESIGNATION:	Additional Secretary, Department of Power
ADDRESS:	Bidyut Unnayan Bhavan 3/C, LA Block, 5th & 6th Floor, Sector-III, Salt Lake City, Kolkata- 700 106
Telephone NO:	(033) 2339-3629
E-MAIL ADDRESS:	js2powerwb@gmail.com

These hard copies must arrive at the aforementioned address within 10 days of the Application's opening, as specified in Clause 1.3 of this RFQ. Applicants are advised that if there is any discrepancy between the documents uploaded online to the **TCIL portal** and the hard copies submitted in accordance with Clause 2.13.3, the online documents will take precedence.

2.13.4 If the Application is not uploaded and digitally signed as instructed above the Nodal Agency on behalf of the Utility assumes no responsibility for the misplacement or premature opening of the contents of the Application and consequent losses, if any, suffered by the Applicant.

2.13.5 Applications submitted by fax or e-mail shall not be entertained and shall be rejected. After uploading of the Applications to the **TCIL portal** as per the RFQ and digitally signing it, the same must be duly submitted in the portal.

2.14 Application Due Date

2.14.1 Applications should be submitted **latest by 12:00 hours IST** on the Application Due Date, at the address provided in Clause 2.13.3 in the manner and form as detailed in this RFQ - DBFOO. A receipt thereof should be obtained from the person specified in Clause 2.13.3.

2.14.2 The Nodal Agency on behalf of the Utility may, in its sole discretion, extend the Application Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Applicants.

2.15 Late Applications

Applications received by the Nodal Agency on behalf of the Utility after the specified time on the Application Due Date shall not be eligible for consideration and shall be summarily rejected.

2.16 Modifications/ substitution/ withdrawal of Applications

2.16.1 The Applicant may modify, substitute, or withdraw its Application after submission, provided that written notice of the modification, substitution or withdrawal is received by the Nodal Agency on behalf of the Utility prior to the Application Due Date. No Application shall be modified, substituted, or withdrawn by the Applicant on or after the Application Due Date.

2.16.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.13, with the envelopes being additionally marked “MODIFICATION”, “WITHDRAWAL”, as appropriate.

2.16.3 Any alteration/ modification in the Application or additional information supplied subsequent to the Application Due Date, unless the same has been expressly sought for by the Nodal Agency on behalf of the Utility, shall be disregarded.

D. EVALUATION PROCESS

2.17 Opening and Evaluation of Applications

2.17.1 The Nodal Agency on behalf of the Utility shall open the Applications on **TCIL portal at 14:00 hours IST** on the Application Due Date.

2.17.2 Applications for which a notice of withdrawal has been submitted in accordance with Clause 2.16 shall not be opened and payments if any made shall be non-refundable in accordance with Clause 1.2.2.

2.17.3 The Nodal Agency on behalf the Utility will subsequently examine and evaluate Applications in accordance with the provisions set out in Section 3.

2.17.4 Applicants are advised that pre-qualification of Applicants will be entirely at the

discretion of the Nodal Agency on behalf the Utility. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.

2.17.5 Any information contained in the Application shall not in any way be construed as binding on the Nodal Agency on behalf of the Utility, its agents, successors or assigns, but shall be binding against the Applicant if the Project is subsequently awarded to it on the basis of such information.

2.17.6 The Nodal Agency on behalf of the Utility reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Application(s) without assigning any reasons.

2.17.7 If any information furnished by the Applicant is found to be incomplete, or contained in formats other than those specified herein, the Nodal Agency on behalf of the Utility may, in its sole discretion, exclude the relevant project from computation of the Experience Score of the Applicant.

2.17.8 In the event that an Applicant claims credit for an Eligible Project, and such claim is determined by the Nodal Agency on behalf of the Utility as incorrect or erroneous, the Nodal Agency on behalf of the Utility shall reject such claim and exclude the same from computation of the Experience Score, and may also, while computing the aggregate Experience Score of the Applicant, make a further deduction equivalent to the claim rejected hereunder. Where any information is found to be patently falser amounting to a material misrepresentation, the Nodal Agency on behalf of the Utility reserves the right to reject the Application and/ or Bid in accordance with the provisions of Clauses 2.7.2 and 2.7.3.

2.18 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the pre-qualified Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Nodal Agency on behalf of the Utility in relation to, or matters arising out of, or concerning the Bidding Process. The Nodal Agency on behalf of the Utility will treat all information, submitted as part of Application, in confidence and will require all those who have access to such material to treat the same in confidence. The Nodal Agency on behalf of the Utility may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Nodal Agency on behalf of the Utility or as may be required by law or in connection with any legal process.

2.19 Tests of responsiveness

2.19.1 Prior to evaluation of Applications, the Nodal Agency on behalf of the Utility shall determine whether each Application is responsive to the requirements of the RFQ - DBFOO. An Application shall be considered responsive if:

a) it is uploaded on TCIL portal as per format at Appendix-I.
b) it is uploaded on TCIL portal received by the Application Due Date including any extension thereof pursuant to Clause 2.14.2;

c) it is signed, sealed, bound together in hard cover, and marked as stipulated in Clauses 2.12 and 2.13;
d) it is accompanied by the Power of Attorney as specified in Clause 2.2.5, and in the case of a Consortium, the Power of Attorney as specified in Clause 2.2.6 (c);
e) it contains all the information and documents (complete in all respects) as requested in this RFQ - DBFOO;
f) it contains information in formats same as those specified in this RFQ - DBFOO;
g) it contains certificates from its statutory auditors[11] in the formats specified at Appendix-I of the RFQ - DBFOO for each Eligible Project;
h) it contains an attested copy of the receipt of the Utility towards the cost of the RFQ - DBFOO process as specified in Clause 1.2.1;
i) it is accompanied by the Joint Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.2.6(g);
j) it does not contain any condition or qualification; and
k) it is not non-responsive in terms hereof.

2.19.2 The Nodal Agency Nodal Agency on behalf of the Utility reserves the right to reject any Application which is non-responsive and no request for alteration, modification, substitution, or withdrawal shall be entertained by the Nodal Agency on behalf of the Utility in respect of such Application. Provided, however, that the Nodal Agency on behalf of the Utility may, in its discretion, allow the Applicant to rectify any infirmities or omissions if the same do not constitute a material modification of the Application by submission of the information, clarification and documents directly to the Nodal Agency on behalf of the Utility as requested in writing by the Nodal Agency on behalf of the Utility in terms of Clause 2.20 of RFQ-DBFOO.

2.20 Clarifications

2.20.1 To facilitate evaluation of Applications, the Nodal Agency on behalf of the Utility may, at its sole discretion, seek clarifications from any Applicant regarding its Application. Such clarification(s) shall be provided within the time specified by the Nodal Agency on behalf of the Utility for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.20.2 If an Applicant does not provide clarifications sought under Clause 2.20.1 above within the prescribed time, its Application shall be liable to be rejected. In case the Application is not rejected, the Nodal Agency on behalf of the Utility may proceed to evaluate the Application by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Nodal Agency on behalf of the Utility.

E. QUALIFICATION AND BIDDING

2.21 Notification of prequalified Applicants

After the evaluation of Applications, the Nodal Agency on behalf of the Utility would announce a list of pre-qualified Applicants (Bidders) who will be eligible for participation in the Bid Stage on the **TCIL portal**. The Nodal Agency on behalf of the Utility would notify the pre-qualified Applicants asking to remit the required amount within a week as the cost of procuring the RFP-DBFOO documents. At the

[11] In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.19.1 (g). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant may provide the certificates required under this RFQ-DBFOO.

same time, the Nodal Agency on behalf of the Utility would notify the other Applicants that they have not been pre-qualified. The Nodal Agency on behalf of the Utility will not entertain any query or clarification from Applicants who fail to qualify.

2.22 Submission of Bids

The Bidders will be requested to submit their Bids in the form and manner to be set out in the Bidding Documents.
Only pre-qualified Applicants shall be invited by the Nodal Agency on behalf of the Utility to submit their Bids for the Project. The Nodal Agency on behalf of the Utility is likely to provide a comparatively short time span for submission of the Bids for the Project. The Applicants are therefore advised to examine the Bidding Documents, and to carry out such scrutiny and studies as may be required for submitting their respective Bids for award of the Project. No extension of time is likely to be considered for submission of Bids pursuant to invitation that may be issued by the Nodal Agency on behalf of the Utility.

2.23 Proprietary data

All documents and other information supplied by the Nodal Agency on behalf of the Utility or submitted by an Applicant to the Nodal Agency on behalf of the Utility shall remain or become the property of the Nodal Agency on behalf of the Utility. Applicants are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Application. The Nodal Agency on behalf of the Utility will not return any Application or any information provided along therewith.

2.24 Correspondence with the Applicant

Save and except as provided in this RFQ - DBFOO, the Nodal Agency on behalf of the Utility shall not entertain any correspondence with any Applicant in relation to the acceptance or rejection of any Application.

3. CRITERIA FOR EVALUATION

3.1 Evaluation parameters

3.1.1 Only those Applicants who meet the eligibility criteria specified in Clause 2.2.2 above shall qualify for evaluation under this Section 3. Applications of firms/ consortia who do not meet these criteria shall be rejected.

3.1.2 The Applicant's competence and capability is proposed to be established by the following parameters:

(a) Technical Capacity; and

(b) Financial Capacity

3.2 Technical Capacity for purposes of evaluation

3.2.1 Subject to the provisions of Clause 2.2, the following categories of experience would qualify as Technical Capacity and eligible experience (the **"Eligible Experience"**) in relation to eligible projects as stipulated in Clauses 3.2.3 and 3.2.4 (the **"Eligible Projects"**):

Category 1: Project experience on Eligible Projects in power sector that qualify under Clause 3.2.3
Category 2: Project experience on Eligible Projects in core sector that qualify under Clause 3.2.3
Category 3: Construction experience on Eligible Projects in power sector that qualify under Clause 3.2.4
Category 4: Construction experience on Eligible Projects in core sector that qualify under Clause 3.2.4

For the purpose of this RFQ - DBFOO:
(i) power sector would be deemed to include generation, transmission, and distribution of electricity; and
(ii) core sector would be deemed to include coal mining, telecom, ports, airports, railways, metro rail, highways and bridges, industrial parks/ estates, logistic parks, pipelines, irrigation, water supply, sewerage, and real estate development.[$]

3.2.2 Eligible Experience in respect of each category shall be measured only for Eligible Projects.

3.2.3 For a project to qualify as an Eligible Project under Category 1 and 2:

a) It should have been undertaken as a project on BOT, BOLT, BOO, BOOT, or other similar basis for providing its output or services to a public sector entity or for providing non-discriminatory access to users in pursuance of its concession or contract, as the case may be. For the avoidance of doubt, a project which constitutes

[$] Real estate development shall not include residential flats unless they form part of a real estate complex or township which has been built by the Applicant.

a natural monopoly such as an airport or port should normally be included in this category even if it is not based on a long-term agreement with a public entity;

b) the entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 26% (twenty-six per cent) equity during the entire year for which Eligible Experience is being claimed;

c) the capital cost of the project should be more than Rs. 2000 crore (Rupees Two Thousand Crore) and

d) the entity claiming experience shall, during the last 5 (five) financial years preceding the Application Due Date, have (i) paid for development of the project (excluding the cost of land), and/or (ii) collected and appropriated the revenues from users availing of non-discriminatory access to or use of fixed project assets, such as revenues from transmission/distribution systems, highways, airports, ports and railway infrastructure, and/or (iii) collected and appropriated the revenues from sale of electricity produced by it, but shall not include revenues from sale or provision of goods or services such as, gas, petroleum products, telecommunications or fare/freight revenues and other incomes of the company owning the Project or revenues from sale of electricity by a distribution company.

3.2.4 For a project to qualify as an Eligible Project under Category 3 and 4, the Applicant should have paid for execution of its construction works or received payments from its client(s) for construction works executed, fully or partially, during the 5 (five) financial years immediately preceding the Application Due Date, and only the payments (gross) actually made or received, as the case may be, during such 5 (five) financial years shall qualify for purposes of computing the Experience Score. However, payments/receipts of less than Rs.2000 crore (Rupees Two Thousand Crore) shall not be reckoned as payments/receipts for Eligible Projects. For the avoidance of doubt, construction works shall not include supply of goods or equipment except when such goods or equipment form part of a turn- key construction contract/ EPC contract for the project. Further, the cost of land shall not be included hereunder.

3.2.5 The Applicant shall quote experience in respect of a particular Eligible Project under any one category only, even though the Applicant (either individually or along with a member of the Consortium) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.

3.2.6 Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.

3.3 Details of Experience

3.3.1 The Applicant should furnish the details of Eligible Experience for the last 5 (five) financial years immediately preceding the Application Due Date.

3.3.2 The Applicants must provide the necessary information relating to Technical Capacity as per format at **Annex-II of Appendix-I.**

3.3.3 The Applicant should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity, as per format at **Annex-IV of Appendix-I.**

3.4 Financial information for purposes of evaluation

3.4.1 The Application must be accompanied by the Audited Annual Reports of the Applicant (of each Member in case of a Consortium) for the last 5 (five) financial years, preceding the year in which the Application is made.

3.4.2 In case the annual accounts for the latest financial year are not audited and therefore the Applicant cannot make it available, the Applicant shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Applicant shall provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.

3.4.3 The Applicant must establish the minimum Net Worth specified in Clause 2.2.2 (B), and provide details as per format at **Annex-III of Appendix-I**.

3.5 Pre-Qualification of Applicants

3.5.1 The credentials of eligible Applicants shall be measured in terms of their Experience. The sum total of the Experience for all Eligible Projects shall be the "Aggregate Experience" of a particular Applicant. In case of a Consortium, the Aggregate Experience of each of its Members, who have an equity share of at least 26% in such Consortium, shall be summed up for arriving at the combined Aggregate Experience of the Consortium. The Applicants who are fulfilling the requirements of the RFQ - DBFOO subject to the provisions under clause 2.7 of RFQ - DBFOO will be pre-qualified by the Nodal Agency on behalf of the Utility.

4. FRAUD AND CORRUPT PRACTICES

4.1 The Applicants and their respective officers, employees, agents, and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Nodal Agency on behalf of Utility may reject an Application without being liable in any manner whatsoever to the Applicant if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.

4.2 Without prejudice to the rights of the Nodal Agency on behalf of the Utility under Clause 4.1 hereinabove, if an Applicant is found by the Nodal Agency and/ Utility to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, such Applicant shall not be eligible to participate in any tender issued by the Nodal Agency and / the Utility during a period of 2 (two) years from the date such Applicant is found by the Nodal Agency and /Utility to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.

4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:

(a) **"corrupt practice"** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the Nodal Agency and the Utility who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the PSA- DBFOO or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Nodal Agency and/ Utility, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under sub clause (d) of Clause 2.2.1, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the PSA-DBFOO, as the case may be, any person in respect of any matter relating to the Project or the LOA or the PSA-DBFOO, who at any time has been or is a legal, financial or technical adviser of the Nodal Agency and/ the Utility in relation to any matter concerning the Project ;

(b) **"fraudulent practice"** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;

(c) **"coercive practice"** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;

(d) **"undesirable practice"** means (i) establishing contact with any person connected with or employed or engaged by the Nodal Agency and / the Utility with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

(e) **"restrictive practice"** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

5. PRE-APPLICATION CONFERENCE

5.1 A Pre-Application conference of the interested parties shall be convened at the designated date, time, and place. Only those persons who have purchased the RFQ - DBFOO document shall be allowed to participate in the Pre- Application conference. Applicants who have downloaded the RFQ - DBFOO document from **the Nodal Agency** website (https://wbpower.gov.in/) **Utility's website (**www.wbsedcl.in/) / The WBPDCL's website (https://www.wbpdcl.co.in/) should submit a Demand Draft / Online transaction for the amount specified in Clause 1.2.1 towards the cost of RFQ - DBFOO process through their representative attending the conference. A maximum of three representatives of each Applicant shall be allowed to participate on production of authority letter from the Applicant.

5.2 During the course of Pre-Application conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Nodal Agency on behalf of the Utility. The Nodal Agency on behalf of the Utility shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent, and competitive Bidding Process.

6. MISCELLANEOUS

6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts in the State in which the Nodal Agency and Utility has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

6.2 The Nodal Agency on behalf of the Utility, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

(a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;

(b) consult with any Applicant in order to receive clarification or further information;

(c) pre-qualify or not to pre-qualify any Applicant and/ or to consult with any Applicant in order to receive clarification or further information;

(d) retain any information and/ or evidence submitted to the Nodal Agency on behalf of the Utility by, on behalf of, and/ or in relation to any Applicant; and/ or

(e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Applicant.

6.3 It shall be deemed that by submitting the Application, the Applicant agrees and releases the Nodal Agency and the Utility, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

Appendices

<u>Appendix</u> I

Letter Comprising the Application for Pre-Qualification

(Refer Clause 2.13.2)

Dated

To,
The
…….
……

Sub: Application for pre-qualification for "Setting Up New 2x800 MW Supercritical / Ultra Supercritical Thermal Power Plant Unit" Project

Dear Sir,

1. With reference to your RFQ - DBFOO document dated …, I/we, having examined the RFQ - DBFOO document and understood its contents, hereby submit my/our Application for Qualification for the aforesaid project. The Application is unconditional and unqualified.

2. I/ We acknowledge that the Nodal Agency on behalf of the Utility will be relying on the information provided in the Application and the documents accompanying such Application for pre- qualification of the Applicants for the aforesaid project, and we certify that all information provided in the Application and in Annexes I to VI is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.

3. This statement is made for the express purpose of qualifying as a Bidder for the development, construction, operation, and maintenance of the aforesaid Project and for sale of power to the Utility.

4. I/ We shall make available to the Nodal Agency on behalf of the Utility any additional information it may find necessary or require to supplement or authenticate the Qualification statement.

5. I/ We acknowledge the right of the Nodal Agency on behalf of the Utility to reject our Application without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

7. I/ We declare that:
   a. I/ We have examined and have no reservations to the RFQ - DBFOO document, including any Addendum issued by the Nodal Agency on behalf of the Utility;

b. I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) and 2.2.1(d) of the RFQ - DBFOO document;
c. I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFQ - DBFOO document, in respect of any tender or request for proposal issued by or any agreement entered into with the Nodal Agency on behalf of the Utility or any other public sector enterprise or any government, Central or State; and
d. I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFQ - DBFOO document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice, or restrictive practice.

8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Application that you may receive nor to invite the Applicants to Bid for the Project, without incurring any liability to the Applicants, in accordance with Clause 2.17.6 of the RFQ - DBFOO document.

9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(s) the Net Worth criteria and meet(s) all the requirements as specified in the RFQ - DBFOO document and are/ is qualified to submit a Bid.

10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium applying for pre-qualification.

11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.

12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by Court of Law or by any agency of the Government.

13.

(A) I/ We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Consortium or against our/ their Associates or against our CEO or any of our directors/ managers/employees[12] **have not been convicted for any offence(s) under IPC&/ BNS (effective from 1st July 2024) for which the minimum period of imprisonment is two years or more.**

(B) I/we certify that in the last 3 (three) years from the Application Due Date, I/we have neither failed to perform on any contract, as evidenced by imposition of a penalty by judicial authority or a judicial pronouncement against us/ any Member of Consortium or our/their Associates, nor have been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such us/ any Member of Consortium or our/their Associates.

[12] In case the Applicant is unable to provide the certification specified in para 13, it may precede the paragraph by the words, viz. "Except as specified in Schedule **** hereto". The exceptions to the certification or any disclosures relating thereto may be clearly stated in a Schedule to be attached to the Application. The Utility will consider the contents of such Schedule and determine whether or not the exceptions/disclosures are of a nature that could cast a doubt on the ability or suitability of the Applicant to undertake the Project.

14. I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GOI vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply *mutatis mutandis* to the Bidding Process. A copy of the aforesaid guidelines forming part of the RFQ - DBFOO at Appendix-V is enclosed.

15. I/We further certify that we/ any Member of the Consortium or any of our/ their Associates are not barred by the Central Government/ State Government or any entity controlled by it, from participating in any project (BOT or otherwise), and no bar subsists as on the date of Application.

16. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFQ - DBFOO, we shall intimate the Nodal Agency on behalf of the Utility of the same immediately.

17. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-I of the RFQ - DBFOO document, and duly signed, is enclosed. The power of attorney for signing of Application and the power of attorney for Lead Member of consortium, as per format provided at Appendix II and III respectively of the RFQ - DBFOO, are also enclosed.

18. I/ We understand that the selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/2013, or shall incorporate as such prior to execution of the PSA-DBFOO.

19. I/ We hereby confirm that we are in compliance of/ shall comply with the O&M requirements specified in Clause 2.2.3.

20. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Nodal Agency on behalf of the Utility in connection with the selection of Applicants, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

21. I/ We agree and undertake to abide by all the terms and conditions of the RFQ-DBFOO document.

22. I/We offer "Setting Up New 2x800 MW Supercritical / Ultra Supercritical Thermal Power Plant Unit" given under clause 1.1 of the RFQ - DBFOO and supply power thereof from this plant as per terms and conditions of the RFQ-DBFOO.

23. I/ We certify that in terms of the RFQ - DBFOO, my/our Net worth is Rs. … crore (Rupees … crore).

24. I/ We certify that in terms of the RFQ - DBFOO, my/our Threshold Technical Capacity under clause 2.2.2 (A) of the RFQ - DBFOO is Rs … crore (Rupees…crore).

25. I/We agree and undertake to be jointly and severally liable for all the obligations

of the Supplier under the PSA-DBFOO till occurrence of Financial Close in accordance with the PSA-DBFOO.

In witness thereof, I/ we submit this application under and in accordance with the terms of the RFQ - DBFOO document.

Yours faithfully,

Date: (Signature, name, and designation of the Authorised Signatory)

Place: Name and seal of the Applicant/ Lead Member

ANNEX-I

Details of the Applicant

1. (a) Name:
   (b) Country of incorporation:
   (c) Address of the corporate headquarters and its branch office(s):
   (d) Date of incorporation and/ or commencement of business:

2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:

3. Particulars of individual(s) who will serve as the point of contact/ communication for the Applicant:

   (a) Name:
   (b) Designation:
   (c) Company:
   (d) Address:
   (e) Telephone Number:
   (f) E-Mail Address:
   (g) Fax Number:

4. Particulars of the Authorised Signatory of the Applicant:

   (a) Name:
   (b) Designation:
   (c) Address:
   (d) Phone Number:
   (e) Fax Number:

5. In case of a Consortium:
   (a) The information above (1-4) should be provided for all the Members of the Consortium.
   (b) A copy of the Joint Bidding Agreement, as envisaged in Clause 2.2.6(g) should be attached to the Application.
   (c) Information regarding the role of each Member should be provided as per table below:

Sl. No.	**Name of Member**	**Role*** {Refer Clause 2.2.6(d)}[13]	**Percentage of equity in the Consortium** {Refer Clauses 2.2.6(a), (c) & (g)}
1.			
2.			
3.			
4.			

* The role of each Member, as may be determined by the Applicant, should be indicated in accordance with instruction 4 at Annex-IV.

6. The following information shall also be provided for the Applicant, including

[13] All provisions contained in curly parenthesis shall be suitably modified by the Applicant to reflect the particulars relating to such Applicant.

each Member of the Consortium:
Name of Applicant/ member of Consortium:

Sl. No.	Criteria	Yes	No
1.	Has the Applicant/ constituent of the Consortium been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise)?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Application?		
3.	Has the Applicant/ constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalized due to any other reason in relation to execution of a contract, in the last three years?		

7. A statement by the Applicant and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary):

ANNEX-II

Technical Capacity of the Applicant@

(*Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the RFQ - DBFOO)*

Applicant type #	***Member Code****	***Project Code*****	***Cate-gory$***	***Eligible Experience¥*** *(Equivalent Rs. crore)$$*			***Experience*** *(In Rs. Crore)*
(1)	*(2)*	*(3)*	*(4)*	Payments made/ received for construction of Eligible Projects in Categories 3 and 4 *(5)*	Payments made for development of Eligible Projects in Categories 1 and 2 *(6)*	Revenues appropriated from Eligible Projects in Categories 1 and 2 *(7)*	*(8)*
Single entity Applicant		a					
		b					
		c					
		d					
Consortium Member 1		1a					
		1b					
		1c					
		1d					
Consortium Member 2		2a					
		2b					
		2c					
		2d					
Consortium Member 3		3a					
		3b					
		3c					
		3d					
Consortium Member 4		4a					
		4b					
		4c					
		4d					
						Aggregate Experience =	

[@] *Provide details of only those projects that have been undertaken by the Applicant under its own name and/ or by an Associate specified in Clause 2.2.9 and/ or by a project company eligible under Clause 3.2.3(b). In case of Categories 1 and 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 3.2.3(c) and for Categories 3 and 4, include only those projects where the payments made/received exceed the amount specified in Clause 3.2.4. In case the Application Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.*

[#] *An Applicant consisting of a single entity should fill in details as per the row titled Single entity Applicant and ignore the rows titled Consortium Member. In case of a Consortium, the row titled Single entity Applicant may be ignored. In case credit is claimed for an Associate, necessary evidence to establish the relationship of the Applicant with such Associate, in terms of Clause 2.2.9, shall be provided.*

** Member Code shall indicate NA for Not Applicable in case of a single entity Applicant. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member, OM means Other Member.*

***Refer Annex-IV of this Appendix-I. Add more rows if necessary.*

[$] *Refer Clause 3.2.1.*

[¥] *In the case of Eligible Projects in Categories 1 and 2, the figures in columns 6 and 7 may be added for computing the Experience Score of the respective projects. In the case of Categories 3 and 4, construction shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. In no case shall the cost of land be included while computing the Experience Score of an Eligible Project.*

[$$] *For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees [60(sixty] to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Application Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.*

ANNEX-III

Financial Capacity of the Applicant

(*Refer to Clauses 2.2.2(B), 2.2.4 (ii) and 3.4 of the RFQ - DBFOO*)

(In Rs. crore[$])

Applicant type[$$]	**Member Code[£]**	**Net Worth[€]**
(1)	(2)	(3)
Single entity Applicant		
Consortium Member 1		
Consortium Member 2		
Consortium Member 3		
Consortium Member 4		
TOTAL		

Name & address of Applicant's Banker:

S. No.	**Name of the Banker**	**Address and Contact Details of the Banker**

We, hereby authorize, Nodal Agency and / WBSEDCL, to seek feedback from our Bankers with regard to our Financial Capacity and any other information as the Nodal Agency and/ WBSEDCL may require for the purpose of evaluation of this Application.

Date:

(Signature, Name and Designation of the Authorised Signatory)

Name and seal of the Applicant/ Lead Member

Place:

[$] For conversion of other currencies into rupees, see note below Annex-II of Appendix-I

[£] For Member Code, see instruction 4 at Annex-IV of this Appendix-I.

[€] The Applicant should provide details of its own Financial Capacity or of an Associate specified in Clause 2.2.9.

[$$] An Applicant consisting of a single entity should fill in details as per the row titled Single entity Applicant and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Applicant may be ignored.

Instructions:

1. The Applicant/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements, and Annual Reports for 5 (five) years preceding the Application Due Date. The financial statements shall:

   (a) reflect the financial situation of the Applicant or Consortium Members and its/ their Associates where the Applicant is relying on its Associate's financials;

   (b) be audited by a statutory auditor;

   (c) be complete, including all notes to the financial statements; and

   (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

2. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).

3. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Application Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.

4. In the case of a Consortium, a copy of the Joint Bidding Agreement shall be submitted in accordance with Clause 2.2.6 (g) of the RFQ - DBFOO document.

5. The Applicant shall provide an Auditor's Certificate specifying the net worth of the Applicant and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.4 (ii) of the RFQ - DBFOO document.

ANNEX-IV

Details of Eligible Projects

(*Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the RFQ - DBFOO)*

Project Code: **Member Code:**

Item (1)	**Refer Instruction** (2)	**Particulars of the Project** (3)
Title & nature of the project		
Category	5	
Year-wise (a) payments received/ made for construction, (b) payments made for development of PPP projects and/ or(c) revenues appropriated	6	
Entity for which the project was constructed/ developed	7	
Location		
Project cost	8	
Date of commencement of project/ contract		
Date of completion/ Commissioning	9	
Equity shareholding (with period during which equity was held)	10	
Whether credit is being taken for the Eligible Experience of an Associate (Yes/ No)	15	

Instructions:

1 Applicants are expected to provide information in respect of each Eligible Project in this Annex. The projects cited must comply with the eligibility criteria specified in Clause 3.2.3 and 3.2.4 of the RFQ - DBFOO, as the case may be. Information provided in this section is intended to serve as a backup for information provided in the Application. Applicants should also refer to the Instructions below.

2 For a single entity Applicant, the Project Codes would be a, b, c, d etc. In case the Applicant is a Consortium then for Member 1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and so on.

3 A separate sheet should be filled for each Eligible Project.

4 Member Code shall indicate NA for Not Applicable in case of a single entity Applicant. For other Members, the following abbreviations are suggested viz.

LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member; and OM means Other Member. In case the Eligible Project relates to an Associate of the Applicant or its Member, write "Associate" along with Member Code.

5 Refer to Clause 3.2.1 of the RFQ - DBFOO for category number.

6 The total payments received/ made and/or revenues appropriated for each Eligible Project are to be stated in Annex-II of this Appendix-I. The figures to be provided here should indicate the break-up for the past 5 (five) financial years. Year 1 refers to the financial year immediately preceding the Application Due Date; Year 2 refers to the year before Year 1, Year 3 refers to the year before Year 2, and so on (Refer Clause 2.2.12). For Categories 1 and 2, expenditure on development of the project and/or revenues appropriated, as the case may be, should be provided, but only in respect of projects having an estimated capital cost exceeding the amount specified in Clause 3.2.3(c). In case of Categories 3 and 4, payments made/ received only in respect of construction should be provided, but only if the amount paid/received exceeds the minimum specified in Clause 3.2.4. Payment for construction works should only include capital expenditure and should not include expenditure on repairs and maintenance.

7 In case of projects in Categories 1 and 2, particulars such as name, address, and contact details of owner/ Utility/ Agency (i.e., contract grantor, counter party to PSA-DBFOO, etc.) may be provided. In case of projects in Categories 3 and 4, similar particulars of the client need to be provided.

8 Provide the estimated capital cost of Eligible Project. Refer to Clauses 3.2.3 and 3.2.4.

9 For Categories 1 and 2, the date of commissioning of the project, upon completion, should be indicated. In case of Categories 3 and 4, date of completion of construction should be indicated. In the case of projects under construction, the likely date of completion or commissioning, as the case may be, shall be indicated.

10 For Categories 1 and 2, the equity shareholding of the Applicant, in the company owning the Eligible Project, held continuously during the period for which Eligible Experience is claimed, needs to be given (Refer Clause 3.2.3).

11 Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner whatsoever.

12 Certificate from the Applicant's statutory auditor[14] or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Applicant/ Member/Associate may provide the requisite certification.

[14] In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.

13 If the Applicant is claiming experience under Categories 1 and 2[15], it should provide a certificate from its statutory auditor in the format below:

Certificate from the Statutory Auditor / Practicing Chartered Accountant regarding PPP projects[16]

Based on its books of accounts and other published information authenticated by it, this is to certify that.....*(name of the Applicant/Member/Associate)* is/ was an equity shareholder in …….. *(title of the project company)* and holds/held Rs. …… cr. (Rupees..... crore) of equity (which constitutes.....%[17] of the total paid up and subscribed equity capital) of the project company from …….. *(date)* to.....*(date)*[18]. The project was/is likely to be commissioned on..... *(date of commissioning of the project).*

We further certify that the total capital cost/ estimated capital cost of the project is Rs.....cr. (Rupees ……crore), of which Rs. …… cr. (Rupees.....crore) of capital expenditure was incurred during the past five financial years as per year-wise details noted below:

……
……

We also certify that the eligible annual revenues collected and appropriated by the aforesaid project company in terms of Clauses 3.2.1 and 3.2.3 (d) of the RFQ - DBFOO during the past five financial years were Rs. …… cr. as per year-wise details noted below:

……
……
Name of the audit firm:

Seal of the audit firm:(Signature, name, and designation of the authorized signatory) Date:

[15] Refer Clause 3.2.1 of the RFQ-DBFOO.

[16] Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

[17] Refer instruction no. 10 in this Annex-IV.

[18] In case the project is owned by the Applicant company, this language may be suitably modified to read: "It is certified that …….. (name of Applicant) constructed and/ or owned the …….. (name of project) from …….. (date) to (date)."

14 If the Applicant is claiming experience under Categories 3 and 4[19], it should provide a certificate from its statutory auditors or the client in the format below:

Certificate from the Statutory Auditor/ Practicing Chartered Accountant/ Client regarding construction works[20]

Based on its books of accounts and other published information authenticated by it, {this is to certify that …….. *(name of the Applicant/Member/Associate)* was engaged by …….. *(title of the project company)* to execute …… *(name of project)* for..... *(nature of project)}*[21]. The construction of the project commenced on …….. *(date)* and the project was/ is likely to be commissioned on …… *(date, if any)*. It is certified that.....*(name of the Applicant/ Member/ Associate)* received/paid Rs. …….. cr. (Rupees ..... crore) by way of payment for the aforesaid construction works.

We further certify that the total capital cost / estimated capital cost of the project is Rs. ..... cr. (Rupees ……crore), of which the Applicant/Member/Associate received/paid Rs. …… cr. (Rupees..... crore), in terms of Clauses 3.2.1 and 3.2.4 of the RFQ - DBFOO , during the past five financial years as per year-wise details noted below:

……

……

{It is further certified that the payments/ receipts indicated above are restricted to the share of the Applicant who undertook these works as a partner or a member of joint venture/ consortium.}[22]

Name of the audit firm:

Seal of the audit firm:

(Signature, name, and designation of the authorised signatory).

Date:

[19] Refer Clauses 3.2.1 and 3.2.4 of the RFQ-DBFOO.

[20] Provide Certificate as per this format only. Attach Explanatory notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

[21] In case the Applicant owned the Eligible Project and engaged a contractor for undertaking the construction works, this language may be modified to read: " this is to certify that (name of Applicant/ Member/ Associate) held 26% or more of the paid up and subscribed share capital in the (name of Project company) when it undertook construction of the ……. (name of Project) through (name of the contractor).

[22] This certification should only be provided in case of jobs/ contracts, which are executed as part of a partnership/ joint venture/ consortium. The payments indicated in the certificate should be restricted to the share of Applicant in such partnership/ joint venture/ consortium. This portion may be omitted if the contract did not involve a partnership/ joint venture/ consortium. In case where work is not executed by partnership/ joint venture/ consortium, this paragraph may be deleted.

15 In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.2.9, the Applicant should also provide a certificate in the format below:

Certificate from Statutory Auditor/ Practicing Chartered Accountant / Company Secretary regarding Associate[23]

Based on the authenticated record of the Company, this is to certify that more than 50% (fifty per cent) of the subscribed and paid-up voting equity of ……
(*name of the Applicant/Consortium Member/ Associate*) is held, directly or indirectly[24], by …….. (*name of Associate/ Applicant/ Consortium Member*). By virtue of the aforesaid shareholding, the latter exercises control over the former, who is an Associate in terms of Clause 2.2.9 of the RFQ - DBFOO .

A brief description of the said equity held, directly or indirectly, is given below:

{*Describe the shareholding of the Applicant/ Consortium Member and the Associate. In the event the Associate is under common control with the Applicant/ Consortium Member, the relationship may be suitably described and similarly certified herein* }

Name of the audit firm:

Seal of the audit firm: (Signature, name, and designation of Date: the authorised signatory).

16 It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in computation of Experience Score.[25]

[23] In the event that the Applicant/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified, and copies of the relevant law may be enclosed and referred to.
[24] In the case of indirect shareholding, the intervening companies in the chain of ownership should also be Associates i.e., the shareholding in each such company should be more than 50% in order to establish that the chain of "control" is not broken
[25] Refer Clause 3.2.6 of the RFQ-DBFOO.

ANNEX-V

Statement of Legal Capacity

(To be forwarded on the letterhead of the Applicant/ Lead Member of Consortium)

Ref. Date:

To,

***

***

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the Application) satisfy the terms and conditions laid out in the RFQ - DBFOO document.

We have agreed that … (insert member's name) will act as the Lead Member of our consortium.[26]

We have agreed that … (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf and has been duly authorized to submit the RFQ - DBFOO. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name, and designation of the authorised signatory)

For and on behalf of ….

[26] Please strike out whichever is not applicable.

ANNEX- VI

Particulars of the Proposed Power Station

Omitted as Not Applicable

APPENDIX II

Power of Attorney for signing of Application and Bid[27]

(Refer Clause 2.2.5)

Know all men by these presents, We …. (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint, and authorize Mr./ Ms. (name), …. son/ daughter/ wife of …. and presently residing at …., who is presently employed with us/ the Lead Member of our Consortium and holding the position of …. , as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for pre-qualification and submission of our Bid for "**Setting Up New 2x800 MW Supercritical / Ultra Supercritical Thermal Power Plant Unit**" Project including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in Pre-Applications and other conferences and providing information/ responses to the Utility, representing us in all matters before the Utility, signing and execution of all contracts including the Power Supply Agreement -DBFOO and undertakings consequent to acceptance of our Bid, and generally dealing with the Utility in all matters in connection with or relating to or arising out of our Bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Power Supply Agreement -DBFOO with the Utility.

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

IN WITNESS WHEREOF WE,…, THE ABOVE-NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS … DAY OF …20...

For …

(Signature, name, designation, and address)

Affixation of Common Seal
Witness:
1.
2.

Witnesses:

1.

(Notarised)

2.

[27] To be submitted in original.

Accepted

….

(Signature)

(Name, Title, and Address of the Attorney)

Notes:

1. *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*

2. *Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.*

3. *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued .However, the Power of Attorney provided by Applicants from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX III

Power of Attorney for Lead Member of Consortium[28]

(Refer Clause 2.2.5)

Whereas, Department of Power, Govt. of West Bengal on behalf of West Bengal State Electricity Distribution Company has invited applications from interested parties for the "**New 2x800 MW Supercritical / Ultra Supercritical Thermal Power Plant Unit**" Project.

Whereas, ..., ..., ... and .... (Collectively the "Consortium") being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Qualification-DBFOO document (RFQ - DBFOO), Request for Proposal-DBFOO (RFP-DBFOO) and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds, and things as may be necessary in connection with the Consortium's Bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We,…. having our registered office at ...., M/s….. having our registered office at …., M/s. …. having our registered office a t …., and having our registered office at ….,(hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint, and authorize M/S …. having its registered office at….,being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney"). We hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the Bidding Process and, in the event the Consortium is awarded the contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Consortium and submission of its Bid for the Project, including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in Bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the Bid of the Consortium and generally to represent the Consortium in all its dealings with the Utility, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's Bid for the Project and/ or upon award thereof till the Power Supply Agreement -DBFOO is entered into with the Utility.

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

[28] To be submitted in original.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS …. DAY OF….20..

For ….

(Signature)

….. (Name & Title)

For ….

(Signature)

.… (Name & Title)

For ….

(Signature)

… (Name & Title)

Affixation of Common Seal Witness: 1. 2.

Witnesses:
1.

2.
….

(Executants)

(To be executed by all the Members of the Consortium)

Notes:

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

APPENDIX IV

Joint Bidding Agreement for Consortium

(Refer Clause 2.13.2)

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the …. day of …. 20….

AMONGST

1. {…… Limited, a company incorporated under the Companies Act, 1956/2013[29]} and having its registered office at..... (hereinafter referred to as the "**First Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {…… Limited, a company incorporated under the Companies Act, 1956/2013} and having its registered office at …… (hereinafter referred to as the "**Second Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {…… Limited, a company incorporated under the Companies Act, 1956/2013} and having its registered office at.....(hereinafter referred to as the "**Third Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)}

AND

4. {…… Limited, a company incorporated under the Companies Act, 1956/2013} and having its registered office at.....(hereinafter referred to as the "**Fourth Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)}

The above-mentioned parties of the FIRST, SECOND, {THIRD and FOURTH} PART are collectively referred to as the **"Parties"** and each is individually referred to as a **"Party**"

WHEREAS,

(A) The West Bengal State Electricity Distribution Company Limited (WBSEDCL), established/incorporated under the Indian Companies Act, 1956, represented by its **[Chairman]** and having its principal offices at Vidyut Bhavan, Block- DJ, Sector-II, Bidhannagar, Kolkata, West Bengal, (hereinafter referred to as the "**Utility**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited applications (the "**Applications**") through Department of Power, Govt. of West Bengal (hereinafter referred as the **"Nodal Agency**") by its Request for Qualification No. …… dated …… (the "**RFQ - DBFOO** ") for pre-qualification of Bidders for development and operation of New 2x800 MW Supercritical / Ultra Supercritical Thermal Power Plant Unit (the "**Project**") through public private partnership.

[29] A Bidder who is registered abroad may substitute the words, viz. "a company registered under the Companies Act, 1956" by the words, viz. "a company duly organized and validly existing under the laws of the jurisdiction of its incorporation". A similar modification may be made in Recital 2, as necessary.

(B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFQ - DBFOO document and other Bid Documents in respect of the Project, and

(C) It is a necessary condition under the RFQ - DBFOO document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFQ - DBFOO.

2. Consortium

2.1 The Parties do hereby irrevocably constitute a consortium (the "**Consortium**") for the purposes of jointly participating in the Bidding Process for the Project.

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the "**SPV**") under the Indian Companies Act, 2013 for entering into a Power Supply Agreement-DBFOO (the "**PSA-DBFOO**") with the Utility and for performing all its obligations as the Supplier in terms of the PSA-DBFOO. If an SPV has been incorporated by the Nodal Agency on behalf of the Utility prior to the Bid Due Date, the Parties undertake to transfer all shares of the SPV through a share purchase agreement.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

(a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the PSA-DBFOO when all the obligations of the SPV shall become effective;

(b) Party of the Second Part shall be {the Technical Member of the Consortium;}

{(c) Party of the Third Part shall be the Financial Member of the Consortium; and}

{(d) Party of the Fourth Part shall be the Operation and Maintenance Member / Other Member of the Consortium.}

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFQ - DBFOO, RFP-DBFOO and the PSA-DBFOO, till such time as the Financial Close for the Project is achieved under and in accordance with the PSA-DBFOO.

6. Shareholding in the SPV

6.1 The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:

First Party:
Second Party:
{Third Party}:
{Fourth Party}:

6.2 The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the date of commercial operation of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and net worth have been reckoned for the purposes of pre-qualification of Applicants for the Project in terms of the RFQ - DBFOO .

6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed and paid-up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.

6.4 The Parties undertake that they shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid up equity share capital of the SPV at all times until the second anniversary of the commercial operation date of the Project.

6.5 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the PSA-DBFOO.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

(a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

(b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium

Member is annexed to this Agreement, and will not, to the best of its knowledge:

(i) require any consent or approval not already obtained;

(ii) violate any Applicable Law presently in effect and having applicability to it;

(iii) violate the memorandum and articles of association, by-laws, or other applicable organizational documents thereof.

(iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgement, order or decree or any mortgage agreement, indenture, or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise, applicable to such Party; or

(v) create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

(c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

(d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Associates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the PSA-DBFOO, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Applicant is not pre-qualified or upon return of the Bid Security by the Nodal Agency on behalf of the Utility to the Bidder, as the case may be.

9. Miscellaneous

9.1 This Joint Bidding Agreement shall be governed by laws of India.

9.2 The Parties acknowledge and accept that this Agreement shall not be amended

by the Parties without the prior written consent of the Nodal Agency on behalf of the Utility.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

For and on behalf of

LEAD MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

SECOND PART

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

FOURTH PART

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

In the presence of:
1.

2.

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.

3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

APPENDIX V[30]

Guidelines of the Department of Disinvestment

(Refer Clause1.2.1)

No. 6/4/2001-DD-II
Government of India
Department of Disinvestment

Block 14, CGO Complex
New Delhi.

Dated 13 July, 2001.

OFFICE MEMORANDUM

Sub: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment

Government has examined the issue of framing comprehensive and transparent guidelines defining the criteria for bidders interested in PSE-disinvestment so that the parties selected through competitive bidding could inspire public confidence. Earlier, criteria like net worth, experience etc. used to be prescribed. Based on experience and in consultation with concerned departments, Government has decided to prescribe the following additional criteria for the qualification/ disqualification of the parties seeking to acquire stakes in public sector enterprises through disinvestment:

(a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory authority that casts a doubt on the ability of the bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case-to-case basis after considering the facts of the case and relevant legal principles, by the Government of India.

(b) In regard to matters relating to the security and integrity of the country, any charge-sheet by an agency of the Government/ conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.

(c) In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.

[30] These guidelines may be modified or substituted by the Government from time to time.

(d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.

(e) The disqualification criteria would come into effect immediately and would apply to all bidders for various disinvestment transactions, which have not been completed as yet.

(f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.

(g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI).The bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors/ Managers/ employees, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along with EOI.

sd/-
(A.K. Tewari)
Under Secretary to the Government

APPENDIX- VI

Information Memorandum

A. Land Availability Details:

Description of Land	Details
Power Plant Land	Additional land if required has to be acquired by Successful Bidder
Ash Dyke Land	Additional land if required has to be acquired by Successful Bidder
Township Land	Additional land if required has to be acquired by Successful Bidder

B. Infrastructures available for sharing:

Nature of infrastructure	Details	Remarks
Source of Water	Upstream of Panchet Dam under DVC	Approx. 40 Km from the proposed location. Will be allowed to use the existing ROW for pipeline corridor.
Fire Station	-	-

C. Additional Details:

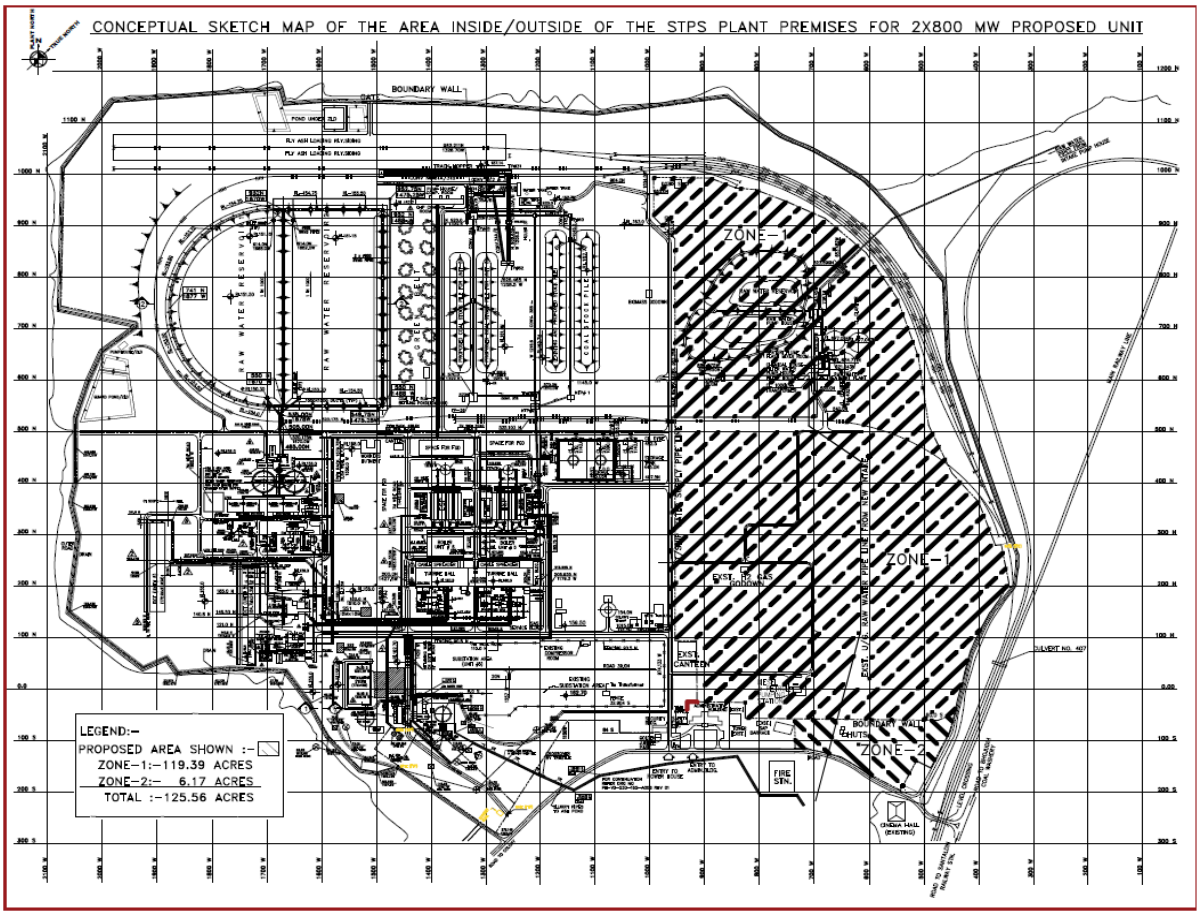
Particulars	Remarks
Power Evacuation	Shall be responsibility of the Utility. Power Evacuation Delivery Point for the Bidder shall be Ex Bus Power Generating Station.

D. Details of New Thermal Power Plant (2*800 MW):

Particulars	Details
1. Location of Power Station	Santaldih Thermal Power Station, Santaldih, District: Purulia, West-Bengal, India
2. No. of Units and Installed Capacity of each unit (in MW)	
Proposed	
- No. of Units	2
- Installed Capacity (in MW)	1600 MW
- COD	Unit -1: 48 months from Appointed Date Unit - 2: 54 months from Appointed Date
3. Quantum of power contracted with other purchasers, if any (in MW)	Not Applicable as 100% power offtake net of auxiliary consumption shall be with Utility
4. Details of surplus capacity (in MW)	Not Applicable as 100% power offtake net of auxiliary consumption shall be with Utility

5. Land for Power Station	
(i) Total requirement (in ha)	To be assessed by Applicant during site visit. If any additional land require, successful bidder shall have the responsibility to
(ii) Land in Possession (in ha)	125.56 Acres other than sharing infrastructures to be handed over through long term lease agreement to successful bidder. Additional land to be acquired by Successful Bidder.
6. Status of Environment and Forest clearance and Other Statutory Clearances	To be obtained by Bidder
7. Source of Fuel and Status of assured supply of Fuel	Coal Linkage applied under Shakti B(iv.) by Nodal Agency on behalf of Utility from Ministry of Coal and details to be shared during RFP stage.
8. Status of construction	i. New Unit to be set up by the Successful Bidder ii. Indicate along with the RFP response, which ones amongst the list of available infrastructures proposed for sharing, that the bidder wishes to avail.
9. Status and source of procurement of equipment	After Issuance of LOA, Successful bidder to order for BTG and other packages for execution of the proposed unit

E. Plot Plan



APPENDIX – VII

Details of the Allocated Coal Linkage

Government of West Bengal has submitted application for Coal Linkage and the details shall be shared during RFP stage

[Details to be provided with respect to Location of Coal Mine and Quality of Coal]

APPENDIX –VIII
Indicative E-Reverse Bidding Steps to be Followed

Steps Shall be Followed (Indicative and shall be finalized during issuance of RFP):

1. Mock E-Auction to be conducted for the eligible bidders.
2. E-Reverse Bidding shall be conducted based on ceiling tariff determined in the preceding round. (**Ceiling Tariff in this context means the Lowest (L1) tariff discovered through the submission of sealed bids by all the Bidders and the bidders shall need to quote below the Ceiling Tariff during e- reserve bidding round**).
3. The Bidders will have the option of reducing the Total Tariff quoted by them at e-Tender Stage for the following components:
a. Fixed Charge to be considered as a variable input for each round.
b. Variable Charge (including Coal Washing) to be considered as variable input for each round.
4. The respective bids shall be decrements of 1 (one) paise or multiples thereof during the E-reverse bidding process **[SPO (Subsequent Price Offered)]**.
5. The L1 bidder shall be determined based on the Lowest total Tariff discovered through the E-Reverse Bidding process including tax component as applicable.
6. In case there is no further bids submitted in e-reverse auction, then the L-1 bidder as per [**IPO**(**Initial Price Offered**)] round shall stand valid.
7. Tax component on Variable charge shall be added separately after this round.

APPENDIX- IX

WBSEDCL Requisite Details For Payment Of Fees

WBSEDCL PAN	AAACW6953H
GST Registration No.	19AAACW6953HIZX

BENEFICIARY DETAIL	
WBSEDCL LEI	335800XAI2LVH4RAVP09
BANK NAME	PUNJAB NATIONAL BANK
BRANCH	MAYUKH BHAWAN
ACCOUNT NO.	1096250031639
IFSC	PUNB0109620