



Airports Economic Regulatory Authority of India
AERA Building, Administrative Complex,
Safdarjung Airport, New Delhi- 110 003.

AERA/20010/RFP/AAI/Major Airports/2020-21

Dated 10.11.2020

Pre-Bid Conference Held on 29.10.2020; 1100 hours

Response to Bidders Query

Attention of all concerned is invited to RFP No.: 02/2020-21 dated 09.10.2020 with the subject mentioned as “Request Of Proposal For Engagement Of Consultants To Assist The Airports Economic Regulatory Authority Of India (AERA) In Determination Of Tariffs For Aeronautical Services At Various Major Airports For Third Control Period (01.04.2021 to 31.03.2026).”

Note: Bank details to remit EMD through RTGS/NEFT in addition to DD/BG:

*Name :- Airports Economic Regulatory Authority of India
Bank Name : ICICI bank
Account No. :- 000705041063
IFS code:- ICIC0000007
9A, Phelps Building, Inner Circle
Connaught place, New Delhi 110001*

Last date of bid submission	01.12.2020; 1100 Hours
Opening of Technical Bid	01.12.2020; 1500 Hours
Opening of Financial Proposals	15.12.2020; 1100 Hours

Proposed Clarifications of Bidders Queries

Organization	Srl No	RFP Clause			Bidders Query	Reply / Clarification
		No.	Name	Text requiring clarification		
CRISIL	1.	Section 1.5, Page 7	Selection Process	Last date of bid submission: 18.11.2020; 1100 Hours	We request the Authority to provide at least 2 weeks for submission post issuing the response to queries.	Last date of bid submission: extended from 18.11.2020; 1100 Hours to 01.12.2020; 1100 Hours
	2.	Section 1.6, Page 8	Delivery Schedule	The Selected Consultant shall be given a period of 5 Months to “accomplish the assignment from the date of allocation of the assignment/proposal of the respective Airport Operator”	Basis the scope of work of the RFP, we understand that a comprehensive examination of various documents, certificates, financial models etc. In this regard, the overall time frame of 5 Months may be inadequate. We request the Authority to kindly give a period of 7 months for the completion of the tasks under the assignment.	Original clause is retained with no change.
	3.	Section 2.1, Page 10	Scope of Work	The Selected Applicant shall also assist AERA in “Appeals” and “Legal Cases” against the Orders of the Authority to the extent of the scope of work under this RFP.	We request the Authority to kindly provide the details/nature of activities required for the assistance to be provided by the Consultant in respect of “Appeals” and “Legal Cases”	The selected Consulting Agency shall advise and provide the necessary Technical assistance, to the Legal Counsel/ Legal Team of AERA, related to the tariff order arising from this RFP.
	4.	Section 2.1, Page 10	Scope of Work	The Selected Applicant shall also assist AERA in “Appeals” and “Legal Cases” against the Orders of the Authority to the extent of the scope of work under this RFP.	The proposed team of experts does not envisage for a Legal Expert. In order to assist the Authority on the matters of “Appeals” and “Legal cases” as per the scope of work, we request the Authority to kindly mandate the inclusion of a Legal Expert in the team.	Original clause is retained with no change.
	5.	Section 2.1, Page 10	Earnest Money Deposit (EMD)	NA	We understand that EMD payment can be made through NEFT/RTGS. We request the Authority to kindly provide the NEFT/RTGS Bank details.	Name :- Airports Economic Regulatory Authority of India Bank Name : ICICI bank Account No. :- 000705041063 IFS code:- ICIC0000007 9A, Phelps Building, Inner Circle Connaught place, New Delhi

						110001
6.	Section 2.4, Page 12	Composition Of The Team	In case of Assignment-I, the 'Financial Expert' should be exclusively for each airport.	We understand that if a Consultant is applying for all the 3 assignments (all the six airports), then only one technical proposal is to be submitted for all the assignments. However, the technical proposal will contain two CVs of Financial Expert for Assignment I. Please confirm.	The understanding of the bidders is correct.	
7.	Section 2.5.1, Page 12	Conditions of Eligibility	The Applicant shall submit the terms of the engagement of appointment, including period of engagement, of the Aviation Expert (except the financial terms) along with the Technical Proposal.	The Authority is already taking an undertaking for the availability of the personnel as part of Form 8 of the RFP. Further, the terms and conditions of the engagement between the Aviation Expert and the Consultant may be deemed as confidential in nature. We request the Authority to kindly remove this requirement.	Original clause is retained with no change.	
8.	Section 2.5.1, Page 13	Conditions of Eligibility	Aviation Expert - Prescribed Qualification - ICWA/CA/MBA (Finance) /MCA/ Graduate Engineer/post Graduate in any discipline	We would like to bring to the kind notice of the Authority that many ex AAI personnel's with graduation degree have worked in managerial positions at various Airports in India and possess the requisite skills and knowledge to assume the position of Aviation Expert. We request the authority to kindly modify the requirement as below: Aviation Expert - Prescribed Qualification - ICWA/CA/MBA (Finance) /MCA/ Graduate Engineer/ Graduate or post Graduate in any discipline	Original clause is retained with no change.	
9.	Section 2.5.1, Page 13	Conditions of Eligibility	Data Analyst – Prescribed Qualification - B.E /B.Tech/MCA/MBA (IT)/ B.Sc/ M.Sc with Mathematics and Statistics	We understand that the Data Analyst would need to have experience in regulatory frame, software based analytical tools, sensitivity analysis, and econometric modelling. In our understanding, a Bsc. (IT or Computer Science) with relevant work experience in tariff determination, regulatory frame also possess	The qualification of Data Analyst is revised as B.E/ <u>B.Tech / MCA / MBA (IT)</u> B.Sc / M.Sc. with Mathematics and Statistics / B. Sc/ M.Sc (IT)	

					<p>the same skills and is well equipped to perform the envisaged roles and responsibilities.</p> <p>We request the authority to kindly modify the requirement as below:</p> <p>Data Analyst – Prescribed Qualification - B.E /B.Tech/MCA/MBA (IT)/ B.Sc / M.Sc with Mathematics and Statistics/Bsc (IT or Computer Science)</p>	
10.	Section 2.8 , Page 14	Conflict of Interest	NA		We request the authority to kindly confirm if the clause means that any other company associated with the bidder cannot enter into any agreement with the Authority for services relating to only this particular project?	Refer Para 2.9.1, which clearly stipulates that “if an applicant is currently providing any consulting services to AERA in determining the aeronautical tariff of major airports for AERA, this will not be treated as conflict of interest”
11.	Section 2.20 , Page 20	Confidentiality			<p>We request the Authority to kindly include the below text.</p> <p>Provided that this clause shall not apply to any information (a) which forms part of the public domain; or (b) which is received from a third party; or (c) which is independently developed; or (d) which is required to be submitted to any regulatory, statutory or governmental authority</p>	Original clause is retained with no change.
12.	Section 3.1.1 , Page 21	Technical Proposal Scrutiny		The Technical Proposals submitted by Bidders shall be scrutinized on the basis of their responsiveness to the RFP, Applicant’s experience...	We understand that for Applicant’s experience, the information to be submitted as part of Form 2 (Particulars of the Applicant) is sufficient. Please confirm.	Yes, it is sufficient subject to provide the documentary testimonials.
13.	Section 3.1.1 , Page 21	Technical Proposal Scrutiny		NA	<p>We kindly request the Authority to consider a QCBS approach for evaluation giving 65% weightage to Technical Proposal and 35% weightage to Financial Bid</p> <p>A similar approach has been considered by the authority in the previous RFP No: 01/2020-21.</p> <p>We request authority to adopt the same approach and provide a marking scheme for the Technical Proposal</p>	Original clause is retained with no change.

	14.	Section 3.4 , Page 22	Award of Consultancy/ Submission of Performance Guarantee	Performance Guarantee equivalent to 10% of the value of the award for Consultancy, in the form of a Bank Guarantee issued by a Nationalized/Scheduled Bank	We request the authority to kindly remove this clause of performance security deduction as scope of work is purely consultancy services and payment will be made to consultant after submission and verification of deliverables by authority	Original clause is retained with no change.
	15.	Section 3.7 , Page 25	Proprietary Data		We request the Authority to kindly include the below clause: "The Client however acknowledges that all right, title and interest in the methodologies, processes, techniques, ideas, concepts, trade secrets and know-how (all collectively referred to as the "Knowledge Material") of the Consultant continue to remain those of the Consultant even if any of them is embodied in the reports, developed or supplied in connection with the Services. The Client shall have the non-exclusive perpetual license to use the reports (including any Knowledge Material provided as a part of the report to the Client) to the extent necessary for the Client to use the reports in accordance with this Contract."	Original clause is retained with no change.
	16.	Section 5.2 , Page 24	Appropriation of Performance Guarantee	AERA shall invoke the Performance Guarantee, to be appropriated against breach of terms and conditions of the contract or on account of delay in completing the task or towards any amounts as may be payable by the Consultant to AERA	We request the Authority to kindly consider the modification of the clause as follows: AERA shall invoke the Performance Guarantee, to be appropriated against breach of terms and conditions of the contract or on account of delay attributable to the Consultant in completing the task or towards any amounts towards this contract as may be payable by the Consultant to AERA	Original clause is retained with no change.
	17.	Section 5.3, Page 24	Liquidated Damages For Error/Variation	In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part	The present clause is too harsh on the consultant. The consultant should be responsible for correcting the errors or variation throughout the term of the contract, however liquidated damages should not apply for error or variation.	Original clause is retained with no change.

				of the Consultant, the consequential damages thereof shall be quantified by AERA in a reasonable manner and recovered from the Consultant by way of liquidated damages. This is without prejudice to the other remedies as may be available as per applicable law. Overall LD, whether on account of delay and error / variation, shall be limited to 5% (Five percentage) of the Agreement/ Award Value.	We request the Authority to kindly delete the clause in entirety.	
18.	Section 5.4, Page 24	Liquidated damages for delay/ compensation for delay.	In case of delay in completion of the work as specified in the delivery schedule, the Consultant shall be liable to pay Liquidated Damages/ Compensation for Delay not exceeding an amount equal to 1% (one percentage) of the total value of the Agreement per week, subject to a maximum of 10% (ten percentage) of the total value of the Agreement.	We request the Authority to kindly consider the following modification: In case of delay in completion of the work as specified in the delivery schedule, the Consultant shall be liable to pay Liquidated Damages/ Compensation for Delay not exceeding an amount equal to 1% (one percentage) of the total value of the Agreement per week, subject to a maximum of 10% (ten percentage) 5% (five percentage) of the total value of the Agreement.	As per provisions contained in the tender document	
19.	Section 5.5, Page 27	Penalty For Deficiency In Services	In addition to the Liquidated Damages listed hereinabove, as specified in Clauses 5.3 and 5.4 above, the Consultant may be censured and/ or debarred for deficiencies on its part in completion of the consultancy assignment.	The present clause is too harsh on the consultant. We request the Authority to kindly delete the clause in entirety.	As per provisions contained in the tender document	
20.	Section 5.6.2, Page 24	No breach of Agreement	The failure of a Party to fulfil any of its obligations.....	We request the Authority to kindly modify the clause as below: Except in case of the obligation of client to make timely payment, the failure of a Party to fulfill any of its obligation	Original clause is retained with no change	

	21.	Section 5.6.5, Page 25	Payments		During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period.	We request the Authority to kindly add an enabling clause to ensure that the consultant shall at all times receive payments for work rendered, irrespective of a force majeure event	As per provisions contained in the tender document is adequate.
	22.	Section 2.8, Page 52	Suspension Agreement	of	NA	We suggest the Authority that prior notice to rectify be given that unilaterally Authority deciding to suspend the services	Original clause is retained with no change.
	23.	Section 2.9, Page 52	Termination Agreement	of	NA	We request the authority to kindly add the following clause: "Consultant will be entitled to terminate the Agreement by giving 15 days' notice to the Authority in case (i) Authority fails to pay the amount due against a correct invoice, 30 days after the same becomes due and payable; (ii) if the provision of Services or Deliverables are delayed for the reasons attributable to Authority, including but not limited to, Authority's failure to perform its obligations under this Agreement for a period beyond 2 months from the date of this Agreement and Authority's failure to remedy it this failure within 30 days or within such further period as Consultant may have subsequently approved in writing. Notwithstanding anything to the contrary stated in this Agreement, Consultant shall not be obliged to perform its services or submit any further Deliverables where Authority is in breach of its payment obligations under this Agreement."	As per provisions contained in the tender document is adequate.
	24.	Section 2.9.3, Page 53	Cessation of rights and obligations		NA	We request the Authority to kindly delete this clause in entirety.	Original clause is retained with no change.

	25.	Section 3.1.4, Page 54	Indemnity	The Consultant shall, subject to the provisions of this Agreement, indemnify AERA, for an amount not exceeding value of the Agreement, for any direct or indirect loss or damage that is caused due to any deficiency in Services.	<p>We suggest the Authority that Consultant can provide for indemnity against claims suffered as a result of any gross negligent, act of willful misconduct having actually committed by the Consultant.</p> <p>The total aggregate liability of Consultant, whether in contract, tort (including negligence) or otherwise, under or in connection with this agreement, shall in no circumstances exceed a sum equal to the fees paid or payable by the Client under this agreement. In no event will Consultant be liable for any consequential, incidental, indirect, punitive or special losses or damages (including loss of profits, data, anticipated savings, business or goodwill), regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties, failure of essential purpose or otherwise.</p>	Original clause is retained with no change.
	26.	Section 3.3, Page 56	Confidentiality	NA	We request the Authority to kindly provide an enabling clause for confidentiality obligations to be valid for a period of 02 years from the date of having received such confidential information	As per provisions contained in the tender document is adequate.
	27.	Section 3.4, Page 56	Liability of the Consultant	<p>3.4.1 The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.</p> <p>3.4.2 The Consultant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.</p> <p>3.4.3 The Parties hereto agree that in case of delay, error, variation, negligence or willful misconduct on</p>	<p>We request the authority to kindly modify the clauses as below:</p> <p>3.4.1 The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.</p> <p>3.4.2 The Consultant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.</p> <p>3.4.3 The Parties hereto agree that in case of delay, error, variation, negligence or willful</p>	Original clause is retained with no change.

				the part of the Consultant or Key Personnel or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property, shall be liable to the Authority not exceeding an amount equal to 1% (one percent) of the total value of the Contract per week, subject to a maximum of 10% (ten percent) of the total value of the Contract.	misconduct on the part of the Consultant or Key Personnel or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property , shall be liable to the Authority not exceeding an amount equal to 1% (one percent) of the total value of the Contract per week, subject to a maximum of 10% (ten percent) of the total value of the Contract.	
28.	Section 3.7, Page 57	Documents prepared by the Consultant to be property of the Authority	NA	We request the Authority to kindly include the following: "The Authority however acknowledges that all right, title and interest in the methodologies, processes, techniques, ideas, concepts, trade secrets and know-how (all collectively referred to as the "Knowledge Material") of the Consultant continue to remain those of the Consultant even if any of them is embodied in the reports, developed or supplied in connection with the Services. The Authority shall have the non-exclusive perpetual license to use the reports (including any Knowledge Material provided as a part of the report to the Authority) to the extent necessary for the Authority to use the reports in accordance with this Contract."	As per provisions contained in the tender document is adequate	
29.	Section 3.7.3, Page 57	Documents prepared by the Consultant to be property of the Authority	3.7.3 The Consultant shall hold the Authority harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as "Claims") which may arise from or due to any unauthorized use of such	We request the Authority to kindly delete this clause in entirety.	Original clause is retained with no change.	

				Consultancy Documents, or due to any breach or failure on part of the Consultant or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the Authority.		
	30.	Section 3.9, Page 57	Accuracy of documents	Subject to the provisions of Clause 3.4, it shall indemnify the Authority against any inaccuracy in its work which might surface during implementation of the Consultancy, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Consultant or arises out of its failure to conform to good industry practice. The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the documents including any re-survey / investigations.	Basis our understanding, the indemnity provisions provided herein are not applicable to the services to be rendered under the present assignment. We request the Authority to kindly delete these indemnity provisions.	Original clause is retained with no change.
	31.	Section 3.9, Page 57	Accuracy of documents	The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the documents including any re-survey / investigations.	We understand that these activities shall be done only during the validity of the contract. Please confirm.	Original clause is sufficient
	32.	Section 5, Page 58	Obligations of the authority	NA	We request the Authority to kindly add the following clause: The Authority shall at its own cost do the following in such good time as not to delay or disrupt the performance of the Project: (a) provide all necessary information and material relating to the Project; (b) arrange for all necessary meetings with relevant persons or authorities; (c) render such reasonable	As per provisions contained in the tender document is adequate.

					assistance (including, where applicable, procurement (or assistance in the procurement of) of any work permits, visas, licenses, consents, etc.; (d) arrange for all necessary material (including, hardware, infrastructure, software licenses, etc.).	
33.	Section 10.4, Page 62	Arbitration	10.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules"), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act,1996 read along with its Amendment in 2015. The place of such arbitration shall be the New Delhi where the Authority has its headquarters and the language of arbitration proceedings shall be English.	10.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi Arbitration and Conciliation act 1996. (the "Rules"), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act,1996 read along with its Amendment in 2015. The place of such arbitration shall be the New Delhi where the Authority has its headquarters and the language of arbitration proceedings shall be English.	We request the Authority to kindly modify the clause as given below:	Original clause is retained with no change.
34.	General	NA	NA	NA	We request the authority to kindly add the following clauses in the draft agreement: 1. Anti-Bribery and Anti-Corruption: Each Party represents, warrants and undertakes that: (a) It has not and shall not offer, promise, give, encourage, solicit, receive or otherwise engage in acts of bribery or corruption in relation to this Agreement (including without limitation any facilitation payment), or to obtain	As per provisions contained in the tender document is adequate

					<p>or retain business or any advantage in business for any member of its group, and has and shall ensure to the fullest extent possible that its employees and agents and others under its direction or control and directly involved in providing Services under the Agreement do not do so. For the purposes of this clause it does not matter if the bribery or corruption is (i) direct or through a third party; (ii) of a public official or a private sector person; (iii) financial or in some other form; or (iv) relates to past, present, or future performance or non-performance of a function or activity whether in an official capacity or not, and it does not matter whether or not the person being bribed is to perform the function or activity to which the bribe relates, or is the person who is to benefit from the bribe. For the purposes of this clause, a "person" is any individual, partnership, company or any other legal entity, public or private.</p> <p>(b) Each Party shall, adhere to applicable anti-bribery and corruption laws.</p> <p>(c) Each Party shall, immediately upon becoming aware of them, give the other Party all details of any non-compliance with sub-clauses (a) and (b).</p> <p>(d) It is a condition of this Agreement that each Party fully complies with this Clause. If it does not do so, without prejudice to any other remedy available to a party, the non-breaching party shall have the right (but not the obligation) in its absolute discretion to terminate the whole of this Agreement, or that part of this Agreement to which the bribery or corruption relates. For the avoidance of doubt, any breach of this Clause shall be deemed to be incapable of remedy.</p> <p>2. Economic and Trade Sanctions: As of the date of this Agreement the Authority warrants that, (a) neither Authority nor any of</p>	
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					<p>its subsidiaries, or any director or corporate officer of any of the foregoing entities, is the subject of any economic or trade sanctions or restrictive measures issued by the United Nations, United States or European Union ("Sanctions"), (b) the Authority is not 50% or more owned or controlled, directly or indirectly, individually or collectively, by one or more persons or entities that is or are the subject of Sanctions, and (c) to the best of Authority's knowledge, no entity 50% or more owned or controlled by a direct or indirect parent of the Authority, is the subject of Sanctions. For purposes of clause (c) in this section, "parent" is a person or entity owning or controlling, directly or indirectly, 50% or more of the Authority. For so long as this Agreement is in effect, the Authority will promptly notify CRISIL if any of these circumstances change, upon occurrence of which, CRISIL shall have the right to terminate the Agreement immediately in whole or in part for reasons of the Authority's breach.</p> <p>3. Non-Exclusivity: The Authority acknowledges that CRISIL or its associates may have other commercial transactions with the Authority, other parties reviewed for the Authority or referred in the agreement (if any) and the services provided under the agreement shall be on a non-exclusive basis.</p> <p>4. Authority may notify the Consultant in writing within 10 calendar days of Consultant providing the Deliverables to the Authority any substantial non-conformity of the Deliverables vis-à-vis the Requirements. Upon receiving Authority's notification, the Consultant shall rectify the non-conformity verified by it and resubmit the Deliverables to the Authority within 15 calendar days. The Deliverables</p>	
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					<p>shall be considered "accepted" upon such re-delivery or the expiry of 10 calendar days as stated above, whichever is earlier.</p> <p>5. The total aggregate liability of Consultant, whether in contract, tort (including negligence) or otherwise, under or in connection with this agreement, shall in no circumstances exceed a sum equal to the fees paid or payable by the Authority under this agreement. In no event will Consultant be liable for any consequential, incidental, indirect, punitive or special losses or damages (including loss of profits, data, anticipated savings, business or goodwill), regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties, failure of essential purpose or otherwise.</p> <p>6. The fees and any amounts payable under this Agreement are exclusive of all applicable taxes (including GST), levies, duties etc. With regards to the applicability of Goods and Services Tax, the Authority's address as mentioned for the purposes of GST will be considered as the consumption location for the Services provided by Consultant under this Agreement. The GST registration number ("GSTIN") provided by the Authority will be used by Consultant for filing of the GST returns. With regards to the applicability of Goods and Services Tax, the Authority's address as mentioned for the purposes of GST will be considered as the consumption location for the Services provided by Consultant under this Agreement. Where Consultant issues a credit note to the Authority in relation to any invoice, the Authority shall adjust and upload its Input Tax Credit on the</p>	
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					GSTN on or before the end of the month in which the credit note is issued by Consultant to the Authority. If the Authority fails to do so, and this results in additional liability for Consultant, Authority shall be liable to be reimburse Consultant for any liability incurred by Consultant (being the tax, interest and any penalties thereon). The current contract pricing are based on an assumption that GST will apply to the services provided by the Consultant to the Authority and the consultant is able to claim credit of the GST charged by its partners, vendors, sub-consultants. In the event that such assumption is incorrect and Consultant is not able to claim GST credit for the services provided to it by vendors, partners or sub-consultants, the consultant reserves its rights to recover from the Authority an amount equivalent to 18% or prevailing GST rate on such invoice values to the Consultant.	
PKF	1.	2.1.1 (viii)	Tariff determination	(viii) Prepare a Consultation Paper working out the Aggregate Revenue Requirement of the operator and incorporate the proposed tariff plan that the operator has submitted to achieve the ARR.	Tariff determination is based on analyzing the MYTP submitted, appraisal of the building blocks and then computing the ARR and then using that ARR for determining various tariff components. Therefore, if the MYTP is revised after work on appraisal is commenced, the exercise carried out has to be repeated resulting in doubling of the efforts of the consultant. Authority should not permit revision of MYTP after it is submitted. In case it is revised in between during the appraisal process (the five months) this amounts to rework not due to Consultant's fault and a suitable scope creep clause should be included to compensate the Consultant's increased efforts.	The Consultant shall also be responsible for taking into account the revised MYTP before issue of the final Consultation Paper or arising any modification before issue of the final Tariff Order at their own cost.
	2.	3.1 (vii)	Scope of Work	"vii) Prepare financial model based on each building block in tariff	Authority to please confirm whether this is "modify and update" the financial model and	The selected consultant shall prepare financial model based on the MYTP submission made by

				determination.”	not prepare.	the Airport Operator. However, Modification and updation of financial model is a continuous process of any tariff determination exercise.
3.	2.5.1 (c)	Eligibility Criteria>Conditions of eligibility	Aviation Expert/Data Analyst: An individual, who has expertise in the Aviation Sector with at least 7 years’ experience in Airport Operations (“Aviation Expert”) having worked at an Airport in a ‘Managerial’ position or attached with an Organization operating at the Airport except Data Analyst.	Aviation Expert is defined as an individual who has expertise in Aviation Sector with at least 7 years in Airport Operations. a) Does this exclude individuals with the requisite experience in non-operations for example in Airport Finance and Accounting ? b) External consultants who have experience in working along with AERA and AAI and other operators for tariff determination for a minimum of 3 assignments – can they be treated on par with 7 years experience in working at an airport?	a) Yes. 7 years experience in Airport Operations required. b) Not agreed.	
4.	1.5	Selection Process	“The applicant for each Assignment(s) based on the lowest financial quote i.e. total financial quote of each assignment, shall be considered to be selected. If a bidder applies / quotes for all the three Assignment(s) and he becomes Lowest bidder (L-1) in all the Assignments, he will be awarded only one Assignment (consisting of all airports under that assignment) as per the preference opted and L-2 bidder will be required to match the quote of L-1 bidder for award of second Assignment (consisting of all airports under second assignment) or so on.”	We request that it be made an option for the L2 bidder to agree or to opt out of the award process if we are unwilling to match the L1 financial quote.	It is clarified that, the L-2 bidder may opt out of the selection process in case not willing to match the L-1 financial quote.	
5.	2.8.1	Conflict of Interest	An Applicant shall not have a conflict of interest that may affect the Selection Process or the	We are currently engaged in carrying out certain engagements for AAI and its subsidiary AAICLAS. Details of projects we are handling	In case the applicant is providing advisory services as on date of submission of bid document of this	

				<p>Consultancy (“Conflict of Interest”). AERA requires the Consultant to provide professional, objective and impartial advice and at all times hold AERA’s interests paramount and avoid Conflict of Interest with any other assignment. Without limitation on the generality of the foregoing, the Consultant or any of its Associates shall not take up any assignment that by its nature will result in conflict with the present assignment (tariff related) i.e., during the period of this assignment (till completion of the assignment) and for a period of 3 (three) months thereafter. Whereas, a similar engagement for any other regulator / Central Government Public Sector Entities / Government Entities (viz. Central government in the case of airports other than major airports) may not be so construed as conflict of interest. In case the applicant is providing advisory services as on date of issue of this RFP on tariff matter in any particularly major airport(s), or Independent Service Provider(s)(wherein the Airport Operator having shareholding in that particular ISP) shall be treated as direct conflict of interest. If an applicant is currently providing any consulting services to AERA in determining the aeronautical tariff of major airports for AERA, this will not be treated as conflict of interest.</p>	<p>for AAI and AAICLAS are:</p> <p>A very small study of the space allocation and utilization – which does not involve any tariff related activity at one of the airports of AAI – which will also be completed before we accept the work if awarded under this tender. The engagement with AAICLAS has been completed from our end and is only awaiting final order from regulator for Kolkata Airport(CP has been issued and comments submitted). Due to the size, completion status and exemption listed as follows, we consider that we are not conflicted in bidding for Assignment A. Authority to confirm.</p> <p>To reproduce the exemption that we chose to avail - “ Whereas a similar engagement for any other regulator/ Central Government Public Sector Entities/ Government Entities(viz. Central Government in the case of airports other than major airports)may not be so construed as conflict of interest.”</p>	<p>RFP on tariff matter in any particular major airport(s), or independent service provider(s) (wherein the airport operator having shareholder is that particular ISP) shall be treated as direct conflict of interest.</p>
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	6.	2.8.1	Conflict of Interest	Consulting Companies of Government of India and Public Sector Banks are exempted from this clause.	We find that when Consulting Companies of Government of India and Public Sector banks provide services, such provision of services is not considered as Conflict of Interest. In order to provide parity in treatment between public and private sector, we seek that private sector consulting firm providing services may also not be treated as conflict of interest. Private sector firms can establish suitable Chinese walls so that the work is rendered by a team completely different and independent of the team providing such services.	Original clause is retained with no change.
SBI Capital Markets Limited	1.	Clause 1.5	Selection Process	Last date of bid submission: 18.11.2020; 1100 HRS	We request AERA to provide a minimum of 14 days post AERA's response to pre-bid queries (10.11.2020, as stated in RFP) as the last date for bid submission, .i.e, either on or after 24.11.2020; 1100 HRS. <i>The said request is made as we would need minimum of 14 days to from the date of receipt of pre-bid responses to get the required internal approvals for submitting Bid to AERA. Further as external consultants are involved whose appointment and technical qualification compliance is contingent on some of the responses to the Pre-Bid Queries raised, the requested time period is required to firm up sub consultants who might be involved with us in the mandate.</i> Request you to hence kindly consider our request for the extension in time period for submission of the bid.	Last date of bid submission: extended from 18.11.2020; 1100 Hours to 01.12.2020; 1100 Hours
	2.	1.6	Delivery Schedule	c) Within next 30 days draft Consultation paper to be submitted along with presentation to the Authority	c) We request AERA to be flexible with the time frame given the fact that the scope also includes asset and cost segregation amongst aero and non-aero which is also a considerable exercise on its own. Request AERA to link the timelines to a reasonable time frame from the receipt of all information from the airport operator. The same could be kept as 14- 15 days but linked to the receipt of necessary information	Agreed. Clause 1.6.(c) has been amended as " Draft Consultation Paper to be submitted along with presentation to the Authority within 15 days after receipt of required information from Airport Operator"

					from the airport operator for preparation of consultation paper along with completion of the asset and cost segregation exercise. Request AERA to kindly consider this request.	
3.	2.1.1	Tariff Determination	v) Asset/OPEX segregation between Aero and Non-Aero vi) Examine and recommend efficient costs for O&M as part of tariff determination process	Request AERA to provide clarity on whether the same is pertaining to the past control period for which true up has to be done or for future control periods. This clarification is required for firming up the scope for the sub consultants who might be assisting us in this mandate.	Yes. it includes the true up of past control periods. Further, Para V & VI is a part of scope of work and shall be treated along with other paras forming part of whole tariff determination exercise. True up mechanism for the entire scope of work shall be made as per the decisions of previous tariff orders.	
4.	2.1.1	Tariff Determination	xi) Assist the authority in appeals against the orders of the Authority till the completion of current control period	We request AERA to consider a shorter period of support for about 1 year from the issue of tariff order, till when the performance guarantee is released.	Original clause is retained with no change.	
5.	2.4	Composition of the Team	In the case of Assignment-I, the Financial Expert should be exclusively for each airport.	Request AERA to consider waiver of this clause as the work profile is similar for both the airports under Assignment I. Given the fact that timing of the information flow could vary from both these airports, there could be adequate buffer for the financial expert to handle both the airports under Assignment -I. In the event AERA is of the view that this clause has to be retained, request AERA to reduce the minimal qualification in years of experience to 6 years or consider average experience of the financial experts proposed for both the airports to be atleast 7 years.	Original clause is retained with no change.	
6.	2.5.1	Conditions of Eligibility	b) Eligibility of Key Personnel: The The proposed Sr. Specialist/Team Leader and Financial Expert except Aviation Expert and Data Analyst must be employees/ partner of the Applicant firm at least for the last one year.	Given the churn in the job market recently and the availability of good resources who are being recruited based on need and availability on a continuous basis, the stipulation that the personnel should be employed in the firm atleast for the last one year might be restrictive for the consultant, in terms of flexibility in utilization of resources for the requested position. The Consultant also gives an undertaking that proposed personnel shall be associated during the duration of the assignment which shall mitigate any concern behind stipulating this	Original clause is retained with no change.	

					clause. Request AERA to hence remove the restriction in terms of the requirement for the financial expert being employed with the consultant for the last 1 year.	
7.	2.5.1	Conditions of Eligibility	d) The Team Members viz. Sr. Specialist/Team Leader, Specialist/ Financial Expert and Sector Experts including Aviation and Data Analyst should be below the age of 70 years as on the proposal due date.		Considering the fact that aviation expert who gets usually associated with these mandates bring with them a wealth of experience, stipulation of an age limit might hinder identification of really well-rounded aviation experts to partner with us in the mandate. Request AERA to hence waive the age limit for aviation expert.	Original clause is retained with no change.
8.	2.5.1	Conditions of Eligibility	Financial Expert Prescribed Qualification		Given the fact that premier institutes like IIMs didn't give MBA degrees in the past and had been giving only PGDBMs request you to include the PGDBM and similar qualification also as a prescribed qualification.	PGDBM from premier institutes like IIM's will be considered equivalent to MBA subject to their specialization in the respective field.
9.	2.5.1	Conditions of Eligibility	Data Analyst Prescribed Qualification		Request AERA to consider CA s also as part of the prescribed qualification for the Data Analyst as the same is equally relevant and appropriate vis a vis BSc in Maths and Statistics.	Original clause is retained with no change.
10.	2.2.2	Release of Earnest Money Deposit (EMD) / Validity of Performance Guarantee	The Performance Guarantee shall be refunded to the party after completion of 01 (one) year support period from the date of issuance of the final tariff Orders after obtaining a written Undertaking (to be furnished on Rs.100/- non-judicial stamp paper) from the selected Consultant that they shall assist AERA in any litigation arising thereof to the extent of the scope of work of the assignment.		We request to keep the validity of Performance Guarantee/ Security till 3 months from the Date of completion as the Consultant's assistance could be only in assisting AERA's legal counsel through necessary documents and materials post the completion of the mandate. Also, we request the assistance shall be with respect to any litigation related to the tariff order arising from this RFP.	Original clause is retained with no change.
11.	2.14.3	Submission of Proposal	The Applicant shall submit the proposal in hard bound form with all pages numbered serially and by giving an index of submissions		Given the global pandemic caused by Covid-19, we request AERA to accept Soft Copy of the Proposal submitted online through portal/e-mail within the due date and giving an additional time frame of 3-4 days for receipt of hard copy. Please note that, the Soft Copy would be password protected and the password would be sent separately via email (or) any other medium as requested by AERA at the time of opening of bids.	Original clause is retained with no change. However, Bidders may submit the hard copies of bid document in spiral bound subject to numbered in serial and initialed and stamped by the authorized signatory in each page of the bid document.

	12.	Form 8	CV of Key Personnel	Each page of the CV shall be signed in ink/digitally by the Personnel concerned and by the Authorized Representative of the Applicant firm along with the seal of the firm	We request AERA to consider CVs and other forms to be signed by the Authorized Representative in case the Personnel Concerned is not available for signing his/her CV for any reason by the bid submission date. The same is requested as most of the team members are working remotely.	The Para is revised as "Each page of the CV shall be signed in ink /digital signature by the Authorized Representative of the Applicant firm along with the seal of the firm".
KPMG	1.	2.2	EMD	The Applicants shall submit, along with their Proposal, an EMD of Rs.3,00,000/- (Rupees three Lakh only) for this RFP	We request the authority to kindly confirm whether one DD of INR 3 lakhs is to be submitted if the consultant applies for all three assignment or 3 DDs of INR 3 Lakh i.e. 1 DD per assignment.	Only One EMD for this RFP
	2.	2.2.2	Validity of Performance Guarantee	The Performance Guarantee shall be refunded to the party after completion of 01 (one) year support period from the date of issuance of the final tariff Orders after obtaining a written Undertaking (to be furnished on Rs.100/- non-judicial stamp paper) from the selected Consultant that they shall assist AERA in any litigation arising thereof to the extent of the scope of work of the assignment/RFP.	We request the authority to release the Performance Security immediately post the completion of the services.	Original clause is retained with no change.
	3.	2.5.1	Conditions of Eligibility	Senior Specialist: ICWA/ CA/MBA (Finance)/PGDBM with specialization in Finance from premier institutes such as Indian Institute of Management.	In addition to the proposed qualification requirement, we strongly request the Authority to also allow Ph.D. or equivalent education qualification for the position of Senior Specialist.	Ph.D. as a higher qualification shall be considered subject to their specialization already stipulated in the RFP for Senior Specialist.
	4.	2.5.1	Conditions of Eligibility	Specialist (Financial Expertise): ICWA/CA/MBA (Finance)	In addition to the proposed qualification requirement, we strongly request the Authority to also allow Ph.D. or equivalent education qualification for the position of Specialist (Financial expertise). This has been allowed by the Authority in its earlier RFPs. IIMs in India used to offer PGDM instead of MBA. We thus	PGDBM from premier institutes like IIM's will be considered equivalent to MBA subject to their specialization in the respective field.

					request the authority to allow PGDM from IIMs.	
5.	2.5.1	Conditions of Eligibility	Data Analyst: B.E/ B.Tech / MCA / MBA (IT) B.Sc / M.Sc. with Mathematics and Statistics	IIMs in India used to offer PGDM instead of MBA. We thus request the authority to allow PGDM from IIMs for the position of Data Analyst.	PGDBM from premier institutes like IIM's will be considered equivalent to MBA subject to their specialization in the respective field.	
6.	2.8.1	Conflict of interestIn case the applicant is providing advisory services as on date of issue of this RFP on tariff matter in any particularly major airport(s), or Independent Service Provider(s) (wherein the Airport Operator having shareholding in that particular ISP) shall be treated as direct conflict of interest.....	We request the Authority to revise the below clause as follows since the conflict of interest should be limited to the airports involved in the assignment: ".....In case the applicant is providing advisory services as on date of issue of this RFP on tariff matter in any particularly major airport(s) mentioned in clause 1.1.7 of this RFP, or Independent Service Provider(s) (wherein the Airport Operator having shareholding in that particular ISP) shall be treated as direct conflict of interest."	The Para is revised as under: <i>In case the applicant is providing advisory services as on date of submission of bid document of this RFP on tariff matter in any particularly major airport(s) mentioned in clause 1.1.7 of this RFP, or Independent Service Provider(s) (wherein the Airport Operator having shareholding in that particular ISP) shall be treated as direct conflict of interest."</i>	
7.	2.11	Format and signing of proposal	The Applicant shall prepare one set of the Technical Proposal for the respective Assignment (together with originals/ copies of Documents required to be submitted therewith pursuant to this RFP).	We request the authority to kindly confirm whether only one set of technical pre – requisite is to be submitted or multiple sets of technical pre – requisite (Original and copies). We request Authority to limit the number of copies, if required, to only one.	Original clause is retained with no change.	
8.	2.12	Technical Pre – Requisite	No alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished	We request the authority to kindly confirm this clause as Clause 2.4 (Composition of team) requires multiple financial experts for Assignment I.	Financial expert under assignment-I shall be separate for each airport.	
9.	2.12 and Form 8	Technical Pre – Requisite	The CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFP and counter signed by the applicant. Each page of the CV shall be signed in ink/digitally by the Personnel concerned and by the Authorized Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation	Due to COVID, key personnel are working from home and signing of CVs would require substantial travel and logistics effort. We would request Authority to relax the requirement of CVs signed by respective Key Personnel and instead accept the CVs signed only by the Authorized Signatory of the Applicant. This was accepted by the Authority in its earlier RFP.	The para is revised as "The CV's shall be signed in ink /digital signature by the Authorized Representative of the Applicant along with the seal of the firm."	

	10.	2.14	Submission of Proposal	The Applicants shall submit the Proposal in hard bound form with all pages numbered serially and by giving an index of submissions.	We request the authority to kindly accept the proposals through e-mail considering the rapid spread of covid-19 in India. In case it is not possible, we request the Authority to accept the hard copies of the proposals in spiral bound instead of hard bound.	Bidders may submit the hard copies of bid document in spiral bound subject to numbered in serial and initialed and stamped by the authorized signatory in each page of the bid document.
	11.	3.4	Liability of the consultant	The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.	We request the authority to kindly confirm the aggregate liability of the bidder for direct damages under this RFP.	Any amount recoverable by way of liquidated damage/penalty/or any other amount can be recovered from the Performance guarantee.
	12.	3.4.3	Liability of the consultant	The Parties hereto agree that in case of delay, error, variation, negligence or willful misconduct on the part of the Consultant or Key Personnel or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property, shall be liable to the Authority not exceeding an amount equal to 1% (one percent) of the total value of the Contract per week, subject to a maximum of 10% (ten percent) of the total value of the Contract. AERA will take into consideration the reasons for delay, error or variation, if any, while imposing liquidated damages on the selected applicant. However, in the event of delay caused due to reasons beyond the control of the Consultant, AERA may, in its sole discretion, consider granting of appropriate extension of time, without imposition of Liquidate Damages/ Compensation for Delay.	We request the authority to kindly confirm whether Clause 3.4.3 refers to limitation of liability or to liquidated damages. This clause provides cap on liability of the bidder as well as mentions liquidated damages (liquidated damages have already been covered at different places under this RFP). We request the authority to resolve this ambiguity.	Clause 3.4.3 is sufficient to limitation of liability towards the "liability of the consultant".
	13.	5.4, 8.2	Liquidated damages for delay/compensation for delay	In case of delay in completion of the work as specified in the delivery schedule, the Consultant shall be liable to pay Liquidated Damages/ Compensation for Delay not exceeding an amount equal to 1%	We request the authority to kindly modify the clause to include "The Consultant shall not be liable for liquidated damages in this clause if the default/delay is not solely attributable to the Consultant". We wish to highlight that the proposed change	As per provisions contained in the tender document.

				(one percentage) of the total value of the Agreement per week, subject to a maximum of 10% (ten percentage) of the total value of the Agreement. AERA will take into consideration the reasons for delay, if any, while imposing Liquidated Damages on the selected Applicant. However, in the event of delay caused due to reasons beyond the control of the Consultant, AERA may, in its sole discretion, consider granting of appropriate extension of time, without imposition of Liquidity Damages/Compensation for Delay.	is as per standard industry practice and RFPs brought out by similar Authorities.	
	14.	10.4.1	Arbitration	Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules"), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act,1996 read along with its Amendment in 2015. The place of such arbitration shall be the New Delhi where the Authority has its headquarters and the language of arbitration proceedings shall be English.	We request the authority to modify the clause as the reference here is to Clause 10.3 and 10.4.2 in place of 9.3 and 9.4.2 respectively. We also request the authority to modify the "read along with its amendment in 2015" to "read along with all amendments thereto".	Original clause is retained with no change.
	15.	10.4.2	Arbitration	There shall be an Arbitral Tribunal of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the event of disagreement between the two arbitrators, the appointment	We request the authority to kindly modify the clause to include that "in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Arbitration and Conciliation Act,1996 and all amendments thereto."	Original clause is retained with no change.

				shall be made in accordance with the "Rules".		
	16.	2.8.4	Conflict of Interest	For purposes of this RFP, Associate means, in relation to the Applicant, a person who controls, is controlled by, or is under the common control with such Applicant, or is deemed or published as an "Associate Office"; or has a formal arrangement such as tie up for client referral or technology sharing, joint venture with the Applicant (the "Associate");	We request the authority to restrict the "Associate" to "Associate in India".	Original clause is retained with no change.
	17.	2.8.3	Conflict of Interest	<p>a) The Applicant or any of its Associates (or any constituent thereof) and any other Applicant or any of its Associate, have common controlling shareholders or other ownership interest; provided that, this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, or Associate (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Applicant or Associate, as the case may be) in the other Applicant or its Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof. For the purposes of this Clause 2.8.3</p> <p>b) a constituent of such Applicant is also a constituent of another Applicant;</p>	We request the authority to kindly clarify	Bidder may refer para (i) & (ii) of clause 2.8.3 (a) which itself clarify the shareholding pattern and its applicability as "Conflict of Interest".
	18.	2.8.1	Conflict of Interest	An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy ("Conflict of Interest"). AERA requires the Consultant to provide professional, objective and impartial advice and at all times hold AERA's interests paramount and	We request the authority to restrict this requirement to the engagement team only.	Original clause is retained with no change.

				avoid Conflict of Interest with any other assignment.		
19.	2.8.3	Conflict of Interest	f) Such Applicants (including their experts and other personnel) that have a close business or family relationship with a professional staff of AERA who are directly or indirectly involved in any part of i) the preparation of the TOR for the assignment, ii) the selection process for the contract, or iii) the supervision of such contract, may not be awarded the Consultancy, unless the conflict stemming from this relationship has been resolved in a manner acceptable to AERA throughout the selection process and the execution of the contract; or	We request the authority to kindly clarify the definition on the term “close business relationship”, “family relationship” and “professional staff” used in clause 2.8.3.	The term close business relationship or family relationship, where the bidder has interest that could improperly influence, or be seen to influence the decision or action in the given assignment. The qualified bidder should also disclose that none of the family member of key personnel or partner firms is working in AERA.	
20.	-	Schedule II – Guidance note on conflict of interest	‘Conflict of Interest’ may arise between AERA and a Consultant or between Consultants and present or future Concessionaries/ Contractors. Some of the situations that would involve ‘conflict of interest’	We request the authority to kindly clarify the definition on the term “concessionaries”	The concessionaries means, the Airport Operator by definition under AERA Act (Amendment 2019) as declared as Major Airport.	
21.	2.8.1	Conflict of Interest	Without limitation on the generality of the foregoing, the Consultant or any of its Associates shall not take up any assignment that by its nature will result in conflict with the present assignment (tariff related) i.e., during the period of this assignment (till completion of the assignment) and for a period of 3 (three) months thereafter.	We request the authority to modify this clause as follows: Without limitation on the generality of the foregoing, the Consultant or any of its Associates shall not take up any assignment that by its nature will result in conflict with the present assignment (tariff related) i.e., during the period of this assignment (till completion of the assignment) and for a period of 3 (three) months thereafter.	Original clause is retained with no change.	
22.	-	Appendix - I	#12 I/We further certify that no indictment/action has been taken by any regulatory authority either against us or Associates or against our CEO/ Applicant/Partner/Directors.	We request the Authority to kindly clarify whether the word “director” refers to board of directors or directors by designation or both. Additionally, we request the Authority to kindly clarify whether the word “partner” refers to partners or partners by designation or both.	Director or Partner means Board of Directors not by designation.	
23.	1.5	Selection process	Last date of bid submission – 18 Nov 2020	We request the Authority to extend the last date of bid submission by 2 weeks, that is, to 2 December 2020.	Last date of bid submission: extended from 18.11.2020; 1100 Hours to 01.12.2020; 1100 Hours	

STEER DAVIES	1.	1.1.7	Terms or Reference	Eligible Category for submission of Bid in which consultant is empanelled in AERA	To clarify if consultant is only qualified under Category A can apply for any of the three assignments (I, II, Or III). Please clarify the eligibility criteria "A&B". And if the applicant is eligible under Category A is automatically eligible for Category B airports	Refer empanelment RFP AERA reserves the right to invite Techno Commercial bids for tariff related strategic and economic studies at all Major Airports from Category –„A" or Category-„B" or „Both the Categories" amongst all the empaneled Consultancy Agency. Therefore, applicant empaneled in category-A is also eligible for category –B airports.
	2.	2.2.a	Earnest Money Deposit (EMD)	The Applicants shall submit, along with their Proposal, an EMD of Rs.3,00,000/- (Rupees three Lakh only) for this RFP	Given the EMD has been deposited for RFP 01/2020-21, is of the same amount as for the current RFP and not yet refunded. Can the already deposited EMD for RFP 01/2020-21 be used as EMD for RFP 02/2020-21	Fresh EMD of Rs.3,00,000/- (Rupees three Lakh only) to be submitted for this RFP.
	3.	2.3	Number of proposals	Each applicant may apply for either one or both the Assignment(s) but shall submit only 1 (one) proposal for each Assignment(s) mentioned in Clause 1.1.7 in response to this RFP	Please clarify does this mean that the applicant can apply for either 1 or all three assignments if qualified under category	Yes. The participating consultants should submit one technical bid for all the three assignments and separate financial bid for each airport if they wish to apply and qualifies for more than one airport.
	4.	2.4	Financial Expert	In case of Assignment-I, the 'Financial Expert' should be exclusively for each airport.	Financial Experts in our team are highly qualified with more than 25 years of experience, sourcing similar experts is difficult. Request the authority to consider allowing the same financial expert at both airports.	Original clause is retained with no change.
	5.	2.5.1.a	Conditions of Eligibility	The Applicant should be an empanelled agency of AERA under Category "A" & "B"	Please clarify if the applicant is empanelled under Category A, can apply for all three assignments. And if the applicant is eligible under Category A is automatically eligible for assignments for Category B airports	Applicant empaneled in category-A is also eligible for category –B airports.
	6.	2.5.1.e.1	Eligibility criteria for Key Personnel Senior Specialist	ICWA/ CA/MBA (Finance)/PGDBM with specialization in Finance from premier institutes such as Indian Institute of Management.	Experts with more than 15 years of experience have mostly undertaken Master degrees or MSc. In other assignments as issued by the e.g: NITI AAYOG, the eligibility criteria reads: "MBA (Finance) or equivalent or Master's in Economics" or equivalent. Further international education degrees are mostly MSc, rather than MBA. We request the authority to consider updating the educational requirements for the Senior Specialist.	Original clause is retained with no change.

					We request the Authority to consider the educational qualification as supporting evidence to the overall work experience and not the eligibility criteria.	
7.	2.5.1.e.2	Eligibility criteria for Key Personnel Specialist (Financial Expertise)	ICWA/CA/MBA (Finance)	Experts with more than 15 years of experience have mostly undertaken Master's degrees or MSc. We request the authority to consider all MBA degrees or Equivalent MSc (Masters) qualifications. We request the Authority to consider the educational qualification as supporting evidence to the overall work experience and not the eligibility criteria.	Original clause is retained with no change.	
8.	2.5.1.e.3	Eligibility criteria for Key Personnel Specialist (Aviation Expert)	ICWA/CA/MBA (Finance) /MCA/ Graduate Engineer/Post Graduate in any discipline	Experts in the aviation sector with substantial experience of more than 10 years have extensive experience of the Aviation sector and do not possess the necessary engineering educational qualification. We request the authority to include all graduate degrees instead of Graduate Engineer. We request the Authority to consider the educational qualification as supporting evidence to the overall work experience and not the eligibility criteria.	Original clause is retained with no change.	
9.	2.5.1.e.4	Eligibility criteria for Key Personnel Specialist (Data Analyst)	B.E/ B.Tech / MCA / MBA (IT) B.Sc / M.Sc. with Mathematics and Statistics	Data Analysis is a key part of all post graduate degrees in both MSc and MBA programs. In that context, we request the authority to allow all MBA degrees instead of MBA (IT).	The qualification of Data Analyst is revised as <u>B.E/ B.Tech / MCA / MBA (IT)</u> B.Sc / M.Sc. with Mathematics and Statistics / B. Sc/ M.Sc (IT)	
10.	2.11.4	Format and Signing of Proposal	by a duly authorized person holding the Power of Attorney, in case of a Limited Company or a Corporation	Through a board resolution the Director of the company has already been appointed as the Authorized Signatory. So can a copy of the Board Resolution be submitted in Lieu of the Power of Attorney	No. Power of Attorney is a mandatory requirement	
11.	2.14	Submission of Proposal	Number of Copies of proposal	Unlike earlier bids, there is no mention on numbers of copies of the bid that are supposed to be submitted. Can the authority please clarify.	The Applicant is required to submit one set of technical bid for this RFP and separate financial bid for each assignment if they wish to apply for more than one	

						assignment.
E&Y	1.	2.1	Instructions to Applicants: A. Scope of Work	The Selected applicant shall also assist the AERA in 'Appeals' and 'Legal Cases' against the Orders of the Authority to the extent of the scope of work under this RfP.	Since the RFP does not state the requirement of a legal expert, the bidder would like to know if the bidder needs to have a legal expert.	The selected bidder should assist the Authority in Appeals and Legal Cases against the Tariff Order arising out of this RFP. However for tariff determination process, legal expert is not required.
	2.	2.2. (a)	Earnest Money Deposit (EMD) (a)	The Applicant shall submit, along with their Proposal, an EMD of Rs. 3,00,000/- (Rupees three lakhs only) for this RFP in the following form:	Request the Authority to clarify if the EMD of Rs. 3,00,000 (Rupees three lakhs only) applies for a single project or for all projects together.	Only one EMD of Rs.3,00,000/- (Rupees three Lakh only) to be submitted for this RFP.
	3.	2.2.1 (a)	Instructions to Applicants: Forfeiture Of Earnest Money Deposit (EMD)	The Applicant, by submitting its proposal pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to AERA's other rights or remedy hereunder or in law or otherwise, the EMD shall be forfeited and appropriated either in full or part by AERA as genuine pre-estimated compensation and damage payable to AERA for, inter alia, the time, cost and effort of AERA in regard to the RFP, including the consideration and evaluation of the Proposal, without any notice and proof of damages, under the following conditions: (a) If an Applicant submits a non-responsive Proposal	Request the Authority to delete this clause and return the entire EMD if the bid has been deemed unsuccessful	Original clause is retained with no change.
	4.	2.4	Composition of the team	In case of Assignment-I, the 'Financial Expert' should be exclusively for each airport.	Request the Authority to clarify if it requires separate financial experts for Kolkata and Chennai respectively.	Refer Clause 2.4 in entirety which is self-explanatory. However, Financial expert for Kolkata and Chennai airport shall be separate.
	5.	2.14.1.	Submission of Proposal	The Applicant shall submit the proposal in hard bound form with all pages numbered serially and by giving an index of submissions.	Request the Authority to accept proposals to be submitted in spiral bound form with all pages numbered serially and by giving an index of submissions.	Bidders may submit the hard copies of bid document in spiral bound subject to numbered in serial and initialed and stamped by the authorized signatory in each page of the bid document.
	6.	2.14.4. (b)	Submission of Proposal	The technical pre-requisite and financial proposal shall be signed by	Request the Authority to clarify if the Authority requires only one "ORIGINAL" document, or	Para 2.14.4 (b) may be read as under

				<p>the Authorized Representative of the Applicant. All pages of the Technical Documents (marked 'ORIGINAL') and Financial Proposal must be numbered and initialled by the person or persons signing the Proposal.</p>	<p>whether additional copies need to be submitted along with the original document.</p> <p>Request the authority to accept digital/scanned signatures of the Authorized Signatories on forms and initials on each page, since most of the team is working remotely from different states.</p>	<p>The Technical Pre-Requisite and Financial Proposal shall be signed by the Authorized Representative of the Applicant. All pages of the Technical Documents and Financial Proposal must be numbered and initialled by the person or persons signing the Proposal.</p>
7.	3.5	Criteria for Evaluation: Execution of Agreement	<p>After acknowledgement of the LOA as aforesaid, the Selected Applicant shall sign the Agreement within 15 (fifteen) days from the issue of the LOA. The Selected applicant shall not be entitled to seek any deviation in the terms and conditions of the Agreement.</p>	<p>Request the Authority to make the following change:</p> <p>After acknowledgement of the LOA as aforesaid, the Selected Applicant shall sign the Agreement within 15 (fifteen) days from the issue of the LOA. The Selected applicant shall not be entitled to seek any deviation in the terms and conditions of the Agreement.</p>	<p>Original clause is retained with no change.</p>	
8.	4.1 (Note I)	Deliverables and Payment Schedule	<p>If due to any reason, work / assignment is not completed within the stipulated timeframe, AERA may at its discretion extend the last date of completion of work without any financial implication to AERA. Delay in submission of assignment attributable to the selected consultant firm which make them liable for action(s) given in Para 5 "Liquidated Damages and Penalties" (para 5.4). Decision of AERA in this regard shall be final and binding on the consultant firm</p>	<p>Request the Authority to modify the clause as follows:</p> <p>If due to any reason, work / assignment is not completed within the stipulated timeframe, AERA may at its discretion extend the last date of completion of work without any financial implication to AERA. Delay in submission of assignment attributable to the selected consultant firm which make them liable for action(s) given in Para 5 "Liquidated Damages and Penalties" (para 5.4). Decision of AERA in this regard shall be final and binding on the consultant firm</p>	<p>Original clause is retained with no change</p>	
9.	5.2	Liquidated Damages and Penalties: Appropriation of performance guarantees	<p>The balance remaining out of the Performance Security, if any or the entire Performance Security, as the case may be, shall be returned to the Consultant after completion of 01 (one) year support period from the date of issuance of the final tariff Orders after obtaining a written Undertaking (to be furnished on Rs.100/- non-judicial stamp paper)</p>	<p>Request the Authority to reduce the time period to return the Performance Security to 6 (six) months</p>	<p>Original clause is retained with no change.</p>	

				from the selected Consultant that they shall assist AERA in any litigation arising related to this tariff order		
	10.	5.3, 5.4 & 5.5	Schedule 1- Terms of Reference Completion of Services	<p>5.3. Any pre-existing IPR of the consultant on the date of award will remain with the consultant. However all working papers, reports, information, compiled/ generated during the work will be the property of AERA.</p> <p>5.5 The period of consultancy services shall not be more than 05 (five) months from the date of signing of the Agreement or such other date (handing over of MYTP) as may be mutually agreed for the completion of the assignment (refer clause 4.1.1) within the stipulated period.</p> <p>5.6 AERA reserves the right to extend the period of Consultancy beyond the period of 05 (five) months for finalization/issue of the order at its own discretion in case assignment(s) as above in para 5.4 is not completed without any financial implication to AERA.</p>	Request the Authority to modify clause 5.6. as: "With the consent of the Consultant AERA reserves the right to extend the period of Consultancy beyond the period of 05 (five) months for finalization/issue of the order at its own discretion in case assignment(s) as above in para 5.4 is not completed without any financial implication to AERA."	Original clause is retained with no change.
	11.	7.1.2	Agreement: Performance Guarantee	The Performance Guarantee shall be retained by AERA for a period of one year from the date of completion of consultancy assignment and will be released after submission of an affidavit (on non-judicial stamp paper of Rs. 100/-) that they will assist AERA in 'Appeals' and 'Legal Cases' against the Final Tariff Order of the Authority till the completion of the control period.	Request the Authority to reduce the time period to return the Performance Security to 6 (six) months.	Original clause is retained with no change.
	12.	8. Schedule - I (Terms of	Liquidated Damages and Penalties: Liquidated	In case any error or variation is detected in the reports submitted by	Request the Authority to reframe the clause as:	Original clause is retained with no change. However a show cause

	Reference) 5.3.	Damages for Error/ Variation (page 31)	the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by AERA in a reasonable manner and recovered from the Consultant by way of liquidated damages. This is without prejudice to the other remedies as may be available as per applicable law. Overall LD, whether on account of delay and error / variation, shall be limited to 5% (Five percentage) of the Agreement/ Award Value.	"In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by AERA in a reasonable manner and recovered from the Consultant by way of liquidated damages. This is without prejudice to the other remedies as may be available as per applicable law. Overall LD, whether on account of delay and error / variation, shall be limited to 5% (Five percentage) of the Agreement/ Award Value."	notice will be issued before imposing any penalty.
13.	8. Schedule - I (Terms of Reference) 5.5.	Liquidated Damages and Penalties :Penalty for Deficiency in Services (page 32)	In addition to the Liquidated Damages listed hereinabove, as specified in Clauses 5.3 and 5.4 above, the Consultant may be censured and/ or debarred for deficiencies on its part in completion of the consultancy assignment.	Request the Authority to delete this clause	Original clause is retained with no change.
14.	Appendix - I (10.1.) Form-2	Appendix - I: Particulars of the Applicant (Form -2) - 1.4. (vi) (Page 38)	Number of assignment completed in tariff determination exercise in airport sector. Completion certificate should be provided.	Since we have already submitted completion certificates to the Authority at the time of empanelment, we request the authority to delete the clause	Original clause is retained with no change.
15.	Appendix - I (10.1.) Form - 5	Appendix - I: Particulars of Key Personnel (Form - 5) (Page 41)	Experience in eligible assignments i.e. Tariff Determination on in Aviation Sector	Request the Authority to enforce this requirement for the firm at large, and not for key personnel including Team Leader, and Sector Experts (Aviation, Data, and Finance)	Original clause is retained with no change.
16.	Appendix - II (Form - 2) 2.9.1 (h)	Agreement: Termination of Agreement by the Authority (page 53)	The Authority may, by not less than 15 (fifteen) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if: (h) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.	Request the Authority to delete Appendix-II (Form 2) 2.9.1. (h) clause	Original clause is retained with no change.
17.	Appendix - II; Agreement (Form - 2) 3.1.4.	Agreement: Indemnity (page 54)	The Consultant shall, subject to the provisions of this Agreement, indemnify AERA, for an amount not	Request the Authority to omit indirect loss or damage from the clause as follows:	Original clause is retained with no change.

				exceeding value of the Agreement, for any direct or indirect loss or damage that is caused due to any deficiency in Services.	The Consultant shall, subject to the provisions of this Agreement, indemnify AERA, for an amount not exceeding value of the Agreement, for any direct or indirect loss or damage that is caused due to any deficiency in Services.	
	18.	N.A.	N.A.	New Clause	Request the Authority to add the following clause: AERA shall not recover from the Consultant, in contract or tort, under statute or otherwise, any amount with respect to loss of profit, data or goodwill, or any other consequential, incidental, indirect, punitive or special damages in connection with claims arising out of this Agreement or otherwise relating to the Services, whether or not the likelihood of such loss or damage was contemplated. AERA shall not recover from the Consultant, in contract or tort, under statute or otherwise, aggregate damages in excess of the fees actually paid for the Services that directly caused the loss in connection with claims arising out of this Agreement or otherwise relating to the Services.	As per provisions contained in the tender document is adequate
	19.	N.A.	N.A.	New Clause	Request the Authority to add the following clause: The Consultant may terminate this Agreement, or any particular Services, immediately upon written notice to AERA if the Consultant reasonably determines that it can no longer provide the Services in accordance with applicable law or professional obligations.	As per provisions contained in the tender document is adequate
	1.	2.1	SCOPE OF WORK	The Selected Applicant shall also assist AERA in 'Appeals' and 'Legal Cases' against the Orders of the Authority to the extent of the scope of work under this RFP.	The scope of work covers assistance on legal matters. Please confirm if the Authority envisages the requirement of a 'Legal Expert' for the project.	The selected bidder should assist the Authority in Appeals and Legal Cases against the Tariff Order arising out of this RFP. However for tariff determination process, legal expert is not required.
	2.	2.2 a)	EARNEST MONEY DEPOSIT (EMD)	a) The Applicants shall submit, along with their Proposal, an EMD of Rs.3,00,000/- (Rupees three Lakh	We understand that only one EMD of Rs. 3,00,000/- is required to be submitted even if the bidder applies for two / three assignments.	Only One EMD for this RFP

PwC				only) for this RFP in the following form:	Kindly confirm.	
	3.	2.3	NUMBER OF PROPOSALS	Each applicant may apply for either one or both the Assignment(s) but shall submit only 1 (one) proposal for each Assignment(s) mentioned in Clause 1.1.7 in response to this RFP. An applicant who submits more than one proposal for a particular Assignment shall be disqualified. The participating applicant can submit one technical bid for both the assignment and separate financials bids if they wish to apply for both the assignments .	We understand an empaneled consultant can bid for all the eligible categories. For instance, a Consultant empaneled under category 'A' can bid for all the three assignments. Request the authority to modify the language as below: Each applicant may apply for either one or both the more than one Assignment(s) subject to empanelment category but shall submit only 1 (one) proposal for each Assignment(s) mentioned in Clause 1.1.7 in response to this RFP. An applicant who submits more than one proposal for a particular Assignment shall be disqualified. The participating applicant can submit one technical bid for both the assignment all the applied assignment(s) and separate financials bids if they wish to apply for both the more than one assignments.	Agreed, Para may be read as under: Each applicant may apply for either one or both or more than one Assignment(s) subject to their empanelment but shall submit their proposal as per Clause 1.1.7 in response to this RFP. An applicant who submits more than one proposal for a particular Assignment shall be disqualified. The participating applicant can submit one technical bid for all the assignment and separate financials bid for each assignment if they wish to apply for both or more than one assignments.
	4.	2.5.1 e) S No. 4	Conditions of Eligibility -> Eligibility criteria for Key Personnel -> Data Analyst	Data Analyst, Prescribed Qualifications: B.E/ B.Tech / MCA / MBA (IT) B.Sc / M.Sc. with Mathematics and Statistics	We understand that the Data Analyst should have working experience in regulatory frame along with the experience in conducting sensitivity analysis, econometric modelling etc. In view of this and based on the nature of the project requirements, we believe professionals with other degrees (such as MBA (Finance), graduation/ post-graduation in Economics) having relevant experience may also be considered. Hence, we would request the Authority to consider the modified criteria as provided below: Data Analyst, Prescribed Qualifications: B.E/ B.Tech / MCA / MBA / B.Sc / M.Sc. with Mathematics and Statistics/ Graduate or Postgraduate in Economics or any other field dealing with Econometrics	Original clause is retained with no change.
	5.	2.13.1 a)	FINANCIAL PROPOSAL	It is clarified that the selected Applicant (Key Personnel) may be required by AERA to be present in meetings to assist it during the same as and when organized by AERA	Please confirm in an event the key personnel/ representatives are required to stay for such meetings, the lodging and boarding expenses shall also be reimbursed.	It is clarified that, Expenses towards organizing any meeting by the Authority shall be borne by AERA.

				through virtual platform. However, in case AERA organizes such meetings outside Delhi, the actual fare paid (including the fare paid for rail and road travel) or Economy Class return airfare, whichever is lower for the shorter route from Delhi to the station where such meeting is held (whichever is less) will be reimbursed by the Authority in respect of maximum of two representatives of the selected applicant firm.		
	6.	2.14.1 and 2.14.5	SUBMISSION OF PROPOSAL	The Applicants shall submit the Proposal in hard bound form with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be initialled by the Authorized Representative of the Applicant as per the terms of Clause 2.11 of the RFP and conditions therein. and The complete Proposal must be delivered on or before the specified time on Proposal Due Date at designated office address given at Clause 1.8 of the RFP. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained.	The preparation of hard bound proposals has external dependencies on services, which are slightly disrupted due to Covid-19. Therefore, given the challenges and constraints arising due to Covid-19 pandemic, we request the authority to consider online/ email submission of the proposal. This has been observed in other recent tenders as well issued by various govt. entities/ PSUs, where the password protected proposals via email are accepted by the tendering authorities. The passwords of the document are then sought from the bidders at appropriate time of bid opening. If the online mode of submission is not possible, we request the Authority to kindly provide an option of submission of Proposal in 'spiral bound' form as well.	As per provisions contained in the tender document. However Bidders may submit the hard copies of bid document in spiral bound subject to numbered in serial and initialed and stamped by the authorized signatory in each page of the bid document.
	7.	1.5	SELECTION PROCESS:	e. Last date of bid submission; 18.11.2020; 1100 Hours	We would request for at least two clear weeks (14 days) from the date of issuance of clarifications by the Authority for the submission of proposal. A week's time may not be enough considering that the bid-submission date is immediately after Diwali holidays and the proposal submission mode is offline (hard bound printed documents). Hence, request the Authority to extend the proposal submission date by at least two weeks (14 days) to 02.12.2020. This would provide adequate time to bidders to take into consideration the clarifications given by Authority and better	Last date of bid submission: extended from 18.11.2020; 1100 Hours to 01.12.2020; 1100 Hours

					manage the logistics for proposal submission.	
8.	4	Payment Schedule	Payment Milestone 4: Assisting AERA in determination of Aeronautical Tariffs and issuance of Tariff Orders post stakeholders' consultation and successful completion of the assignment.	We would like to propose the following payment schedule for this milestone: 1. Determination of Aeronautical Tariffs and submission of tariff order post stakeholder's consultation - 15% 2. Issuance of order and successful completion of the assignment - 15%	Original clause is retained with no change.	
9.	5.4	Completion of Services	Each Deliverable of the Consultancy shall stand completed on acceptance communicated to the selected Consultant in writing by AERA. The selected Consultant is not entitled to any payment of the milestones of Deliverables unless the Deliverable is accepted by AERA in writing. Further, AERA may seek clarifications/queries with respect to the Deliverables, which shall be addressed by the selected Consultant within the timelines stipulated by AERA.	If the project is to be completed on time, it would require binding both parties with timelines to fulfill their respective part of obligations. We request the Authority to incorporate a deliverable acceptance procedure, perhaps the one provided by MeitY in their guidelines, or the one suggested below, to ensure that acceptance of deliverables is not denied or delayed and comments, if any, are received by us well in time. Authority may consider including the below clause: Within 10 days (or any other agreed period) from Authority's receipt of a draft deliverable, Authority will notify Consultant if it is accepted. If it is not accepted, Authority will let Consultant know the reasonable grounds for such non acceptance, and Consultant will take reasonable remedial measures so that the draft deliverable materially meets the agreed specifications. If the Authority does not notify Consultant within the agreed time period or if Client uses the draft deliverable, it will be deemed to be accepted.	Original clause is retained with no change.	
10.	2.5.1 (h) Conditions of Eligibility and 10.2 APPENDIX-I, Form-1: TECHNICAL BID, Point No 7 and 10.2 APPENDIX-I, Form-2: Particulars of the Applicant, Point No 1.4 (ii)	Undertaking	(h) An Applicant, in the last three years, must not have failed to perform on any agreement and/or contract by way of an imposition of penalty/damages by an arbitral award or any other judicial pronouncement. The Applicant must not have faced any termination of the agreement/contract for being held responsible for its breach by the awarding authority. and 7. I/We certify that in the last three	We request the Authority to modify the undertaking to the effect that any such termination should have been approved/upheld by any court decree or arbitral award against our firm to such effect. Further for performance, we confirm there is no instance of any contract having been terminated on account of any determined non-performance of contract. Our undertaking shall be subject to such confirmation. Kindly request the Authority to confirm. We request the Authority to kindly modify the clause APPENDIX-I, Form-1: TECHNICAL	Original clause is retained with no change.	

				<p>years, we 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, nor been expelled from any assignment or contract nor have had any contract terminated for breach on our part and</p> <p>(ii) Has the Applicant been penalized by any organization for breach of contract in the last three years?</p>	<p>BID, Point No 7 as follows: "7. I/We certify that in the last three years, we 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 us, nor have we been expelled from any project or contract nor have had any contract terminated for breach on our part, with such termination having been approved / upheld by any court decree or arbitral award against us to such effect." Further, we would like to clarify that given the large volume of work performed by our firm, contracts with clients may on certain rare occasions be terminated, suspended or not renewed for a variety of reasons, majority of which are suspended for business reasons, necessities or convenience of the clients. However, there is no instance of any contract having been terminated on account of any determined non-performance of contract</p>	
	11.	10.2 APPENDIX-I, Form-1: TECHNICAL BID, Point No 12	Undertaking	<p>12. I/We further certify that no indictment/action has been taken by any regulatory authority either against us or Associates or against our CEO/ Applicant/Partner/Directors.</p>	<p>Since our firm is a private company incorporated under the laws of India, we should be allowed to declare that there is no criminal investigation by a regulatory authority is pending against our firm or its current CEO as on the date of submission of this bid in their profession capacity in any Court of Law regarding execution of any professional project/work executed/being executed by our firm. Please note here Associates is assumed to be Associate Company under Companies Act. We request the Authority to kindly amend the undertaking as per below: "12. I/We further certify that no indictment/action has been taken by any regulatory authority either against us or Associates or against our CEO/ Applicant/Partner/Directors which impacts our ability to provide services under the proposed tender. This declaration is with respect to Associates, CEO/ Applicant/Partner/Directors</p>	Original clause is retained with no change.

					working directly and solely on this project and "indictment/action" means against them in their official capacity. Associates and Partners have the meaning of Associate Company as per Company Act."	
12.	10.2 APPENDIX-II, Form-2: Consultancy Agreement (Format), 3.3	Confidentiality	The Consultant and its Key Personnel shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information	We request the Authority to reduce the survival period of confidentiality obligations to one-year post expiry or termination.	Original clause is retained with no change.	
13.	10.2 APPENDIX-II, Form-2: Consultancy Agreement (Format), 3.4.3	Liability of the Consultant	The Parties hereto agree that in case of delay, error, variation, negligence or willful misconduct on the part of the Consultant or Key Personnel or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property, shall be liable to the Authority not exceeding an amount equal to 1% (one percent) of the total value of the Contract per week, subject to a maximum of 10% (ten percent) of the total value of the Contract. AERA will take into consideration the reasons for delay, error or variation, if any, while imposing liquidated damages on the selected applicant. However, in the event of delay caused due to reasons beyond the control of the Consultant, AERA may, in its sole discretion, consider granting of appropriate extension of time, without imposition of Liquidate Damages/ Compensation for Delay.	We request the Authority to limit the liability of selected bidder to 1X of the total contract value. Also, the authority is requested to include a clause to state that selected bidder will not be liable for any indirect and consequential losses or damages. This is as per GFR and MeitY guidelines and also the industry standard. Further the law, Contract Act, stipulates and remote and consequential damages are not payable. The authority may consider including the following language: "Purchaser/Authority agrees that Consultants total liability for all claims connected with the services or this agreement (including but not limited to negligence), whether in contract, tort, statute, indemnities or otherwise, is limited to one time the professional fees paid / payable for the services. Purchaser/Authority agrees that Consultant will not be liable for (i) loss or corruption of data from your systems, (ii) loss of profit, goodwill, business opportunity, anticipated savings or benefits or (iii) indirect or consequential loss.	Original clause is retained with no change.	
14.	10.2 APPENDIX-II, Form-2: Consultancy Agreement (Format),	Termination of Agreement	The Authority may, by not less than 15 (fifteen) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events	To uphold the principles of natural justice, we request the Authority to notify us and give us a rectification period of at least 30 (thirty) days, prior to invoking this clause. We request the authority to remove this ground	Original clause is retained with no change.	

		2.9 & 2.9.1 h)		specified in this Clause 2.9.1, terminate this Agreement AND h) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.	for termination as it is unreasonable and there are several remedies in contract and law available to the Authority for such breach.	
15.	10.2 APPENDIX-II, Form-2: Consultancy Agreement (Format), 8.1 and 8.2	8.1 LIQUIDATED DAMAGES FOR ERROR/VARIATION and 8.2 LIQUIDATED DAMAGES FOR DELAY/ COMPENSATION FOR DELAY.	8.1 LIQUIDATED DAMAGES FOR ERROR/VARIATION In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by AERA in a reasonable manner and recovered from the Consultant by way of liquidated damages. This is without prejudice to the other remedies as may be available as per applicable law. Overall LD, whether on account of delay and error / variation, shall be limited to 5% (five percentages) of the Agreement/ Award Value. and 8.2 LIQUIDATED DAMAGES FOR DELAY/ COMPENSATION FOR DELAY. In case of delay in completion of the work as specified in the delivery schedule, the Consultant shall be liable to pay Liquidated Damages/ Compensation for Delay not exceeding an amount equal to 1% (one percentage) of the total value of the Agreement, per week, subject to a maximum of 10% (ten percentage) of the total value of the Agreement. AERA will take into consideration the reasons for delay, if any, while imposing Liquidated Damages on the selected Applicant. However, in the event of delay caused due to	We request the authority to cap the liquidated damages/penalties cumulatively to 5% of the total contract value. We understand that as per Contract Act, where LDs are stipulated, generally any other damages cannot be claimed. Therefore, we request you to kindly make imposition of liquidated damages as sole and exclusive remedy for corresponding breaches. Furthermore, we understand that we would be liable to pay liquidated damages to the extent corresponding breach is solely attributable to us. Kindly confirm.	Original clause is retained with no change.	

				reasons beyond the control of the Consultant, AERA may, in its sole discretion, consider granting of appropriate extension of time, without imposition of Liquidity Damages/Compensation for Delay.		
	16.	10.2 APPENDIX-II, Form-2: Consultancy Agreement (Format), 2.9.3	Cessation of rights and obligations	Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, or which expressly survives such Termination; (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) any right or remedy which a Party may have under this Agreement or the Applicable Laws.	We request the Authority that any obligation arising under the agreement shall survive for a period of 12 months, post termination/expiry of the Contract other clients.	Original clause is retained with no change.
	17.	10.2 APPENDIX-II, Form-2: Consultancy Agreement (Format),	Documents prepared by the Consultant to be property of the Authority	<Entire clause>	There are various IPRs that exist with us which we would like to use to your benefit while delivering our services to you. These are our pre-existing IPRs and we use it for all the clients. We will not be able to give ownership in such IPRs to the Authority if such IPRs are used for providing services, like we use these for other clients. We request the Authority that we are allowed to retain ownership of our pre-existing IPRs, else we might be not be able to use these in providing services in order to protect our ownership in them.	Original clause is retained with no change.
	18.	10.2 APPENDIX-II, Form-2: Consultancy Agreement (Format), 3.2	Conflict of Interest	<Entire clause>	We wish to highlight that we are a large organization providing various services to various state and central government departments, PSUs, international organizations and private clients. We wish the Authority to note that while we have a mechanism in place to identify patent and direct conflict of interests, it may not always be possible to identify any or all indirect or remote conflict of interests. Kindly appreciate that our no conflict confirmations will be subject to the foregoing.	Original clause is retained with no change.

					<p>Moreover, we understand that this declaration pertains to confirmation wrt related party transaction u/s 188 of the Companies Act, 2013. We understand that the related party provisions however do not apply when a transaction is carried out in the ordinary course of business at an arm's length price and this holds true even when parties are related to each other. Given that this is a tender situation, we submit that this is not a non-arm's length price / transaction. Hence, we request you to kindly consider making the requirement of giving such related party confirmation/ declaration non-mandatory or removing it from the declarations.</p>	
19.	10.2 APPENDIX-II, Form-2: Consultancy Agreement (Format), 3.1.4	Indemnity	<p>The Consultant shall, subject to the provisions of this Agreement, indemnify AERA, for an amount not exceeding value of the Agreement, for any direct or indirect loss or damage that is caused due to any deficiency in Services.</p>	<p>There are several remedies available under law and contract to the Authority for such breach of obligations. For e.g., there are penalties and LDs that may be imposed for some of these breaches. Seeking indemnities for such breaches frustrates the entire purpose of such remedies available. We understand that remedies other than indemnity will be sufficient for such breaches. We request the Authority to kindly delete this section.</p> <p>If you still insist on retaining this section, then we request the Authority to at least make them subject to overall cumulative liability cap of total contract value and subject to final determination of court/arbitrator.</p> <p>Accordingly, we propose the following language.</p> <p>The indemnities set out in this agreement shall be subject to the following conditions:</p> <p>(i) the Indemnified Party as promptly as practicable informs the Indemnifying Party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise;</p> <p>(ii) the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the Defense of such claim including reasonable access to all relevant information, documentation and</p>	Original clause is retained with no change	

					<p>personnel provided that the Indemnified Party may, at its sole cost and expense, reasonably participate, through its attorneys or otherwise, in such Defense;</p> <p>(iii) if the Indemnifying Party does not assume full control over the Defense of a claim as provided in this clause, the Indemnified Party may participate in such defense at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the Indemnified Party will be included in losses; (iv) the Indemnified Party shall not prejudice, pay or accept any proceedings or claim, or compromise any proceedings or claim, without the written consent of the Indemnifying Party;</p> <p>(v) all settlements of claims subject to indemnification under this Clause will:</p> <p>a) be entered into only with the consent of the Indemnified Party, which consent will not be unreasonably withheld and include an unconditional release to the Indemnified Party from the claimant or plaintiff for all liability in respect of such claim; and</p> <p>b) include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement;</p> <p>(vi) the Indemnified Party shall account to the Indemnifying Party for all awards, settlements, damages and costs (if any) finally awarded in favour of the Indemnified Party which are to be paid to it in connection with any such claim or proceedings;</p> <p>(vii) the Indemnified Party shall take steps that the Indemnifying Party may reasonably require to mitigate or reduce its loss as a result of such a claim or proceedings;</p> <p>(viii) in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this clause, the Indemnifying Party will, upon payment of such indemnity in full, be subrogated to all rights and defenses of the</p>	
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					Indemnified Party with respect to the claims to which such indemnification relates; and (ix) if a Party makes a claim under the indemnity set out under Clause above in respect of any particular loss or losses, then that Party shall not be entitled to make any further claim in respect of that loss or losses (including any claim for damages).	
	20.	NA	NA	NA	If emerged as the selected bidder, we will be providing services and deliverables to the Authority under the contract. We accept no liability to anyone, other than the Authority, in connection with our services, unless otherwise agreed by us in writing. Authority agrees to reimburse us for any liability (including legal costs) that we incur in connection with any claim by anyone else in relation to the services. Please confirm our understanding is correct.	As per provisions contained in the tender document is adequate.