

APPENDIX-I

Letter Comprising the Application for Pre-Qualification (Refer Clause 2.13.2)

Dated:

To,
The Chief Mechanical Engineer,
Mechanical & Engineering Department,
V.O. Chidambaranar Port Authority.

Sub: Application for pre-qualification for Development of existing Berth No.7
as Container Terminal at V.O. Chidambaranar Port on DBFOT basis

Dear Sir,

With reference to your RFQ document dated\$, I/we, having downloaded the same from website of _____ and examined the RFQ document and understood its contents, hereby submit my/our Application for Qualification for the aforesaid project. The Application is unconditional and unqualified.

2. I/ We acknowledge that the Authority will be relying on the information provided in the Application and the documents accompanying such Application for pre-qualification of the Applicants for the aforesaid project, and we certify that all information provided in the Application and in Annexes I to IV is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.
3. This statement is made for the express purpose of qualifying as a Bidder for the planning, designing, procurement, installation, build, construction, operation and maintenance] of the aforesaid Project.
4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Qualification statement.
5. I/ We acknowledge the right of the Authority to reject our Application without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach

on our part.

7. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the RFQ document, including any Addendum issued by the Authority;
 - (b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) and 2.2.1(d) of the RFQ document;
 - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFQ document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
 - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFQ document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Application that you may receive nor to invite the Applicants to Bid for the Project, without incurring any liability to the Applicants, in accordance with Clause 2.17.6 of the RFQ document.
9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(s) the Net Worth criteria and meet(s) all the requirements as specified in the RFQ document and am/are qualified to submit a Bid.
10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium applying for pre-qualification.
11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court.
13. I/ We further certify that no investigation by a regulatory authority is pending either

against us/ any Member of the Consortium or against our/ their Associates or against our CEO or any of our directors/ managers/ employees.

14. I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GOI vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply *mutatis mutandis* to the Bidding Process. A copy of the aforesaid guidelines form part of the RFQ at Appendix-V thereof.
15. I/We further certify that we/ any Member of the Consortium or any of our/ their Associates are not barred by the [Central Government/ State Government] or any entity controlled by it, from participating in any project (BOT or otherwise), and no bar subsists as on the date of Application.
16. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFQ, we shall intimate the Authority of the same immediately.
17. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-I of the RFQ document, and duly signed, is enclosed. The power of attorney for signing of Application and the power of attorney for Lead Member of consortium, as per format provided at Appendix II and III respectively of the RFQ, are also enclosed.
18. I/ We understand that the selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/2013, or shall incorporate as such prior to execution of the Concession Agreement.
19. I/ We hereby confirm that we shall comply with the O&M requirements specified in Clause 2.2.3.
20. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of Applicants, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
21. I/ We agree and undertake to abide by all the terms and conditions of the RFQ document.
22. I/ We certify that in terms of the RFQ, my/our Net Worth is Rs. (Rupees _____) and the Aggregate Technical Capacity is (in figures) _____ (number in words).
23. With respect to the details regarding security clearance provided in Appendix VI of

my/our RFQ application, I/We accept and confirm to communicate to the Port Authority the changes in (a) Management Control of the Company/Companies and / or (b) Change of more than 10% in shareholding in the Company/Companies by any shareholder, within two weeks of change taking place.

24. We agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.^{\$}

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

Yours faithfully,

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

Place: Name and seal of the Applicant/ Lead Member

^{\$} This Paragraph 24 shall be omitted if the Applicant is not a Consortium.

ANNEX-I

Particulars of the Applicant

1.
 - (a) Name:
 - (b) Country of incorporation:
 - (c) Address of the corporate headquarters and its branch office(s), if any, in India:
 - (d) Date of incorporation and/ or commencement of business:
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:
3. Particulars of individual(s) who will serve as the point of contact/ communication for the Applicant:
 - (a) Name:
 - (b) Designation:
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:
4. Particulars of the Authorised Signatory of the Applicant:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number:
5. In case of a Consortium:
 - (a) The information above (1-4) should be provided for all the Members of the Consortium.
 - (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.2.6 (g) should be attached to the Application.
 - (c) Information regarding the role of each Member should be provided as per table below:

Sl. No.	Name of Member	Role*	Percentage of equity in the Consortium ^{\$\$}
1.			
2.			

3.			
4.			

* The role of each Member, as may be determined by the Applicant, should be indicated in accordance with Clause 2.2.6 (d) and instruction 4 at Annex-IV.

\$\$The percentage of equity should be in accordance with Clause 2.2.6 (a), (c) and (g).

(d) The following information shall also be provided for each Member of the Consortium:

Name of Applicant/ member of Consortium:

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

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

ANNEX-II

Technical Capacity of the Applicant@

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

Applicant type#	Member Code* (2)	Project Code** (3)	Category\$ (4)	Experience* (Equivalent Rs. crore)\$ Experience			Total Experience (5 + 6 + 7)
				Payments made/received for construction of Eligible Projects in Categories 3 and 4 or operations of Eligible Project(s) in category 3 (5)	Payments made for development of Eligible Projects in Categories 1 and 2 (6)	Revenues appropriated from Eligible Projects in Categories 1 and 2 (7)	
Single entity Applicant		a					
		b					
		c					
		d					
Consortium Member 1		1a					
		1b					
		1c					
		1d					
Consortium Member 2		2a					
		2b					
		2c					
		2d					
Consortium Member 3		3a					
		3b					
		3c					
		3d					
Consortium Member 4		4a					
		4b					
		4c					
		4d					
Aggregate Technical Capacity							

- @ Provide details of only those projects that have been undertaken by the Applicant under its own name and/ or by an Associate specified in Clause 2.2.9 and/ or by a project company eligible under Clause 3.2.3 (b). In case of Categories 1 and 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 3.2.3 (c) and for Categories 3 and 4, include only those projects where the payments made/received exceed the amount specified in Clause 3.2.4. In case the Application Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.
- # An Applicant consisting of a single entity should fill in details as per the row titled Single entity Applicant and ignore the rows titled Consortium Member. In case of a Consortium, the row titled Single entity Applicant may be ignored. In case credit is claimed for an Associate, necessary evidence to establish the relationship of the Applicant with such Associate, in terms of Clause 2.2.9, shall be provided.
- * Member Code shall indicate NA for Not Applicable in case of a single entity Applicant. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member, OM means Other Member.
- ** Refer Annex-IV of this Appendix-I. Add more rows if necessary.
- \$ Refer Clause 3.2.1.
- ¥ In the case of Eligible Projects in Categories 1 and 2, the figures in columns 6 and 7 may be added for computing the Technical Capacity of the respective projects. In the case of Categories 3 and 4, construction shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. In no case shall the cost of land be included while computing the Technical Capacity of an Eligible Project.
- \$\$ For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees 90 (ninety) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Application Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

ANNEX-III

Financial Capacity of the Applicant

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

(In Rs. crore\$)\$

Applicant type \$ (1)	Member Code £ (2)	Net Cash Accruals					Net Worth* Year 1 (8)
		Year 1 (3)	Year 2 (4)	Year 3 (5)	Year 4 (6)	Year 5 (7)	
Single entity Applicant							
Consortium Member 1							
Consortium Member 2							
Consortium Member 3							
Consortium Member 4							
TOTAL							

Name & address of Applicant's Bankers:

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

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

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

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

Instructions:

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

- (a) reflect the financial situation of the Applicant or Consortium Members and its/ their Associates where the Applicant is relying on its Associate's financials;
 - (b) be audited by a statutory auditor;
 - (c) be complete, including all notes to the financial statements; and
 - (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
2. Net Cash Accruals shall mean Profit After Tax + Depreciation.
3. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
4. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Application Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.
5. In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.2.6 (g) of the RFQ document.
6. The Applicant shall provide an Auditor's Certificate specifying the Net Worth of the Applicant and also specifying the methodology adopted for calculating such Net Worth in accordance with Clause 2.2.4 (ii) of the RFQ document.

ANNEX-IV

Details of Eligible Projects

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

Project Code:

Member Code:

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

Instructions:

- Applicants are expected to provide information in respect of each Eligible Project in this Annex. The projects cited must comply with the eligibility criteria specified in Clause 3.2.3 and 3.2.4 of the RFQ, as the case may be. Information provided in this section is intended to serve as a back up for information provided in the Application. Applicants should also refer to the Instructions below.
- For a single entity Applicant, the Project Codes would be a, b, c, d etc. In case the Applicant is a Consortium then for Member 1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and

so on.

3. A separate sheet should be filled for each Eligible Project.
4. Member Code shall indicate NA for Not Applicable in case of a single entity Applicant. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member; and OM means Other Member. In case the Eligible Project relates to an Associate of the Applicant or its Member, write “Associate” along with Member Code.
5. Refer to Clause 3.2.1 of the RFQ for category number.
6. The total payments received/ made and/or revenues appropriated for each Eligible Project are to be stated in Annex-II of this Appendix-I. The figures to be provided here should indicate the break-up for the past 5 (five) financial years. Year 1 refers to the financial year immediately preceding the Application Due Date; Year 2 refers to the year before Year 1, Year 3 refers to the year before Year 2, and so on (Refer Clause 2.2.12). For Categories 1 and 2, expenditure on development of the project and/or revenues appropriated, as the case may be, should be provided, but only in respect of projects having an estimated capital cost exceeding the amount specified in Clause 3.2.3 (c). In case of Categories 3 and 4, payments made/ received only in respect of construction and/or operations in Category 3 should be provided, but only if the amount paid/received exceeds the minimum specified in Clause 3.2.4. Payment for construction works should only include capital expenditure, and should not include expenditure on repairs and maintenance.
7. In case of projects in Categories 1 and 2, particulars such as name, address and contact details of owner/ Authority/ Agency (i.e. concession grantor, counter party to PPA, etc.) may be provided. In case of projects in Categories 3 and 4, similar particulars of the client need to be provided.
8. Provide the estimated capital cost of the Eligible Project. Refer to Clauses 3.2.3 and 3.2.4
9. For Categories 1 and 2, the date of commissioning of the project, upon completion, should be indicated. In case of Categories 3 and 4, date of completion of construction should be indicated. In the case of projects under construction, the likely date of completion or commissioning, as the case may be, shall be indicated.
10. For Categories 1 and 2, the equity shareholding of the Applicant, in the company owning the Eligible Project, held continuously during the period for which Eligible Experience is claimed, needs to be given (Refer Clause 3.2.3).
11. Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner

whatsoever.

12. Certificate from the Applicant's statutory auditor^{\$} or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Applicant/ Member/ Associate may provide the requisite certification.
13. If the Applicant is claiming experience under Categories 1 & 2[£], it should provide a certificate from the statutory auditor of the Applicant, or its Associate in the format below:

Certificate from the Statutory Auditor regarding PPP projects^Φ

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

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

.....
.....

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

.....
.....

Name of the audit firm:

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

Date:

^{\$} In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.

[£] Refer Clause 3.2.1 of the RFQ.

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

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

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

14. If the Applicant is claiming experience under Category 3 & 4 ^{*}, it should provide a certificate from its statutory auditors or the client in the format below:

Certificate from the Statutory Auditor/ Client regarding construction works ^Φ

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

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

.....

.....

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

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of the authorised

signatory). Date:

[♣] Refer Clauses 3.2.1 and 3.2.4 of the RFQ.

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

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

[♣] This certification should only be provided in case of jobs/ contracts, which are executed as part of a partnership/ joint venture/ consortium. The payments indicated in the certificate

should be restricted to the share of Applicant in such partnership/ joint venture/ consortium. This portion may be omitted if the contract did not involve a partnership/ joint venture/ consortium. In case where work is not executed by partnership/ joint venture/ consortium, this paragraph may be deleted.

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

Certificate from Statutory Auditor/ Company Secretary regarding Associate[§]

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

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

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

Name of the audit firm:

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

Date:

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

[§] In the event that the Applicant/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

[£] In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% (fifty per cent) in order to establish that the chain of “control” is not broken.

ANNEX-V

Statement of Legal Capacity

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

Ref. Date:

To,

The Chief Mechanical Engineer,
Mechanical and Electrical Engineering Department,
V. O. Chidambaranar Port Authority.

Dear Sir,

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

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

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

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised

signatory) For and on behalf

of.....

* Please strike out whichever is not applicable.