

Government of West Bengal
Finance Department
Audit Branch

No.8385-F(Y)

22nd November, 2013.

MEMORANDUM

Different departments of the State Government have to often seek services of consultants for the purpose of project planning, feasibility studies, construction supervision/ project management, advisory services, etc. to complement the capabilities available in the Government department or other Government bodies. The existing West Bengal Financial Rules do not prescribe procurement rules for selection and engagement of consultants.

2. It is, therefore, felt necessary to prescribe guidelines for the procurement of services of the Consultants. The undersigned is directed by order of the Governor to issue the Guidelines for selection of Consultants attached as Annexure to this memo.

3. The undersigned is also directed to delegate financial power upto Rs.10 lakh per consultancy to the Additional Chief Secretary / Principal Secretary / Secretary of the Administrative Department for payment of professional service charge / fee to the Consultant out of fund available under object head of "28-payment of professional & special services-02-other charges" subordinate to the functional Major head of the Department.

Sd/-

(H.K. Dwivedi)
Principal Secretary to the
Government of West Bengal

No. 8385-F(Y)

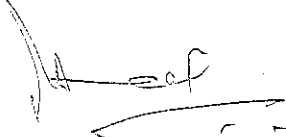
Dated, the 22nd November, 2013.

Copy forwarded for kind information and necessary action to :

1. The Chief Secretary, Government of West Bengal.
2. The Accountant General (A&E), West Bengal, Treasury Buildings, 2, Govt. Place (West), Kolkata-700 001.
3. The Additional Chief Secretary/Principal Secretary/Secretary,

Department, Govt. of West Bengal.

4. Director of Treasuries & Accounts, West Bengal.
5. All District Magistrates.
6. Guard file of Finance Department (Group-T).


(Goutam Samanta)
Joint Secretary to the
Government of West Bengal

ANNEXURE
to memo no. 8385-F(Y) dt. 22.11.2013
Guidelines for engagement of consultants

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INTRODUCTION

1.1 Purpose

1.1.1 The purpose of these Guidelines is to define the State Government's broad policies and procedures for selection, contracting and monitoring of consultants and other professional services providers financed from the Government's resources.

1.1.2 The term consultant(s) includes a wide variety of private and public entities, including Transaction Advisors, consulting firms, engineering firms, management firms, procurement agents, inspection agents, auditors, investment and merchant bankers, universities, research institutions, Government agencies, non Government organizations (NGOs) and individuals/experts. These consultants can be engaged for help in a wide range of activities – such as policy advice; institutional reforms; management; engineering services; construction supervision/ project management; feasibility studies, financial services; privatization studies and procedures, procurement services; social and environmental studies; identification of projects, preparation of DPR including those related to PPP projects, development of Computer hardware /software services etc. to complement the capabilities of the Government department or other Government authorities (referred to as “engaging Departments” hereafter).

1.2 When and how to engage Consultant

1.2.1 The following main considerations would guide the need for engaging consultants:-

- (a) Absence of required expertise in-house;
- (b) The need for high quality services;
- (c) The need for economy and efficiency;
- (d) The need to have qualified Consultants for providing the specific services;
- (e) The importance of transparency in the selection process;
- (f) The identification of scope of work and the time frame for which services are to be availed of.

1.2.2 Administrative approval and financial sanctions from the competent authority as stipulated in the West Bengal Financial Rules shall be required for engagement of consultants / professional service providers in any office of the State Government.

1.2.3 Engagement of Officials of the State Government or Retired Officers either in their individual capacity or as a part of a Consultant's team will be guided by the rules and orders of the State Government issued from time to time.

1.3 Applicability of Guidelines

1.3.1 These guidelines are applicable for selection of consultants by any department / organization of the State Government where the costs of the Project/Assignment are funded by the State Government.

1.3.2 The consulting services to which these Guidelines apply are of an intellectual and advisory nature. These Guidelines do not apply to other types of services in which the physical aspects of the activity predominate (for example, construction of works, manufacture of goods, operation and maintenance of facilities or plant).

1.4 Consortium of Consultants

Consultants may associate with each other to form a consortium to complement their respective areas of expertise, or for other reasons provided the service is of homogeneous discipline. For instance, expertise in technical consultancy assignments should not be combined with financial and / or legal consultancy and vice versa. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The consortium may take the form of a joint venture or of a sub consultancy. In case of a joint venture, all members of the joint venture shall sign the contract and shall be jointly and severally liable for the entire assignment. In case of consortium of consultants one of the partners of the consortium must become the lead member of the consortium and the Engaging Department shall only deal with the lead member for all the purposes. Consultancy proposals with respect to the lead firm only should be evaluated and the lead firm should always be responsible for delivery of services.

1.5 Selection of Consultants

1.5.1 For selection of the consultants, normally, the engaging Department shall adopt two stage procedure. In the first stage, the engaging Department shall identify the likely sources on the basis of formal or informal enquiries and by inviting Expression of Interest (EOI) through advertisement. On the basis of responses received, Consultants meeting the requirement will be short listed for further consideration. In the second stage, the short-listed consultant will be invited to submit (Request for Proposals or RFP) their Technical and Financial Proposals. The consultant shall be selected based on evaluation of their Technical and Financial bids, the details of which are provided in Part 3 of these guidelines.

1.5.2 The selection of consultant shall follow any of the following methods; as considered appropriate:

1. Quality and Cost Based Selection (QCBS): Under normal circumstances, this method of evaluation shall be used.
2. Combined Quality Cum Cost Based System (CQCCBS): This method of selection shall be used for highly technical projects where weightage needs to be given to higher technical standards, while finalizing the prices, as per para 3.12 below.
3. Quality Based Selection (QBS): This method of selection may be used under the following circumstances:
 - (i) the outcome of the assignment will have high impact and hence it is essential to engage most qualified consultant. Examples are national policy formulation; capacity building program etc.
 - (ii) the assignment is very complex or highly specialized where it is difficult to define scope of work with accuracy. Examples are country specific study; reforms related studies, high precision scientific work etc.
4. Cost Based Selection (CBS): This method of selection may be used for the assignments of following nature: (i) assignment where any experienced consultant can deliver the services without requirement of specific expertise. Examples are traffic surveys, market surveys etc. and (ii) cost of which shall not exceed Rs. Ten lakh.

1.5.3 Selection by direct negotiations: The selection by direct negotiations/nomination is permissible under exceptional circumstance such as (a) for tasks that represent a natural continuation of previous work carried out by the firm, (b) in case of emergency situation, situation arising after natural disasters, situations where timely completion of the assignment is of utmost importance, (c) situations where the execution of assignment may involve use of proprietary techniques or only one consultant has requisite expertise. Such selection may normally be restricted to a financial ceiling of Rs. Five lakh.

1.6 Consultancy Tender Evaluation Committee (CTEC)

For all cases having financial implications of more than Rs. Five lakh, a CTEC comprising of at least three members at appropriate level including Financial Adviser or his representative and also a representative of the user shall be constituted by the engaging Department in order to carry out the consultant selection procedure. The CTEC shall be responsible for all aspects and stages of the consultant selection i.e. issuance of EOI, evaluation of EOI, short-listing of consultants, deciding Terms of Reference, issuance of RFP, evaluation of technical and financial proposals, negotiations and final selection of the consultant. Even in case of selection of consultant by direct negotiations having financial implication of more than Rs. Five lakh, the CTEC shall negotiate with the consultant on technical and financial aspects. [Note: Separate committees may be constituted for separate assignments.]

1.7 Forms of Contracts

1.7.1 Various forms of the contracts may be entered into by the Engaging Department with the consultant depending upon the nature of the assignment. Following are various forms of contracts:

- (i) Lump sum contract;
- (ii) Time based contracts;
- (iii) Success fee based contract;
- (iv) Percentage contract;
- (v) Indefinite delivery contract.

1.7.2 The lump sum contract is the preferred form of contract and under normal circumstances, the engaging Department shall use this form of contract. The other forms of contract shall only be used under special circumstances, as specified in Part 5 of these guidelines.

Part-2

Expression of Interest

2.1 Invitation of Expression of Interest

2.1.1. Where the estimated cost of work or service is upto Rs.5 lakhs preparation of long list of potential consultants may be done on the basis of formal or informal enquiries from other Departments or organizations involved in similar activities, Chambers of Commerce and Industry, Association of Consultancy Firms, etc.

2.1.2. In addition to 2.1.1 above, where the estimated cost of the work or service is above Rs. 5 lakhs but below Rs. 10 lakh, except in cases of nomination or where direct negotiation is carried out as per provisions in West Bengal Financial Rules, an advertisement called "invitation for Expression of Interest" (EOI) shall be released in at least one widely circulated English language daily newspaper and one vernacular language leading daily newspaper; for those of or above Rs.10 lakh an advertisement called "invitation for Expression of Interest" (EOI) shall be released in at least one English language National Newspaper. Simultaneously the advertisement shall be posted in the Department's website for preparing the short list. Attention of known reputed consultants may also be separately drawn wherever possible. Advertisement in newspapers shall be brief and give reference to departmental website. The advertisement must include, besides the broad scope of work or service, inputs to be provided by the Department, eligibility and the pre-qualification criteria to be met by the consultants and consultant's past experience in similar work or service, the last date of submission of EOI, how to get copy of EOI document, contact information of the engaging Department with name of contact person etc. Adequate time should be allowed for getting responses from interested consultants.

2.2 EOI Document

2.2.1 The Engaging Department shall prepare an EOI document. The EOI document shall contain following information:

- (i) Invitation to EOI: It shall include a copy of the advertisement whereby consultants are invited to submit their EOI.
- (ii) Brief about objectives and scope of work : This may include brief description about objective of carrying out the assignment, broad scope of work and expected deliverables of the assignment. This may also include the place of execution of the assignment.
- (iii) Instructions to the Consultants: It may include instructions regarding nature of job, inputs, if any, to be provided by the Department, submission requirement; requirement of bid processing fees; if any; last date of submission; place of submission; and any related instruction;
- (iv) Pre-qualification Criteria; this may clearly lay down the prequalification criteria which shall be applied by the engaging Department including consultant's past experience in similar work or service, for short listing the consultants.
- (v) Formats for submission. This section shall specify the format in which the consultants are expected to submit their EOI.

2.2.2 The engaging Department shall make available the copies of the EOI document to the interested consultants in hard copies as well as on its web site.

2.3 Short List of Consultants

2.3.1 The Engaging Department shall evaluate the consultants for short listing, inter-alia, based on their past experience of handing similar types of projects, strength of their man power and financial strength of the firm.

2.3.2 The engaging Department may assign scores to the response of each consultant based on weightages assigned to each of the criteria in EOI. Normally, the following weightages may be used for such evaluation:

Serial no.	Criteria	Weightage
1.	Past experience of the firm	60%
	• Number of years experience	20%
	• Past experience of studies/job of similar nature	50%
	• Past experience in carrying out studies/job in related sectors	20%
2.	• Studies/job carried out in West Bengal	10%
	Experience of Key personnel.	25%
	• Qualifications	30%
• Relevant experience	70%	
3.	Financial strength of the consultant.	15%
	• Turnover figure for last three years.	50%
	• Net profit figure for last three years	50%

2.3.3 The Engaging Department shall short list all the consultants who secure the minimum required marks [normally 50%]. The minimum qualifying requirement shall be specified in the EOI document.

2.3.4 Alternatively, the engaging Department may specify in the EOI document minimum qualifying requirement for each of the criteria i.e. minimum years of experience, minimum number of assignments executed, minimum turnover etc. Under such circumstances, the engaging Department shall apply pass-fail test and short list all the consultants who meet the minimum requirement as specified.

2.3.5 The short lists shall normally comprise at least three firms.

2.4 Cost Based Selection

2.4.1 For small assignments, where the engaging Department decides to select the consultant based on CBS method, the consultant shall be selected following single stage bidding procedure. Under single stage

bidding procedure, the engaging Department shall invite financial proposals along with the EOI in two separate envelopes.

2.4.2 The financial proposals of all the consultants who have been short listed, as per clause 2.3 above, shall be opened in the presence of the short listed consultants who choose to remain present. The consultant, who has submitted the lowest financial bid, shall be selected as the L1 and shall be called for further negotiations.

Part -3

SELECTION OF CONSULTANTS

3.1 Once the short listing of consultants is completed, the engaging Department shall start the process of final selection of the consultant. The selection process generally includes the following steps:

- (a) preparation of Terms of Reference (TOR);
- (b) preparation of cost estimate and the budget;
- (c) preparation and issuance of the Request for Proposals (RFP);
- (d) pre-bid meeting;
- (e) receipt of proposals;
- (f) evaluation of technical proposals: consideration of quality;
- (g) public opening of financial proposals;
- (h) evaluation of financial proposal;
- (i) selection of the winning proposal;
- (j) negotiations with the selected consultant, if required
- (k) award of the contract to the selected firm.

3.2 Terms of reference

The Engaging Department shall be responsible for preparing the TOR for the assignment. TOR shall be prepared by those who have sufficient knowledge and experience in the area of the assignment. If the required experience is not available in-house, the task of preparation of the TOR can also be assigned to experienced consultants. The TOR shall include:

- i) Purpose/ objective of the assignment;
- ii) Detailed scope of work;
- iii) Expected input of key professionals (number of experts, kind of expertise required);
- iv) Proposed schedule for completing the assignment;
- v) Reports/deliverables required from the consultant.
- vi) Background material, records of previous surveys etc. available and to be provided to the consultant
- vii) Facilities such as local conveyance, office space, secretarial assistance etc., which can be provided to the consultant
- viii) Procedure for review of the work of consultant after award of contract.

The scope of the services described in the TOR shall be compatible with the available budget. TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is also an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources. TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys). However, TOR should not be too detailed and inflexible, so that competing consultants may propose their own methodology and staffing. Firms shall be encouraged to comment on the TOR in their proposals. The engaging Department's and consultants' respective responsibilities should be clearly defined in the TOR.

3.3 Cost Estimate (Budget)

Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate shall be based on the engaging Department's assessment of the resources needed to carry out the assignment: staff time, logistical support, and physical inputs (for example, vehicles, laboratory equipment). Costs shall be divided into two broad categories:

- (a) fee or remuneration (according to the type of contract used) and
- (b) reimbursable, and further divided into foreign (if applicable) and local currency payments.

The cost of staff time shall be estimated on a realistic basis for the personnel, as applicable, by ascertaining the prevalent market conditions and consulting other organizations engaged in similar activities.

3.4 Preparation and Issuance of the Request for Proposals (RFP)

3.4.1 Request For Proposal (RFP) is the bidding document in which the technical and financial proposals from the consultants are obtained. It contains the following:

- (i) A letter of invitation (LOI)
- (ii) Instructions to consultants (ITC)
- (iii) Terms of Reference (TOR)
- (iv) List of key positions / professionals required for the assignment
- (v) Requirement of qualification and experience of the firm and of the key professional staff
- (vi) Criteria of bid evaluation and selection procedure
- (vii) Standard formats for technical proposal
- (viii) Standard formats for financial proposal
- (ix) Proposed form of contract.

The engaging Department shall use the applicable standard RFP with minimal changes as necessary to address project-specific issues. The engaging Department may use an electronic system to distribute the RFP. If the RFP is distributed electronically, the electronic system shall be secured to avoid modifications to the RFP and shall not restrict the access of short listed consultants to the RFP. The RFP will be sent only to the short listed consultants.

3.4.2 Letter of Invitation (LOI)

The LOI shall state the intention of the engaging Department to enter into a contract for the provision of consulting services, the details of the engaging Department and the date, time, and address for submission of proposals.

3.4.3 Instructions to Consultants (ITC)

3.4.3.1 The ITC shall consist of two parts, (1) Standard information, and (2) Assignment specific information. The assignment specific information is added through "data sheet". The ITC, therefore, contains all necessary information that would help the consultants prepare responsive proposals, and shall bring as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum passing quality score. The standard information include clauses relating to the procedure of bid submission, the procedure relating to pre-bid meeting, procedure for seeking clarifications etc. The assignment / job specific information will be prepared separately and it will include the date and time of bid

submission, contact address, the qualification criteria, the method of selection, the evaluation process, the factors of evaluation and their respective weights etc.

3.4.3.2 The ITC shall not indicate the budget (since cost is a selection criterion), but shall indicate the expected input of key professionals (staff time). Consultants, however, shall be free to prepare their own estimates of staff time necessary to carry out the assignment. The ITC shall specify the proposal validity period (normally 90-120 days).

3.4.4 Standard formats for technical and financial proposals

3.4.4.1 The standard formats for technical proposal include:

- (i) Format for Letter of Proposal submission
- (ii) Format for Consultant's organization and experience
- (iii) Format for Comments and suggestions on TOR
- (iv) Format for Approach and methodology
- (v) Format for Team Composition
- (vi) Format for Curriculum Vitae of key professionals
- (vii) Format for Staffing Schedule
- (viii) Format for Work Schedule
- (ix) Format for Comments / modifications suggested on draft contract.
- (x) Format for information regarding any conflicting activities and declaration thereof.

3.4.4.2 The standard formats for financial proposal include:

- (i) A summary sheet of the cost estimate to be quoted by the consultant.
- (ii) Remuneration payable.
- (iii) Reimbursables.

3.4.5 Proposed form of contract

3.4.5.1 The contract includes accepted TOR methodology, general and specific conditions of contract, etc. wherever possible, the engaging Department shall use the Standard Form of Contract.

3.4.5.2 The general conditions of contract shall include all such conditions which are common in nature and not project specific. Such conditions include clauses pertaining to sub contracting, methods of payment, termination and extension of contracts, arbitration, variation in quantities, indemnity and insurance, force majeure, conflict of interest, compliance to local laws and taxes and duties, franking clause etc.

3.4.5.3 The project specific conditions include clauses relating to the assignment in hand. These clauses should be carefully developed to protect the interest of the engaging Department.

3.5 Pre-bid meeting

In all cases of large value or complex assignments, a pre-bid meeting may be prescribed in the RFP. The date and time for such a meeting should normally be after 15 to 30 days of issue of RFP and should be specified in the RFP itself. During this meeting, the scope of assignment, responsibilities of either parties or other details should be clearly explained to the prospective bidders so that there is no ambiguity later on at the time of submission of technical/financial bids. Where some significant changes are made in the terms/scope of RFP as a result of pre bid meeting or otherwise considered necessary by the engaging

Department, a formal Corrigendum to RFP may be issued, to all short listed consultants. In such cases, it should be ensured that after issue of Corrigendum, reasonable time (not less than 15 days) is available to the bidders to prepare/submit their bid. If required, the time for preparation and submission of bids may be extended, suitably.

3.6 Receipt of proposal

3.6.1 The engaging Department should allow enough time to the short listed consultants to prepare their proposals. **The time allowed shall depend on the assignment, but normally shall not be less than four weeks and more than three months.** In cases, **where participation of international consultants is contemplated, a period of not less than eight weeks should normally be allowed.** If necessary, the Government Department shall extend the deadline for submission of proposals. The technical and financial proposals shall be submitted at the same time. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. The technical bids will be opened immediately after closing of receipt of technical bids by the Consultancy Tender Evaluation Committee (CTEC). The financial proposals shall remain sealed and shall be opened publicly only of those firms who have qualified technically. Any proposal received after the closing time for submission of proposals shall be returned unopened.

3.6.2 Government Departments may use electronic systems permitting consultants to submit proposals by electronic means, provided the Department is satisfied with the adequacy of the system, including, *inter alia*, that the system is secure, maintains the confidentiality and authenticity of the proposals submitted, uses an electronic signature system or equivalent to keep consultants bound to their proposals and only allows proposals to be opened with due simultaneous electronic authorization of the consultant and the Government Department.

3.6.3 Late Bids:

Late bids that is bids received after the specified date and time of receipt shall not be considered and shall be returned unopened.

3.7 Evaluation of Proposals: Consideration of responsiveness

The evaluation of the proposals shall be carried out in two stages: At the first stage evaluation of technical proposals is taken up. Proposals without earnest money (bid security), bid processing fees, if specified, unsigned and incomplete (i.e. when the required bid formats have not been submitted), not responding to the TOR fully and properly and those with lesser validity than that prescribed in the RFP will be summarily rejected as being non-responsive, before taking up the appraisal of the technical proposal for evaluation of quality. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation is concluded. The envelope containing the financial proposal is not opened till the technical evaluation is complete. The financial proposal of only such bidders will be opened which obtain minimum qualifying marks / standards prescribed for the technical proposal. The evaluation shall be carried out in full conformity with the provisions of the RFP.

3.8 Evaluation of the Quality

3.8.1 The Engaging Department shall evaluate each technical proposal (using the evaluation committee, CTEC), taking into account criteria as prescribed in the RFP: (a) the consultant's relevant experience for the assignment, (b) the quality of the methodology proposed, (c) the qualifications of the key staff proposed and (d) capability for transfer of knowledge. Each of the responsive technical proposal will be evaluated for the criteria prescribed in the RFP by awarding marks so as to make total maximum technical score as 100. The criteria and weightage to each criteria or sub-criteria would depend on the requirements of each case and may be fixed objectively. A model scheme of maximum marks is, however, proposed as under:

<u>Details</u>	<u>Max. Marks</u>
1. Experience of the firm	20
2. Methodology, work plan and understanding of TOR	25
3. Suitability of the Key personnel for the assignment	45
4. Capability for Transfer of knowledge/training*	10
TOTAL	100

** If this criteria is not required, the marks can be adjusted against some other criteria.*

The weight given to the firm's experience can be relatively modest, since this criterion has already been taken into account when shortlisting the consultant. More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies). Alternatively a simplified procedure for evaluation of quality can be followed which has been described in para 3.9 below.

3.8.2 For evaluation of the technical bids with the simplified and detailed methods of evaluation, suggested formats have been given at Annexures I & II respectively of this manual. They can be referred to for guidance. Suitable modifications can be made based on the requirements of the evaluation criteria.

3.8.3 The CTEC shall normally divide the above criteria mentioned in para 3.8.1 into sub criteria. For example, sub criteria under methodology, work plan and understanding of TOR can be divided into (i) understanding of TOR, (ii) acceptability and detailing of methodology and work plan (iii) innovation, if it is important. However, the number of sub criteria should be kept to the minimum that is considered essential. The sub criteria for suitability of the key professionals for the assignment can also be divided into: (i) Educational qualifications (20% weight), (ii) professional experience in the required area of assignment (80% weight).

3.8.4 Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The CTEC shall review the qualifications and experience of proposed key personnel in their curricula vitae, which must be accurate, complete, and signed by an authorized official of the consultant and the individual proposed. When the assignment depends critically on the performance of key staff, such as a Project Manager in a large team of specified individuals, it may be desirable to conduct interviews.

3.8.5 **At the end of the technical evaluation process, the CTEC shall prepare a technical evaluation report of the "quality" of the proposals and take competent authority's approval.** The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and its audit.

3.8.6 Minimum qualifying marks or relative qualifying method for assessment / evaluation of the technical proposal will be prescribed and indicated in the RFP. The consultants who are qualifying as per the technical evaluation criteria will only be considered as eligible for the consultancy assignment.

3.9 Simplified procedure for evaluation of quality

Alternatively, the following simplified procedure for technical evaluation can also be followed.

3.9.1 **Purpose:** Most of the Govt. departments need consultants who should only fulfil a minimum qualifying standard. For such assignment a higher technical score of 60% and above may not be necessary. Engagement of accountants, auditors, consultant engineers etc. can be carried out by following this simplified procedure for evaluation of technical quality.

3.9.2 Under this procedure minimum qualifying standards / criteria will be fixed for each parameter. As mentioned earlier, the following parameters can be used:

- (i) Minimum experience including number of assignments handled by the firm similar to the area of assignment.
- (ii) Turn over and other financial parameters of the firm, if required.
- (iii) Minimum educational qualifications of each of the key professionals.
- (iv) Minimum requirement of experience of the key professionals in an area similar to the proposed assignment.

3.9.3 All the firms which meet the minimum qualifying standards / criteria so prescribed will stand technically qualified for consideration of their financial bids. No ranking of firms among the qualifying firms will be required.

3.10 Evaluation of Cost

3.10.1 After evaluation of quality has been completed, the engaging Department shall notify those consultants whose proposals did not meet the minimum qualifying standard or were considered non-responsive to the RFP and/or TOR, indicating that their financial proposals will be returned unopened after completing the selection process. In case of QCBS, the engaging Department shall simultaneously notify the consultants that have successfully satisfied the qualifying standard or attained the minimum qualifying marks where marks have been awarded, and indicate the date and time set for opening the financial proposals. In such a case, the opening date shall not be later than three weeks after the notification date. The financial proposals shall be opened publicly in presence of the representatives of the technically qualified consultants who choose to attend. The name of the consultant, the qualification scores, and the proposed prices shall be read aloud and recorded when the financial proposals are opened. The engaging Department shall prepare the minutes of the public opening.

3.10.2 The CTEC will then examine if there are any arithmetical errors to be corrected. For the purpose of comparing proposals, the costs shall be converted to Indian Rupees as stated in the RFP. The CTEC shall make this conversion by using the selling exchange rates for those currencies as per exchange rate quoted by an official source e.g. State Bank of India. The RFP shall specify the source of the exchange rate to be used and the date of exchange rate to be taken for comparison of the costs. This date shall be the date of opening of financial bids.

3.10.3 For the purpose of evaluation, the total cost shall include all taxes and duties for which the engaging Department makes payments to the consultant and other reimbursable expenses, such as travel, translation, report printing, or secretarial expenses.

3.10.4 If there are conditions attached to any financial proposal, which shall have bearing on the total costs as indicated in the proposal, the CTEC shall reject any such proposals as non-responsive financial proposal. However, if the CTEC feels it necessary to seek clarification on any financial proposals regarding taxes, duties or any such matter, the CTEC may do so by inviting responses in writing.

3.11 Selection of the winning consultant

Under the QCBS procedure as mentioned in paras 3.8 and 3.9, the financial proposals will be ranked in terms of their total evaluated cost. The least cost proposal will be ranked as L-1 and the next higher and so on will be ranked as L-2, L-3 etc. The least cost proposal (L-1) will be considered for award of contract. **The CTEC will put up a report on financial evaluation of the technically qualified consultants to the competent finance authority along with the recommendation that the least cost proposal (L-1) can be approved /invited for negotiation and for final award of contract.** Negotiations will be carried out as per the guidelines in para 3.13.

3.12 Cost Evaluation under Combined Quality Cum Cost Based System (CQCCBS)

3.12.1 Under CQCCBS, the technical proposals will be allotted weightage of 70% while the financial proposals will be allotted weightages of 30%.

3.12.2 Proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices.

3.12.3 The total score, both technical and financial, shall be obtained by weighing the quality and cost scores and adding them up. The proposed weightages for quality and cost shall be specified in the RFP.

3.12.4 **Highest points basis:** On the basis of the combined weighted score for quality and cost, the consultant shall be ranked in terms of the total score obtained. The proposal obtaining the highest total combined score in evaluation of quality and cost will be ranked as H-1 followed by the proposals securing lesser marks as H-2, H-3 etc. The proposal securing the highest combined marks and ranked H-1 will be invited for negotiations, if required and shall be recommended for award of contract.

As an example, the following procedure can be followed. In a particular case of selection of consultant, It was decided to have minimum qualifying marks for technical qualifications as 75 and the weightage of the technical bids and financial bids was kept as 70 : 30. In response to the RFP, 3 proposals, A,B & C were received. The technical evaluation committee awarded them 75, 80 and 90 marks respectively. The minimum qualifying marks were 75. All the 3 proposals were, therefore, found technically suitable and their financial proposals were opened after notifying the date and time of bid opening to the successful participants. The price evaluation committee examined the financial proposals and evaluated the quoted prices as under:

<u>Proposal</u>	<u>Evaluated cost</u>
A	Rs.120.
B	Rs.100.
C	Rs.110.

Using the formula LEC / EC , where LEC stands for lowest evaluated cost and EC stands for evaluated cost, the committee gave them the following points for financial proposals:

A : $100 / 120 = 83$ points

B : $100 / 100 = 100$ points

C : $100 / 110 = 91$ points

In the combined evaluation, thereafter, the evaluation committee calculated the combined technical and financial score as under:

Proposal A: $75 \times 0.70 + 83 \times 0.30 = 77.4$ points.

Proposal B: $80 \times 0.70 + 100 \times 0.30 = 86$ points

Proposal C : $90 \times 0.70 + 91 \times 0.30 = 90.3$ points.

The three proposals in the combined technical and financial evaluation were ranked as under:

Proposal A: 77.4 points : H3

Proposal B: 86 points : H2

Proposal C: 90.3 points : H1

Proposal C at the evaluated cost of Rs.110 was, therefore, declared as winner and recommended for negotiations/approval, to the competent authority.

3.12.5 Under QBS method, the consultant who has secured first rank in technical evaluation shall be called for further negotiation after opening and evaluation of its financial proposals.

3.12.6 The Name of the successful bidder along with details of cost etc. shall be posted on the departmental website after the award to the successful bidder has been made and communicated to him in writing.

3.13 Negotiations and Award of Contract

3.13.1 Negotiations are not an essential part of the selection process. In many cases, however, it is felt necessary to conduct negotiations with the selected consultant. Negotiations shall include discussions of the TOR, the methodology, staffing, Government Department's inputs, and special conditions of the contract. These discussions shall not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. The final TOR and the agreed methodology shall be incorporated in "Description of Services," which shall form part of the contract.

3.13.2 Financial negotiations shall only be carried out if due to negotiations as mentioned in para 3.13.1 above, there is any change in scope of work which has any financial bearing on the final prices or if the costs/cost elements quoted are not found to be reasonable. In such negotiations, the selected firm may also be asked to justify and demonstrate that the prices proposed in the contract are not out of line with the rates being charged by the consultant for other similar assignments. **However, in no case such financial**

negotiation should result into increase in the financial cost as originally quoted by the consultant and on which basis the consultant has been called for the negotiations.

3.13.3 If the negotiations with the selected consultant fail, the engaging Department shall cancel the bidding procedure and re-invite the bids.

3.14 Rejection of All Proposals, and re-invitation

The Government Department will have the right to reject all proposals. However, such rejections should be well considered and normally be in cases where all the bids are either substantially in deviation to the TOR or considered unreasonably high in cost and in latter case, the lowest qualified bidder during negotiations fails to reduce the costs to a reasonable level. **If it is decided to reinvite the bids, the terms of reference should be critically reviewed / modified so as to address the reasons of not getting any acceptable bid in the earlier Invitation for Bids.**

3.15 Confidentiality

Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the award of contract is notified to the successful firm.

Part – 4

Other Methods of Selection

4.1 Selection through Direct Negotiations (Single Source Selection)

4.1.1 Selection of consultants through direct negotiations does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases.

4.1.2 This method of selection may be adopted only if it presents a clear advantage over competition and under circumstances as mentioned in para 1.5.3.

4.1.3 When continuity for downstream work is essential, the initial RFP shall outline this prospect, and, if practical, the factors used for the selection of the consultant should take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, the Department shall ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by the Department, which shall then be negotiated.

4.1.4 If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or reserved procurement or if the downstream assignment is substantially larger in value, a competitive process shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest.

4.1.5 **For selecting a consultant under this method, the engaging Department should prepare a full justification and take the approval of the competent authority, which normally should not be below the rank of a head of department.**

4.1.6 While selecting the consultant under this method, the engaging Department shall ensure that the consultant has the requisite qualification and experience to undertake the assignment. Normally the engaging Department shall adopt the same short listing criteria as applied to similar assignments while evaluating the EOI.

4.2 Selection of Service Providers:

Government Departments are also often engaging various service providers such as, for upkeep and maintenance of office (other than Civil & Electrical Works etc.), transport services etc. In such cases, which are generally low value contracts, it may not be necessary to take separate technical and financial proposals. In such case CBS method of selection can be used, after stating the minimum qualifying criteria (such as past experiences etc.).

4.3 **Procurement Agents (PAs).** When a Govt. department lacks the necessary organization, resources or experience, it may be efficient and effective for it to employ, as its agent, a firm that specializes in handling procurement. When PAs provide only advisory services for procurement and do not act as “agents” and are not paid a percentage fee at all, they shall be selected following the appropriate procedures as for other consulting assignments, specified in these Guidelines.

4.4 **Inspection Agents.** Government Departments may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival in the Government Department /country. The inspection by such agencies usually covers the quality and quantity of the goods concerned. Inspection agencies may be

selected using two bid system procedures and using a contract format with payments based on a percentage of the value of goods inspected and certified.

Part - 5

Types of Contracts

5.1 Lump Sum (Firm Fixed Price) Contract : Lump sum consultancy contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth. Payments are linked to outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents, and software programs. While lump sum consultancy contracts are easy to administer because payments are due on clearly specified outputs, it is essential that the terms of payments for these consultancy contracts are linked with the output and the time frame within which each of the defined activities are to be completed. This type of contracts shall normally be used by all Government Departments for hiring services of the consultants under this guideline.

5.2 Time-Based Contract : This type of contract is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. This type of contract is widely used for complex studies, supervision of construction, advisory services, etc. Payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices. The rates for staff include salary, social costs, overhead, fee (or profit), and, where appropriate, special allowances. This type of contract shall include a maximum amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate. **Time-based contracts need to be closely monitored and administered by the Department to ensure that the assignment is progressing satisfactorily and that payments claimed by the consultants are appropriate.**

5.3 Retainer and/or Contingency (Success) Fee Contract.

Retainer and contingency fee contracts are widely used when consultants (banks or financial firms) are preparing companies for sales or mergers of firms, notably in privatization operations. The remuneration of the consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.

5.4 Percentage Contract.

These contracts are commonly used for architectural services. They may be also used for procurement and inspection agents. **Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected.** The selection is made based on two stage bidding. The final selection is made among the technically qualified consultants who has quoted the lowest percentage while the notional value of assets is fixed. **It should be borne in mind that in the case of architectural or engineering services, percentage contracts implicitly lack incentive or economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services.**

5.5 Indefinite Delivery Contract (Price Agreement). These contracts are used when a Department needs to have "on call" specialized services to provide advice on a particular activity, the extent and timing of which cannot be defined in advance. These are commonly used to retain "advisers" for implementation of complex projects (for example, dam panel), expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more. The

Government Department and the firm agree on the unit rates to be paid for the experts, and payments are made on the basis of the time actually used. The consultant shall be selected based on the unit rate quoted by them for providing the services.

Part - 6

Important Provisions in RFP / Contract

6.1. **Currency.** Under normal circumstances, all the contracts should be based on Indian Rupees only. However, for exceptional case, contracts in foreign currency may be permitted with prior approval of competent authority. RFPs shall clearly state that firms may express the price for their services, in the currency specified in RFP. If RFP allows proposals in any other currency, the date and the exchange rate for converting all the bid prices to Indian Rupees shall be indicated in RFP.

6.2 **Payment Provisions.** Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed upon during negotiations vis-a-vis RFP and also indicated in the draft contract. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). Payments for advances if any should normally be backed by Bank Guarantee. The limit for advance payment will be as prescribed in West Bengal Financial Rules. Normally, it should not exceed 10% of the cost of the contract. Any advance payment should be backed by a bank guarantee.

6.3 **Bid Securities and bid processing fees.** The consultants submitting the proposals shall provide bid security along with their proposal. The amount, form and mode of submission of bid security and the method of refund of the bid security shall be specified in the RFP document. The engaging Department may also charge an appropriate bid processing fees, which is not refundable. However, for smaller assignment, the engaging Department may waive the requirement of bid security.

6.4 **Conflict of Interest.** The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting activities that conflict with the interest of the client under the contract and shall be excluded from downstream supply of goods or construction of works or purchase of any asset or provision of any other service related to the assignment other than a continuation of the "Services" under the ongoing contract. It should be the requirement of the consultancy contract that the consultants should provide professional, objective and impartial advice and at all times hold the client's interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Engaging Department. Without limitation on the generality of the foregoing, consultants shall not be hired, under the circumstances set forth below:

a) **Conflict between consulting activities and procurement of goods, works or services:** A firm that has been engaged to provide goods, works, or services for a project, and each of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and each of its affiliates, shall be disqualified from subsequently providing goods, works or services for such preparation or implementation.

b) **Conflict among consulting assignments:** Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization on public assets shall neither purchase nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.

c) Relationship with Government Ministry / Department's staff: Consultants (including their personnel and sub-consultants) that have a business or family relationship with such member(s) of the Department's staff or with the staff of the project implementing agency, who are directly or indirectly involved in any part of ; (i) the preparation of the TOR of the contract, (ii) the selection process for such contract, or (iii) supervision of such contract; may not be awarded a contract unless it is established to the complete satisfaction of the employing authority, for the reason to be recorded in writing, that such relationship would not affect the aspects of fairness and transparency in the selection process and monitoring of consultant's work.

6.5 Unfair Competitive Advantage

Fairness and transparency in the selection process require that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the request for proposals and all information would be made available to all short listed consultants together.

6.6 Professional Liability. The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the engaging Department will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that (a) there must be no such limitation in case of the consultant's gross negligence or wilful misconduct; (b) the consultant's liability to the engaging Department may in no case be limited to less than the total payments expected to be made under the consultant's contract, or the proceeds the consultant is entitled to receive under its insurance, whichever is higher; and (c) any such limitation may deal only with the consultant's liability toward the engaging Department and not with the consultant's liability toward third parties.

6.7 Staff Substitution. During an assignment, if substitution is necessary (for example, because of ill health or because a staff member proves to be unsuitable, or the member is no longer working with the consultant), the consultant shall propose other staff of at least the same level of qualifications for approval by the Engaging Department. The contract must specifically make provision for terms and conditions under which the staff can be replaced, about the remuneration to be paid etc.

6.8 Applicable Law and Settlement of Disputes. The contract shall include provisions dealing with the applicable law, which should be the law applicable in India and the forum for the settlement of disputes.

6.9 Training or Transfer of Knowledge

If the assignment includes an important component of training or transfer of knowledge to Government/Project staff, the Terms of Reference (TOR) shall indicate the objectives, nature, scope, and goals of the training program, including details on trainers and trainees, skills to be transferred, time frame, and monitoring and evaluation arrangements. The cost for the training program shall be included in the consultant's contract and in the budget for the assignment.

6.10 Standards of ethics: Government Department as well as consultants should observe the highest standard of ethics during the selection and execution of such contracts.

(a) In pursuance of the above objective, this policy defines, the terms set forth below as follows:

“corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution; and

“fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract,

“Collusive practice” means a scheme or arrangement between two or more consultants, with or without the knowledge of the engaging Department, designed to establish prices at artificial non-competitive levels.

“Coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

(b) It is further provided that :-

(i) Engaging Department will reject a proposal for award if it determines that the consultant recommended for award has engaged in corrupt or fraudulent activities in competing for the contract in question;

(ii) The Government will declare a consultant ineligible, either indefinitely or for a stated period of time, to be awarded a Government contract if it at any time determines that the consultant has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract; and

The engaging Department has the right to require that, in contracts, a provision be included requiring consultants to permit the engaging Department to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the engaging Department.

6.11 Monitoring of the Contract: The Department awarding the consultancy contract should be involved throughout in monitoring the progress of the assignment. Suitable provision for this should be made in the contracts which should also take care of the need to terminate / penalize the contractor or to suspend payments till satisfactory progress has not been achieved.

Part - 7

Selection of Individual Consultants

7.1. Individual consultants are normally employed on assignments for which (a) teams of personnel are not required, (b) no additional outside professional support is required, and (c) the experience and qualifications of the individual are the paramount requirement.

7.2. Selection of Individual consultants shall be carried out by advertising the requirement in at least one national newspaper of repute. Selection shall be based on their qualifications for the assignment. They shall be selected through comparison of qualifications of at least three candidates among those who have expressed interest in the assignment or have been approached directly by the Engaging Department. Individuals employed by Engaging Department shall meet all relevant qualifications and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organization.

7.3. Selection will be carried out by the CTEC as mentioned in para 1.6 which will award marks for the educational qualifications and experience and select the most suitable candidate for the assignment. The CTEC may also interview the candidates and award marks for their performance in the interview and recommend the remuneration to be paid.

7.4. From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these Guidelines shall apply to the parent firm.

7.5 Individual consultants may be selected on a direct negotiation basis with due justification in exceptional cases such as: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) assignments lasting less than six months; (c) emergency situations resulting from natural disasters; and (d) when the individual is the only consultant qualified for the assignment.

Annexure I

Format for Simplified evaluation of quality.

Name of the consultancy firm:

1. Responsiveness

Serial no.	Item	Required response
1.	Has the consultant paid the RFP document fees ?	Yes
2.	Has the consultant submitted the requisite bid processing fee and bid security?	Yes
3.	Have all the pages required to be signed by the authorized representative of the consultant been signed ?	Yes
4.	Has the power of attorney been submitted in the name of authorized representative ?	Yes
5.	In the case of JV/consortium, whether the MOU has been submitted.	Yes
6	Has the consultant submitted all the required forms of the technical proposal ?	Yes
7	Does the technical proposal contain any financial information ?	No
8	Is financial proposal submitted separately in a sealed cover ?	Yes

2. Evaluation of proposal.

Serial no.	Item	Required response
1.	Does the consultancy firm have the required experience?	Yes
2.	Does the proposed methodology of work fulfill the objectives of the assignment/job till the last detail of the TOR?	Yes
3.	Do the methodology, work plan and staffing schedule provide coverage of the entire scope of work as described in TOR?	Yes
4.	Does the team leader fulfill the minimum educational qualification and experience criteria?	Yes
5.	Has the consultant provided for all the professionals for requisite expertise?	Yes
6.	Does the key professional (indicate the position) fulfill the minimum educational qualification and experience criteria? [Evaluate for all the proposed key personnel]	Yes
7.	Are the staffing schedule including the key professionals proposed, the responsibility assigned to them and the support staff together adequate for performing the entire scope of work indicated in the TOR?	Yes

Note: If the answer is yes, in all the cases except for 1.7, the consultancy firm is considered technically qualified for the assignment.

Annexure II

Format for Detailed evaluation of quality.

Summary Sheet

(Compiled from II-A, II-B, II-C, II-D)

(Only for proposals considered as responsive)

Serial no.	Name of the consultant	Firm's experience (Max. Marks)	Methodology & work schedule (Max. Marks)	Qualifications of key professionals (Max. Marks)	Total Marks. (Max. Marks 100)

II-A

Responsiveness

Name of the Consultancy Firm

Serial no.	Item	Required response
1.	Has the consultant paid the RFP document fees?	Yes
2.	Has the consultant submitted the requisite bid processing fees and bid security?	Yes
3.	Have all the pages required to be signed by the authorised representative of the consultant been signed?	Yes
4.	Has the power of attorney been submitted in the name of the	Yes

5.	In the case of JV/Consortium, whether the MOU/Contract Agreement has been submitted?	Yes
6.	Has the consultant submitted all the required forms of the technical proposal?	Yes
7.	Has the consultant provided all the professionals for the requisite expertise?	Yes
8.	Does the technical proposal contain any financial information?	No
9.	Is the financial proposal submitted separately in a sealed cover?	Yes

II-B

Evaluation of Consultancy Firm's Experience

Serial no.	Name of the consultancy firm	Number of projects of similar nature	Marks awarded (Max. Marks)

II-C

Evaluation of Methodology & Work Schedule

Serial no.	Name of the consultancy firm	Understanding of TOR (Max. Marks)	Work plan & Methodology (Max. Marks).	Organization and staffing for the proposed assignment (Max. Marks)	Total

II-D

Evaluation of the Consultants Key Professionals

Name of the Consultancy Firm :

Serial no.	Name of the key professionals	Educational qualification	Max. Marks	No. of projects of similar nature	Max. Marks	Experience of the region (No. of projects in the region)	Max. Marks	Total Marks (4+6+8)
1	2	3	4	5	6	7	8	9

