

**TAMIL NADU TRANSPARENCY IN TENDERS (PUBLIC
PRIVATE PARTNERSHIP PROCUREMENT) RULES, 2012.**

CHAPTER-IV.

REQUEST FOR QUALIFICATION.

29. Request for Qualification (RFQ).- (1) The Request for Qualification (RFQ) called for under rule 4 is intended for the following purposes, namely.-

(a) publicise the information on the Public Private Partnership (PPP) Project and the services or infrastructure or both that the Procuring Entity seeks to obtain;

(b) communicate the proposed timeframes and the qualification criteria;

(c) ascertain the level of interest in the Project;

(d) provide an avenue through which prospective tenderers can comment on the proposed Project; and

(e) allow the Procuring Entity to qualify Applicants who are most capable of meeting project objectives over the project term for the Request for Technical Proposal (RTP) stage or Request for Proposal (RFP) stage or both.

(2) The Tender Inviting Authority preparing the Request for Qualification (RFQ) shall ensure that,-

(a) the Request for Qualification (RFQ) contains sufficient information to allow potential tenderers to form a view on whether they have sufficient capabilities and to identify potential partners for the Project; and

(b) the information requested from the Applicants is such that the Procuring Entity is enabled to qualify the Applicants on that basis.

30. Contents of Request for Qualification (RFQ).- The Request for Qualification (RFQ) document shall contain the following:

(a) a description of the Project and the estimated Total Project Cost;

(b) a description of the stages of the tender process and the proposed schedule of the Tender Proceedings;

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(c) the conditions of eligibility of Applicants, the information sought from Applicants for qualification and the form and procedure of the Application;

(d) a description of the parameters and method of evaluating qualification of Applicants in order to identify Qualified Applicants that have the requisite capability to take up the Project; and

(e) the criteria or conditions, if any, for the disqualification of Applicants, such as, Conflicts of Interest and other relevant considerations.

31. Eligibility of Applicants.- In addition to any other criteria for eligibility that may be prescribed in the Request for Qualification (RFQ) tender documents, in all cases, the following shall apply, whether or not they have been specifically provided for in the documents: -

(a) the Applicant may be a single entity or a consortium. However, no Applicant applying individually or as a member of a consortium, as the case may be, can be member of another Applicant;

(b) an Applicant may be a natural person, or a private entity, or a combination thereof, or a combination with a public agency:

Provided that the public agency does not have a controlling interest in such combination, either with an existing agreement or the formal intent to enter into an agreement to form a consortium;

(c) no Applicant shall submit more than one application for the same Project and an Applicant applying individually or as a member of a consortium shall not be entitled to submit another application either individually or as a member of any consortium, as the case may be.

32. Qualifying Criteria.- (1) The qualifying criteria used by the Procuring Entity to evaluate the responses to the Request for Qualification (RFQ) shall be objective, equitable, unambiguous, and shall be clearly stated in the Request for Qualification (RFQ).

(2) The qualifying criteria shall cover the following aspects of the Applicant:

(a) the Applicant's experience and track record in delivering projects of similar nature;

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(b) the Applicant's ability to deliver against the physical aspects of the Project including its ability and track record in delivering services under long-term contractual arrangements.

(c) the capability of the Applicant to invest the capital that would be needed for the Project:

(d) the ability of the Applicants to secure adequate funds on competitive terms, since Projects normally requires the Concessionaire to finance a substantial part of the Total Project Cost, if not the whole;

(e) the ability of the Applicant to support the contractual arrangements over the contract term.

(3) Criteria for evaluation of financial capability shall be defined in terms of any or all of the following,-

(a) net worth of the Applicant as described in the tender documents;

(b) average annual turnover for a period not less than the immediately preceding three years derived from audited financial statements;

(c) average net cash accrual for a period not less than the immediately preceding three years derived from audited financial statements; and

(d) any other criteria relevant in the context of a particular Project.

(4) Based on the nature of the Project, the Procuring Entity may, in addition to the criteria prescribed in sub-rules (2) and (3), specify qualifying criteria in relation to the following areas, namely:-

(a) Existing commitment of the Applicant and capacity to deliver on the Project in addition to the existing commitments;

(b) Proposed team of experts, if the Project requires specialised technical expertise; and

(c) Experience of Applicant or the proposed team for working in local conditions where in the opinion of the Procuring Entity such conditions are expected to have a material impact on the development or operation of the proposed facility or service.

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(d) Any other criteria relevant in the context of a particular Project.

(5) As far as may be practicable, the qualification criteria will be specified on a pass or fail basis to enable objective evaluation of the tenders.

Explanation:- For the purpose of sub-rule (5), a pass or fail test would include a test based on a marking system with a minimum score requirement.

33. Schedule of Request for Qualification (RFQ).- (1) The following minimum periods shall be allowed by the Tender Inviting Authority while determining the schedule of Request for Qualification stage:

(a) The due date shall ordinarily be not earlier than 8 (eight) weeks from the date of advertisement or notification of the Request for Qualification (RFQ) whichever is later;

(b) Pre-submission meeting, if any, shall be held at least 3 (three) weeks before the due date;

(c) The clarifications on the queries of Applicants shall be issued not less than 1 (one) week before the due date; and

(d) Corrigenda or notifications of amendments in the Request for Qualification (RFQ) shall be issued not less than 1 (one) week before the due date.

(2) In exceptional cases, the Tender Inviting Authority may at the time of issuing the Request for Qualifications (RFQ) reduce the minimum time limits prescribed in sub-rule (1) for reasons to be recorded in writing and with the prior permission of the authority superior to the Tender Inviting Authority:

Provided that in no case shall the due date be advanced after the publication of the notification or advertisement of the Request for Qualification (RFQ):

Provided further that in cases where the tender documents require the clearance of the Tamil Nadu Infrastructure Development Board under the Tamil Nadu Infrastructure Development Act (Tamil Nadu Act 22 of 2012), such reduction of time would have to be specifically authorized by the Board.

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34. Removal of Conflict of Interest.- The Procuring Entity may allow an Applicant, within 10 (ten) days after the due date, to remove from its consortium any member who suffers from a Conflict of Interest under rule 15, and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof.

35. Evaluation of Applications.- (1) The submitted Request for Qualification (RFQ) Applications shall be evaluated by the Tender Scrutiny and Evaluation Committee by using the qualifying criteria as specified in the Request for Qualification (RFQ).

(2) The Applicants shall be assessed on the basis of whether they achieve the pre-specified minimum pass or fail threshold.

Explanation:- For the purpose of sub-rule (2), a pass or fail test would include a test based on a marking system with a minimum score requirement.

(3) Only those applicants who clear the threshold shall be qualified for the next stage of the Tender Proceedings, as the case may be.

36. Notification of Qualification.- (1) The Procuring Entity shall promptly notify each Applicant in writing whether or not it has been qualified.

(2) The Procuring Entity shall make available to any person, the names of all Applicants that have been qualified.

(3) Only Applicants who have qualified are entitled to participate further in the Tender Proceedings.

(4) The Tender Accepting Authority may decide not to proceed further with the tender if the said authority is of the view that an adequate number of applicants have not qualified to have a competitive tender.

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CHAPTER-VI.

REQUEST FOR PROPOSAL.

42. Request for Proposal (RFP).- (1) The Tender Inviting Authority shall prepare the Request for Proposal (RFP) and the Draft Concession Agreement and issue it to all the qualified applicants.

(2) The Request for Proposal (RFP) shall solicit the binding Final Offer from tenderers in a separate sealed cover.

(3) The Request for Proposal (RFP) shall contain the following.-

(a) Feasibility Report or Project Information Memorandum or both which will provide such information to tenderers as is required to evaluate the Project and estimate their Final Offer including:

- (i) Project objectives and rationale;
- (ii) Site details;
- (iii) Role of the public agency and stakeholders;
- (iv) Project scope in accordance with rule 43; and
- (v) Output specifications;

(b) Instruction to Tenderers which would define the process of tender submission and evaluation. This section shall include all procedures, terms and conditions which should be followed by the Tenderers for submission of their tenders and which would be followed by the Procuring Entity in accepting and evaluating the Tenders;

(c) The draft Concession Agreement which shall govern the contractual relations between the Concessionaire and the Procuring Entity detailing the rights and obligations of both the parties, definition of the subject matter of the agreement, payment terms, performance obligations, defaults and their consequences, events of termination and other ancillary clauses as provided in Schedule-I of this rule.

(4) In case of any discrepancy between the Project Information Memorandum or the Feasibility Study Report and the Draft Concession Agreement, the Draft Concession Agreement shall prevail.

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43. Project Scope.- (1) The Procuring Entity shall set out the detailed description of the Public Private Partnership (PPP) Project and the project scope in the Request for Proposal (RFP).

(2) To the extent practicable, the description of the Project and project scope shall be objective, functional and generic, and shall set out the relevant technical, quality and performance characteristics expected.

(3) There shall be no requirement for or reference to a particular trademark or trade name, patent, design or type, specific origin or producer unless there is no sufficiently precise or intelligible way of describing the characteristics of the project scope and specifications and provided that words such as “or equivalent” are included.

44. Revenue Sharing or Revenue Support Mechanisms.-

(1) While preparing the draft Concession Agreement for any project, the Procuring Entity taking note of the monopoly nature of the public service to be provided by the Concessionaire under a Public Private Partnership (PPP) Project shall specifically consider whether to provide for revenue sharing or revenue support mechanisms within the Concession Agreement and if considered necessary, include necessary provisions in the Agreement.

(2) The revenue-sharing or revenue support mechanism for the Project should be designed in such a way as to ensure that:

(a) the Concessionaire does not enjoy super-normal or wind fall profits and at the same time does not suffer due to unforeseen revenue-side risks.

(b) the mechanism does not curtail private efficiency and at the same time does not compensate the Concessionaire for risks rightfully meant to borne by the Concessionaire under the Concession Agreement.

45. Appointment and Role of Independent Auditor.-

(1) While preparing the draft Concession Agreement for any project, the Procuring Entity shall specifically consider the need to appoint an Independent Auditor for the project and if considered necessary, include necessary provisions in the Agreement.

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(2) An Independent Auditor shall be appointed with the specific prior concurrence of the Procuring Entity and shall not be removed or replaced without the approval of the Procuring Entity.

(3) The Independent Auditor's scope of work shall be specified in the Concession Agreement and shall *inter-alia* include certifying the accuracy and correctness of any financial calculations or claims required to be made by Concessionaire under the Concession Agreement.

(4) The Independent Auditor shall prepare and submit to the Procuring Entity a quarterly report and such other special reports as the Procuring Entity may seek.

(5) An indicative scope of work for the Independent Auditor is provided for guidance in Schedule-II of this rule.

46. Appointment and Role of Independent Engineer.-

(1) While preparing the draft Concession Agreement for any project, the Procuring Entity shall specifically consider the need to appoint an Independent Engineer for the project and if considered necessary, include necessary provisions in the Agreement.

(2) The Independent Engineer's scope of work shall be specified in the Concession Agreement and shall *inter-alia* include:

(a) Review, inspection and monitoring of construction works, examination of the designs / drawings and conduct of tests;

(b) Issue of progress reports and completion certificates during and after completion of the construction period;

(c) Review and inspection of the operations and maintenance arrangements and monitoring compliance with the performance and maintenance standards, during the operations period;

(d) Identifying delays and lapses that require action on part of the Procuring Entity for enforcing the agreement terms;

(e) Determining the reasonableness of costs for any works or services, as required under the Concession Agreement;

(f) Determining the period or extension thereof, for performing any duty or obligations, as required under the Concession Agreement;

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(g) Carrying out such responsibilities as are assigned by the Procuring Entity.

(3) The Independent Engineer shall prepare and submit to the Procuring Entity a monthly progress report.

(4) An indicative scope of work for the Independent Engineer is provided for guidance in Schedule-III of this rule.

(5) The Independent Engineer shall, at the close of the Concession Agreement, take stock of the asset to be reverted to the Procuring Entity and submit a report on the same in comparison to the asset handed over for operation at commercial operations date and the value addition made thereon.

47. Role of Lead Financial Institution.- (1) While preparing the draft Concession Agreement for any project, the Procuring Entity shall specifically consider the need to include a provision to require the Concessionaire to identify a Lead Financial Institution and if considered necessary, include necessary provisions in the Agreement.

(2) Subject to sub rule (1), the Concession Agreement shall have provisions requiring the submission of quarterly reports by Lead Financial Institution to the Procuring Entity on the following aspects, - namely:-

- (a) Financial progress,
- (b) Statement of debt and equity contribution, and
- (c) Any other relevant financial information, as required.

48. Treatment of Variation.- (1) The Concession Agreement shall provide that day-to-day operational variations which have no material impact on the project variables should be managed by the Concessionaire.

(2) The Concession Agreement may provide for the procedure for amending the Agreement as a consequence for known variations, and day-to-day operational variations that are likely to have a material impact on the Project.

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(3) Such procedures for amendment shall take note of the nature of variation and its impact on contract terms and in case of material variations in contract terms, require an additional value for money assessment to be undertaken.

49. Evaluation Criteria.- (1) The Request for Proposal (RFP) shall specify the commercial conditions of the Tender and the single criterion for the Final Offer which would be used to determine the Lowest Tenderer.

(2) The single criterion specified in the Request for Proposal (RFP) for the Final Offer may be any one or a combination of the following:

- (a) state support sought;
- (b) expected revenue including from sources such as property development and advertisement;
- (c) tariff;
- (d) present value of lifecycle cost;
- (e) period of the concession;
- (f) upfront premium;
- (g) equity stake;
- (h) share of subsidized facilities to the Procuring Entity;
- (i) revenue share;
- (j) lease rent;
- (k) annuity payment;
- (l) any other financial criterion relevant to the project;

(3) The Request for Proposal (RFP) shall clearly and specifically define the form and content of the Final Offer and state that the Lowest Tenderer shall be selected on the basis of the most advantageous Final Offer.

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50. Schedule of Request for Proposal (RFP).- (1) The following minimum periods shall be followed by the Tender Inviting Authority while determining the schedule of the Request for Proposal (RFP) stage:

(a) The due date shall be no later than 8 (eight) weeks from the date of advertisement or notification of the Request for Proposal (RFP) whichever is later;

(b) Pre-submission meeting shall be held not less than 4 (four) weeks before the due date;

(c) The clarifications on the queries of Qualified Applicants shall be issued not less than 2 (two) weeks before the due date; and

(d) Corrigenda or notifications of amendments in the Request for Proposal (RFP) or Draft Concession Agreement shall be issued not less than 1 (one) week before the due date.

(2) In exceptional cases, the Tender Inviting Authority may at the time of issuing the Request for Proposal (RFP) reduce the minimum time limits prescribed in sub-rule (1) for reasons to be recorded in writing and with the prior permission of the authority superior to the Tender Inviting Authority:

Provided that in no case shall the due date be advanced after such date and time has been notified to the Qualified Applicants or Tenderers:

Provided further that in cases where the tender documents require the clearance of the Tamil Nadu Infrastructure Development Board under the Tamil Nadu Infrastructure Development Act (Tamil Nadu Act 22 of 2012), such reduction of time would have to be specifically authorized by the Board.

51. Data Room.- (1) In cases where the Procuring Entity is of the view that the Project requires substantial project related data to be made available to the prospective tenderers, the Procuring Entity shall maintain either a physical or a virtual data room or both where project-specific information shall be maintained.

(2) The data room shall be maintained in a single physical location or website, for a limited period of time, where the Tenderers shall be permitted only to review such documents, which are otherwise not distributed.

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(3) All qualified applicants or prospective tenderers, as the case may be, shall be allowed to access the data room.

(4) The data room will be maintained by the Procuring Entity until the completion of the Request for Proposal (RFP) stage.

(5) The location and rules for accessing the data room shall be stated in the Request for Proposal (RFP).

52. Site Visit.- (1) If the Public Private Partnership (PPP) Project involves important site-related issues, a site visit shall be organised early in the Request for Proposal (RFP) stage.

(2) All qualified applicants or prospective tenderers, as the case may be, shall be invited to undertake the site visit.

(3) Non-discriminatory access to the site facilities based on prior requests by the qualified applicants or prospective tenderers may also be allowed by the Tender Inviting Authority to the extent practicable and considered necessary.

53. Change in Composition of Consortium.- (1) Where the Tenderer is a consortium, change in the composition of a consortium may be permitted by the Procuring Entity prior to the due date, only where:

(a) The application for such change is made not later than 15 (fifteen) days prior to the due date;

(b) The lead member of the consortium remains unchanged;

(c) Based on requirement, a substitute is proposed at least equal, in terms of financial or technical capacity or both, to the consortium member who is sought to be substituted;

(d) The modified consortium continues to meet the pre-qualification and short-listing criteria for the Tender Proceedings;

(e) The new member or members expressly adopt the Responses already made on behalf of the consortium as if party to it originally; and

(f) The new member or members do not have a Conflict of Interest in terms of rule 15.

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(2) Approval for change in the composition of a consortium shall be at the sole discretion of the Procuring Entity and shall be communicated by the Procuring Entity to the Tenderer in writing.

(3) The reconstituted consortium shall submit a revised agreement before the due date.

54. Effectiveness of Tenders.- (1) Tenders shall be in effect during the period of time specified in the Request for Proposal (RFP).

(2) Prior to the expiry of the period of validity of Tenders, the Procuring Entity may request Tenderers to extend the period for an additional specified period of time. A Tenderer may refuse the request without forfeiting its Earnest Money Deposit (EMD).

(3) If a Tenderer agrees to extend the period of validity of its Tender, the Procuring Entity shall procure an extension of the period of effectiveness of Earnest Money Deposit (EMD) as provided by such Tenderer or call for new Earnest Money Deposit (EMD) for the additional specified period of time.

(4) If a Tenderer has not extended the Earnest Money Deposit (EMD), or has not provided a fresh Earnest Money Deposit (EMD), it shall be considered as refusal of the request to extend the period of effectiveness of its Tender.

55. Evaluation of Tenders.- (1) Evaluation of submitted Tenders shall be carried out by the Tender Scrutiny and Evaluation Committee.

(2) The Tender evaluation shall follow the pre-determined criteria as specified in the Request for Proposal (RFP).

56. Selection of the Lowest Tenderer.- (1) All qualified tenders adjudged responsive shall be ranked in accordance with the evaluation criterion specified in Request for Proposal (RFP) and the Tenderer with the financially most advantageous Final Offer shall be the Lowest Tenderer.

(2) Subject to the provisions of sub section (3) of section 10 of the Act, the Tender Accepting Authority may negotiate with the Lowest Tenderer for a further improvement of the Final Offer:

Provided that there shall be no negotiation on or changes to the provisions of the draft Concession Agreement.

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(3) In the event that the Lowest Tenderer identified in accordance with sub-rule (1) is rejected in accordance with sub-section (4) of section 10 of the Act or withdraws, the Tender Accepting Authority may, in the second round of bidding invite all the remaining Tenderers to revalidate or extend their respective Earnest Money Deposit (EMD), as necessary, and match the Tender of the aforesaid Lowest Tenderer.

(4) If in the second round of bidding, only one Tenderer matches the aforesaid Lowest Tenderer, such Tenderer shall be selected the Lowest Tenderer. If in the second round of bidding, two or more Tenderers match the said Lowest Tenderer then the Tenderer whose Tender was lower or more advantageous as compared to other Tenderers in the first round of bidding shall be selected as the Lowest Tenderer.

Illustration: If the third and fifth ranked Tenderers in the first round of bidding offer to match the said first ranked Tenderer in the second round of bidding, the said third rank Tenderer shall be the Lowest Tenderer.

(5) In the event that no Tenderer offers to match the Lowest Tenderer in the second round of bidding as specified under this rule, the Tender Accepting Authority may for reasons to be recorded in writing, initiate a third round of bidding in which the said authority invites from all tenderers except the Lowest Tenderer of the first round of bidding or annul the tender process, as the case may be.

(6) In case, the Tenderers are invited for the third round of bidding, they will be required to revalidate or extend their tender security, as necessary, and offer fresh offers.

Provided, however, that in such third round of bidding only such offers shall be eligible for consideration which are lower than the tender of the second Lowest Tenderer in the first round of bidding.

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57. Treatment of Two Equal Tenders.- In the event that two or more Tenderers have quoted the same Final Offer, the Lowest Tenderer shall be identified by adopting one of the following approaches, which shall be pre-specified in the Tender Documents:

(a) by taking into account the aggregate experience score of each such tenderer from the Request for Qualification (RFQ) stage, wherein the Tenderer with higher score shall be adjudged the Lowest Tenderer; or

(b) by asking the Tenderers who have quoted the same Final Offer to provide their best and final offer. The Tenderer offering the most advantageous Final Offer at this stage shall be adjudged the Lowest Tenderer.

58. Treatment of Speculative Tenders.- (1) The Tender Accepting Authority may reject a tender if it has determined that the financial bid in combination with other constituent elements of the tender is abnormally low or abnormally high in relation to the subject matter of the procurement and raises concerns with such authority as to the ability of the Tenderer to perform the Public Private Partnership (PPP) contract.

(2) Before arriving at a determination under sub-rule (1), the Tender Accepting Authority may in writing seek such other information from the Tenderers as it considers relevant:

(3) The decision of the Tender Accepting Authority to reject a submission in accordance with this rule and the reasons for that decision, and all communications with the Tenderer under this rule shall be included in the record of the Tender Proceedings.

(4) The decision of the Tender Accepting Authority and the reasons therefor shall be promptly communicated to the Tenderer concerned.

59. Tender Finalization and Award.- (1) The results of evaluation of tenders shall be submitted to the Tender Accepting Authority for approval.

(2) The Lowest Tenderer shall be notified by the Tender Inviting Authority after obtaining approval of the Tender Accepting Authority.

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(3) On receipt of approval of the Tender Accepting Authority, the Tender Inviting Authority shall communicate to other Tenderers about the selection of the Lowest Tenderer, and its intention to execute the Concession Agreement with the Lowest Tenderer.

(4) After selection, a Letter of Award (LOA) shall be issued, in duplicate, by the Procuring Entity to the Lowest Tenderer with the condition that the Lowest Tenderer shall, within 7 (seven) days of the receipt of the Letter of Award (LOA), sign and return a duplicate copy of the Letter of Award (LOA) in acknowledgement thereof.

(5) Subject to fulfilment of the requirements specified in the Request for Proposal (RFP) and of the Letter of Award (LOA) the Lowest Tenderer will be required to enter into a Concession Agreement with the Procuring Entity and the Procuring Entity shall execute the Concession Agreement with the Lowest Tenderer.

60. Monitoring of Concession Agreement.- (1) Procuring Entity that enters into a Concession Agreement shall make adequate institutional arrangements to monitor the performance of the Concessionaire under such agreement.

(2) Such arrangements shall include the receipt, study and corrective action based on the reports of the Independent Engineer and Independent Auditor.

61. Change in Ownership.- (1) In the event that the Lowest Tenderer is a consortium, the members of such consortium shall collectively hold such proportion of the issued and paid up share capital of the Concessionaire for the term of the Concession and at stages as may be specified in the Concession Agreement:

Provided that such proportion shall not be less than 51% (fifty one percent).

(2) In the event of a change of a member of a consortium or an Associate whose technical capacity or financial capacity or both was taken into consideration for the purposes of pre-qualifying the Tenderer, prior to the signing of the Concession Agreement, the tenderer shall inform the authority forthwith along with all relevant particulars about the same and the Procuring Entity may, at its sole discretion, disqualify the tenderer or terminate the Letter of Award (LOA), as the case may be, and also forfeit the Earnest Money Deposits (EMD) or the performance security.

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(3) In the event of a change as described in sub-rule (2) occurs after signing of the Concession Agreement but prior to Financial Closure of the Public Private Partnership (PPP) Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach thereof, and the Concession Agreement shall be liable to be terminated without the Procuring Entity being liable in any manner whatsoever to the Concessionaire.

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SCHEDULE-I.

[see rule 42(3)(c)]

**PROVISIONS OF THE DRAFT CONCESSION
AGREEMENT.**

The provisions of the draft Concession Agreement shall *inter-alia* necessarily cover:

- (i) Recitals- identifying the parties to the contract, offer and acceptance;
- (ii) Definitions- defining the key terms of the contract to ensure uniformity of usage and interpretation throughout the document;
- (iii) Scope of the Public Private Partnership (PPP) Project;
- (iv) Grant of concession, whereby the Procuring Entity grants the concession to the Concessionaire subject to the terms and conditions of the Concession Agreement;
- (v) Conditions precedent;
- (vi) Obligations of the Concessionaire;
- (vii) Obligations of the Procuring Entity;
- (viii) Representations and warranties of both the parties;
- (ix) Form and value of Performance Security to be submitted by the Concessionaire;
- (x) Matters related to the site;
- (xi) The construction of the facility including Minimum Technical Requirements thereof, date for completion of construction etc.;
- (xii) Performance monitoring during construction including key performance indicators, monitoring responsibilities and related provisions;
- (xiii) Completion of construction including provisions for testing, approval and certification;

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- (xiv) Change in scope during the contract period;
- (xv) Operation and maintenance of the facility and provision of service including minimum technical requirements;
- (xvi) Performance monitoring during operations and maintenance including key performance indicators, monitoring and reporting responsibilities and related provisions;
- (xvii) Appointment, role and functions, remuneration and reporting requirements of Independent Engineer and Independent Auditor;
- (xviii) Financial close;
- (xix) State support, grant expected or revenue share or premium to be paid;
- (xx) Payments by users, authority for tariff fixation, procedure of revision of tariff and related provisions;
- (xxi) Collection of user charges, including allocation of the authority to collect and retain user charges;
- (xxii) Financial aspects of the contract including escrow account, other payments between the parties to the contract;
- (xxiii) Maintenance of books of accounts and audit requirements;
- (xxiv) Insurance;
- (xxv) Force Majeure – definition, procedure for recognition under the contract, consequences and compensation on termination due to occurrence of Force Majeure events;
- (xxvi) Events of default and consequences of default;
- (xxvii) Termination of the contract and consequences of termination;
- (xxviii) Assignments and charges;

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- (xxix) Change in law including consequences for change in law;
- (xxx) Liability and indemnity; and
- (xxxi) Dispute resolution.

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