

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, ফেব্রুয়ারি ১, ২০১৮

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
প্রধানমন্ত্রীর কার্যালয়
পাবলিক প্রাইভেট পার্টনারশীপ কর্তৃপক্ষ
প্রজ্ঞাপন

ঢাকা ১৮ মাঘ, ১৪২৪/৩১ জানুয়ারি ২০১৮

নং-০৩.১১.২৬৮০.৮৫৭.৩৬.০০১.১৮.৪-৮৭।—দেশের অবকাঠামো উন্নয়নে দেশি-বিদেশি বিনিয়োগকারীদের আকৃষ্ট করার লক্ষ্যে বাংলাদেশ সরকারি-বেসরকারি অংশীদারিত্ব আইন, ২০১৫ এর আওতায় বেসরকারি অংশীদার নির্বাচন প্রক্রিয়া নির্ধারণে পাবলিক প্রাইভেট পার্টনারশীপ কর্তৃপক্ষ মে ০৩, ২০১৬ তারিখে Procurement Guidelines for PPP Projects, 2016 এবং অযাচিত প্রস্তাবের জন্য Guidelines for Unsolicited Proposals, 2016 জারি করে। ইতোমধ্যে গাইডলাইনস এর প্রয়োগ ও এ সংক্রান্ত অভিজ্ঞতার আলোকে পিপিপি প্রকল্প বাস্তবায়নে গৃহীত সময় হ্রাসের ক্ষেত্রে পদ্ধতিগত কয়েকটি পরিবর্তন আনয়নের বিষয়টি অনুভূত হওয়ায় পিপিপি কর্তৃপক্ষ গাইডলাইনস এর কিছু সংশোধনী আনয়ন করে যা ১৩-১২-২০১৭ তারিখে পিপিপি কর্তৃপক্ষের নির্বাহী বোর্ডের ৩য় সভায় অনুমোদিত হয়। এমতাবস্থায়, বেসরকারি অংশীদার নির্বাচন প্রক্রিয়া নির্ধারণে সংশোধিত আকারে Procurement Guidelines for PPP Projects, 2018 এবং অযাচিত প্রস্তাবের জন্য Guidelines for Unsolicited Proposals, 2018 জারি করা হলো।

এস আফসর এইচ উদ্দিন
প্রধান নির্বাহী কর্মকর্তা।

(১০৩৩)
মূল্য : টাকা ৬৪.০০

GUIDELINES FOR UNSOLICITED PROPOSALS, 2018

1. Short Title and Commencement

These guidelines may be called Guidelines for Unsolicited Proposals, 2018, and referred herein as the Guidelines. The Guidelines shall be effective immediately upon being published in the official Gazette.

2. Definitions

In these Guidelines, unless there is anything repugnant to the subject or context-

- (i) **“Applicable Line Ministry”** means the ministry of the People's Republic of Bangladesh which is mandated under the Rules of Business 1996 to deal with the subject proposed by the Original Proponent.
- (ii) **“Applicant”** means the entity or a Consortium who submitted an Application in response to the Request for Qualification (RFQ) document. The term Applicant used herein shall apply to both a single entity and a Consortium.
- (iii) **“Application”** means the application that contains the requirements of the Request for Qualification (RFQ) document which is submitted by the Applicants in order to be pre-qualified and thereafter shortlisted for the PPP Project.
- (iv) **“Approving Authority”** means the Cabinet Committee on Economic Affairs (CCEA) which is mandated to provide In-Principle Approval and Final Approval for PPP Projects.
- (v) **“Bid”** means the Bidder's written offer based on the covenants, terms and conditions as contained in the IFB for the PPP Project.
- (vi) **“Bidder”** means the entity or Consortium of more than one entity who submits a Bid in response to the Invitation for Bid (IFB). The term Bidder used herein shall apply to both a single entity and a Consortium.
- (vii) **“Bidding Process”** means any bidding process followed under the PPP Act.
- (viii) **“Concept Note”** means the document submitted by the Original Proponent as detailed in Article 4 of these Guidelines.
- (ix) **“Consortium”** is a group of entities coming together to submit an Application, Proposal or Bid (as applicable).

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- (x) **“Consortium Member”** means a member of a Consortium (including both Lead Member and Non-Lead Member).
- (xi) **“Contracting Authority”** means a line ministry or division; or any office or directorate or corporation or statutory organization or local government or any similar organization under the line ministry or its division; or the PPP Authority, in the event that the PPP Authority is given the duty to carry out the functions from the time of taking up/initiating a PPP Project up until the execution of the PPP Contract and which proposes to enter into a PPP contract or other contractual agreement with the Preferred Bidder and/or the Project Company.
- (xii) **“Evaluation Committee”** means a committee constituted under the Procurement Guidelines for PPP Projects, 2018 to evaluate the Applications, Proposals or Bids (as applicable).
- (xiii) **“Final Approval”** means the approval provided by the CCEA for the Contracting Authority to enter into a contract with the Preferred Bidder and/or the Project Company, as the case may be.
- (xiv) **“Formal Government Request”** means the publication by a Contracting Authority of a pre-qualification notice, registration of interest, an invitation for pre-qualification, Request for Qualification (RFQ), Request for Proposal (RFP) and/or Invitation for Bid (IFB).
- (xv) **“Government”** means the government of the People’s Republic of Bangladesh.
- (xvi) **“IFB”** means the Invitation for Bid issued by the Contracting Authority to request information from prospective Bidders participating in the bidding process for a PPP Project, and it refers to the document which contains the detailed information and instructions required to submit a Bid.
- (xvii) **“In-Principle Approval”** means the initial approval provided by the CCEA to select a Project for development on a PPP basis.
- (xviii) **“Lead Member”** with respect to a Consortium means the Consortium Member:
- a) who has provided a memorandum of understanding or letter of intent with the remaining Consortium Members and agreed to have at least 26% equity shareholding in the Project Company;
 - b) who will be the largest shareholder in the Project Company; and

- c) who is authorized by all other Consortium Members to be responsible for the bidding process on behalf of the Consortium.
- (xix) **“Non-Lead Member”** means a Consortium Member who has provided a memorandum of understanding or letter of intent with the remaining Consortium Members to subscribe to at least 10% of the equity in the Project Company.
- (xx) **“Original Proponent”** means the person or entity who has submitted the first Unsolicited Proposal for a particular proposed PPP Project.
- (xxi) **“PPP”** means Public Private Partnership.
- (xxii) **“PPP Act”** means the Bangladesh Public-Private Partnership Act, 2015.
- (xxiii) **“PPP Authority”** means the Public Private Partnership Authority established under the PPP Act.
- (xxiv) **“PPP Contract”** means the contract signed between the Contracting Authority and the Preferred Bidder and/or the Project Company, as the case may be, for implementation of the PPP Project.
- (xxv) **“PPP Project”** means any public sector Project which will be implemented through a PPP basis.
- (xxvi) **“PPP Project Proposal”** means the proposal for a Project submitted by the Contracting Authority.
- (xxvii) **“Preferred Bidder”** means the Shortlisted Bidder or Bidder (as applicable) chosen by the Contracting Authority following evaluation of the Proposals submitted in response to the RFP or Bids submitted in response to the IFB (as applicable) based on the pre-established evaluation criteria.
- (xxviii) **“Private Partner”** means the Preferred Bidder who has entered into the PPP Contract with the Contracting Authority and who has formed or will form the Project Company for implementation of the PPP Project.
- (xxix) **“Project”** means any such actions or program or a combination of both by means of which the following plan or work is taken up for implementation:

- a) construction and/or operation of any new infrastructure or a plan to construct and/or operate any new infrastructure;
- b) plan to reconstruct¹ any existing infrastructure;
- c) plan to carry out the work specified in Sub-article (a) and (b) both; or
- d) deliver any such goods or services which are not related to any infrastructure facility.

(xxx) **“Project Company”** means the special purpose company duly incorporated under the applicable laws of Bangladesh, either by the Preferred Bidder prior to execution of the PPP Contract or the Private Partner after execution of the PPP Contract (as applicable) for delivery of the PPP Project.

(xxxi) **“Proposal”** means the Shortlisted Bidder’s written offer based on the covenants, terms and conditions as contained in the RFP for the PPP Project.

(xxxii) **“Request for Proposal”** or **“RFP”** means the request for proposal document issued by the Contracting Authority to request information from Shortlisted Bidders participating in the bidding process for a PPP Project, and it refers to the document which contains the detailed information and instructions required to submit a Proposal.

(xxxiii) **“Request for Qualification”** or **“RFQ”** means the request for qualification document issued by the Contracting Authority to request prescribed information from prospective Applicants participating in the pre-qualification proceedings for a PPP Project, and it refers to the document which contains the detailed information and instructions required to submit an Application.

(xxxiv) **“Shortlisted Bidder”** means an Applicant who has submitted an Application and has been pre-qualified and shortlisted by the Contracting Authority at the end of the RFQ stage of the bidding process.

¹ The term “reconstruct” also includes re-creation, rehabilitation, modernization, reformation, expansion, enhancement, alteration or management of any existing infrastructure.

(xxxv) “**Unsolicited Bidder**” means an Original Proponent who has submitted an Unsolicited Proposal for a particular proposed PPP Project which has received In-Principle Approval.

(xxxvi) “**Unsolicited Proposal**” means a written proposal for the implementation of a PPP Project submitted unilaterally by an Original Proponent on its own initiative and not in response to any Formal Government Request.

3. **Non-Mandatory Nature of Concept Note and/or Unsolicited Proposal**

- (a) The Government shall be under no obligation to receive, consider, review or accept the Concept Note and/or the Unsolicited Proposal.
- (b) The Government may decide not to process for approval a Concept Note and/or Unsolicited Proposal, but shall not be limited from using the asset that is the subject of the Concept Note and/or Unsolicited Proposal for the delivery of any PPP or conventional Government Project. Further, in the event that the Concept Note and/or Unsolicited Proposal is not accepted, the same Project concept may be applied by the Applicable Line Ministry and/or the Contracting Authority for the delivery of any PPP or conventional Government Project, where 24 (twenty four) months have elapsed from the date of rejection of the Concept Note and/or Unsolicited Proposal.

4. **Process for Submission of a Concept Note and Sector Policy Review**

- (a) The Original Proponent shall submit the Concept Note to the Contracting Authority for review and consideration with a copy to the Applicable Line Ministry and the PPP Authority. The Concept Note shall set out the broad proposed PPP Project scope and shall also provide a brief description of the Original Proponent and its past relevant experience.
- (b) The Applicable Line Ministry and/or Contracting Authority with the support of the PPP Authority may engage in discussions with the Original Proponent in order to clarify the scope of the Concept Note and to provide guidance on the criteria that need to be met.
- (c) The Contracting Authority shall review the Concept Note to determine whether the proposed PPP Project meets with their sector development plans and is likely to deliver a positive socio-economic benefit.
- (d) If the Contracting Authority concludes that further information is required to complete its determination, then it shall inform the Original Proponent accordingly and request the submission of further information within a specified time.

- (e) Where the Contracting Authority determines that the Concept Note does not meet the requirements of Article 4(c) above, then it shall inform the Original Proponent in writing of its conclusion with a copy to the Applicable Line Ministry and the PPP Authority.
- (f) Where the determination is positive, the Contracting Authority shall include this proposed PPP Project within the list of potential PPP Projects that are earmarked for procurement, and shall submit the Concept Note and the PPP Project Proposal (in the form as prescribed by the PPP Authority) along with its recommendation (if any) for endorsement by their Applicable Line Ministry, where applicable.
- (g) After completion of their assessment of the Concept Note and the PPP Project Proposal, the Applicable Line Ministry will either endorse it, reject it or seek a resubmission of the PPP Project Proposal and/or the Concept Note, incorporating the Applicable Line Ministry's feedback.

5. Assessment of Eligibility of the Concept Note and the PPP Project Proposal

- (a) The Applicable Line Ministry shall formally submit the endorsed Concept Note and the PPP Project Proposal to the PPP Authority for processing of the same.
- (b) On receipt of the formal submission from the Applicable Line Ministry, the PPP Authority shall at first subject the Concept Note and the PPP Project Proposal to a screening process to assess whether the proposed PPP Project is suitable to be submitted to the Approving Authority to provide the In-Principle Approval for delivery of this Project through a PPP arrangement.
- (c) The PPP Authority may make use of its own resources and/or seek professional support from qualified consultants and/or may seek support from appropriate sector line ministry resources, in conducting its assessment of the Concept Note and the PPP Project Proposal. The PPP Authority may directly contact the Contracting Authority, the Applicable Line Ministry, other relevant Government agencies or carry out site visits for further information or clarification in relation to the proposed Project or related issues.
- (d) The PPP Authority may also engage in discussions with the Original Proponent in order to clarify the scope of the Concept Note and the proposed Project and to provide guidance on the criteria that need to be met.

- (e) The PPP Authority shall thereafter inform the Contracting Authority in writing along with a copy to the Applicable Line Ministry of its determination along with its recommendations, if any-
- (i) endorsing the Concept Note and/or the PPP Project Proposal, subject to the incorporation of any changes to the Project scope or any conditions;
 - (ii) rejecting the Concept Note and/or the PPP Project Proposal; or
 - (iii) seeking a resubmission of the Concept Note and/or PPP Project Proposal incorporating the PPP Authority's feedback.
- (f) The Contracting Authority, upon obtaining the concurrence of the PPP Authority, shall inform the Original Proponent in writing along with a copy to the Applicable Line Ministry and the PPP Authority that the Concept Note has been accepted and shall request it to submit the detailed Unsolicited Proposal as provided in Article 6 of these Guidelines.
- (g) In the event that the Contracting Authority decides to reject the Concept Note or seek a resubmission, it shall inform the Original Proponent of the same in writing along with the copy to the Applicable Line Ministry and the PPP Authority.

6. Information Requirements for an Unsolicited Proposal

An Unsolicited Proposal must contain sufficient information to enable the Government to carry out a proper evaluation of the scope and viability of the Unsolicited Proposal and the qualifications of the Original Proponent. To meet this requirement the Unsolicited Proposal must include the following information:

- (i) **Letter of submission:**
- A letter of submission confirming the submission of an Unsolicited Proposal.
 - A power of attorney or a duly certified copy of a board resolution authorizing one or more persons on behalf of the Original Proponent to respond to queries and/or to provide information and/or otherwise to represent the Original Proponent in discussions with the Applicable Line Ministry and/or the Contracting Authority as the case may be.

(ii) Description of the PPP Project:

- An outline of the proposed PPP Project, its scope and how the implementation of this PPP Project will support the Contracting Authority in meeting its sector development plans.
- A description of the proposed goods or services that would be delivered under the PPP Contract.

(iii) A broad feasibility study covering the following :

- Technical Proposal - Outline description, conceptual design and layout to clarify the purpose and intention of the proposed PPP Project and how it will be developed and operated.
- Financial Proposal - (i) broad cost estimate and proposed revenue model; (ii) the estimated internal rate of return for the proposed PPP Project with key assumptions underpinning these calculations.
- Implementation Plan - An indicative implementation plan, broken out by major milestones, describing how the proposed PPP Project will be delivered.
- Environmental and Social Safeguards - A broad overview of the environmental and social issues that may need to be addressed.

(iv) Description of the Original Proponent, including but not limited to :

- An overview of the Original Proponent's organization. The Original Proponent, if a Consortium, should describe the broad roles of the potential Consortium Members in implementing the PPP Project, and provide a memorandum of understanding or letter of intent between the potential Consortium Members.
- Details of any contractual non-performance and litigation of the Original Proponent within the last 5 (five) years should be provided.

(v) Technical and financial capability of the Original Proponent, including but not limited to:

- Demonstration of the technical capability of the Original Proponent by providing examples of experience in developing, implementing and operating a similar Project.
- Demonstration of the financial capability of the Original Proponent by providing examples of experience of providing and/or raising funds required for a similar Project.

7. Process for Submission of an Unsolicited Proposal

- (a) The Original Proponent shall submit the Unsolicited Proposal to the Contracting Authority for review and consideration with a copy to the Applicable Line Ministry and the PPP Authority.
- (b) The Contracting Authority may engage in discussions with the Original Proponent in order to clarify the scope of the Unsolicited Proposal and to provide guidance on the criteria that need to be met.
- (c) If the Contracting Authority concludes that further information is required to complete its determination, then it shall inform the Original Proponent accordingly and request the submission of further information within a specified time.
- (d) If after reviewing and assessing the Unsolicited Proposal, the determination is positive, the Contracting Authority shall put forward a formal submission along with its recommendations, if any, to the PPP Authority for processing of the Unsolicited Proposal, along with a copy to the Applicable Line Ministry.
- (e) Where the Contracting Authority determines that the Unsolicited Proposal is not acceptable, then it shall inform the Original Proponent in writing of its conclusion with a copy to the Applicable Line Ministry and the PPP Authority.
- (f) On receipt of the formal submission from the Contracting Authority, the PPP Authority shall assess whether or not the Unsolicited Proposal complies with the minimum information requirements set out in Article 6 above. If the PPP Authority assesses that the requirements of Article 6 have been met, then it shall inform its decision in writing to the Applicable Line Ministry and the Contracting Authority.
- (g) If the PPP Authority assesses that the requirements of Article 6 have not been met, then it may request the submission of further information, or reject the Unsolicited Proposal from further consideration and shall inform its decision in writing to the Applicable Line Ministry and the Contracting Authority. Based on the PPP Authority's response, the Contracting Authority may request the Original Proponent for further information or may inform the Original Proponent that the Unsolicited Proposal has been rejected from further consideration. The PPP Authority may also engage in discussions with the Original Proponent in order to clarify the scope of the Unsolicited Proposal and to provide guidance on the criteria that need to be met.

8. In-Principle Approval

- (a) Following receipt of the PPP Authority's concurrence, the Applicable Line Ministry shall submit the proposed Project to the Approving Authority for In-Principle Approval. In its submission for In-Principle Approval it should also seek approval confirming the status of the Original Proponent as the Unsolicited Bidder on the basis of the Unsolicited Proposal and seek confirmation on the mode of competitive bidding that shall be applied to test the competitiveness of the Unsolicited Proposal.
- (b) The mode of competitive bidding may include a bonus system or other appropriate methods that may be proposed by the PPP Authority and approved by the Approving Authority.

9. Submission of Unsolicited Proposal on PPP Projects with In-Principle Approval

- (a) Concept Notes on PPP Projects which have obtained In-Principle Approval may only be processed where the Contracting Authority and the PPP Authority agree that the Concept Note is likely to provide a better solution to meeting sector development plans by delivering a range of services significantly enhanced from that which has received the In-Principle Approval after taking into consideration the implications of any cost that may have been incurred or any contractual arrangement that may have been entered into by Government on the PPP Project.
- (b) Where the conditions set out under Article 9(a) are met, the Concept Note shall be subject to the procedure set out in Articles 4-9.

10. PPP Project Development Phase

- (a) Following In-Principle Approval, the PPP Authority together with the Contracting Authority shall carry out necessary actions to address any terms or conditions that may have been imposed on the PPP Project by the Approving Authority.
- (b) The PPP Authority shall support the Contracting Authority in delivering this PPP Project including providing assistance in the appointment of consultants where requested by the Contracting Authority.

- (c) The Contracting Authority shall seek PPP Authority's concurrence on the extent to which further preparatory works are required in relation to carrying out due diligence on the Unsolicited Proposal, the need to carry out further detailed feasibility studies, assessment of Viability Gap Financing (VGF) requirement (where applicable), the development of RFQ and RFP or IFB documentation, the PPP Contract and other related documents.
- (d) The Contracting Authority and/or the PPP Authority and/or the consultants may engage with the Unsolicited Bidder to seek further clarification or detail on the Unsolicited Proposal that has been submitted.
- (e) The Government reserves the right to use the information submitted in the Unsolicited Proposal, apart from confidential information relating to the proposed pricing and the specific technical solution provided by the Original Proponent, to develop the procurement documentation including the RFQ, RFP, IFB, the PPP Contract and/or other contractual agreements.
- (f) In the event that the outcome of the feasibility study changes the scope and/or the delivery structure of the PPP Project, the Contracting Authority shall seek clarifications from the PPP Authority in terms of next steps. Subject to the approval of the PPP Authority, the Contracting Authority may incorporate the changes in relation to the PPP Project and shall accordingly proceed with the procurement process. However, the Original Proponent shall retain the status of an Unsolicited Bidder.

11. Outcome of the PPP Project Development Phase

- (a) Based on the outcome of the further preparatory works carried out during the PPP Project development phase, the Contracting Authority may decide:
 - (i) to proceed with the Bidding Process on the basis of the Unsolicited Proposal; or
 - (ii) not to proceed with the Bidding Process for the Unsolicited Proposal.
- (b) Where the Contracting Authority decides not to proceed with the Bidding Process, it shall notify the PPP Authority and seek the approval of the Approving Authority on the decision taken. Once approval has been provided by the Approving Authority, the Contracting Authority shall inform the Unsolicited Bidder promptly in writing of the decision not to proceed with the PPP Project.

12. Resumption of Bidding Process for an Unsolicited Proposal

- (a) The Contracting Authority retains the right to resume the Bidding Process on the basis of an Unsolicited Proposal, after a decision has been taken not to proceed with the Bidding Process in line with Article 11, without any commitment or obligation, whether financial or otherwise, towards the Unsolicited Bidder, subject to the condition set out in Article 12(b) herein below.
- (b) Where the Bidding Process is re-launched within 24 (twenty-four) months of the date of approval by the Approving Authority of the decision not to proceed, the Contracting Authority shall invite the Original Proponent to resume their status as an Unsolicited Bidder of the Unsolicited Proposal.
- (c) If the Original Proponent does not respond to the invitation within the time specified in the invitation, it will lose its status and the associated benefits of an Unsolicited Bidder.

13. Bidding Process and Change in the Composition of a Consortium

- (a) Where the Bidding Process involves pre-qualification and shortlisting, the Unsolicited Bidder shall automatically be considered as a Shortlisted Bidder and its Application shall not be subject to evaluation for pre-qualification purposes. However, the Unsolicited Bidder shall still be required to submit its Application in response to the RFQ in order to update the information.
- (b) The Unsolicited Bidder shall be able to change the composition of the Consortium until submission of the Application (in response to the RFQ) or Bid (in response to the IFB), as applicable, provided that the substitute is at least equal, in terms of technical capacity and financial capacity to the Consortium Member who is sought to be substituted. Further, new member(s) may join the Consortium as Consortium Member(s), provided that the Lead Member remains the same. Post submission of the Application or Bid, any subsequent changes in the composition of the Consortium shall be on the basis of the bid documents that have been issued.

14. Validity Period for Unsolicited Proposals

An Unsolicited Proposal shall remain valid for a period of 18 (eighteen) months from the date of In-Principle Approval. A Formal Government Request must be issued within this period for the status of an Unsolicited

Bidder to remain valid. Where a Formal Government Request has not been issued within the 18 (eighteen) month period and the Unsolicited Bidder has not been formally informed by the Contracting Authority that its Unsolicited Proposal has been rejected, then the Unsolicited Bidder must resubmit the Unsolicited Proposal within 1 (one) month of the expiry of the 18 (eighteen) month period, in order to secure the extension of a further 18 (eighteen) month period (starting from the date of expiry of the earlier 18 (eighteen) month period). The status of an Unsolicited Bidder shall remain valid if a Formal Government Request for the PPP Project is issued within that extended period.

15. Return of Unsolicited Proposals

Whether the Government accepts, rejects, processes or declines to process an Unsolicited Proposal, it shall not be under any obligation to return to the Original Proponent, the Unsolicited Proposal that has been submitted.

16. Mode of Competitive Bidding for Unsolicited Proposals

The mode of competitive bidding may include a bonus system as set out in Article 17 or other appropriate methods that may be proposed by the PPP Authority and approved by the Approving Authority.

17. Application of the Bonus System

- (a) Subject to the provision set out below, under the bonus system, the Evaluation Committee shall evaluate all the Proposals or Bids (as applicable) received in line with the provisions set out under the PPP Act and the RFP or IFB document, as applicable.
- (b) When aggregating the evaluation score for the Proposal or Bid submitted by the Unsolicited Bidder, the Evaluation Committee shall include a bonus for the Unsolicited Bidder in order to enhance the evaluation score of the Unsolicited Bidder. The bonus for the Unsolicited Bidder shall be equivalent to 7% of the evaluation score assessed by the Evaluation Committee for the Proposal or Bid submitted by the Unsolicited Bidder.
- (c) After taking into account the benefit of the bonus attributed to the Unsolicited Bidder, the Shortlisted Bidder or Bidder (as applicable) with the highest evaluated score will be recommended by the Evaluation Committee for selection as the Preferred Bidder.

18. Further Details, Clarifications & Revisions

- (a) The Applicable Line Ministry or the Contracting Authority may contact the PPP Authority at any time for clarifications and/or to feedback on progress. Further, the PPP Authority may also contact the Applicable Line Ministry and/or the Contracting Authority at any time seeking clarifications and/or to ensure that the process and timelines are being met.
- (b) The PPP Authority may provide further details and clarifications from time to time in relation to these Guidelines, as well as developing, modifying and issuing templates and model documentation for the application and processing of Unsolicited Proposals. The PPP Authority may amend these Guidelines as and when deemed necessary, including incorporation of corrections, omissions, clarifications, additions or deletions.
- (c) The Contracting Authority may seek references and/or conduct any investigations or enquiries in order to verify any and all statements, information, references and documents submitted by the Original Proponent.
- (d) All costs and expenses associated with the preparation and submission of the Unsolicited Proposal or any other costs shall be fully borne by the Original Proponent. The Applicable Line Ministry and/or the Contracting Authority shall not be liable in any manner whatsoever for any such costs and/or expenses incurred by the Original Proponent nor shall they be liable for any losses suffered by the Original Proponent and/or for any actions by the Original Proponent and/or for any consequences thereof.
- (e) In case of any incomplete work which was initiated under the repealed Policy and Strategy for Public-Private Partnership (PPP), 2010 (“PPP Policy”) and the Procedures for Implementation of PPP Policy and Strategy for Unsolicited Proposals, 2014 (“Procedures for Unsolicited Proposals”), that work shall be completed in accordance with the provisions of the repealed PPP Policy and the Procedures for Unsolicited Proposals as if it has not been repealed and these Guidelines shall not be applicable only to such extent.

- (f) Subject to the foregoing, these Guidelines shall immediately be applicable for the rest of the procurement process to be undertaken after completion of the above mentioned work initiated under the repealed PPP Policy and the Procedures for Unsolicited Proposals.
- (g) Subject to the requirements stipulated in these Guidelines, the Procurement Guidelines for PPP Projects, 2018 (“PGP 2018”) shall apply in relation to the procurement process.
- (h) In case of any ambiguity, uncertainty or lack of clarity in relation to any wording contained in these Guidelines, the interpretation provided by the PPP Authority in this regard shall be final and binding.

DRAFT TEMP LATES FOR PROCESSING UNSOLICITED PROPOSALS

- 1. FORM I : LETTER OF SUBMISSION OF AN UNSOLICITED PROPOSAL**
- 2. FORM II : POWER OF ATTORNEY TO THE SIGNATORY**
- 3. FORM III : LETTER FOR SUBMISSION OF UNSOLICITED PROPOSAL ON THE BASIS OF CONCEPT NOTE**
- 4. FORM IV: LETTER OF REJECTION FOR THE CONCEPT NOTE**

FORM I : LETTER OF SUBMISSION OF AN UNSOLICITED PROPOSAL²

Date: [Please Insert Day, Month, Year]

To:

[Please Insert Name and Address of the Contracting Authority]

Cc:

[Please Insert Name and Address of the Applicable Line Ministry]

[Please Insert Name and Address of PPP Authority]

Subject: Submission of Unsolicited Proposal for [Please Insert Name of Project] through Public Private Partnership (“PPP”)

Dear Sir,

Being duly authorized to represent and act on behalf of [Please Insert the Name of the Original Proponent]³ (hereinafter the “Original Proponent”), and having reviewed and examined the Bangladesh Public-Private Partnership Act, 2015 (“PPP Act”) and the Guidelines for Unsolicited Proposals, 2018 (“Guidelines”) and having fully understood all the provisions, the undersigned hereby submit an Unsolicited Proposal for the [Please Insert Name of Project] through Public Private Partnership (PPP) and declare that:

1. We acknowledge that the [Please Insert Name of the Contracting Authority] (“Authority”) will be relying on the information provided in the Unsolicited Proposal and the documents accompanying such Unsolicited Proposal for considering the eligibility of the Original Proponent as an Unsolicited Bidder.
2. This statement is made for the express purpose of being considered as an Unsolicited Bidder of an Unsolicited Proposal.
3. We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate this letter of submission and the Unsolicited Proposal. The Authority and its authorized representatives are hereby authorized to conduct any inquiries or investigations to verify the statements, documents, and information submitted in connection with this Unsolicited Proposal, and to seek clarification, from our bankers and clients regarding any financial and technical aspect.

²To be provided on letter head of the Original Proponent or the Lead Member (in case the Original Proponent is a Consortium), including full postal address, telephone no. and email address.

³ Please fill in the blank spaces, as appropriate and delete the square brackets.

4. This letter of submission will also serve as authorization to any individual or authorized representative of any institution referred to in the supporting information, to provide such information deemed necessary and requested by the Authority to verify statements and information provided in this submission, or with regard to the resources, experience, and competence of the Original Proponent.
5. We acknowledge the right of the Authority to reject our letter of submission and the Unsolicited Proposal without assigning any reason whatsoever and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. We acknowledge the right of the Authority at any time to stop processing this Unsolicited Proposal without incurring any liability to the Original Proponent.
7. We undertake that during the period of consideration by the Authority of our Unsolicited Proposal, we will inform the Authority immediately if there are any changes in facts or circumstances relating to any aspect of our submission.
8. We agree and undertake to abide by all the terms and conditions of the PPP Act and the Guidelines.
9. We are not a Government owned entity/we are a Government entity.⁴
10. The Authority and its authorized representatives may contact the following persons for further information or clarification:

⁴Please specify the type of entity and cancel the other option accordingly.

General Inquiries

Name:

Designation:

Address:

Tel No.:

Mobile:.....

Email:

(Please fill in details of the key contact person for general inquiries)

Name:.....

Designation:

Address:

Tel No.:

Mobile:.....

Email:

(Please fill in details of the alternate contact person for general inquiries)

Technical Inquiries

Name:.....

Designation:

Address:

Tel No.:

Mobile:

Email:

(Please fill in details of the key contact person for technical inquiries)

Name:

Designation:

Address:

Tel No.:

Mobile:

Email:

(Please fill in details of the alternate contact person for technical inquiries)

Financial Inquiries

Name:

Designation:

Address:

Tel No.:

Mobile:.....

Email:

(Please fill in details of the key contact person for financial inquiries)

Name:

Designation:

Address:

Tel No.:

Mobile:

Email:

(Please fill in details of the alternate contact person for financial inquiries)

11. We hereby declare that we:

- a. have not applied for liquidation and/or have not been ordered to liquidate by any court or other authority;
- b. are not legally restrained to execute a contract;
- c. have not previously entered into a contract with the Authority and later terminated the contract (within the last 3 (three) years) prior to the expiry of the contract due to the event of default on our part;
- d. have not been involved in more than two law suits in the previous 3 (three) years with any public sector authority in Bangladesh;
- e. do not have a history of non-performance of work in the previous 5 (five) years;
- f. have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive document, undesirable practice or restrictive practice in respect of any tender issued by or any agreement entered into with the Authority or any other public sector enterprise;
- g. have never been declared or found guilty of violating the anti-monopoly and/or competition laws of any jurisdiction by any competent court at any time during the last 5 (five) years;

-
- h. have taken steps to ensure that no persons acting for us on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, or collusive practice;
- i. have not been convicted of a criminal offence in Bangladesh in the last 5 (five) years.
12. The undersigned declare that all information provided in this letter of submission, the Unsolicited Proposal, and/or any other submitted documents is true, complete and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such submission are true copies of their respective originals.

Signed: _____ Name: _____

(Signature of the authorized signatory of the Original Proponent)⁵ (Name of the authorized signatory)

For and on behalf of: _____

(Name of the Original Proponent or Consortium Members in case of a Consortium)

⁵In case of a Consortium, the authorized signatory of the Lead Member should sign.

FORM II: POWER OF ATTORNEY TO THE SIGNATORY⁶

This power of attorney is made on this the [*Please Insert Date*] day of [*Please Insert Month*], [*Please Insert Year*].

We, [*Please Insert Name of the Original Proponent*], residing at [*Please Insert Address of the Original Proponent*], do hereby appoint and authorize [*Please Insert Name of the Authorized Representative*] of [*Please Insert Address of the Authorized Representative*] to be the person on behalf of [*Please Insert Name of Original Proponent*] to provide information and respond to inquiries etc. as may be required by the [*Please Insert Name of the Applicable Line Ministry*] and/or [*Please Insert Name of the Contracting Authority*] or any other government authority in connection with the "[*Please Insert Name of Project*] through **Public Private Partnership (PPP)**" and is also hereby authorized to sign and file relevant documents, including the power of attorney (if necessary) in response to the above, including any and all matters related to the preparation and submission of the Unsolicited Proposal.

IN WITNESS WHEREOF, WE DO HEREBY PUT OUR SIGNATURE ON THE DAY, MONTH AND YEAR MENTIONED HEREIN ABOVE.

(Original Proponent's signature)

Name:

Witness: 1. _____ 2. _____

Name:

Name:

Address:

Address:

(Please fill in name and address of the witness) (Please fill in name and address of the witness)

⁶This power of attorney is to be provided by the Original Proponent duly authorizing its nominated representative. In case where the Original Proponent is a Consortium, this power of attorney will have to be provided by each Consortium Member, duly authorizing its respective nominated representative.

This power of attorney is to be provided on a non-judicial stamp of Bangladesh Taka 1000.00/ (BDT One Thousand) or any other legally equivalent document as permissible under the laws of the respective country, provided that the document is duly authenticated and/or notarized by the relevant authority.

**FORM III: LETTER FOR SUBMISSION OF UNSOLICITED PROPOSAL
ON THE BASIS OF CONCEPT NOTE⁷**

Date: *[Please Insert Day, Month, Year]*

To:

[Please Insert Name and Address of the Original Proponent]

Cc:

[Please Insert Name and Address of the Applicable Line Ministry]

[Please Insert Name and Address of PPP Authority]

Subject: Unsolicited Proposal based on the Concept Note for *[Please Insert Name of Project]* through Public Private Partnership (“PPP”)

Dear Sir,

Thank you for your Concept Note dated *[Please Insert Date]* submitted to us in relation to the *[Please Insert Name of the Project]* (“Proposed Project”).

The Guidelines for Unsolicited Proposals, 2018 (“Guidelines”) set out the steps for submission of a detailed proposal (“Unsolicited Proposal”). You may submit the Unsolicited Proposal in accordance with the Guidelines. Any such Unsolicited Proposal should be submitted to and received by the Contracting Authority within 3 (three) months from the date of this letter.

We reserve the right to accept or reject your Unsolicited Proposal at any time in the future for any reason whatsoever without any liability and this letter shall not in any way constitute acceptance of the Unsolicited Proposal.

This letter is not legally binding and is not intended to be and shall not be deemed to give rise to any contractual or other legal relations between the *[Please Insert Name of the Applicable Line Ministry]* and/or *[Please Insert Name of the Contracting Authority]* and the *[Please Insert Name of the Original Proponent]* (“Original Proponent”). In the event that the Unsolicited Proposal is rejected, the *[Please Insert Name of the Applicable Line Ministry]* and/or *[Please Insert Name of the Contracting Authority]* shall not in any way be liable for any losses incurred by the Original Proponent and/or for any actions by the Original Proponent and/or for any consequences thereof.

⁷This letter is to be provided by the Applicable Line Ministry. However, the Contracting Authority may also provide this letter with approval from the Applicable Line Ministry.

All costs and expenses associated with the preparation and submission of the Unsolicited Proposal or any other costs shall be fully borne by the Original Proponent. The [*Please Insert Name of the Applicable Line Ministry*] and/or [*Please Insert Name of the Contracting Authority*] shall not be liable in any manner whatsoever for any such costs and/or expenses incurred by the Original Proponent.

Sincerely,

Signed: _____ Name: _____

(Signature and name of the authorized signatory of the Contracting Authority)

(Name of the Contracting Authority)

FORM IV: LETTER OF REJECTION FOR THE CONCEPT NOTE

Date: [*Please Insert Day, Month, Year*]

To:

[*Please Insert Name and Address of the Original Proponent*]

Cc:

[*Please Insert Name and Address of the Applicable Line Ministry*]

[*Please Insert Name and Address of PPP Authority*]

Subject: Rejection of the Concept Note for [*Please Insert Name of Project*] through Public Private Partnership (“PPP”)

Dear Sir,

Thank you for your Concept Note dated [*Please Insert Date*] submitted to us in relation to the [*Please Insert Name of the Project*] (“Proposed Project”).

We regret to inform you that your Proposed Project concept is not of sufficient interest to [*Please Insert Name of the Contracting Authority*] for development at this stage.

Sincerely,

Signed: _____ Name: _____

(Signature and name of the authorized signatory of the Contracting Authority)

(Name of the Contracting Authority)