



**DEVELOPMENT OF TWO JETTIES AT MONGLA PORT  
THROUGH PPP**

**REQUEST FOR QUALIFICATION**

**MINISTRY OF SHIPPING**

**MONGLA PORT AUTHORITY  
MONGLA, BAGERHAT, BANGLADESH**

**10 May 2013**

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# 1 Definitions

The following terms are defined for use in this RFQ Document:

- 1.1 **“Application” or “Qualification Statement”** means the application that contains the requirements of this Request for Qualification Document which is submitted by the Applicants in order to be Short-listed to participate in the Proposal Stage for the Project.
- 1.2 **“Application Due Date”** has the meaning given in Clause 7.14.1;
- 1.3 **“Applicant”** means the interested Investor who submits the Application;
- 1.4 **“Audited Financial Statements”** include all audited financial accounts of parties comprising the Investor;
- 1.5 **“Bangladesh”** means the People’s Republic of Bangladesh;
- 1.6 **“Bangladesh Bank”** means the central bank and apex regulatory body for the country’s monetary and financial system, which was established in Dhaka as a body corporate vide the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972) with effect from 16th December, 1971.
- 1.7 **“Bidder(s)”** has the meaning given in Clause 7.21.2;
- 1.8 **“Bidding Process”** has the meaning given in Clause 6.1.1;
- 1.9 **“Commercial Operations Date” or “COD”** means a date on which the Project starts to provide service commercially;
- 1.10 **“Concession Agreement”** means an agreement to be executed between the MPA and the Selected Bidder for the financing, designing, construction, operation, maintenance, and then handover of Two Jetties along with all site facilities, improvements, infrastructure, fixtures, fittings and equipment, to the MPA or the Government at the end of the concession term in such condition as will be set out in the Concession Agreement;
- 1.11 **“Conflict of Interest”** has the meaning given in Clause 7.3.1
- 1.12 **“Consortium”** has the meaning given in Clause 7.2.1;
- 1.13 **“Day”** means calendar day;
- 1.14 **“Development Partner”** means a multilateral financier which provides financial assistance to the Government of Bangladesh, in the form of loan or grant, or technical assistance etc,
- 1.15 **“Government” or “GoB”** means the Government of the People’s Republic of Bangladesh;

- 1.16 “**ICB**” means the international competitive bidding;
- 1.17 “**Investor**” means a private party (proprietorship firm, membership firm, corporation/limited company, or any consortium or association) who plans to invest in infrastructure projects in Bangladesh, and includes the private party whose Proposal has been accepted, who is awarded the Project, who has created a Project Company and has committed to invest in the Project Company to develop and/or operate a PPP infrastructure project;
- 1.18 “International Accounting Standard” means the single set of high quality, understandable, enforceable and globally accepted International Financial Reporting Standards (IFRSs) as set out by its standard-setting body, the International Accounting Standards Board (IASB)
- 1.19 “**Investment Promotion and Financing Facility**” or “**IPFF**” means a window for infrastructure financing through private sector participation created under Bangladesh Bank with support from IDA, which has provision of partial debt financing through private sector financial intermediaries for eligible government endorsed infrastructure projects to be developed by the private sector.
- 1.20 “**Lead Member**” with respect to Consortium means the member of the Consortium who is responsible for short-listing and Bidding Process and who has or has entered into an agreement with the remaining Consortium Members to have at least 26% equity shareholding and is or will be the largest shareholder in the PPP Company;
- 1.21 “**Limited Company**” means a company registered under the Companies Act, 1994 of Bangladesh or under the relevant law(s) of the country where it is registered or incorporated;
- 1.22 “**Member**” has the meaning given in Clause 7.4.1;
- 1.23 “**MPA**” or “**Authority**” means the Mongla Port Authority under the Ministry of Shipping of the Government;
- 1.24
- 1.25 “**Net Worth**” means the equity of the Investor(s) derived generally as the Total Assets of the Investor(s) minus the Total Liabilities;
- 1.26 “**PPP**” means Public Private Partnership;
- 1.27 “**PPP Policy**” means the Policy and Strategy for Public-Private Partnership (PPP), 2010.
- 1.28 “**PPP Company**” means the special purpose vehicle company duly incorporated under the laws of Bangladesh by the Private Partner who will execute the Concession Agreement for the Project;

- 1.29 **“PPP Project”** means an infrastructure project or the delivery of public goods or services associated with any infrastructure facility governed on the basis of a concession agreement;
- 1.30 **“PPP Terminal”** means Jetties 3 and 4 and the designated back up area and facilities at Mongla Port
- 1.31 **“Private Partner”** means the Selected Bidder who signs the Concession Agreement with Authority;
- 1.32 **“Project”** means the development, financing, operation and maintenance of the PPP Terminal in line with the terms and conditions as provided in the Concession Agreement;
- 1.33 **“Proposal”** means the Applicant’s written offer based on the covenants, terms and conditions as contained in the RFP for the Project;
- 1.34 **“Proposal Stage”** has the meaning given in Clause 6.1.3;
- 1.35 **“Request for Qualification” or “RFQ”** means this Request For Qualification document issued by the MPA for inviting potential Investor(s) to make an Application;
- 1.36 **“Request for Proposal” or “RFP”** means the document issued by the MPA for inviting Short-listed Applicants to submit a Proposal for the Project;
- 1.37 **“RFP Due Date”** means the date as specified in the RFP by which Short-listed Applicants will need to submit their Proposals;
- 1.38 **“Qualification Stage”** has the meaning given in Clause 6.1.2;
- 1.39 **“Service Commencement Date”** means the date as specified in the Concession Agreement from which the services contracted to be provided by the Private Partner under the Concession Agreement will be delivered;
- 1.40 **“Selected Bidder”** means the Short-listed Applicant who has been selected to be awarded the Project;
- 1.41 **“Short-listed Applicant”** means an Investor who has submitted an Application and has been Short-listed by the MPA to submit a Proposal for the Project on a PPP basis;
- 1.42 **“Tender Security”** is the security that will need to be deposited by the Bidder at the time of submitting the Proposal as specified in the RFP;
- 1.43 **“World Bank” or “International Bank of Reconstruction and Development (IBRD)” or “International Development Association (IDA)”** means the Development Partner which sources financial and technical assistance to developing countries around the world and which funded the Investment Promotion and Financing Facility of Bangladesh Bank in Bangladesh.



## **2 Introduction**

### **2.1 Overview**

2.1.1 Under the authority of the Government of the People's Republic of Bangladesh (GOB), the Mongla Port Authority (MPA), Ministry of Shipping (MOS) intends to select potential Investor(s) for developing, financing, operating and maintaining Jetties 3 and 4 and the designated back up area at Mongla Port in the southern part of Bangladesh. The Project will be implemented on a Public-Private Partnership (PPP) basis through a concession agreement. The initial estimates are that the total cost of the project is likely to be around US\$ 50 million.

### **2.2 Invitation to Submit Request for Qualifications**

2.2.1 This document is a Request for Qualification to potential Investors who are interested to be shortlisted to submit a Proposal for undertaking the Project on a PPP basis.

2.2.2 This document is issued under clause 2.4 of the Guidelines for Formulation, Appraisal and Approval of Large Projects under Public Private Partnership (PPP) 2010. Prospective Applicants are encouraged to review the “Policy and Strategy for Public-Private Partnership (PPP), 2010” which is available for download on the PPP Office’s website: <http://www.pppo.gov.bd>

2.2.3 To shortlist the Applicants, the Authority will carry out the following sequential process:

- (i) Eligibility: Ensuring that potential Applicants are eligible for and not disqualified from submitting an Application;
- (ii) Short-listing: Ensuring that eligible Applicants meet the technical and financial capacity thresholds.

Should an Applicant plan to use long term loan facility from Bangladesh Bank’s “Investment Promotion Financing Facility” (IPFF), then potential Applicants also need to meet loan eligibility criteria of The World Bank.

2.2.4 The requirements for submitting the Application and the provision of information and supporting documentation are set out in this RFQ. Potential Applicants should read this document thoroughly and ensure that all the requirements are met in submitting their Application. Failure to meet the requirements could lead to a potential Applicant being found to be ineligible or liable to be disqualified.

### **3 PROJECT COUNTRY AND GENERAL INFORMATION**

#### **3.1 Project Country**

- 3.1.1 Bangladesh has a total area of 144,000 sq km and is surrounded to the west, north and east by India, and shares a south-eastern border with Myanmar for 283 km. To the south is the Bay of Bengal. The topography is characterized by alluvial plains, bound by a range of sub-mountain regions and forested hills. The great rivers, the Ganges (or Padma) and Brahmaputra (or Jamuna) divide the country into six major regions, which also correspond to the major government divisions. The alluvial plains that make up 90% of the country are very flat and never rise more than 10m above sea level. The country lies on a major geological fault, although seismic events are rare.
- 3.1.2 Major Seaports: Bangladesh has two sea ports. Chittagong port is operated by Chittagong Port Authority (CPA) and Mongla (near Khulna) is the other seaport, which is operated by MPA.
- 3.1.3 Land Ports: There are a number of land ports located at strategic areas including Benapole, Bhomra, Tamabil, Hilli and Burimari.
- 3.1.4 Airports: Dhaka & Chittagong are the standard international airports, whereas Sylhet is a smaller international airport with limited facilities.
- 3.1.5 Bangladesh is a democratic country with the President as the head of the country and the Prime Minister as the head of the government. The official language is Bangla with English as the second language. The local currency is Taka.

#### **3.2 Population**

- 3.2.1 The population of Bangladesh is close to 140 million growing at over 1.7% per year. It is one of the most densely populated countries in the world. The population is predominately Muslim with some 10% Hindu along with minorities of Buddhism and Christianity.
- 3.2.2 Employment is largely agricultural based, although much growth has been experienced in the Service and Industry sectors. Being predominately agricultural, the average annual per capita income is US\$ 645.00.

### **3.3 Major Cities in Bangladesh**

- 3.3.1 Dhaka is the capital city of Bangladesh which is conveniently located in the centre of the country. The total population of Dhaka city is over 14 million persons, 10% of total population of Bangladesh.
- 3.3.2 Chittagong is the second largest industrial hub of the country after Dhaka and is well advanced with sea born trade through the Chittagong Port.
- 3.3.3 Khulna is one of the major industrial zones after Dhaka and Chittagong. It is near to the Mongla Port.
- 3.3.4 Barisal, Rajshahi, Rangpur and Sylhet are the other major cities as well as divisional head quarters in Bangladesh, connected to Dhaka by the primary road network.

### **3.4 About Mongla Port**

- 3.4.1 The name Mongla originated from Mongla River presently known as Mongla Nulla. Mongla Port is located about 131 km inland from the Bay of Bengal on the Pussur river at its confluence with Mongla River. Mongla Nulla is at a Channel distance of 71 Nautical Miles from the Fairway Buoy situated (Lat. 21026.9` N. long. 890 34.4 E) in the Bay of Bengal.
- 3.4.2 Before establishment of the port and Chittagong Port being located at the south eastern part of the country, the import and export had to be transported through different tedious, expensive and time consuming modes of transport causing excessive delay and rising transportation cost. The emergent of a second seaport, therefore, became most essential for smooth handling to mainly export of jute and jute goods and import of the north and western parts of the country. Therefore, a series of studies were undertaken and the present site was selected for constructing permanent port facilities and finally five jetties were constructed with necessary back up facilities including handling of containers in 1978.
- 3.4.3 The port is under the administrative control of the Ministry of Shipping. Mongla Port Authority is managed by a board which consists of Chairman and three other members. Board formulates policies concerning operation, administration, finance and development of the port. Other 12 departments are there to assist in performing port operation.

### **3.5 Port Limit:**

- 3.5.1 To the North : A line drawn due East West from a point in position Lat. 22° 38.00' N. long 89°20.00' E. to a point in position lat. 22°38.00' N. long 89°40.00' E.
- 3.5.2 To the South : A line drawn due East West from a point in position Lat.21°27.00'N Long 89°20.00' E. to a point in position lat. 21°27.00' N. long 89°40.00' E.
- 3.5.3 To the East: A line joining the point in position Lat. 21°27.00' N. long 89°40.00' E. with the point in position Lat. 22°38.00' N. long 89°40.00' E.
- 3.5.4 To the West: A line joining the point in position Lat. 22°38.00' N. long 89°20.00' E. with the point in position lat. 21°27.00' N. long 89°20.00' E.

## **4 PROJECT BACKGROUND AND CONCEPT**

### **4.1 Project Background**

- 4.1.1 Under the authority of the Government of the People's Republic of Bangladesh (GOB), the Mongla Port Authority (MPA) under Ministry of Shipping intends to select potential Applicant(s) for Financing, Development, Operation and Maintenance of "Two Jetties at Mongla Port ". The Project will be implemented on a Public-Private Partnership (PPP) basis in accordance with the "Policy and Strategy for Public-Private Partnership (PPP) 2010". Total cost of the project has initially been estimated to be approximately US\$ 50 million.
- 4.1.2 Bangladesh has two seaports –Chittagong and Mongla. Total cargo handled by these ports was 43.5 million MT during 2011-12 out of which Chittagong Port handles around 94% of the total sea borne trade and rest 6% is handled at Mongla Port. The country overall has experienced average GDP growth of over 6% over the last 5 years. This has been reflected by the continuous growth of import and export in the country which has averaged at 15% per annum.
- 4.1.3 Mongla Port is located about 131 km inland from the Bay of Bengal on the Pussur River at its confluence with Mongla River. The port was designed to cater for 11 concrete jetties. Mongla Port Authority constructed five jetties (J5, J6, J7, J8 and J9) in the year 1976 to 1978. At the same time pile driving works for jetties J3 and J4 were also completed and these jetties as well as Jetties J1, J2, J10 and J11 were earmarked for future expansion.
- 4.1.4 It is of national strategic importance to ensure the vibrant operation of multiple ports to meet the nation's increasing import and export requirements. Therefore, Government of Bangladesh has taken active steps to revitalize Mongla port to handle increased volume of cargo. These efforts have already resulted in the volume of traffic in Mongla Port to double over the last four years (2009-2012).

4.1.5 The Government is in the process of developing and implementing a number of investment initiatives in Mongla Port. Some of the key initiatives are summarized below:

- Dredging in the Harbour Channel of Mongla Port

To increase the navigability of the Harbour Channel of the Pussur River a project for the dredging has been undertaken. The project has been approved on 30.03.2010 at a cost of Tk. 132.00 crore. Under the project 4.196 million cum dredging will be done at different places in the Pussur Channel. The procurement process for this project is already underway and work is expected to be completed by 2014.

- Dredgers and Ancillary crafts & Accessories for Ministry of Water Resources & Ministry of Shipping

The project has been under taken to procure a second dredger for MPA to maintain adequate depth in the Pussur Channel. The project has been approved on 17.08.2010 at a cost of Tk. 1042.60 million. For procurement of a dredger tender was invited on 13/11/2011. Tender has been opened on 07.08.2012. Evaluation is going on the project is expected to be completed by June 2015.

- Procurement of Cutter Suction Dredger, Pilot and Despatch Boat for Mongla Port:

For regular maintenance dredging and smooth functioning of the port a cutter suction dredger, a Pilot boat and a Pilot dispatch boat will be procured. The project was approved on 13- 04-2010 at a cost of Tk 82.93 crore. The procurement for the dredger, crane boat, Shore pipe, floating pipe, floater and House boat have already been completed and the full procurement of items is expected to be by the end of FY 2012-13.

- Navigational Aids to Mongla Port

This project has been undertaken to assist movement of sea-going vessels in the channel day and night at a cost of Tk. 23.00 crore. The project was approved on 13.05.2008. Under this project, 62 nos. buoys, 2 nos. beacons, 6 nos. light towers with lanterns and anchors will be procured and installed. The contract for the procurement of navigational aids was signed on 18.08.2011 and the installation of equipment is expected to be completed within FY 2012-13.

4.1.6 As part of this initiative, the Government of Bangladesh through the Mongla Port Authority has decided to develop and operate the two partially completed jetties (J3 and J4) through PPP.

## **4.2 Concept**

- 4.2.1 The MPA intends to select a Private Partner to develop the project on a PPP basis, whereby the Private Partner undertakes to, construct, finance, operate and maintain the various elements of the project for a fixed period of time on the basis of a Concession Agreement entered into with the Authority, at the end of which all assets will be transferred to the authority at no cost along with all site improvements, infrastructure, fixtures, fittings and equipment.
- 4.2.2 The Private Partner who signs the Concession Agreement with the Authority will be responsible for undertaking the project through the PPP Company including the design, build/construction, finance, operation and maintenance. The Private Partner in consultation and confirmative with MPA will set and charge tariff to the users of the Project in order to meet the costs of undertaking the project.

## **4.3 Project Objectives**

- 4.3.1 The Project shall be designed in compliance with the international standards with the key objectives of:
- Providing relief for traffic congestion at Chittagong Port and to ease sea borne trade in the country through enhancing terminal operation and management efficiency
  - Providing a boost to the initiative towards revitalizing Mongla Port by enhanced private sector marketing and promotion
  - Introducing enhanced levels of terminal operation and management efficiency by use of new technical know-how and methodologies
  - Environmentally and socially sensitive design, with mitigation works to secure against environmental/social degradation and design for general environmental /social enhancement

## **4.4 Background to Bangladesh's PPP Program**

- 4.4.1 The Government of Bangladesh issued the Policy and Strategy for Public Private Partnership (PPP), 2010 in order to enhance the level of private sector investment in the delivery of public sector social and economic infrastructure services.
- 4.4.2 The PPP program is a priority initiative by the Government and a key component of the strategy for realising the Vision 2021 goal of Bangladesh to become a middle income country by the year 2021. To realize this vision there is a need to ensure a more rapid and inclusive growth trajectory of the GDP. One of the constraints to realizing this growth is the required level of investment in infrastructure. To bridge this investment constraint Government has prioritized the development of the PPP program so as to increase the level of private sector investment in the development and delivery of public sector infrastructure services.

- 4.4.3 The PPP Policy establishes a more streamlined and robust process that draws on from international best practice for the development and execution of PPP Projects. A new institutional framework has been set up including the creation of the PPP Office (an autonomous office under the Prime Minister's Office) and the PPP Unit (under the Ministry of Finance) to support line Ministries and their Executing Agencies to undertake PPP Projects.
- 4.4.4 The role of the PPP Office is to act as a catalyst to proactively realize PPP Projects. The PPP Office supports line ministries to identify, develop and tender PPP Projects by augmenting government sector line ministry project development efforts with experienced external and internal PPP resources and advisors. The PPP Office is also responsible for the development and recommendation of guidance, rules, regulations, procedures and model documents for approval by the Cabinet Committee of Economic Affairs and for monitoring and ensuring the compliance with these approved requirements.
- 4.4.5 The PPP Unit (in the Ministry of Finance) is primarily responsible for examining PPP proposals from a financing perspective in relation to the impact of public finances and for managing the financial participation of government in PPP Projects.

## **5 PROJECT SCOPE**

### **5.1 Project Description**

- 5.1.1 The Authority intends to select a Private Partner to implement the Project on a Public Private Partnership (PPP) basis. PPP refers to an arrangement whereby the PPP Company set up by the Private Partner undertakes to, design, build, finance, operate and maintain the various components of the Project for a fixed period of time on the basis of a Concession Agreement entered into with the Authority, at the end of which all assets will be transferred to the Authority at no cost along with all site facilities, improvements, infrastructure, fixtures, fittings and equipment.
- 5.1.2 In delivering their responsibility for the design, build, finance, operation and maintenance of the project, the Private Partner / PPP Company should consider the Project Objectives as set out in section 4.3.
- 5.1.3 MPA will provide consent to use the land for the two designated jetties (Jetty 3 and Jetty 4) and back-up area, in addition to the existing assets (old piles) of Jetty 3 and Jetty 4 to the Project company. It is envisaged that each jetty will be around 183m in length and 40 m in width, with a back-up area of approximately 22 acres. The Project Company will complete the additional piles and construct the two jetties, construct backup facilities for the terminal operation, which include administrative office building, workshop building, internal road, drain and culvert, boundary wall and other utilities, procure cargo handling equipment and operate the terminal (of the two Jetties) for a stipulated duration. The terminal capacity is expected to be around 70,000 TEUs per jetty per year for containers and 240,000 MT per jetty per year for general cargo.
- 5.1.4 Four rows of steel encased piles in the riverside are installed at Jetty 3 and Jetty 4 in the year 1976. The remaining piles and the deck slabs were not constructed and these two Jetties were left incomplete. A technical feasibility study conducted by Institute of Water Modeling (IWM) in 2011 mentions that these piles are generally in good condition. Under this proposed project, the decks for Jetty 3 and Jetty 4 are to be constructed on these existing 4 rows and some more rows of new erected piles. The construction of jetties will be as multipurpose berth, to handle general cargo as well as containers.
- 5.1.5 However, Applicants should carry out their own detailed assessment and due diligence to confirm the condition of the existing piles. MPA or the government representatives (including the PPP Office, Bangladesh Bank and Ministry of Shipping) or any of its employees or advisors make no representation or warranty and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the information provided under this section 'Project Description' including but not limited to the information regarding the condition of the existing piles.



## **5.2 Private Partner Responsibilities**

- 5.2.1 The detail responsibilities to be met by the Private Partner / PPP Company will be defined in the RFP, but broadly it will consist of the following:
- i. Site investigation, detailed design and development of the PPP Terminal
  - ii. Procuring the required cargo handling equipment
  - iii. Internal development of roads, drainage and standardized industrial floor spaces
  - iv. Access road to the project and power from Power Development Board
  - v. Attracting customers to the terminal
  - vi. Delivery of service to the customers in line with the performance standards and requirements set out in the Concession Agreement
  - vii. Operation and maintenance of the PPP Terminal in accordance with the Concession Agreement;
  - viii. Preparing EIA (based on specific design), after engagement of private investor
  - ix. EIA Clearance from DoE
  - x. Environmental Clearance Certificate
  - xi. Environmental and social impact mitigation
  - xii. Reporting to MPA and relevant authorities
  - xiii. Payment of royalties, fees, taxes and charges in accordance with the Concession Agreement.
  - xiv. Maintenance of safety against security, fire and any other disaster within the project area as per ISPS requirement

## **5.3 Authority Responsibilities**

- 5.3.1 The detail responsibilities to be met by the Authority will be defined in the RFP, but broadly it will consist of the following:
- i. Provision of the land for the two jetties (Jetty 3 and Jetty 4) and the designated back-up area
  - ii. Broad layout of the Jetties for setting up the equipment and facilities and delineation of internal space
  - iii. Defining terms and conditions and the interrelationship between private and the public sector
  - iv. Provision of off-site infrastructure, like road and water supply to the project, as per MPA Policy
  - v. Site clearance certificate from DoE
  - vi. Preparing EIA (based on broad design) of international standard, before engagement of private investor
  - vii. Enable the PPP Company to act as a terminal operator
  - viii. Ensuring that the Pussur river leading to the port is kept navigable through dredging to a depth of 7.0 m
  - ix. Ensuring that port is connected to Dhaka by road by establishing a dedicated ferry at Mawa over the Padma river

## **6 PROCUREMENT PROCESS**

### **6.1 Overall Process**

- 6.1.1 The selection of a Private Partner will follow PPP Policy and will be carried out over a 2 stage process (the 'Bidding Process').
- 6.1.2 In Stage 1 (the 'Qualification Stage') the Authority intends to short-list Applicants, who may be invited to submit Proposals for the Project, on the basis of the provisions set out in this RFQ.
- 6.1.3 In Stage 2 (the 'Proposal Stage') the Short-listed Applicants, who are invited to submit Proposals, may submit Proposals for the Project in line with the RFP requirements. The Private Partner will be selected through an ICB process based upon the proposals received and evaluation criteria set out in the Requests for Proposal.
- 6.1.4 The Authority will finalize and sign the Concession Agreement with the Private Partner and will execute the Concession Agreement through the PPP Company that is created and controlled by it and incorporated/registered in Bangladesh as per applicable law of the country.

### **6.2 Qualification Stage**

- 6.2.1 At the Qualification Stage the Authority seeks to invite interested and eligible Investors to submit Applications to be shortlisted to submit Proposals in the Proposal Stage.
- 6.2.2 This RFQ sets out the process and requirements to short-list Applicants. Applicants are required to ensure that all the information requested in this RFQ is submitted to the Authority as part of the Qualification Stage.
- 6.2.3 The Qualification Stage first considers whether Applicants are eligible for evaluation under the provisions of this RFQ. Applicants who are eligible and do not breach any of the stipulated provisions for disqualification will be evaluated to see whether they meet the technical and financial capacity criteria (Criteria A to F, as per Section 9).

## 6.3 Tentative Timeline

6.3.1 The Authority anticipates carrying out the procurement process contemplated hereby in accordance with the following schedule. However, this is a tentative timeline and is subject to revision by the Authority. Applicants who have requested and received an official hard copy of the RFQ and duly notified the Authority in writing by completing Form I of the RFQ about their intention to submit an Application will be notified of any change to this schedule by an addendum to this RFQ.

**Figure 1: Indicative Project Timeline**

Sl. No.	Item of Activities	Calendar days	Cumulative days from date of Advertisement
1	Notice Advertised (2 May 2013)	0	0
2	Investor Promotion Meeting (IPM) (See Section 12 for further details)	23	23
3	Time for Applicants to prepare Qualification Statement after IPM	22	45
4	Receipt of Request for Qualification Statements by the Authority	45 <sup>th</sup> day	45
5	Evaluation of Request for Qualification Statements and short listing	21	66
7	Notification of Shortlisted Prequalified Applicants and Issue RFP	0	66
8	Pre-proposal Conference	30	96
9	Time to prepare Proposal after Pre-proposal Conference	30	126
10	Receipt of Proposals by the MPA	126 <sup>th</sup> day	126
11	Evaluation of Proposals and Notification	30	156
13	Issuance of Letter of Intent	0	156
14	Negotiation and Finalization of Concession Agreement	15	171
16	Signing of Concession Agreement	1	172

## **6.4 Clarification Requests from Applicants**

- 6.4.1 Applicants requiring any clarification on this RFQ may notify the Authority in writing by fax and e-mail. They should send in their queries no later than 15 (fifteen) days prior to the Application Due Date. The Authority shall endeavor to respond to the queries within the period specified therein, but no later than 10 (ten) days prior to the Application Due Date. The responses will be sent by fax or e-mail. The Authority will share all the queries and its responses thereto, to all Applicants who have requested and received an official hard copy of the RFQ and duly notified the Authority in writing by their authorized representative about their intention to submit an Application, without identifying the source of queries.
- 6.4.2 The Authority shall endeavor to respond to the questions raised or clarifications sought by the Applicants. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.
- 6.4.3 The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Applicants. All clarifications and interpretations issued by the Authority shall be deemed to be part of the RFQ. Verbal clarifications and information given by the Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

## **6.5 Authority Contact Details for Clarifications**

- 6.5.1 The Authority's contact detail for clarifications is:

Contact Name:	Commodore H.R. Bhuiyan, ndc, psc, BN
Designation:	Chairman
Address:	Mongla Port Authority Mongla, Bagerhat, Bangladesh
Telephone:	(88) 04662-75200, 04662-75215
Facsimile:	(88) 04662-75224
Email:	chairman@mpa.gov.bd

## **6.6 Amendment of RFQ**

- 6.6.1 At any time prior to the Application Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFQ by the issuance of Addenda.
- 6.6.2 Any Addendum thus issued will be sent in writing to all those who have requested and received an official hard copy of the RFQ and duly notified the Authority in writing by their authorized representative about their intention to submit an Application.
- 6.6.3 In order to afford the Applicants a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, at its own discretion, extend the Application Due Date.

## **7 INSTRUCTIONS TO APPLICANTS**

### **A. GENERAL**

#### **7.1 Scope of Application**

- 7.1.1 The Authority wishes to receive Applications for Request for Qualification in order to short-list experienced and capable Applicants for the Proposal Stage.
- 7.1.2 Short-listed Applicants may be subsequently invited to submit their Proposal for the Project.

### **B. Eligibility of Applicants**

#### **7.2 Nature of an Applicant**

- 7.2.1 The Applicant for short-listing may be a single entity or a group of entities (the "Consortium"), coming together to implement the Project. However no Applicant applying individually or as a member of a Consortium, as the case may be, can be member of another Applicant Consortium. The term Applicant used herein would apply to both single entity and a Consortium.
- 7.2.2 An Applicant may be a natural person, private entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 7.4.1 below.
- 7.2.3 The Applicant should submit a Power of Attorney authorizing the signatory of the Application to commit the Applicant. The specific requirements in relation to authorization for Consortium Applicants are set out in clause 7.4.1(iii).

- 7.2.4 Where the Applicant intends to carry out the development of the Project through appointing a sub-contractor and the Applicant is shortlisted to submit Proposals as part of the Proposal Stage then it must enter into an agreement with a sub-contractor to carry out the construction works before submitting the Proposal.
- 7.2.5 An Applicant shall be ineligible to participate in the Qualification Stage if the Applicant:
- (i) Is a physical or juridical individual (proprietorship), membership of limited company (public or private) based headquartered, constituted, registered or incorporated in Israel;
  - (ii) does not have legal capacity to enter into a contract with the Authority or other persons;
  - (iii) is to be insolvent, be in receivership, be bankrupt or being wound up, its business activities is to be suspended and it is to be the subject of legal proceeding for any of the foregoing;
  - (iv) is the one with whom the Authority has previously entered into a contract for some other purpose and later terminated the contract prior to the expiry of the contract due to the event of default on the part of the Applicant;
  - (v) does not request and receive an official hard copy of the RFQ formally from the Authority in accordance with the invitation notice published; and
  - (vi) including any subcontractors or suppliers or associates, in regard to matters relating to security and integrity of the country, have been charge-sheeted by any agency of the Government or convicted by a Court of Law.
- 7.2.6 The Applicant must submit all necessary papers and documents required in accordance with the laws, rules, regulations, orders, policies, guidelines etc as applicable to prove its legal status. 'Form V' in the Appendix of this RFQ sets out the list of information and documentary evidence that the Applicant must submit. Failure to submit the required information may lead to an Applicant being deemed to be ineligible.

### **7.3 Conflict of Interest**

- 7.3.1 An Applicant shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Applicant found to have a Conflict of Interest will be disqualified. An Applicant may be considered to have a Conflict of Interest that affects the Bidding Process, if:
- (i) such Applicant (or any constituent thereof) and any other Applicant (or any constituent thereof) have either directly or indirectly common controlling shareholders or other ownership interest;
  - (ii) a constituent of such Applicant is also a constituent of another Applicant; or
  - (iii) such Applicant receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated loan from any other Applicant, or has provided any such direct or indirect subsidy, grant, concessional loan or subordinated loan to any other Applicant; or

- (iv) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
- (v) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each others "information about, or to influence the Application of either or each of the other Applicant; or
- (vi) Such Applicant is the one who has assisted the Authority in the feasibility study or in preparation of the tender document and Concession Agreement for this project

7.3.2 An Applicant shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Applicant in any manner for matters related to or incidental to the Project and which will affect the bidding process thereof.

## **7.4 Requirements Applicable for Consortium Applicants**

7.4.1 Where the Applicant is a Consortium, it should comply with the following additional requirements:

- (i) Number of members in a consortium should be limited to 5 (five) only and they shall have an equity share of at least 10% in the Consortium ("Members");
- (ii) subject to the provisions of clause (i) above, the Application should contain the information required for each Member of the Consortium;
- (iii) Members of the Consortium shall nominate one member as the Lead Member, who shall have an equity share of at least 26% in the Consortium and be the single largest shareholder. The nomination(s) shall be supported by a Power of Attorney, signed by all the other Members of the Consortium. Details of the format for the Power of Attorney is set out in Form III; all Members of the consortium shall be liable jointly and severally for meeting the obligations of the Applicant;
- (iv) the Lead Member on behalf of the Consortium shall have the authority to conduct all business for and on behalf of, any and all the Members of the Consortium during the bidding process and in the event the Consortium is awarded the Project, during the signing of the Concession Agreement.
- (v) the Application should include a signed agreement executed on a non-judicial stamp of value of BDT300 or equivalent and signed by all legally authorized representatives of the members who are parties to such agreement. The agreement should commit the members to the objectives and purposes of the formation of the consortium and describe the roles and responsibilities of the Lead Members and the other individual Members particularly with reference to financial, technical and O&M obligations as well as setting out their respective share interest in the Consortium and the proposed PPP Company;
- (vi) an individual Applicant cannot at the same time be a Member of a Consortium applying for short-listing. Further, a Member of a particular Consortium Applicant cannot be a Member of any other Consortium Applicant applying to be short-listed ;
- (vii) In the event that the Consortium Applicant is selected as the Private Partner it shall form an appropriate "PPP Company" to perform all the obligations of the

Concessionaire and execute the Project in terms of the Concession Agreement for the project;

- 7.4.2 For the purpose of evaluating the Technical Capacity and Financial Capacity of an Consortium Applicant the Technical Capacity and Financial Capacity of the Members would also be eligible for consideration hereunder.
- 7.4.3 Any entity which has been barred by the Government, or any entity controlled by them from participating in any project (BOT or otherwise), and the bar subsists as on the date of Application, would not be eligible to submit an Application, either individually or as Member of a Consortium. Any Consortium Applicant having a barred entity as its Member will not be allowed to take part in the next round of the Bidding Process.
- 7.4.4 Information supplied by an Applicant (or a Member if a Consortium Applicant) must apply to the Applicant or Member named in the Application and not, unless specifically requested, to other associated companies or firms. Invitation to submit Proposals will be issued only to Applicants whose identity and/or constitution is identical to that at the Qualification Stage.
- 7.4.5 In responding to the RFQ submissions Applicants, whether single entity Applicants or Consortium Applicants, should demonstrate their capabilities in accordance with various provisions.

## **7.5 Change in the composition of the Consortium**

- 7.5.1 Change in the composition of Consortium Applicant will not be permitted by the Authority during the Qualification Stage.
- 7.5.2 In the case of a Consortium Applicant, change in the composition of the Consortium may be permitted by the Authority after the Qualification Stage but before the Proposal Stage, only where:
  - (i) the Lead Member continues to be the Lead Member of the Consortium;
  - (ii) the substitute is at least equal, in terms of Technical Capacity and Financial Capacity, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the qualification and short-listing criteria for Applicants; and
  - (iii) the new Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and is not an Applicant/Member of any other Consortium Applicant bidding for the Project.



- 7.5.3 Approval for change in the composition of a Consortium shall be at the sole discretion of the Authority and must be approved by the Authority in writing.
- 7.5.4 The modified/ reconstituted Consortium shall be required to submit a revised Consortium Agreement before the RFP Due Date.
- 7.5.5 Any change in the composition of a Consortium other than as set out above shall lead to the rejection of the Application or Proposal and the forfeiture of the Tender Security.

## **7.6 Number of Applicants**

- 7.6.1 An Applicant is eligible to submit only one Application for the Project. 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 other Consortium, as the case may be.

## **7.7 Application and other Costs**

- 7.7.1 The Applicants shall be responsible for all of the costs associated with the preparation of their Applications, their participation in the Qualification Stage and the Proposal Stage. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

## **7.8 Site Visit and the Verification of Information**

- 7.8.1 Applicants are encouraged to submit their respective Applications after visiting the Project site and ascertaining for themselves the site conditions, project site surroundings for compliance of environment protection, traffic scenario, siltation condition, civil structure in the jetty, availability of power, and other utilities for construction, access to site, handling and storage of materials, seismic data, soil testing, applicable laws and regulations, labor laws, local bye-laws and any other matter considered relevant by them which may affect the outcome of the Project.
- 7.8.2 It shall be deemed that by submitting the Application, the Applicant has:
  - (i) made a complete and careful examination of the RFQ;
  - (ii) received all relevant information requested from the Authority;
  - (iii) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFQ or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 7.8.1 above; and
  - (iv) agreed to be bound by the undertakings provided by it under and in terms hereof.

7.8.3 The Authority shall not be liable for any omission, mistake or error on the part of the Applicant in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFQ or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority. It is the sole responsibility of the Applicant to ascertain the accuracy of the data provided by the Authority.

## **7.9 Right to Accept or Reject any or all Applications**

7.9.1 Notwithstanding anything contained in this RFQ, the Authority reserves the right to accept or reject any Application and to annul the Bidding Process and reject all Applications and/or Proposals, at any time without any notice, any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

7.9.2 The Authority reserves the right to reject any Application and/or Proposal if:

- (i) At any time, a material misrepresentation is made or uncovered, or
- (ii) The Applicant does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Application. Such misrepresentation and/or improper response shall lead to the disqualification of the Applicant and/or Bidder. If the Applicant is a Consortium, then the entire Consortium shall be disqualified. If such disqualification occurs after the Proposals have been opened and the Selected Bidder gets disqualified, then the Authority reserves the right to:
  - invite the remaining Bidders to submit their Proposals in accordance with the RFP; or
  - take any such measure as may be deemed fit and is the sole discretion of the Authority, including annulment of the Bidding Process.

- 7.9.3 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by the Authority, that one or more of the short-listing conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Concessionaire by entering into of the Concession Agreement, and if the Applicant has already entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQ, be liable to be terminated, by a communication in writing by the Authority to the Applicant, without the Authority being liable in any manner whatsoever to the Applicant.
- 7.9.4 The Authority reserves the right to verify all statements, information, references and documents submitted by the Applicant in response to the RFQ. Failure of the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.

## **C. PREPARATION AND SUBMISSION OF APPLICATION**

### **7.10 Language**

7.10.1 The Application and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Applicant with the Application may be in any other language provided that they are accompanied by appropriate and authenticated translations of the pertinent passages in the English language (Transliteration is not allowed). Supporting materials, which are not translated into English, may not be considered for fixing the qualification criteria. For the purpose of interpretation and evaluation of the Application, the English language translation shall prevail.

### **7.11 Conversion of Currency Amounts into US Dollars**

7.11.1 All figures in currency amounts must be submitted in US Dollars. Where the Applicants need to convert the currency amounts in to US Dollars from their local currency they should apply the average of the exchange rates for that calendar year to which the figures are applicable.

7.11.2 Applicants may use a suitable source (for e.g. <http://www.oanda.com>) in order to convert their local currency in to US Dollars. The Applicant must state the exchange rate and its source in their response.

### **7.12 Signing of Application**

7.12.1 The Applicant shall provide all the information sought under this RFQ including the Appendices to this RFQ. The Applicant shall sign all the pages with seal of their submission. The Authority will evaluate only those Applications that are received in the required formats and complete in all respects. Incomplete and /or conditional Applications shall be liable to rejection.

7.12.2 The Applicant shall prepare one original set of the documents comprising the Application (together with originals and/or copies of documents required to be submitted along therewith pursuant to this RFQ) and clearly marked "ORIGINAL". In addition, the Applicant shall submit 6 (six) copies of the Application, marked "COPY". In the event of discrepancy between the originals and the copies, the original shall prevail.

7.12.3 The Application and its copies shall be typed or written in indelible ink and signed by the authorized signatory of the Applicant who shall also initial each page in blue ink. The person(s) signing the Application form shall initial all the alterations, omissions, additions or any other amendments made to the Application. The Application shall contain page numbers and shall be hard bound.

### **7.13 Sealing and Marking of Applications**

7.13.1 The Applicant shall submit the Application in the format specified at the Appendix to this RFQ and seal it in an envelope. The Applicant shall seal the original and each copy of the Application, together with their respective enclosures, in separate envelopes duly marking the envelopes as "ORIGINAL" and "COPIES". The envelopes shall then be sealed in an outer envelope.

7.13.2 Each of the envelopes shall clearly bear the following identification: "Application for the Development of Two Jetties at Mongla Port through PPP Project" and shall clearly indicate the name and address of the Applicant. In addition, the Application Due Date should be indicated on the right hand corner of each of the envelopes.

7.13.3 Each of the envelopes should be addressed to:

Name:	Commodore H.R. Bhuiyan, ndc, psc, BN
Designation:	Chairman
Address:	Mongla Port Authority Mongla, Bagerhat, Bangladesh
Telephone:	(88) 04662-75200, 04662-75215
Facsimile:	(88) 04662-75224
email:	chairman@mpa.gov.bd

7.13.4 If the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Application submitted.

7.13.5 The Application can be delivered only by pre-paid mail, courier or an authorized person. Applications submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

### **7.14 Application Due Date**

7.14.1 Applications should be submitted on or before 3:00 pm BST, 16 June 2013, *i.e.* "the Application Due Date", at the address provided in Clause 7.13.3 in the manner and form as detailed in this RFQ. A receipt of acceptance thereof should be obtained from the office of the person specified in Clause 7.13.3.

7.14.2 The Authority may, in its sole discretion, extend the Application Due Date by issuing an Addendum in accordance with various provisions uniformly for all Applicants.

## **7.15 Late Applications**

7.15.1 Applications received by the Authority after the specified time on the Application Due Date shall not be eligible for considerations and shall be summarily rejected.

## **7.16 Modifications/substitution/withdrawal of Applications**

7.16.1 The Applicant may modify, substitute or withdraw its Application after submission, provided that written notice of the modification; substitution or withdrawal is received by the Authority prior to Application Due Date. No Application shall be modified, substituted or withdrawn by the Applicant on or after the Application Due Date.

7.16.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 7.13, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

7.16.3 Any alteration/ modification in the Application or additional information supplied subsequent to the Application Due Date, unless the Authority has expressly sought the same after the application due date, for shall be disregarded.

## ***D. OPENING AND EVALUATION PROCESS***

### **7.17 Opening and Evaluation of Applications**

7.17.1 The Authority shall open the Applications at 1500 hours BST on the Application Due Date at the place specified in Clause 7.13.3 and in the presence of the authorized person(s) of Applicant(s) who choose to attend.

7.17.2 Applications for which a notice of withdrawal has been submitted in accordance with section 7.16 shall not be opened and will be returned to the authorized person of the Applicant after or on the day of the bid opening by the Authority.

7.17.3 The Authority will subsequently examine and evaluate Applications in accordance with the provisions set out in RFQ.

7.17.4 Applicants are advised that short-listing of Applicants will be entirely at the discretion of the Authority. Applicants should be aware that the Authority reserves the right to use and interpret the documentation it receives in accordance with its own judgment and its own method to shortlist Applicants, and to decide alone and without any potential Applicant being entitled to any recourse, which Applicant will be determined as a short-listed Applicant. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.

7.17.5 Any information contained in the Application shall not in any way be construed as binding on the Authority, its consultants, successors or assigns, but shall be binding against the Applicant if the project is subsequently awarded to it under the Bidding Process on the basis of such information.

7.17.6 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any Application without assigning any reasons.

## **7.18 Confidentiality**

7.18.1 Information relating to the examination, clarification, evaluation, and recommendation for the short-listed Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of Application, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority.

## **7.19 Completeness of application**

7.19.1 Prior to evaluation of Applications, the Authority shall determine whether each Application is responsive to the requirements of the RFQ. An Application shall be considered responsive only if:

- (i) It is received as per the contents of this RFQ;
- (ii) It is received by the Application Due Date including any extension thereof pursuant to section 7.14;
- (iii) It is signed, sealed, bound and marked as stipulated in provisions set out in sections 7.12 and 7.13;
- (iv) It is accompanied by the Power(s) of Attorney and other authorizations required as per this RFQ.
- (v) It contains all the information (complete in all respects) as requested in this RFQ including the Appendices to this RFQ;
- (vi) It does not breach any of the provisions set out in Section 7 "INSTRUCTIONS TO APPLICANTS" of this RFQ
- (vii) It contains information in formats same as those specified in this RFQ including the Appendices to this RFQ;
- (viii) It is accompanied by the Consortium Agreement specific to the Project, as stipulated in Clause 7.4.1;
- (ix) It does not contain any condition on qualification; and
- (x) It is not non-responsive in terms hereof.

7.19.2 The Authority reserves the right to reject any Application which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Application.

## **7.20 Clarification Requests by the Authority**

7.20.1 To facilitate evaluation of Applications, the Authority may, at its sole discretion, seek written clarifications from any Applicant regarding its Application through letter or email or fax. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. The extension for the clarification date will be at the sole discretion of the Authority.

7.20.2 If an Applicant does not provide clarifications sought under clause 7.20.1 above within the prescribed time, its Application shall be liable to be rejected. In case the Application is not rejected, the Authority may proceed to evaluate the Application by construing the particulars requiring clarification to the best of its understandings of its advisors, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

## ***E. QUALIFICATION AND BIDDING***

### **7.21 Short-listing and notification**

7.21.1 The Authority shall shortlist the Applicants for participating in the Proposal Stage.

7.21.2 After the evaluation of Applications, the Authority would announce a list of shortlisted pre-qualified Applicants (“Bidders”) who will be eligible for participation in the Proposal Stage. At the same time, the Authority would notify the other Applicants that they have not been short-listed. The Authority will not entertain any query or clarification from Applicants who fail to pre-qualify and or be shortlisted.

### **7.22 Submission of Proposals**

7.22.1 The Bidders will be requested to submit a Proposal in the form and manner to be set out in the RFP.

7.22.2 Only shortlisted Applicants may be invited by the Authority to submit their Proposal for the Project. The Authority is likely to provide a reasonable time span. The Applicants are therefore advised to visit the site(s) and familiarize themselves with the Project by the time of submission of the Application. No extension of time is likely to be considered for submission of Proposals pursuant to RFP that may be issued by the Authority.



## 7.23 Proprietary data

7.23.1 All documents and other information supplied by the Authority or submitted by an Applicant to the Authority shall remain or become the property of the Authority. Applicants are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Application. The Authority will not return any Application or any information provided along therewith.

## 7.24 Correspondence with Applicant

7.24.1 The Authority shall not entertain any correspondence with any Applicant in relation to the acceptance or rejection of any Application in future.

# 8 Short-listing Process

## 8.1 Eligibility

8.1.1 Only those Applicants that meet the eligibility criteria and do not breach any of the stipulated provisions set out in “Section 7 - Instructions to Applicants” above shall be eligible for evaluation under this Section 8. Applications that do not meet these criteria or provisions shall be rejected.

8.1.2 Applicants that meet the provisions set out in Clause 8.1.1 and are eligible, will be evaluated as per clause **Error! Reference source not found.** for short-listing.

## 8.2 Qualification

8.2.1 The Applicants who have been found eligible as per Clause 8.1.1, will be assessed based on the following criteria:

- Technical Capacity (Criteria A, B ,C ,D, E, and F as provided in section 9.2 subject to the provision as set out in 8.2.2)
- Financial Capacity (as provided in section 9.3)

8.2.2 Applications that meet the criteria under Section 9 will be treated as per the following provisions:

- (a) Scenario A: Where the number of eligible Applicants meeting Criteria A to F ranges between *four to six*, they shall be treated as short-listed Applicants.
- (b) Scenario B: Where the number of eligible Applicants meeting Criteria A to F are *less than four*, then the Authority may consider eligible Applicants who have met criteria A and all but one of the remaining criteria, B-F to allow *upto six* Applicants as short-listed Applicants.

Number of eligible Applicants who met all but one of the criteria from B-F is greater than six then the provision of Scenario C will apply

If the number of Applicants passing the criteria even with such relaxation stands *less than four*, then the Authority may take a separate decision as appropriate.

- (c) Scenario C Where the number of Applicants meeting Criteria A to F stands *more than six*, then the Applicants will be ranked and *top six* will be short-listed based on Development Experience Value under Criteria A, with the following formula:

Development Experience Value

=  $\sum$  Capital Cost (in US\$) of one or more projects that meets Criteria A X share-holding percentage in the applicable project company delivering that project(s) either as a single entity or as a consortium member

Note:

1.  $\sum$  means summation of
2. *Applicable project experience must be submitted in relation to projects that fall within 10 years of the date of this RFQ.*
3. *No double counting of project will be permissible*
4. *Each applicable experience of Consortium members (up to a maximum of 4) which falls under criteria A will be considered and will be aggregated to determine the total value of project development experience of a consortium.*

## **9 Criteria for Short-listing**

- 9.1.1 Each Eligible Applicant must be able to demonstrate the Applicant's own experience in order to meet the criteria under Section 9.2 and 9.3.
- 9.1.2 The experience of a fully owned subsidiary or partly owned subsidiary in which the Applicant has more than 50% share interest will be counted as the experience of the Applicant.
- 9.1.3 If the Applicant is a subsidiary, the experience of a parent or sister organization shall not be counted or taken into consideration as the experience of the Applicant

## **9.2 Technical Capacity**

- 9.2.1 Eligible Applicants must be able to demonstrate the following experience in order to meet the criteria for Technical Capacity:

**A. Criteria A: Development Experience**

The Applicant must provide evidence of developing at least one (1) successful PPP Project (where the Applicant is providing experience of PPP projects in Bangladesh, independent power producers or IPPs in the power sector, BOT land port or any infrastructure project for delivering public services under a Concession agreement will qualify under this criteria.) by any of the Consortium members in the last ten (10) years in any country preferably in the developing countries (Asia, Africa and Latin America), either as a single entity or as a Lead Member of a Consortium of that project. The development experience shall demonstrate the ability of the investor, in a PPP project, to bid for, win, enter into a PPP concession agreement with an executing agency, organize financing, carry out design, obtain all approvals and manage the construction upto satisfactory acceptance tests for commercial operations.

**B. Criteria B: Operating Experience**

The Applicant must demonstrate that it has minimum three (3) years of satisfactory records of performance with total responsibility for all operations including maintenance and management as an operator of at least one (1) terminal in a sea or river port in operation of private or PPP jetties of a capacity of minimum 70,000 TEUs per year for containers or minimum 240,000 MT per year for bulk, liquid or general cargo.

**C. Criteria C: Ownership Experience**

The Applicant must have had equity contributions of at least Tk 100 crore (US\$ 12.5 million) in one or more PPP Project during the operation stage for a period of 3 years within in the last 5 years as evidenced by the Audited Financial Statements.

- 9.2.2 Where the Applicant is a Consortium the details of eligibility experience of the Lead Member and other Member(s) will be counted as experience of the Applicant.
- 9.2.3 The Applicant should furnish the project information required to demonstrate their Technical Capacity as per the format set out in FORM VII (A), FORM VII (B) and FORM VII (C):

## 9.3 Financial Capacity

9.3.1 The Applicant must demonstrate that it has adequate capability to provide funds for construction of new jetties, develop backup area and procure equipment for the PPP Terminal and to sustain the financing requirements for the operation and maintenance phase of the Project. In case of the Applicant being a Consortium, the financial capability of each member will be added to support the financial capability of the Applicant in proportion to their shareholding in the Consortium, provided that the Net Worth of each member is not less than the portion of the total net worth as per its share. Eligible Applicants must be able to demonstrate the following financial robustness in order to meet the criteria for Financial Capacity<sup>1</sup>:

### **D. Criteria D: Net Worth**

The Applicant must have a minimum Net Worth of Tk 300 crore (US\$ 37.5 million) in each year for the last three (3) completed financial years. The single entity Applicant or in case of a Consortium Applicant, the Member(s) of the Consortium must submit their Audited Financial Statements for the last three (3) years

### **E. Criteria E: Ability to Provide Equity**

The Applicant must demonstrate that it has the ability to provide a minimum equity contribution of at least Tk 100 crore (US\$ 112.5 million) to the Project.

The ability to provide equity will be measured by using the following formula, from the data laid out in the latest Audited Financial Statements:

$$\text{Current Assets} - \text{Current Liabilities} + \text{net cash accrual of one recent year}^2$$

The Applicant should submit relevant documents to confirm their ability to meet this requirement.

### **F. Criteria F: Ability to Raise Debt**

The single entity Applicant or in case of a Consortium Applicant, the Member(s) of the Consortium, must submit Audited Financial Statements or other documents (such as loan documents) to prove that they have raised at least Tk 300 crore (US\$ 37.5 million) as debt for at least one PPP development project within the last ten (10) years. The Audited Financial Statements must be supported by certificate from a Chartered Accountant/Certified Public Accountant

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<sup>1</sup> The financial and accounting terminologies used under this Section 9.3 and any other sections in the RFQ, shall be considered as per International Accounting Standards, unless separately defined in Section 1.

<sup>2</sup> Net cash accrual is defined in Form VIII (A)

9.3.2 The Applicant should furnish the financial information required to demonstrate their financial capacity as per the format set out in FORM VIII (A) and FORM VIII (B). The Applicant must confirm in the “FORM IV” that they will provide the required minimum equity contribution.

## 10 Short-listing Matrix

The Applicants will be assessed each by using the following matrix:

Criteria		Clause Reference	Form	Pass/fail
Col (1)	Col (2)	Col (3)	Col (4)	Col (5)
Criteria A*	Development Experience	9.2A	VII (A)	
Criteria B	Operating Experience	9.2B	VII (B)	
Criteria C	Ownership Experience	9.2C	VII (C)	
Criteria D	Net Worth	9.3D	VIII (A)	
Criteria E	Ability to Provide Equity	9.3E	VIII (A)	
Criteria F	Ability to Raise Debt	9.3F	VIII (B)	

\* Mandatory Item *i.e.* In Scenario B (in the event of relaxation) under Clause 8.2.2, the Applicants must pass Criteria A above

# 11 FRAUD AND CORRUPT PRACTICES

## 11.1 Provisions for Fraud and Corrupt Practices

11.1.1 The Applicant and their respective partners, suppliers, sub-contractors, sub-consultants, officers, employees, agents, service providers and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Authority shall reject an Application without being liable in any manner whatsoever to the Applicant if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.

11.1.2 For the purposes of this Section 11, the following terms shall have the meaning hereinafter respectively assigned to them:

(i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence the actions of any persons connected with the Bidding Process for or on behalf of the Authority;

(ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a person involved in the Bidding Process to obtain a financial or other benefit or to avoid an obligation;

(iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of that person to influence improperly the actions of a person involved in the Bidding Process;

(iv) “collusive practice” means an arrangement between two or more persons involved in the Bidding Process designed to achieve an improper purpose, including influencing improperly the actions of another person;

(v) “obstructive practice” means (a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (b) acts intended to materially impede the exercise of the inspection and audit rights of the project authority, or financier/s of the project including any Development Partner of the financier/s.

11.1.3 In the absence of any specific provision set out under PPP Policy, Rule and Law (as applicable) necessary action will be taken against the Applicant and the Bidder for fraudulent practice, coercive practice, corrupt practice and collusive practices, following the provisions of the Public procurement Rules, 2008 of GOB. In addition, Applicants will also be aware of anti-corruption policies of the Development Partner, as Bangladesh Bank may be involved in debt financing of this project after award of the contract.

## **12 Investor Promotion Meeting**

### **12.1 Arrangements for Investor Promotion Meeting**

12.1.1 An Investor Promotion Meeting will be held for interested Investors at the designated date, time and place as mentioned below. Only those potential Applicants who have completed the pre-registration requirements shall be allowed to participate in the Investor Promotion Meeting.

12.1.2 To complete the pre-registration requirements for the Investor Promotion Meeting interested Investors must complete and submit the Pre-Registration Form by following the instructions set out in the form. A copy of the Pre-Registration Form is set out in Form XIII and is also available to download from any of the following websites:

- [www.mpa.gov.bd](http://www.mpa.gov.bd)
- [www.pppo.gov.bd](http://www.pppo.gov.bd)

12.1.3 During the course of the Investor Promotion Meeting, potential Applicants will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive procurement Process.

12.1.4 The details of the Investor Promotion Meeting are set out below:

- Date: 25 May 2013
- Time: 10.00 a.m.
- Venue: Hotel Sarina, 27 Banani, Road 17, Dhaka 1213, Bangladesh

12.1.5 The Authority reserves the right to revise the timing or venue of the Investor Promotion Meeting. If the Authority makes any such changes it will inform only those potential Investors who have completed the pre-registration requirements to participate in the Investor Promotion Meeting.



## **13 MISCELLANEOUS**

### **13.1 Governing Law**

- 13.1.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of Bangladesh and the Courts of Bangladesh shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 13.1.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (i) suspend and/or cancel the Bidding Process and/or amend and/or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
  - (ii) consult with any Applicant in order to receive clarification or further information;
  - (iii) pre-qualify or not to pre-qualify any Applicant and/ or to consult with any Applicant in order to receive clarification or further information;
  - (iv) shortlist or not to shortlist any pre-qualified Applicant and/ or to consult with any Applicant in order to receive clarification or further information;
  - (v) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Applicant; and/ or
  - (vi) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Applicant.
- 13.1.3 It shall be deemed that by submitting the Application, the Applicant agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection herewith and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or future.

## **APPENDICES**

## 14 List of RFQ Submission Forms

The Applicant will be required to submit the following RFQ Submission Forms.

Form I	Notice of Receipt of RFQ
Form II	Letter of Application
Form III	Power of Attorney to the Signatory
Form IV	Affidavit
Form V	Investor's Organization and Documentary Evidence
Form VI	Structure and Organization
Form VII	Technical Capacity of the Applicant <ul style="list-style-type: none"><li>- Form VII (A): Technical Capacity – Development Experience</li><li>- Form VII (B): Technical Capacity – Operating Experience</li><li>- Form VII (C): Technical Capacity – Ownership Experience</li></ul>
Form VIII	Financial Capacity of the Applicant <ul style="list-style-type: none"><li>- Form VIII (A): Financial Capacity – Net Worth and Ability to Provide Equity</li><li>- Form VIII (B): Financial Capacity-Ability to Raise Debt</li></ul>
Form IX	Bank Reference
Form X	Historical Contract Non-performance
Form XI	Information on Past, Present or Pending Litigation
Form XII	Summary Sheet: Current Contract Commitments
Form XIII	Pre-registration Form for Attending Investment Promotion Meeting

**15 Form I: Notice of Receipt of RFQ**

**DEVELOPMENT OF TWO JETTIES AT MONGLA PORT  
THROUGH PPP<sup>1</sup>**

The undersigned received the above captioned RFQ on [Insert Date]<sup>2</sup>. We have reviewed the package and we [do/do not]<sup>3</sup> intend to submit a qualification Document.

Furthermore, we understand that our RFQ will be due on [Insert Date]<sup>2</sup>.

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(Signature)

(Designation)

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(Name of the Applicant / Lead Member (if applicable))

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[Address and Contact Details of Applicant / Lead Member (If applicable)]

*Notes for Completing 'Form I: Notice of Receipt of RFQ':*

- 1 Applicants must complete and submit this form as soon as possible once they have purchased the RFQ from the Authority, but not later than the date and time on which the Investor Promotion Meeting is scheduled to be held.
- 2 Please insert the appropriate date in the space provided and delete the words and the brackets.
- 3 Keep the appropriate word and delete the bracket and the other word.
- 4 Applicants must complete and submit this form as soon as possible once they have purchased the RFQ from the Authority, but not later than the date and time on which the Investor Promotion Meeting is scheduled to be held.

## 16 FORM II: LETTER OF APPLICATION

[on letter head of the Applicant or Lead Member of the consortium (if applicable), including full postal address, telephone no., fax no. and email address]

Date: [insert day, month, year]

To:

Chairman  
Mongla Port Authority  
Mongla, Bagerhat, Bangladesh

Subject: **Request for Qualification for the Development of Two Jetties at Mongla Port through Public-Private Partnership (PPP) Basis**

Dear Sir,

Being duly authorized to represent and act on behalf of ..... (hereinafter “The Applicant”), and having reviewed and examined the Invitation for Request for Qualification Document and fully understood all the information provided, the undersigned hereby apply to be Short-listed for the **Development of Two Jetties at Mongla Port through Public-Private Partnership (PPP) Basis** and declare that:

1. We acknowledge that the Authority will be relying on the information provided in the Application and the documents accompanying such Application for short-listing of the Applicants for the aforesaid project.
2. This statement is made for the express purpose to be short-listed as an Applicant for the aforesaid Project.
3. We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Application. The Authority and its authorized representative are hereby authorized to conduct any inquiries or investigations to verify the statements, documents, and information submitted in connection with this RFQ, and to seek clarification, from our bankers and clients regarding any financial and technical aspects.

4. This Letter of Application 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 application, or with regard to the resources, experience, and competence of the Applicant.
5. We acknowledge the right of the Authority to reject our Application without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. [insert either 'We are not a Government owned entity' or 'we are a government entity']
7. We plan to subcontract the following key activities and / or parts of the works:  
[insert any of the key activities which the Investor intends to subcontract]
8. We understand that Authority may cancel the Bidding Process at any time and that they are neither bound to accept any Application that they may receive nor to invite the short-listed Applicants to submit Proposals for the Project, without incurring any liability to the Applicants, in accordance with Clause 7.9.1 of the RFQ.
9. We believe that we/ our Consortium satisfy(s) meet all the provisions set out in this RFQ and are eligible to submit this Application; and meet the Technical and Financial Capacity criteria set out in Section 8 and 9 to pre-qualify and be considered for the shortlist of Applicants for the Proposal Stage.
10. We declare that we/ any Member of the Consortium are not another single entity Applicant or a Member of any other Consortium Applicant for the Project.
11. We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFQ, we shall intimate the Authority of the same immediately.
12. We agree and undertake to abide by all the terms and conditions of the RFQ.
13. [Insert if the Application is submitted by a Consortium Applicant 'We confirm that if we bid, that bid and as well as any resulting contract will be:
  - (a) signed so as to legally bind all Members of the Consortium, jointly and severally; and
  - (b) submitted with a consortium agreement providing the joint and several liability of all Members of the Consortium in the event the contract is awarded to us.
14. This application is made in the full understanding that:
  - (a) proposals by short-listed Applicants will be subject to verification of all information submitted for the Qualification Stage at the time of bidding;
  - (b) the Authority reserves the right to amend the scope and value of this project.
15. The Authority and its authorized representatives may contact the following persons for further information or clarification.<sup>(1)</sup>

**General and Managerial Inquiries**

Contact 1: \_\_\_\_\_ Tel No. : \_\_\_\_\_

Contact 2: \_\_\_\_\_ Tel No. : \_\_\_\_\_

**Personnel Inquiries**

Contact 1: \_\_\_\_\_ Tel No. : \_\_\_\_\_

Contact 2: \_\_\_\_\_ Tel No. : \_\_\_\_\_

**Financial Inquiries**

Contact 1: \_\_\_\_\_ Tel No. : \_\_\_\_\_

Contact 2: \_\_\_\_\_ Tel No. : \_\_\_\_\_

*<sup>(1)</sup>Applications by a Consortium should provide, on a separate sheet, equivalent information for each Member of the Consortium to the Application.*

16. The undersigned declare that all information provided in the Application and in the Forms I to [X11] is true, complete and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.

Signed: \_\_\_\_\_ Name: \_\_\_\_\_

For and on behalf of: \_\_\_\_\_

(Name of Applicant or Lead Member of a Consortium)

Signed: \_\_\_\_\_ Name: \_\_\_\_\_

For and on behalf of: \_\_\_\_\_

(Member(s) of a Consortium)



## 17 FORM III: POWER OF ATTORNEY TO THE SIGNATORY<sup>3</sup>

### ***TO WHOM IT MAY CONCERN***

Mr. \_\_\_\_\_ (name of the person(s)), residing at \_\_\_\_\_ (address), acting as \_\_\_\_\_ (designation and name of the organization), and whose signature is authorized below, shall be the person on behalf of \_\_\_\_\_ (name of the Investor) to provide information and respond to inquiries etc. as may be required by the Mongla Port Authority, Ministry of Shipping or any governmental authority in connection with the **“Development of Two Jetties at Mongla Port through Public-Private Partnership (PPP) Basis”** and is also hereby authorized to sign and file relevant documents in response to the above.

(Authorized signature to be given here) \_\_\_\_\_

Name:

Designation:

Organization:

Seal of the Organization:

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<sup>3</sup> Power of Attorney to be provided on a non-judicial stamp of Taka 150 / or as permissible under the laws of the respective country.

## 18 FORM IV: AFFIDAVIT<sup>4</sup>

The undersigned, [name of the official], of legal age, and residing at [address] after having been duly sworn deposed states:

- (i) that he/she is the [official capacity] of [name of the Applicant], duly organized under the laws of [name of the country].
- (ii) that personally, and as [official capacity] for and on behalf of the [name of the Applicant], he/she hereby certifies:
  - (a) that all statements, representations, information and other matters of fact made in this RFQ including any attachments and enclosures are true, complete and accurate; nothing has been omitted which renders such information misleading and all documents accompanying such Application are true copies of their respective originals;
  - (b) that this RFQ is made for the express purpose to be short-listed [name of the Applicant] as an Applicant by the Authority for the **“Development of Two Jetties at Mongla Port through Public-Private Partnership (PPP) Basis”**;
  - (c) that the Applicant will make himself/herself available to the MPA and to the Government of the People’s Republic of Bangladesh or any other of its authorized agencies any information they may find necessary to verify any item in this RFQ or regarding its competence and general reputation;
  - (d) that the Applicant has examined and have no reservations to the RFQ including any Addendum(s) issued by the Authority and will abide by the terms and conditions of the RFQ
  - (e) that the Applicant has accepted the short-listing criteria laid out in the RFQ issued to us by the MPA;
  - (f) that the Applicant acknowledges the right of the Authority to reject this Application and waives its right to seek and obtain court injunction or restraining order against the Authority or the Ministry of Shipping to prevent or restrain the short-listing process, the holding of a Proposal Stage, the award of the Contract or any proceedings related thereto;
  - (f) that the undersigned is duly authorized by the Applicant or, if applicable, by all the Members of the Consortium to make these representations and sign the RFQ to be short-listed for the **“Development of Two Jetties at Mongla Port through Public-Private Partnership (PPP) Basis”**.
  - (g) that the Applicant has not applied for liquidation or not been ordered to liquidate by any court or other authority
  - (h) that the Applicant is not legally restrained to execute a contract;

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<sup>4</sup> Affidavit to be provided on a non-judicial stamp of value of **Taka 150** as admissible under the laws of the respective country. Affidavit is to be signed by the Applicant; where this is a Consortium, the Lead Member and all Members of the Consortium must sign.

- (h) that the Applicant has not previously entered into a contract with the Authority and later terminated the contract prior to the expiry of the contract due to the event of default on the part of the Applicant;
- (j) (i) that the Applicant is not in the process of merger with / acquisition by other entity (applicable for foreign Applicants only);
- (k) that the Applicant or any of its subcontractors or suppliers or associates does not have a conflict of interest that affects the Bidding Process as set out in the RFQ;
- (l) that the Applicant or any of its subcontractors or suppliers or associates 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 as set out in the RFQ in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise;
- (m) that the Applicant has never been declared or found guilty of violating the anti-monopoly/competitive laws of any jurisdiction by any competent court at any time during the last five years;
- (n) that we have taken steps to ensure that in conformity with the provisions of Section 11 of the RFQ, and no persons acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, or collusive practice;
- (o) that if selected as the Private Partner it will ensure that its commitments in relation to other projects do not adversely impact the ability to meet its obligations set out under the Concession Agreement for the Project;
- (p) that if selected as the Private Partner it will provide a minimum equity contribution of [xxxx] towards the total project cost
- (q) that in regard to matters relating to security and integrity of the country, the Applicant including any subcontractors or suppliers or associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.

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[Official Capacity]

WITNESSES:

1. \_\_\_\_\_ 2. \_\_\_\_\_

SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of \_\_\_\_ 2013 \_\_\_\_ at \_\_\_\_.

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Notary Public

## 19 FORM V: INVESTOR'S ORGANIZATION AND DOCUMENTARY EVIDENCE

*Note: The following information and documents must be submitted by the Applicant. Where the Applicant is a Consortium the information must be submitted for the Lead Member and each of the other Members of the Consortium.*

1. Name and Address of the Applicant; Type of organization;
2. Name of the Lead Member (if applicable); Type of organization;
3. Name of the Member(s) (if applicable); Type of organization;
4. Date and place of incorporation of the Applicant;
5. Details of the Applicant (including brochure(s), if any);
6. Names of the shareholders having 10% or more shareholding in the Applicant and size of their holdings;
7. Roles and responsibilities of the Lead Member (if applicable);
8. Roles and responsibilities of other members of a consortium who are not the Lead Investor (if applicable);
9. Certified copy of the Certificate of Incorporation, and Memorandum of Association and Articles of Association, or membership deed of the Applicant;
10. Registration under local authority (if applicable);
11. Tax Payment Clearance Certificate from the relevant government authority;
12. Legal proof (Notary Certificate etc) that there is no bar on the Applicant to execute a contract with the Authority or others;
13. A certified copy of the consortium agreement; the agreement must be written on non-judicial stamp duly notarized / registered in their respective country. The agreement shall contain but is not to be limited to the following:
  - (a) Name of the consortium/association (Investor);
  - (b) Address of the consortium or association ;
  - (c) Name of the Lead Investor;
  - (d) Share control of the consortium or association in the proposed PPP Company;
  - (e) Major roles and responsibilities of each member of the consortium;
  - (f) Effective date;
  - (g) Termination provision (the consortium must remain valid until the formation and incorporation of the company under the Bangladesh law, provided that the consortium wins the tender);
  - (h) Provision for several and joint liability for any action taken by any member of the consortium.
  - (i) Tax certificate from the relevant governmental authority;

- (j) Certificate for non-liquidation from the relevant authority (applicable for foreign investors only);
- (k) Certificate for non-merger with / non-acquisition by other entity (applicable for foreign investors only).

***Note: Where the Applicant is a Consortium then the information requested above must be provided for the Lead Member and the other Members of the Consortium***

## 20 FORM VI: STRUCTURE AND ORGANIZATION

Attach an organization chart of the Applicant, including the Lead Member and each member of the consortium (if applicable) showing the company's structure including the position of the directors and key personnel (e.g. Chief Executive Officer, Chairman, in-house Legal Counsel etc) and external Auditor if relevant.

Name of partner of a consortium/association

## 21 Form VII (A): Technical Capacity - Development Experience

Details of eligibility experience in developing PPP Project to be provided as per Section 9.2A. For each project developed by the Applicant, the Applicant shall provide the following information and documents (including Annual report, legal or constitutional documents):

- a. Name of the project:
- b. Location of the project: (country, state, province, district, etc.):
- c. Name and address of the owners of the project::
- d. Name of the company and percentage (%) of Applicant's shareholding in the company:
- e. Name and address of other shareholders (if any):
- f. Contractual Agreements, if any: Attach photocopies of the first page, preamble page and the signing page of the agreement
- g. Period of Contract: \_\_\_\_\_years, from: \_\_\_\_\_(date) to \_\_\_\_\_ (date)
- h. Year in which development of project: was completed:
- i. Brief description of the development implemented by the Applicant:
- j. Commercial operations date:
- k. Financing arrangement:
  - (A) Debt:
  - (B) Equity:
  - (C) Name of the major lenders:

## Form VII (B): Technical Capacity – Operating Experience

Details of eligibility experience in operating river or sea port terminals<sup>5</sup> to be provided as per Section 9.2B. For each terminal operated by the Applicant, the Applicant shall provide the following information and documents (including Annual report, legal or constitutional documents):

- a. Name of the Port:
- b. Location of the Port (country, state, province, district, etc.):
- c. Name and address of the owners of the Port:
- d. Name of the company and percentage (%) of Applicant's shareholding in the company:
- e. Name and address of other shareholders (if any):
- f. Number of container terminals in the Port:
- g. Name of the terminal(s) operated by the Applicant:
- h. Type of terminal operated by Applicant (multipurpose, container, bulk):
- i. Contractual Agreements, if any: Attach photocopies of the first page, preamble page and the signing page of the agreement
- j. Brief description of the terminal: (number of berths, number of quay cranes, yard handling equipment, storage capacity, management system, number of personnel employed, etc.)
- k. Period of Contract: \_\_\_\_\_ years, from: \_\_\_\_\_ (date) to \_\_\_\_\_ (date)
- l. Brief description of the operational responsibilities of the Applicant:
- m. Years during which facility was operated by Applicant:
- n. Container-handling capacity of the terminal (in TEUs):
- o. Containers handled per year in the last five years (in TEUs): (details of export, import, transshipment):
- p. Bulk/ general cargo handled per year in the last five years (in MT):(details of export, import, transshipment):
- q. Number of shipping lines using the terminal:
- r. Crane productivity: (number of boxes handled per hour of crane operation, yearly throughput per crane, hours of operation per year)
- s. Number of shift operation:
- t. Vessels handled per year in the last five years:

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<sup>5</sup> May be a PPP terminal or a private terminal



## Form VII (C): Technical Capacity – Ownership Experience

Details of eligibility in terms of ownership in PPP Project provided as per Section 9.2C. For each project, the Applicant shall provide the following information and documents (including Annual report, legal or constitutional documents):

- a. Name of the project:
- b. Location of the project (country, state, province, district, etc.):
- c. Name and address of the owners of the project:
- d. Brief description of the project:
- e. Name of the company and percentage (%) of Applicant's shareholding in the company:
- f. Name and address of other shareholders (if any):
- g. Contractual Agreements, if any: Attach photocopies of the first page, preamble page and the signing page of the agreement
- h. Period of Contract: \_\_\_\_\_ years, from: \_\_\_\_\_ (date) to \_\_\_\_\_ (date)
- i. Year in which development of project was completed:
- j. Financing arrangement:
  - A. Debt:
  - B. Equity:
  - C. Name of the major lenders:

## 22 FORM VIII (A): FINANCIAL CAPACITY – NET WORTH AND ABILITY TO PROVIDE EQUITY

Details of eligibility provided as per Section 9.3D and E. For each project, the Applicant shall provide the following information and documents (including Annual report, legal or constitutional documents):

**Name:** [Insert the name of the Single Entity Applicant / Lead Member / Consortium Member (as applicable) for whom the financial information has been provided]

Financial Information	Previous Three Years (US\$ Millions)			Projected Two Years (US\$ Millions)	
	1	2	3	6	7
<b>Financial Years</b>					
1. Gross Revenues / Turnover					
2. Total Assets					
3. Current Assets					
4. Total Liabilities					
5. Long Term Liabilities					
6. Current Liabilities					
7. Net Worth (Row 2–Row 4)					
8. Net Current Assets (Row 3 - Row 6)					
9. Cash at Hand and Bank					
10. Net Income before Interest & Taxes					
11. Depreciation and other Non-cash expense					
12. Interest and Taxes					
13. Net Income after Interest & Taxes					
14. Net Cash flow					
15. Paid-up Capital					
16. Net cash accrual (Row 3 – Row 6 + Row 13 + Row 11)					

Data shall be provided separately for, and the form signed by, each joint venture member.

Year 1 will be the latest year for which Audited Financial Statements are available. Year 2 shall be the year before Year 1 and so on. Audited Financial Statements shall be submitted for last 3 financial years (annual reports if any) showing:

- a. Statement showing capital Employed (Balance Sheet)
- b. Earning Statement (Profit and Loss Account)
- c. Cash Flow Statement

***Information to complete Form VIII Financial Information of the Applicant:***

- 1. Where the Applicant is a Consortium please provide the financial information for the Lead Member and each of the other Consortium Members on separate tables. Add additional sheets and tables if required.*
- 2. Applicants should summarize the financial and then convert it into US dollars based on the average annual exchange rate for the year in which the Financial Statement period ends.*
- 3. Based on known commitments summarize the financial information for the next two years*
- 4. Copy of Audited Financial Statements for the last three (3) years should be attached.*
- 5. Firms owned by individuals and partnerships may submit their Financial Statements certified by a registered accountant and supported by copies of tax returns, if audits are not required by the laws of their country of origin.*
- 6. Year 1 will be the latest year for which Audited Financial Statements are available. Year 2 shall be the year before Year 1 and so on.*

## **FORM VIII (B): FINANCIAL CAPACITY – ABILITY TO RAISE DEBT**

The following information and document to be provided as per Section 9.3F (Ability to raise debt):

- a. Name, address, location of the Project for which debt was raised:
- b. Owner of the project:
- c. Applicant's share in the project:
- d. Amount of debt:
- e. Name of the lenders:
- f. Year in which the loan agreement was signed:
- g. Period of loan disbursement:
- h. Loan repayment period and number of installments:
- i. Loan agreement: Photocopies of the first page, preamble page and signing page of the loan agreements

## 23 FORM IX: Bank Reference

1. Name of Banker: \_\_\_\_\_

2. Banker's Address: \_\_\_\_\_

Tel: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

3. Contact name and title: \_\_\_\_\_

### ***Information to complete Bank Reference:***

- 1. Where the Applicant is a Consortium please provide the same information for the banker of the Lead Member and each of the other Consortium Members. Add additional sheets if required.*
- 2. Applicant should submit a bank reference letter from a reputable commercial bank of Bangladesh or a foreign bank having a corresponding bank.*

## 24 FORM X: HISTORICAL CONTRACT NON-PERFORMANCE<sup>6</sup>

Applicant's legal name: [insert full name]

Date: [insert day, month, year]

Lead Member's Name (If applicable): [Insert full name]

Consortium member's legal name: [insert full name]

Year	Non performed portion of contract	Contract Identification	Total contract amount (current value, US\$ equivalent)
[insert year]	[insert amount and percentage]	Contract identification: [indicate complete contract name / number, and any other identification]  Name of Employer: [insert full name]  Address of Employer: [insert street / city / country]  Reason(s) for non-performance: [indicate main reason(s)]	[insert amount]

<sup>6</sup> The above table shall be filled in for the Applicant. Where the Applicant is a consortium then it must be filled in for the Lead Member of the Consortium and for each of the Members of the Consortium

## 25 Form XI - Information on Past, Present or Pending Litigation<sup>7</sup>

Year	Outcome as percent of total assets	Contract Identification	Total contract amount (current value, US\$ equivalent)
[insert year] _____	[insert percentage] _____	Contract Identification: [indicate complete contract name, number, and any other identification]  Name of Employer: [insert full name]  Address of Employer: [insert street/city/country]  Matter in dispute: [indicate main issues in dispute]	[insert amount] _____
_____	_____	Contract identification:  Name of employer:  Address of employer:  Matter in dispute:	_____

<sup>7</sup> Applicants must complete this table in order to set out any past litigation (within the last 5 years), present litigation or pending litigation. Where the Applicant is a Consortium then it must be filled in for the Lead Member and for each of the Members of the Consortium.

## 26 FORM XII: SUMMARY SHEET – CURRENT CONTRACT COMMITMENTS/ WORKS IN PROGRESS

**Names of Applicant** \_\_\_\_\_

The Applicant must provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or contracts approaching completion but for which an unqualified, full completion certificate has yet to be issued. Where the Applicant is a consortium then the Lead Member and all other members of the consortium must complete this Form XII.

	Name of Contract and employer	Value of Outstanding Work (US\$ equivalent)	Estimated date of Completion
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____

[use additional sheets as necessary ]



**27 Form XIII: Pre-registration Form for Attending Investment Promotion Meeting**



Development of Two Jetties at Mongla Port through PPP

**Mongla Port Authority**  
**Government of the People's Republic of Bangladesh**  
**Investment Promotion Meeting**

Name of the Organization: -----

Name of the Nominated Person:

Mr./Ms. -----

(In Block Letters)

Designation: -----

Address: -----

e-mail: -----Mobile No.:-----

Telephone No: -----Fax No: -----

Please fill up this form and send it with participation fee by 22 May 2013, to the address below:

Infrastructure Investment Facilitation Company

IDB Bhaban (6<sup>th</sup> Floor), Sher-e-Bangla Nagar, Agargaon, Dhaka 1207

Tel No: 880 2 9183149-52, Cell No: 01817122423, Fax No: 880 2 9183148

e-mail: [ashiq@infra-bd.com](mailto:ashiq@infra-bd.com), [srahman@infra-bd.com](mailto:srahman@infra-bd.com)

*Participation Fee: Taka 1,000 only per participant<sup>8</sup> to be paid with registration form*

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<sup>8</sup> Maximum two persons per organisation