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TOR for Transaction Advisors for Toll Roads Development

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Sample Terms of Reference for Selecting Transaction Advisors for Toll Roads Development:

- Introduction
- Scope of Work
- Project Duration and Reporting
- Expert Requirements
- Project Deliverables
- Project Evaluation Criteria
- Instruction to Consultants

*This document has been prepared as part of the annex of the section on **Guidelines in Implementing Asset Recycling** in the **PPP Resource Center (PPPRC)** for contracts, laws and regulations. It is for general guidance purposes only and should not be used as a substitute for specific legal advice for a project.*

Introduction

Project Background

The **[Relevant Authority's]** Board of Directors is engaging the integrated consultant services (either as a single firm or consortium, referred to as 'the consultant') for the transaction advisory services for the **[operations, maintenance and management]** of the **[xxx]** power plant for the next **[xxx]** years under an Asset Recycling Scheme ("the Project").

Objective and Purpose of the Project

The Consultant will directly support the **[Relevant Authority]** with the provision of advisory and transaction services for this Project. The key project objective is to carry out the technical and financial feasibility studies, develop technical specifications and standards, draft legal contractual framework and assist in the administration of asset recycling partner selection from inception to the financial close.

During the tender support process, the consultant will assist the **[Relevant Authority]** in implementing a competitive tender, consistent with the best international practices and local laws.

Legal Basis

The legal basis for the framework of the preparation and selection of a partner for **[XXX**] power plant (XXX MW) under the Asset Recycling Scheme refers to [.] Laws and Regulations including but not limited to:

1. **[XXX]**
2. **[XXX]**

Scope of Work

Introduction

The Consultant scope of work involves multi-disciplinary capabilities and expertise involving planning, toll roads traffic forecasting, toll roads business valuation, toll roads funding and financing and transaction advisory. In addition, the experience of drawing legal and regulatory framework, with emphasis in concession structuring of transport infrastructure is also needed for this project. The study's scope of services forms a part of the following deliverables/tasks:

a. Feasibility Study (technical and financial) for transaction structuring;
b. Tender Process for Partner Selection;
c. Post-transaction award assistance (up to financial close);

Consultant Governance Structure

It is expected that consultant team will be comprised of a Financial, Technical and Legal advisory team. The Financial Consultant will be the lead consultant and work closely with others as an integrated team under **[Relevant Authority's]** guidance, particularly during the feasibility and tender process.

Scope of Works

The below Scope of Services reflects the minimum requirements which **[Relevant Authority]** envisages will be necessary to conduct the consultancy advisory services.

- Stakeholders Management Discussion
- Toll Road Traffic Demand Forecast
- Technical Analysis and Capex Estimation
- Legal and Regulatory Assessment
- E&S and Climate Resilience Assessment
- Preparation of financial model, business and financial analysis
- Project structuring and transaction advisory
- Transaction process management

Project Duration and Reporting

It is expected that the consultant will be appointed and commence its services no later than **[xxx]**. The entire project scope is expected to be completed within **[xxx weeks]** with the following indicative timeline allotted to the following:

- Final Feasibility Study- **[XXX weeks]**;
- Report on final project structure - **[XXX weeks]**;
- Tender Selection Process for Partner Selection (including negotiations & contract signing) - **[XXX weeks]**;
- Post-award assistance (till financial close) - **[XXX weeks]**;

Expert Requirements

Composition of Consultant's Expert Team

The project is scheduled to be delivered within **[XXX]** months, including **[XXX]** weeks for the completion of monitoring and evaluation report after the project financial close. Under the project requirements, the consultant will mobilize the following experts:

- Team Leader / Project Manager
- Deputy Team Leader / Deputy Project Manager
- Traffic Forecasting Expert
- Legal Expert
- Regulatory and Policy Expert
- Environmental and Social and Climate Resilience Expert
- Transport Planner Expert
- Transport Economist
- Transaction Advisory Expert
- Financial Modelling and Business Senior Analyst

The Consultant will determine the number, effort and the nature of experts/support staff they will require to achieve the objectives of the project, in accordance with their proposed approach and methodology. However, the **[Relevant Authority]** requires a minimum of **[XXX]** key experts for proposal evaluation purposes. For any changes in the team composition post award award shall have to be agreed with the **[Relevant Authority]**.

Project Deliverables

Project Deliverables

- A report covering technical, financial, and legal feasibility, including incorporation of feedback from the **[Relevant Authority]** (due in **XXX** weeks):
- An overview of the project implementation schedule aligned with agreed dates during kick-off meeting;
- A draft Road Traffic Demand Forecast Study;
- Technical assessment covering the review of existing toll road and related facilities and available land areas and capacity assessment and its ability to accommodate the future demand with highlighting social and environmental impacts and climate change impacts (including climate resilience strategies) and mitigation strategies;
- Financial and business feasibility analysis for the Project;
- Legal and Regulatory Framework Assessment.
- Project structuring
- Project documentation preparation, including pre-qualification, request for proposal, draft concession agreement, and tender selection process
- Post-award assistance (till financial close)

Indicative Payment Schedule

- Professional fees: The project fee shall be proposed as a lump sum contract value, inclusive of typical travel expenses, including accommodation and per-diem of the professional consultants' team, and exclusive of [.] withholding tax and other applicable taxes and inclusive of consultant's country GST and Taxes;
- Payment terms: Terms of payment are proposed are as follows:
    - Inception report submission - **XX**% of the lump sum contract;

    - Draft Feasibility report submission - **XX**% of the lump sum contract;
    - Final Feasibility report submission - **XX**% of the lump sum contract;
    - Report on final project structure -**XX**% of the lump sum contract;
    - Completion of Tender Selection Process, Negotiation, & Award Signing - **XX**% of the lump sum contract;
    - Post-award assistance (till financial close) - **XX**% of the lump sum contract;
- Schedule of consultant hourly rates

Project Evaluation Criteria

Form of Proposal

The Consultant's proposal must be submitted in [bilingual (both in English and [.]) / English], duly signed by the authorized signatory of the Lead Consultant.

The following criteria will be used as guidance in comparing and evaluating the different proposals submitted by the Consultants. The proposal should include a technical and financial proposal comprised of the following:

- Organization Experience
- Specificeexperience of team members and dedication to the project
- Comments on Terms of Reference
- Description of Approach, Methodology, and Scope of Work Plan for Performing the Project:
    - Technical Approach and Methodology
    - Work Plan
    - Organization and Experts
    - Curriculum vitae of each expert and supporting staff
- Financial Proposal as proposed lump sum fee (with a breakdown of fixed professional fee, expenses, contingencies); consultants are also requested to submit discounted hourly rates.

Instruction to Consultants

Notice of Receipt and Queries and/or Clarification

Consultants shall acknowledge receipt of this RFP immediately upon receipt. Consultants shall also advise of their intention to submit a Proposal no later than **XXXX202Y**.

Consultants may request clarifications and/or raise queries in writing, during the period of submission, with respect to any aspect of this RFP. The final date for requesting any query and/or clarification or further information is **XXX**. No queries and/or clarifications will be responded to after this date.

Should the **[Relevant Authority]** provide additional information or responses to a Consultant, it reserves the right to issue a copy of such information to all Consultants and all additional information or responses will form part of this RFP.

All correspondence including notification of receipt, confirmation of intention to submit a Proposal raising queries and/or clarifications shall be delivered directly to **[Procurement Unit of Relevant Authority]**

Submission of Proposal

Consultant proposals are to be submitted no later than **XXX202Y** (the “Submission Date”) and delivered directly to: **[Procurement Unit of Relevant Authority]**

Validity of Proposal

Proposals shall remain valid and binding upon the Consultants for a period of ninety (90) calendar days from the Submission Date ("Period of Validity"). Proposals valid for a shorter period may be rejected by **[Relevant Authority]** as failing to be deemed substantially responsive pursuant to this TOR. Proposals may be accepted at any time before the expiration of the Period of Validity.

[Relevant Authority] may, not later than fourteen (14) calendar days prior to the expiration of the Period of Validity, request the Consultant's consent to an extension of the Period of Validity. Both the request for extension and the response shall be made in writing.

Reservation of Rights

[Relevant Authority] reserves the right to, at its absolute discretion:

- Amend this TOR and/or the TOR process;
- Amend the indicative timetable as outlined in the earlier sections;
- Suspend, cancel or vary the intended selection process;
- Reject any and/or all Proposals;
- Award the engagement to whichever Consultant best satisfies the TOR requirements, such successful Consultant not necessarily being the Consultant with the lowest fees; and

Cost of Preparation of Proposals

All costs incurred by the Consultant in the preparation and lodgement of their Proposal or otherwise in the course of the evaluation of their Proposal shall be borne by the Consultant. **[Relevant Authority]** will not be responsible for and will not pay for, any expense or loss that may be incurred by the Consultant in the preparation, evaluation or negotiation of their Proposal.

Acknowledgement

Submission of a Proposal by the Consultant will constitute and evidence acknowledgement by the Consultant that it has:

- Examined this TOR (including any amendments or addenda); and
- Satisfied itself as to the correctness and sufficiency of its Proposal and that the fees submitted cover the cost of complying with all matters and things necessary for the due and proper performance of the Services and any other elements deemed necessary by the Consultant for a Project of this nature.

Form of Agreement

The successful agreement should form the basis of client-consultant model services agreement as defined in the draft **[to be drafted at the transaction stage]**.

Related Content

- **Guidelines for Implementing Asset Recycling Transactions (Download PDF version)**

Additional Resources

- TORs for Advisors
- Sample TORs by Project

This section has not been prepared with any specific transaction in mind and are meant to serve only as general guidance. It is therefore critical that the content will be reviewed and adapted for specific transactions.

This is a new section of the website and is currently in draft form. For feedback on the content of this section or to suggest additional links or materials, please contact the PPP Resource Center using the feedback form.

