

REQUEST FOR PROPOSALS

FOR

CONSULTANCY SERVICES

FOR

STUDY AND ANALYSIS OF THE PPP EXPERIENCE IN PAKISTAN

November 20, 2009

Letter of Invitation

Dear Sir,

1. Introduction

1.1 The Infrastructure Project Development Facility ("IPDF"), a company established under section 42 of the Companies Ordinance, 1984, hereby invite submission of proposals for Study and analysis of the PPP experience in Pakistan. Your proposal could form the basis for future negotiations and ultimately an agreement between IPDF and your firm.

1.2 Qualified consultants having work experience in Consultancy will be required to conduct the Assignment / study ("the Assignment").

1.3 A brief description of the Services ("Services") is set out in the Terms of Reference ("TOR") attached as Annex-1.

1.4 The Services shall be carried out in accordance with the TOR. The continuation of Services shall be subject to satisfactory performance of the consultant, as determined by IPDF ("Client").

1.5 Reference to 'the consultant' includes the entire consultancy team, or relevant members, under management of a single lead consultant who shall contract with the IPDF.

1.6 Please note that (i) the costs of preparing the proposal/offer as well as of negotiating the contract, including any visits, are not reimbursable; and (ii) IPDF is not bound to accept any of the proposals or offers submitted.

2. Technical & Financial Proposals

Technical Proposal

In order to achieve the objectives of the Assignment, the consultant will be expected to take complete responsibility for all the activities identified in the attached TOR. The consultant will inter-alia, conduct survey, to determine the best mode of conducting the study and analysis of the PPP experience in Pakistan and assist in all other activities ancillary and incidental leading to the closure of the Assignment.

The Technical Proposal should contain inter alia; a complete description and explanation of the proposed methodology for the Assignment (work plan), time-line, staffing, names and qualifications of allocated personnel and any other resources that the consultant will make available to execute the Assignment and achieve the objective. The Technical Proposal should be prepared using the format attached in Annex-3 and submitted as per the procedure described in Annex-2. You must submit comprehensive information and data in support of the criteria defined in Annex-2.

Financial Proposal

The Financial Proposal should stipulate the fees for the Assignment and be prepared using the format attached as Annex-3, and submitted as per the procedure described in Annex-2.

The Client will not be responsible for any tax or insurance liability arising out of the performance of the Services for the Assignment.

All fee and costs are to be expressed in Pakistan Rupees only.

The Technical and Financial Proposals shall be evaluated by IPDF in terms of the criteria described in Annex-2. Any Financial or Technical Proposal not in strict conformity with the format attached in Annex-3 will be disqualified.

3. Negotiations

Contract negotiations shall be carried out in terms of the criteria given in Annex-2 and based on the Draft Consultancy Services Agreement ("CSA") attached as Annex-4.

4. Clarifications

Should you require clarification on any of the terms contained in this RFP or the Annexes attached hereto, please contact Mr. Shahnawaz Mehmood, Head Projects, IPDF. In the interest of fairness, any clarifications issued shall be posted on IPDF's website.

5. Other Terms

This RFP and the Attachments hereto are subject to the overriding Conditions set out in Annex-5.

6. PPP Framework

The PPP Policy, Feasibility Guidelines, Procurement Guidelines and Standardized Public Private Partnership Provisions under which the Assignment/study is to be implemented is available on the IPDF website at www.ipdf.gov.pk

Yours sincerely,

Adil Anwar
Chief Executive Officer

Attachments:

- Annex-1: Terms of Reference
- Annex-2: Procedures for Submission & Evaluation of Proposals
- Annex-3: Format for Submission of Proposals
- Annex-4: Draft Consultancy Services Agreement
- Annex-5: Conditions

**TERMS OF REFERENCE
FOR PROVIDING CONSULTANCY SERVICES
FOR
STUDY AND ANALYSIS OF THE PPP EXPERIENCE IN PAKISTAN**

TERMS OF REFERENCE

1. Introduction

Infrastructure Project Development Facility (IPDF) is a company established under the aegis of the Ministry of Finance in November 2006 to act as a bridge between public and private sector by facilitating the government in development and implementation of infrastructure Assignments via use of Public Private Partnership (PPP) methodology. It is the central PPP unit of the country and is responsible for Assignment development and implementation. Additionally, IPDF's mandate also includes the development and dissemination of PPP policy and related regulatory guidelines.

Given the fact that Pakistan has limited experience of PPPs in different sectors, it is important to understand the lessons learnt through research and analysis. It is also important to clearly analyze the economic and political environment for the implementation of Public Private Partnership (PPP) strategy in the development of infrastructure in Pakistan, the roadblocks to PPP implementation and private sector perspective. IPDF also needs to evaluate its current procedures for transaction structuring and implementation in order to further enhance its efficiency.

2. Scope of Work

The consultant(s) will be required to conduct in-depth research both primary and secondary and provide feedback and analysis. The scope comprises of six tasks:

- 1) Early Experience with PPP: A detailed analysis of implementation of PPP modality in the energy, communication and ports & Shipping sectors in the 1990s
- 2) Current Political and economic environment and its suitability for PPP implementation in Pakistan
- 3) Institutional View to PPP Modality in Infrastructure Development: Detailed analysis based on interviews with key individuals within the relevant Line Ministries, the Ministry of Finance, State owned Enterprises, Investors and the Banking sector.
- 4) Policy framework: Best PPP practices globally both in Developed and Developing countries
- 5) Evaluation of IPDF's current methodology for Assignment selection and transaction structuring methodologies. Suggest improvements in transaction structuring and Assignment implementation methodologies used based on global best practices.

6) Roadblocks to PPP development in Pakistan: Analysis based on response from various key stakeholders and political and economic environment identified above

7) Way Forward

The Scope of Work includes:

3.1 Pakistan's Early Experience with PPP

The consultants will be required to evaluate and provide details of Pakistan's first PPP initiative with PPP implementation in the various sectors. The following areas need to be addressed:

- § Specific Case Studies of Assignments
- § Extended evaluation of the experience
- § Policy developed in these sectors
- § Institutional framework
- § Initial response to PPP implementation
- § Case by case evaluation of success and failure in the initial Assignments
- § Possible changes in methodology which could have streamlined and made the Assignments more efficient

The study will need to be both quantitative and qualitative and will require primary and secondary data. All findings and data collected will be available and presented to IPDF in a compiled and indexed format. Referencing will be pivotal.

3.2 Current Political, Economic and Financial Environment

A country's political, financial and economic environment dictates the success of PPP program. The economic policies, macro-economic conditions, political will-power and the depth of the financial markets play important roles in the implementation of PPP modality. The consultants will be required to evaluate the fore-stated aspects in addition to additional factors identified and suggested by the consultants in light of their prior experience in PPP markets for the potential for implementation of a comprehensive PPP program in Pakistan.

3.3 Institutional Analysis in reference to PPP implementation in Pakistan

The consultant(s) will be required to a) identify the key stakeholders of the PPP program and b) analyze the capabilities of these stakeholders. The task comprises the following:

- § Identification of key stakeholders
- § Institutional Evaluation of the stakeholders

- § Institutional objectives vis-à-vis PPP program
- § Current capacity to develop and implement PPP based infrastructure Assignments
- § Scope of Capacity development needed

This will entail conducting interviews with key decision-makers particularly in the corporate and banking (including financial institutions) sectors.

3.4 Global PPP Policy and Institutional Framework

The consultant shall study the legal, organizational, political and financial aspects of the existing system in place globally for the implementation of PPP programs. Examples from both the developed and developing countries currently implementing PPP programs will be drawn. It will also be important to study the relationship between national PPP institution and those existing at sub-national levels. Moreover, the sectoral PPP frameworks and their relationship with national PPP institution also need to be analyzed.

3.5 Road Blocks to PPP Implementation in Pakistan

With detailed reference to issues addressed in tasks 3.1 to 3.4, the consultant shall identify and explain in detail the potential roadblocks to Pakistan's PPP program. The consultant shall also draw lessons for Pakistan and suggest mechanisms to over-come these constraints.

3.6 Way Forward

The consultant will present the way forward for Pakistan's PPP program in light of the tasks 3.1 to 3.6. The consultant will develop recommendations for making Pakistan's PPP Program successful based on international best practices.

4. Deliverables

An Interim report will be a report comprising tasks 3.1-3.4. The final deliverable will be a report comprising tasks 3.1-3.7 together with a summary report. The report shall be accompanied with transcripts of all interviews conducted, and all supporting secondary data used in to compile the report. The final deliverable will also include a presentation to IPDF on the findings.

5. Consultant Skill, Experience, Remuneration and Management

The consortium(s) of consultants to be selected for this assignment would be a group of seasoned professionals. The consultant team should have individuals with expertise in economic, financial, legal, policy and institutional areas. The selection would be based on experience and qualifications.

6. Timeline

The assignment will be maximum 6 months from the date of the kick-off meeting. The deliverables are to be finalized and presented to IPDF within six months from the date of the kick-off meeting

**PROCEDURE FOR SUBMISSION AND EVALUATION OF PROPOSALS
FOR
STUDY AND ANALYSIS OF THE PPP EXPERIENCE IN PAKISTAN**

PROCEDURE FOR SUBMISSION & EVALUATION OF PROPOSALS

1. Submission of Proposals

The Technical Proposal shall be submitted in triplicate (one original and two copies) and placed in a sealed envelope clearly marked "Technical Proposal - Consultancy Services for Study and Analysis of the PPP experience in Pakistan."

The Financial Proposal (one original) shall be submitted in a separate sealed envelope clearly marked "Financial Proposal - Consultancy Services for Study and Analysis of the PPP experience in Pakistan".

Bidders are requested to submit their Technical and Financial Proposals in separate sealed envelopes enclosed in one larger sealed envelope addressed correctly and legibly to CEO, IPDF (Refer to section 8 below, for precise address and date of submission).

The Financial Proposal shall be signed by a duly authorized representative. The Proposals should include a power of attorney / letter of authority authorizing such representative to sign and submit the Technical and Financial Proposals to IPDF (in case of firm/consortium).

2. Evaluating the Proposals

On expiry of the date for submission of Proposals, the evaluation process will begin. The Project Manager will circulate the Technical Proposals to the Evaluation Committee, while the sealed Financial Proposals will remain with IPDF.

A two-stage procedure shall be adopted in evaluating the Proposals. The technical evaluation shall be carried out first, followed by the financial evaluation. The Evaluation Committee shall carry out its evaluation, applying the evaluation criteria and point system specified below. Each responsive proposal shall be attributed a technical score (Str). Firms scoring less than 70 points shall be rejected and their Financial Proposals returned unopened.

Technical Proposal

Each Technical Proposal shall be evaluated using the following categories and weights below:

Category

Weight

Specific firm/consortium experience

related to the Assignment	20%
Competence and qualifications of team	55%
Work plan and methodology	25%

Financial Proposal

Short-listed Consultants that receive a raw technical score (Str) of 70 points or higher (pre-qualified Consultants) will be informed of their pre-qualification. All other Consultants will stand disqualified and their sealed Financial Proposals will be returned to them unopened. The Client shall open the sealed Financial Proposals of the pre-qualified parties on a pre-determined date which will be intimated in advance.

Remuneration of Consultant will be made up of **Consultancy Fee**, which is made of payments at milestones/stages in the Assignment as set out in the RFP. The bid is to be in Pak Rupees inclusive of taxes.

Consultancy Fee

This part of the fee (will be paid as per the Consultancy Fee Payment Schedule attached as Appendix A.

3. Scoring of Technical and Financial Proposals

The Technical Proposal shall be assigned a raw score (Str), which shall be scaled up to constitute a final technical score (St) as follows:

$$St = Str \times 100 / St_{max}$$

Where St_{max} = Raw score of the highest ranked consultant on technical criteria.

The financial score (Sf) will be calculated as follows:

$$Sf = 100 \times (F_{min} / F_f)$$

Where F_{min} = Lowest Total Fee bid

and F_f = Total Fee bid by the consultant under consideration.

The combined Technical and Financial proposals (Sc) shall be calculated as follows:

$$Sc = 0.80 \times St + 0.20 \times Sf$$

(Technical Proposal will have 80% weightage, while Financial Proposal will have a 20% weightage.)

4. Finalizing the Technical Scores

A meeting of the Evaluation Committee to finalize the technical scores will be called. The final individual technical scores of the Evaluation Committee members will be tabulated by the Project Manager on a top sheet, which will be signed by all the members of the Evaluation Committee.

5. Opening of Financial Proposals

Short-listed parties that receive a raw technical score (Str) of 70 points or higher (pre-qualified parties) will be invited to attend the opening of the sealed financial bids. All other parties will stand disqualified and their sealed Financial Proposals will be returned to them unopened. The sealed Financial Proposals shall be opened by the Chief Executive Officer of IPDF or his nominee.

6. Ranking the Pre-qualified Parties

The Project Manager will submit to the Evaluation Committee the cumulative marks (technical plus financial) of the pre-qualified parties

based on the calculations set out above. The submission will identify the pre-qualified party scoring the highest cumulative scores (the "top-ranked party"). Upon endorsement by the Evaluation Committee, the Project Manager will submit the rankings of the pre-qualified parties to the management of IPDF for approval. The top-ranked party will then be invited for contract negotiations.

7. Contract Negotiations

Contract negotiations will be conducted with the authorized representatives of the top-ranked party and will primarily focus on issues related to the work plan, deliverables, contract duration and procedure for disbursements. A copy of the authority document in this regard will be made available prior to commencing contract negotiations. In case the negotiations with the top-ranked party are unsuccessful, negotiations with the authorized representatives of second-highest ranked party may be carried out, and so on and so forth.

IPDF are under no obligation to select any of the firm / consortium submitting the proposal, and have the right to cancel their Request for Proposal (RFP) at any time, without assigning any reason.

8. Address and Date of Submission

The proposals should be delivered to the "CEO, Infrastructure Project Development Facility, House #2, Street 59, Sector F-7/4, Islamabad, Pakistan", on or before December 6, 2009 latest by 1700 hours. Failure to deliver the Proposals as aforesaid shall mean immediate disqualification.

9. Exclusion and Prohibitions

The Advisor will be prohibited from using any of the proprietary information without the express approval of IPDF, for a period of two (2) years after the completion of the Assignment.

IPDF are under no obligation to select any of the firms/companies submitting the proposal and have the right to cancel the Assignment/study without cause.

**FORMAT
FOR
TECHNICAL PROPOSAL AND FINANCIAL PROPOSAL
FOR
STUDY AND ANALYSIS OF THE PPP EXPERIENCE IN PAKISTAN**

FORMAT FOR TECHNICAL PROPOSAL AND FINANCIAL PROPOSAL

FROM:

TO:

Sir/Madam:

Subject: **STUDY AND ANALYSIS OF THE PPP EXPERIENCE IN PAKISTAN**

I/We _____ Consultant firm(s) herewith enclose the Technical Proposal (3 copies) and Financial Proposal (1 original) of my/our firm(s)/organization(s) as Consultant for the study and analysis of the PPP experience in Pakistan.

Yours faithfully,

Signature _____
(Authorized Representative)

Full Name _____

Designation _____

Address _____

FORMAT FOR TECHNICAL PROPOSAL

The Technical Proposal will provide information on how the Consultant would approach the study and why it is qualified to undertake the Assignment. Technical Proposal should include the following:

- a) Specific firm / consortium experience
- b) Competence and qualification of team
- c) Work Plan and methodology

a) Specific firm / consortium experience

The consultant should give a comprehensive explanation of the team's relevant experience and capability to undertake the assignment and provide the services envisaged under the TOR. For each relevant experience cited, outline the precise role of the consultant, contract duration, contract outcomes, and contract value.

b) Competence and qualification of team

In this part, the bidder should propose the structure and composition of his team. The bidder should list the main disciplines of the assignment/study, the key experts responsible and the respective qualifications and credentials along with those of the proposed technical and support staff.

c) Work Plan and Methodology

In this part the Consultant should explain the understanding of the objectives of the Assignment, approach to the study, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. The Consultant should highlight the problems being addressed and their importance, and explain the approach he would adopt to address them. The Consultant should also explain the methodologies proposed to adopt and highlight the compatibility of those methodologies with the proposed approach.

The Consultant should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here.

FORMAT FOR FINANCIAL PROPOSAL

In addition to the Technical Proposal, the parties will be required to submit in a separately sealed envelope a Financial Proposal describing the amount of its fees in accordance with the requirements of this RFP Package.

	Currency (Pakistan Rupees)	Amount
Total Bid Amount =		

Notes:

- § **Consultancy Fee:** To be paid on the basis of identified deliverables (Indicative schedule in Appendix A).
- § For avoidance of doubt, the Client shall not be responsible for any taxes, charges, levies etc. arising from payments to the Advisor.

DRAFT CONSULTANTY SERVICES AGREEMENT

FOR

STUDY AND ANALYSIS OF THE PPP EXPERIENCE IN PAKISTAN

DRAFT CONSULTANCY SERVICES AGREEMENT

THIS AGREEMENT, (hereinafter together with the recitals and the appendices attached hereto called this "Agreement") is made on the ____ day of ____ 2008, between

Infrastructure Project Development Facility ("IPDF"), a company incorporated under section 42 of the Companies Ordinance, 1984 by the Government of Pakistan through the Ministry of Finance and having its registered office at House 2, Street 59, F - 7/4, Islamabad (hereinafter called the "IPDF"), which expression shall mean and include its successors, administrators and legal representatives, and

_____ (hereinafter called the "Consultant", which expression shall mean and include its successors, administrators and legal representatives, and together with IPDF hereinafter called the "parties").

WHEREAS

- (a) IPDF wishes to appoint a specialized firm/team of specialists to act as the Consultant to the IPDF to carry out the study.
- (b) The Consultant, represents and covenants to the IPDF that they have the required professional skills, personnel and technical resources, and have agreed to provide on the terms set out in this Assignment of study together with the Terms of Reference and Letter of Appointment, which would also form an integral part and parcel of this Agreement, in particular, to provide the study which are essential in respect of the terms of this Agreement, and which the Consultant recommends from similar experiences in the field.

NOW THIS AGREEMENT WITNESSETH

1. GENERAL PROVISIONS

1.1 Definitions

Unless the context otherwise requires, the following terms, wherever used in this Agreement, shall have the following meanings:

- a) "Consultancy Fee" means the total amount to be paid by IPDF, attached as Annexure, after successful completion of deliverables as specified in the Terms of Reference, attached as Annexure, to the Consultant.

- b) "Agreement" means this Agreement between the IPDF and the Consultant.
- c) "Applicable Law" means the laws of Islamic Republic of Pakistan.
- d) "Effective Date" means the date on which this Agreement is signed between the Parties.
- e) "End Date" means 06 months from effective date, unless agreed in writing by the Parties.
- f) "Force Majeure" for the purpose of this Agreement means
 - I. an event or circumstance which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations under this Agreement impossible, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts, other industrial action or any sanction or restriction imposed by any governmental authority or body within or outside Pakistan; which has a material adverse affect on the ability of the Consultant to carry out the Services.
 - II. Force Majeure shall not include: (i) any action or failure to take action by a Party; (ii) any event which is caused by the negligence or willful act or omission of a Party or that Party's Subcontractors/consultants or Personnel or agents or employees; and (iii) any event which a diligent Party could reasonably have been expected both: (a) to have taken into account at the time of the Effective Date of this Agreement; and (b) to have avoided or overcome in the course of carrying out its obligations under this Agreement
- g) "IPDF" is defined in the preamble.
- h) "Party" means the IPDF or the Consultant, as the case may be, and the IPDF and the Consultant shall collectively mean the "Parties".
- i) "Personnel" means persons hired/employed by the Consultant or by any of its Subcontractors/consultants and assigned to the performance of the study or any part of the study.

- j) "Study" means the consultancy work to be performed by the Consultant as and when required for the development and implementation of the assignment, pursuant to this Agreement and as fully described in the Terms of Reference attached as Annexure and the Technical Proposal submitted by the Consultant attached as Annexure, or any other service mutually agreed upon by the parties from time to time in writing during the Agreement.
- k) "Starting Date" means the date referred to in Clause 2.2.
- l) "Sub-contractor/consultant" means any person or entity to be appointed by the Consultant including but not limited to accounting, legal, and technical/ consultants whether located in Pakistan or abroad, to which the Consultant sub-contracts directly or indirectly any part of the study in accordance with the provisions of this Agreement.
- m) "Consultant" is defined in the Preamble.
- n) "Third Party" means any person or entity other than the IPDF, the Consultant or a Subcontractor/consultant.

1.2 Relation between the Parties

- (a) The Consultant shall act as Advisor to the IPDF for study; shall manage, and be responsible for the work carried out by the Sub-contractors/consultants (whether local or foreign); shall be solely responsible for any payments due to Sub-contractors/consultants and/or Personnel hired by the Consultant; shall have complete charge of all Personnel conducting the study and shall be fully responsible for the work performed by them or on their behalf under this Agreement.
- (b) The consultant shall not assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the IPDF.

1.3 Law Governing Agreement

This Agreement, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law. The Consultant undertakes to comply with the Applicable Law during the performance of the work and completion of the Assignment.

1.4 Headings

The headings shall not limit, alter or affect the meaning of this Agreement.

1.5 Notices

1.5.1 Any notice, request or consent required or permitted to be given or made pursuant to this Agreement shall be in writing and shall be deemed to have been given or made when delivered in person to any authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, courier service or facsimile to such Party at the following address:

For Consultant:

For IPDF:

Chief Executive Officer (CEO)
H.No. 2, Street 59, F - 7/4,
Islamabad
Tel: (92 - 51) 2270771 - 3
Fax: (92 - 51) 9205926

1.5.2 Notice will be deemed to be effective as follows:

In case of personal delivery or registered mail, on delivery; and in the case of facsimiles, four (4) hours following confirmed transmission, only if confirmation is during business hours otherwise notice will be deemed effective as of the next working day, disregarding weekends and national holidays in the country to which the facsimile is transmitted. Facsimile notices shall not require confirmation by hard copies.

1.5.3 A Party may change its address for notice under this Agreement by giving the other Party notice pursuant to this Clause.

1.6 Authorized Representatives

Any action required and permitted to be taken, and any document required or permitted to be executed under this Agreement, may be taken or executed:

- (a) on behalf of the IPDF, by its Chief Executive Officer ; and
- (b) on behalf of the Consultant, by _____.

2. COMMENCEMENT, COMPLETION, SUSPENSION, MODIFICATION AND TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreement

This Agreement shall come into force from the Effective Date.

2.2 Commencement of work

The Consultant shall commence carrying out the work not later than 7 (seven) days ("Starting Date") after the Effective Date, or on any other date the Parties agree in writing. The services shall be performed and completed by the Consultant before the End Date or as mutually agreed in writing by the Parties.

2.3 Expiration of Agreement

Unless terminated pursuant to Clause 2.7, this Agreement shall expire when the Services have been completed.

2.4 Entire Agreement

This Agreement constitutes the final expression and exclusive and entire agreement and understanding between the Parties in relation to the Services and contains all covenants, stipulations and provisions agreed by the Parties as at the date hereof. The Terms of Reference and Annexure attached hereto shall also form an integral part of this Agreement. This Agreement together with the Terms of Reference shall override and supersede all previous or concurrent communications or documents or agreements exchanged on the subject matter of the Agreement and the Consultant and IPDF shall not for any or all purposes place reliance on any other document/agreement except this Agreement.

2.5 Modification

Modification of the terms of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Each Party shall give due consideration, and not unreasonably delay or withhold a considered response to any proposals for modification made by the other Party.

2.6 Suspension of Services

The IPDF may, by written notice of suspension to the Consultant, suspend the Services under this Agreement for a cumulative period not exceeding 60 (sixty) days.

2.7 Termination

2.7.1 Termination by IPDF

The IPDF may terminate this Agreement if the Consultant:

- (a) is in breach of its obligations under this Agreement and has not remedied the same within thirty (30) days (or such longer period as the IPDF may have subsequently approved in writing) of being called to do so by the IPDF; OR
- (b) becomes insolvent or bankrupt or enters into any arrangements with its creditors for relief of debt or takes advantage of any Applicable Law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary; OR
- (c) is unable as a result of force majeure to perform a material portion of the Services for a continuous period of thirty (30) days unless services are suspended under 2.6.

In any event, the IPDF may terminate this Agreement at its sole discretion without assigning any reason without liability or continuing obligation except as set forth in this Agreement. In the event of such termination (where termination is without default of the Consultant), the IPDF shall be required to make payment to the Consultant in relation to fees which have been duly accrued or billed by the Consultant in accordance with this Agreement.

2.7.2 Termination by Consultant

In the event the Services are not completed by the Consultant, due to no fault on the part of the Consultant, its Sub-contractors/consultants or Personnel, the Consultant shall have the right to terminate this Agreement after expiry of six (06) months from the Start Date.

2.7.3 Cessation of Rights and Obligations

On termination of this Agreement pursuant to any part of Clause 2.7, or upon expiration of this Agreement pursuant to Clause 2.3, all rights and obligations of the Parties shall cease, except (i) rights and obligations that have accrued as of the date of termination or expiration, (ii) any right which a Party may have under the Applicable Law (iii) the indemnification obligations in Clauses 3.4 and 3.5 hereof.

2.7.4 Cessation of Services

On termination of this Agreement pursuant to Clause 2.7, the Consultant shall, immediately on receipt/issue of notice to that effect, take all necessary steps to bring the Services to a close within seven (7) days of the receipt/issue of the notice in an orderly manner. Upon cessation of Services hereunder, the Consultant shall hand over to the IPDF all documents prepared directly by the Consultant or by any of its Subcontractors/consultants, whether in final or in draft form, for submission to third parties in connection with the Assignment on paper and electronic format, which for the avoidance of doubt, do not include research reports or other private material produced by the Consultant.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Scope of Work

The Consultant shall perform the Services in accordance with the terms and conditions of this Agreement.

3.1.2 Standard of Performance

The Consultant shall perform the Services and carry out their obligations under this Agreement with all reasonable due diligence, efficiency and economy, in accordance with generally accepted techniques and practices and shall observe sound management practices. The Consultant shall be under a duty of care and always act in good faith/respect of any matter relating to this Agreement or to the Services, and shall at all times support and safeguard the IPDF's legitimate and proper interests in any dealings with Subcontractors/consultants, Personnel or Third Parties. The Consultant shall ensure that any Subcontractors/consultants and Personnel shall be skilled and experienced and competent in their respective trades and professions and that their work shall conform with the standards applicable to the Consultant.

3.1.3 Coordination

The Consultant shall be responsible for the overall coordination of the Assignment, including the work of its subcontractors/consultants in relation to the carrying out of the services and the timely completion of the activities necessary for carrying out the activities envisaged under this Agreement. The Consultant shall ensure the representation of its relevant personnel and the subcontractors/consultants at the meetings required including those of the Steering Committee and any other meetings/presentations necessary for the successful and timely completion of the Assignment.

3.2 Conflict of Interests

3.2.1 Consultant not to Benefit from Commissions or Discounts

The Consultant, as consideration for its work under this Agreement or the Services, will only be entitled to receive payments from IPDF as per Clause 6 hereunder, and neither the Consultant nor any person (natural or legal) associated with it shall accept for its benefit or otherwise any remuneration/consideration in the forms including but not limited to trade commission, discount, gifts, payments in kind or financial inducements whatsoever or similar payment in connection with activities pursuant to this Agreement or to the Services or the discharge of its obligations under this Agreement, and the Consultant shall use its reasonable efforts to ensure that any Sub-contractors/consultants, as well as the Personnel and agents of either of them shall neither for itself nor for the benefit of the Consultant receive any such additional remuneration.

3.2.2 Prohibition of Conflicting Activities

Subject to clause 3.2.3 below, during the subsistence of this Agreement, neither the Consultant nor its Subcontractors/consultants nor the Personnel of either of them shall engage, either directly or indirectly, in any business or professional activities in and with respect to IPDF which would conflict with the activities assigned to them under this Agreement.

3.2.3 Consultant not to provide other Services

During the term of this Agreement, the Consultant, Sub-contractors/consultants, and the Personnel shall not provide similar / related services to other parties involved in the procurement of this Assignment.

3.3 Confidentiality / Disclosure

3.3.1 Confidentiality / Disclosure by Consultant

The Consultant shall not, during the term of this Agreement, disclose any proprietary or confidential information relating to the Assignment, the Services, this Agreement, or the IPDF's business or operations (other than for the purposes of the Services) without the prior written consent of the IPDF, unless such disclosure is required by Applicable Law or regulation or such information is required for research purposes or has entered the public domain other than by a breach of this Agreement, or was already in public domain, or was already lawfully in the possession of the Consultant at the time of such disclosure to them.

The fact that Consultant has a professional relationship with IPDF shall not be treated as confidential information and consultant may disclose this fact, and the general nature of its work, to clients, prospective clients, or other third parties. However, any such disclosure will not be made until the completion or abandonment of the transaction, as the case may be, or until the time that this fact is declared by IPDF to the regulators or is made public by IPDF.

3.3.2 Confidentiality / Disclosure by IPDF

There shall be no prohibition on IPDF to disclose any information relating to the Assignment to any third party. IPDF acknowledges that the entire consultant's deliverables including reports will include statements limiting its liability towards any third party readers.

3.4 Indemnification of the IPDF by the Consultant

The Consultant shall indemnify and hold harmless the IPDF against all losses, claims, damages or liabilities to which the IPDF may become liable only to the extent, that such losses, claims, damages or liabilities arise out of any act or omission by the Consultant relating to the Services, provided that the Consultant shall not be liable for indirect or consequential losses or damages.

3.5 Indemnification of the Consultant by the IPDF

IPDF shall indemnify the Consultant, and hold it harmless against all losses, claims, damages or liabilities to which Consultant may become liable only to the extent that such losses, claims, damages or liabilities arise out of any act or omission of IPDF relating to this Agreement and the information to be provided to the Consultant in terms of this

Agreement, provided that IPDF shall not be liable for indirect or consequential losses or damages.

3.6 Limitation of liability

To the fullest extent permitted by applicable law (including, without limitation, regulations and interpretations promulgated by the Securities and Exchange Commission of Pakistan), the total aggregate liability of consultant to IPDF and all of IPDF affiliates and their respective successors and permitted assigns, regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranty, failure of essential purpose or otherwise, in connection with the performance of the Services or otherwise under this Agreement, shall be limited to the fees actually paid or to be paid to the consultant in respect of such Services.

3.7 Duration for Claim of liability

Any claim for breach of contract, breach of duty or fault or negligence or otherwise whatsoever arising out of or in connection with this Agreement shall not be brought against the other Party after one year of the financial close of the Assignment or the termination of this Agreement, whichever occurs first.

3.8 Insurance

The Consultant and Subcontractors/consultants shall be responsible for their own insurance and shall take out and maintain sufficient liability insurance, or will be adequately self insured to provide for the risks incurred by providing the Services. In the event the Consultant receives any claim for damages/ compensation in respect of the services for which it seeks indemnification from IPDF in terms of clause 3.5 herein then the Consultant shall first seek settlement from its insurers, where available, for satisfaction of such claims before resorting to the IPDF for purposes of indemnification.

3.9 Consultant Actions requiring IPDF's prior Approval

Other than those defined in clause 4.2 below, the Consultant shall obtain the IPDF's prior approval in writing before:

- (i) Entering into a subcontract for the performance of any part of the Services.

- (ii) Termination of a subcontract for the non-performance of any part of the Services.

provided that approval by the IPDF hereunder shall not relieve the Consultant of their obligations under this Agreement.

3.10 Accounting, Inspection and Auditing

The Consultant shall keep accurate and systematic accounts and records regarding the Services and the Assignment, which records a duly authorized representative of the IPDF shall be entitled to inspect and make copies thereof, as and when required during the pendency of this Agreement and for the one year from the expiry or termination of this Agreement, provided that the modalities of conducting such audit/inspection are agreed in advance with the Consultant.

3.11 Documents prepared by the Consultants to be the Property of the IPDF

All reports, models and other documents, including all software data prepared by the **Consultants and subcontractors** in performing the Services shall become and remain the property of the IPDF, and Consultants shall, upon the prior receipt by the Consultants of all amounts payable to them under this Agreement, hand over to the IPDF all documents and records prepared directly by it or by any of its Subcontractors, whether in final or in draft form, complete or in the process of being completed, in connection with the Assignment on paper and electronic form, together with a detailed inventory thereof. The Consultant and the relevant Subcontractor may retain a copy of any such documents or records.

3.12 Taxes and Duties

The Consultant shall pay when due and as applicable all taxes including, income taxes, sales and use taxes, excise duties, import and export duties, taxes on property of the Financial Advisor, any Subcontractors and Personnel, duties, license fees, octroi, electricity duty, impositions, levies etc, for the Consultant, any Subcontractors and Personnel and any and all other Governmental taxes, fees, duties, levies or charges whatsoever arising out of or in connection with the performance of the Services.

4. CONSULTANT'S AND SUBCONTRACTORS' PERSONNEL

4.1 General

The Consultant shall deploy professionally qualified and experienced Personnel to carry out the Services. The IPDF and the Consultant have agreed that the following senior Personnel shall form the core team:

The Assignment Team Leader, Mr./Ms. _____ shall be on first call to the IPDF throughout the period of the Assignment, subject only to personal holidays and personal emergencies, when Mr./Ms. _____ shall be available in his place.

4.2 Appointment of Sub-contractors / Consultants

The Consultant shall engage the services of the following Sub-contractors / consultants as indicated in the Technical Proposal attached as Annexure for the successful completion of its Terms of Reference attached as Annexure A under this Agreement:

- 1 _____ (Technical Consultant)
- 2 _____ (Legal Consultant)

4.4 Approval of Personnel

All Personnel of the Consultant and the Subcontractors and any other personnel that may be employed during the course of the Assignment will be subject to normal security clearances where so required by IPDF.

4.5 Removal and Replacement of Personnel

- (a) If, for any reason, it becomes necessary to replace any of the senior Personnel identified in the Technical Proposal submitted by the Consultant attached as Annexure C or any Subcontractor after the Effective Date, the Consultant shall forthwith provide as a replacement a person or Subcontractor/consultant of equivalent qualifications, whose curriculum vitae or resume the Consultant shall submit to the IPDF for review and approval and whom the IPDF may if it so desires call for an interview at the cost and expense of the Consultant. If the IPDF does not object in writing within seven (7) days from the date of receipt of the curriculum vitae or interview, that person or subcontractor/consultant shall be deemed to have been approved by the IPDF.
- (b) If the IPDF (i) finds that any of the Personnel or Subcontractor/consultant has committed misconduct as ascertained by IPDF in its discretion or has been charged with having committed an offence or a wrong or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel or Subcontractors/consultant, or (iii) finds that any of

the Personnel or Subcontractors/consultant has misrepresented with respect to its qualifications, expertise and resources then the Consultant shall, at the IPDF's written request, immediately remove the respective Personnel or Subcontractors/consultant from this Agreement and provide a replacement with qualifications and experience reasonably acceptable to the IPDF subject to the same terms and conditions specified in Clause 4.5 (a).

4.6 Consultant Staff

IPDF undertakes that during the course of this engagement and for a period of six months following its conclusion IPDF will not:

- a) solicit or entice away (or assist anyone else in soliciting or enticing away) any member of professional staff of the consultant with whom IPDF has had dealings in connection with this engagement.; or
- b) employ any such person or engage them in any way to provide services to IPDF.

This undertaking shall not apply in respect of any member of consultant staff who without having been previously approached directly or indirectly by IPDF responds to an advertisement placed by IPDF.

5. OBLIGATIONS OF THE IPDF

5.1 Assistance and Exemptions

The IPDF shall use its best efforts, where such efforts are specifically requested stating the reasons for IPDF assistance, to ensure that the IPDF issues to its officials, agents and representatives all such instructions as may be specified by the Consultant as being necessary or appropriate for the prompt and effective implementation of the Services.

5.2 Access to Information and Decisions

- (a) The IPDF will co-operate with the Consultant and will endeavor to furnish the Consultant with all such information and data concerning study and analysis of the PPP study assignment, which the Consultant may require in connection with the performance of the Services. The IPDF will provide the Consultant with access to officers and employees and to such other information and reports as the Consultant may reasonably require. The IPDF will use its

best efforts to ensure that all such information (including expressions of opinions) or documentation as is provided to the Consultant is complete, true, fair, accurate and not misleading and that there are no omissions which could be material. In the event, during the course of the Consultant's engagement under this Agreement, the IPDF subsequently discovers something, which renders any such information untrue, unfair, inaccurate or misleading it will notify the Consultant at once.

- (b) The IPDF shall use its best efforts to ensure that, where co-operation is required from, or decisions need to be taken or approvals given by the IPDF in the course of the Assignment, that co-operation will be promptly given and these decisions or approvals will not be unreasonably withheld or delayed.
- (c) The IPDF acknowledges and agrees that, in rendering the Services hereunder; the Consultant will be using and relying on the information supplied to them by the IPDF in addition to other information which the Consultant shall be responsible for gathering for effective design of the Assignment.

6. PAYMENTS TO THE CONSULTANT

6.1 Currency of Payment

All payments to the Consultant for the Services shall be in Pak Rupees and shall be subject to deduction of applicable taxes, if any.

6.2 Mode of Billing and Payment

Payments in respect of the Services shall be made within thirty (30) days of receipt of original invoices as follows:

- (a) The Consultancy Fee shall be paid on milestone basis as identified in Annexure based on the submission of deliverables by the Consultant as required in the Terms of Reference and following acceptance of the same by the Client. The Consultancy Fee to be paid by IPDF for provision of services under this agreement shall not exceed a total of Pak Rupees, _____ (_____ Pak Rupees Only), to the Consultant for the performance of services under this agreement as per the milestones in Appendix.
- (b) IPDF reserves the right to withhold ___% of the payment due as a penalty, if a deliverable is not completed within the stipulated

time as provided in Annexure to this Agreement, if in the opinion of IPDF, the delay in completing the said deliverable is caused by the Consultant. However, any such deduction shall be released by IPDF if the overall Assignment is completed within the timeframe outlined in Annexure.

- (c) All payments under this Agreement shall be made to the account of the Consultant as follows:

[Bank Account Details]

- (d) (e) The Total remuneration of the Consultant under this Agreement shall not exceed the total of the Consultancy i.e. Pak Rupees _____ (_____ Pak Rupees Only).

7. FAIRNESS AND GOOD FAITH

7.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realization of the objectives of this Agreement.

7.2 Operation of the Agreement

The Parties recognize that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties agree that it is their intention that this Agreement shall operate fairly between them, and without detriment to the interest of either of them and that if, during the term of this Agreement, either Party believes that this Agreement is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness.

8. SETTLEMENT OF DISPUTES

8.1 Courts having jurisdiction

The Parties agree that the Courts at Islamabad shall have jurisdiction with respect to any litigation arising out of this Agreement.

9. ADDITIONAL COVENANTS

9.1 Publicity

The Consultant shall ensure that any publicity, press releases, advertisements and publications and public statements concerning the Services, the Assignment and the Agreement shall be in consultation with and approved in writing in advance by the IPDF before release by the Consultant, its Subcontractors/consultants and Personnel.

9.2 Waivers

Time shall be of the essence of the Agreement. No failure or delay of either Party hereto in exercising any right or remedy hereunder shall operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any other or further exercise of any right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

9.3 Severability

Each of the provisions of this Agreement is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

9.4 Originals

This Agreement is being executed in three originals, one each to be retained by the Consultant, and the IPDF.

IN WITNESS OF WHICH the Parties have caused this Agreement to be signed as of the day and year first above written.

FOR AND ON BEHALF OF THE IPDF

FOR AND ON BEHALF OF THE CONSULTANT

**CONDITIONS
FOR
REQUEST FOR PROPOSALS
FOR
CONSULTANTY SERVICES
FOR
STUDY AND ANALYSIS OF THE PPP EXPERIENCE IN PAKISTAN**

CONDITIONS

1. IPDF shall have the right at all times to:
 - § Cancel the process for selection of Consultant
 - § Vary any of the terms set out in the RFP or any of the Annexes and Appendices thereto
 - § Reject any Proposal not delivered in the prescribed format and at the prescribed venue at the prescribed time

2. The Consultant shall protect and defend unconditionally as well as indemnify and hold IPDF or any other relevant government body/agency, its employees, directors, officers and agents free and harmless from and against any and all liability, losses, claims, liens, demands, damages against any and all causes of action of every kind and character, including without limitation any judgments, penalties, interest, court costs and any legal fees incurred in enforcing this indemnity, arising under this Agreement. IPDF makes no representation, covenants, warrants or guarantees, express or implied, other than those expressly set forth in this Agreement. In no case shall IPDF be liable for contingent or consequential, special or indirect damages.

APPENDIX A

Indicative Consultancy Fee Payment Schedule

The Consultancy Fee Payment Schedule (Payment to be made in Pak. Rupees):

Indicative Deliverables	Percentage age of Consultancy Fee
Signing of the Agreement for Consultant Services	05
Completion of Deliverables 3.1-3.2	45
Completion of Deliverables 3.4-3.6	35
Deliverables pertaining to task 4	15
Total =	100%