

**FOOD CORPORATION OF INDIA**

**DRAFT REQUEST FOR PROPOSAL**

**For**

**Selection of Developer for construction of Food Grain Silos at  
Kaimur and Buxar through Public Private Partnership (PPP)  
On Design, Build, Finance, Operate and Transfer (DBFOT) basis**

**[Name and Address of the Authority]**

**LETTER OF INVITATION**

Dated \*\*\*\*\*

To,

**Sub: Request for Proposal (RFP) for Selection of Developer for construction of Food Grain Silos at Kaimur and Buxar through Public Private Partnership (PPP) on Design, Build, Finance, Operate and Transfer (DBFOT) basis**

Dear Sir,

Pursuant to your application in response to our Request for Qualification for the aforesaid project (the “**RFQ**”), you were short listed as a Bidder and asked vide our letter dated ..... to remit the fee for RFP document (the “**RFP**”) within a week. We acknowledge your remittance of [**Rs. 10,000 (Rs. ten thousand only)**] as the cost of procuring the RFP documents, which are enclosed.

You are requested to participate in the Bid Stage with the objective of submitting your financial proposal (the “**Bid**”) for the aforesaid project in accordance with the RFP.

Please note that the [Authority] reserves the right to accept or reject all or any of the bids without assigning any reason whatsoever.

Thanking you,

Yours faithfully,

*(Authorised signatory of Implementing Agency)*

**DISCLAIMER**

*The information contained in this Request for Proposal document (the “RFP”) or subsequently provided to Bidder(s), whether verbally or in documentary or any other form, by or on behalf of the Authority or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.*

*This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP may not be complete. Each Bidder should therefore, conduct its own investigations and analysis of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.*

*Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.*

*The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Stage.*

*The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.*

*The Authority may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.*

*The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reasons whatsoever.*

*The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.*

## GLOSSARY

Authority	As referred in Clause 1.1.1
Associate	As referred in Clause 2.1.14
Bank Guarantee	As referred in Clause 2.20.1
Bid (s)	As referred in Clause 1.2.2
Bid Due Date	As referred in Clause 1.2.2
Bid Security	As referred in Clause 1.2.4
Bid Stage	As referred in Clause 1.2.1
Bidders	As referred in Clause 1.2.2
Bidding Document	As referred in Clause 1.1.7
Bidding Process	As referred in Clause 1.2.1
Concession	As referred in Clause 1.1.5
Concession Agreement	As referred in Clause 1.1.2
Concessionaire	As referred in Clause 1.1.2
Conflict of Interest	As referred in Clause 2.1.14
Damages	As referred in Clause 2.1.14
DBFOT	As referred in Clause 1.1.1
Estimated Project Cost	As referred in Clause 1.1.4
Financial Offer	As referred in Clause 1.2.7
Government	Government of India
LOA	As referred in Clause 3.3.5
Highest Bidder	As referred in Clause 1.2.7
Member	Member of a Consortium
PPP	Public Private Partnership
Project	As referred in Clause 1.1.1
Proposed Sites	As referred in Clause 1.2.13
RFP or Request for Proposal	As referred in the Disclaimer
RFQ	As referred in Clause 2.1.2
Rs or Re or INR	Indian Rupee
Selected Bidder	As referred in Clause 3.3.1

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein. The words and expressions beginning with capital letters and not defined herein, but defined in the RFQ, shall, unless repugnant to the context, have the meaning ascribed thereto therein.

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## **Invitation for Proposal**

## 1. INTRODUCTION

### 1.1. Background

- 1.1.1. The Food Corporation of India (the “**Authority**”) is engaged in the development of modern food storage infrastructure in India and as part of this endeavour, the Authority has decided to undertake development and operation/ maintenance of the food grain silo project (the “**Project**”) through Public-Private Partnership (the “**PPP**”) on Design, Build, Finance, Operate and Transfer (the “**DBFOT**”) basis, and has decided to carry out the bidding process for selection of a private entity as the bidder to whom the Project may be awarded. Brief particulars of the Project are as follows:

S.No.	Location ( <b>Project District</b> )	Revenue District	State	Rated Capacity	Estimated Project Cost
1	Kaimur & Buxar	Kaimur & Buxar	Bihar	100,000 MT (50,000 MT each at two locations)	~ Rs 65.28cr

- 1.1.2. The selected Bidder, who is either a company incorporated under the Companies Act 2013 or undertakes to incorporate as such prior to the execution of the Concession Agreement, (the “**Concessionaire**”) shall be responsible for procuring land parcels for the Project and for designing, engineering, financing, procurement, installation, construction, operation and maintenance of the Project under and in accordance with the provisions of a long-term Concession Agreement (the “**Concession Agreement**”) to be entered into between the Selected Bidder and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto.
- 1.1.3. The Project, being the construction of the Silo Complex at the two locations together as a cluster on the land parcels procured by the Concessionaire, shall comprise of sheet metal silos along with handling facilities comprising of conveying systems, cleaning, weighing, quality testing and related facilities. The Concessionaire shall provide storage, preservation and handling services in the Silo Complex, on an exclusive basis to the Authority for a period of the concession which shall be [31.5 (Thirty One and half) years in terms of Concession Agreement.
- 1.1.4. The estimated cost of the Project (the “**Estimated Project Cost**”) has been specified in Clause 1.1.1. The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.5. The Concession Agreement sets forth the detailed terms and conditions for grant of the Concession to the Concessionaire, including the scope of the Concessionaire’s services and obligations (the “**Concession**”).
- 1.1.6. The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Concession Agreement or the Authority’s rights to amend, alter, change, supplement or clarify the scope of work, the Concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted,

- interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority.
- 1.1.7. The Authority shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by the Authority pursuant to this RFP (collectively the “**Bidding Documents**”), as modified, altered, amended and clarified from time to time by the Authority, and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Bids (the “**Bid Due Date**”).
- 1.1.8. The Bidder shall be required to identify land parcels for the Project and procure and transfer to the Authority within 120 (one hundred and twenty) days from the date of signing of the Concession Agreement. The land parcels will need to meet the requirements as specified in Clause 1.2.14 of this RFP. Prior to commencement of the concession, the Concessionaire shall be responsible for obtaining necessary approvals, sanctions and licenses in respect of the land parcels for construction, operation and maintenance of the Project. The Concessionaire shall transfer the land parcels to the Authority, and the Authority shall pay a consideration to the concessionaire for these land parcels as per the terms of the Concession Agreement.
- 1.1.9. The Authority shall provide financial assistance to the Concessionaire in form of a grant as per the terms specified in the Bidding Documents.

## **1.2. Brief description of Bidding Process**

- 1.2.1. The Authority has adopted an online two-stage process accessible at <https://eprocure.gov.in/eprocure/app> (collectively referred to as the “**Bidding Process**”) for selection of the bidder for award of the Project. The first stage (the “**Qualification Stage**”) of the process involved pre-qualification of interested parties/ consortia in accordance with the provisions of the RFQ. At the end of the Qualification stage, the short-listed Applicants, who are eligible for participation in the second stage of the Bidding Process (the “**Bid Stage**”) comprising Request for Proposals (the “**Request for Proposals**” or “**RFP**”) are invited for the Bid stage.
- 1.2.2. In the Bid Stage, the aforesaid short-listed Applicants, including their successors, (the “**Bidders**”, which expression shall, unless repugnant to the context, include the Members of the Consortium) are called upon to submit their Financial Offers online (the “**Bid**”) in accordance with the terms specified in the Bidding Documents. Bidders are requested to submit their financial offers online at <https://eprocure.gov.in/eprocure/app> in provided BOQ format. The Bid shall be valid for a period of not less than 120 days from the date specified in Clause 1.3 for submission of bids (the “**Bid Due Date**”). The Financial Bids shall be opened for only such Bidders who qualify as per the terms specified in this RFP.
- 1.2.3. The RFP can be downloaded from Central Public Procurement Portal (<https://eprocure.gov.in/eprocure/app>) by the eligible Bidders. The Bidders are expected to have already enrolled on the website. The Bidder can download the RFP and then upload the Bid along with scanned copy of original signed documents as required under this RFP on or before the stipulated time on the Bid Due Date. The Bidding Documents include the draft Concession Agreement for the Project [which is enclosed]. The Feasibility Report prepared by the [Authority/ consultants of the Authority (the “**Feasibility Report**”) [is also enclosed/ will also be provided to the Bidders]. Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued subsequent to this RFP Document, will be deemed to form part of the Bidding Documents.



- 1.2.4. A Bidder is required to deposit, along with its Bid, a bid security of Rs. 65,00,000/- (Rs. Sixty Five Lakhs only) (the “**Bid Security**”), refundable not later than 90(ninety)days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bidders will have an option to provide Bid Security in the form of a bank guarantee acceptable to the Authority, and in such event, the validity period of the bank guarantee, as the case may be, shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended at the sole discretion of the Authority from time to time. Where the Bid Security is not furnished in the form of bank guarantee, the same shall be deposited in the account of the Authority through RTGS/NEFT. Details of bank account of Food Corporation of India, HQ is CC A/c no. 10220632672, IFSC Code No. SBIN 0005943 (SBI, K.G. Marg, New Delhi).The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The original bank guarantee towards Bid Security shall be required to be submitted in hard copy with scanned copy of the bank guarantee document or RTGS/NEFT transaction confirmation receipt as applicable shall be uploaded on the website <https://eprocure.gov.in/eprocure/app> at the time of Bid submission. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.
- 1.2.5. Generally, the Highest Bidder shall be the selected Bidder who shall be issued the Letter of Award (“**LOA**”). The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFP, be invited to match the Bid submitted by the Highest Bidder in case such Highest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Highest Bidder, the Authority may, in its discretion, either invite fresh Bids from the remaining Bidders or annual the Bidding Process, as the case may be.
- 1.2.6. During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Concession including implementation of the Project.
- 1.2.7. Bids are invited for the Project, along with Additional Bank Guarantee if applicable as per the provisions of Clause 1.2.13. The Bid, being the **Financial Offer**, will be the lowest financial grant (the “**Grant**”) required by a Bidder for implementing the Project. A Bidder may, instead of seeking a Grant, offer to pay a premium in the form of revenue share and/ or upfront payment, as the case may be, (the “**Premium**”) to the Authority for award of the Concession. The concession period is pre-determined, as indicated in the Draft Concession Agreement for pilot projects. The [Grant/ Premium amount] shall constitute the sole criteria for evaluation of Bids for all Bids. Subject to Clause 2.16, the Project will be awarded to the Bidder quoting the [highest Premium, and in the event that no Bidder offers a Premium, then to the Bidder seeking the lowest Grant].  
In this RFP, the term “**Highest Bidder**” shall mean the Bidder who is offering the highest Premium, and where no Bidder is offering a Premium, the Bidder seeking the lowest Grant.
- 1.2.8. The Concessionaire shall, in consideration of its investment and services, be entitled to receive pre-determined charges from the Authority for handling and storage (Fixed and Variable) of Foodgrains.
- 1.2.9. Further and other details of the process to be followed at the Bid Stage and the terms thereof will be spelt out in the Bidding Documents.

- 1.2.10. Any queries or request for additional information concerning this RFP shall be submitted in writing or by fax and e-mail to the officer designated in Clauses 2.11.4 below. The envelope / communications shall clearly bear the following identification / title:  
*"Queries/ Request for Additional Information: RFP for Selection of developer for construction of silo complex on DBFOT model at location Kaimur and Buxar"*.
- 1.2.11. As part of the Bidding Documents, the Authority will provide a Draft Concession Agreement prepared by the Authority/ its consultants and other information pertaining/ relevant to the Project available with it.
- 1.2.12. The Bidder shall be required to arrange for applicable permits for the construction and operation of the silo facility at the land parcels as per the terms of the Concession Agreement, should the Bidder be the Selected Bidder.
- 1.2.13. In the event the identified land parcels are not under the ownership of the Bidder at the time of submission of Bid but the Bidder intends to procure the identified land parcels (such land parcels being referred herein as **"Proposed Sites"**), should the Bidder be issued Letter of Award at the end of the Bid Process and is called upon to execute the Concession Agreement, the Bidder can submit the Bid provided that it submits an additional bank guarantee (**"Additional Bank Guarantee"**) in the specified format at ANNEX II for an amount of Rs 35 lakhs (Rs Thirty Five Lakhs) per location. The Proposed Sites should meet the stipulated requirements as per Clause 1.2.14. For purpose of clarity, a Bidder who owns site for one location and intends to own site for the other location will be required to submit Additional Bank Guarantee for one location only. The Bidder shall be required to arrange for applicable permits for the construction and operation of the silo facility at the Proposed Sites as per the terms of the Concession Agreement, should the Bidder be the Selected Bidder. The following terms shall apply to the Additional Bank Guarantee :
- i. In the event the Bidder fails to qualify as per the terms of this RFP, the Additional Bank Guarantee shall be returned to the unsuccessful Bidder within 30 (thirty) days of the issue of LOA to the successful bidder;
  - ii. In the event the Bidder who has furnished such Additional Bank Guarantee is the selected bidder and is issued LOA for the Project and is not able to arrange the Proposed Sites for the Project within the stipulated period, the Authority shall be entitled to forfeit and appropriate the Additional Bank Guarantee, as damages, notwithstanding anything to the contrary contained in the Concession Agreement and without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Concession Agreement or otherwise
  - iii. In the event the selected Bidder who has furnished such Additional Bank Guarantee successfully arranges the Proposed Sites as committed in its Application, the Additional Bank Guarantee shall be returned to the successful Bidder.
- 1.2.14. The Site / Proposed Site should meet the following criteria (**"Threshold Criteria"**):
- i. Location: The land parcels should be located within the boundaries of the respective [revenue districts] as specified in Clause 1.1.1.
  - ii. Minimum size of land parcel: The land parcel, at each location, should measure a minimum of 7 acres and maximum of 7.5 acres. The land parcel should be a contiguous piece of land. The dimensions of the land parcel should be adequate to meet the requirements of the silo facility as per the

Standards and Specifications prescribed in the Draft Concession Agreement for pilot projects.

- iii. Accessibility: The land parcels should be connected to major highway (national highway / state highway / major district road) by a two-lane paved road. The land parcels should also be within 8 Kms. of road distance from a railway goods shed.
- iv. The land parcels should be free from any encumbrances or encroachments.
- v. The land parcels should be suitable and available for construction and operation of the silo facility.
- vi. Concessionaire should have identified the land parcels and should be able to procure the land parcel at the time of transfer of the sites to the Authority.

### 1.3. Schedule of bidding process

The Authority shall endeavor to adhere to the following schedule:

<b>Event Description</b>	<b>Date</b>
Bid (RFP) Stage	
Invitation to shortlisted Applicants	
Last date for receiving queries	<i>15calendar days from the date of RFP</i>
Pre-bid meeting	<i>15 calendar days from the date of RFP</i>
Authority response to queries latest by	<i>25 calendar days from the date of RFP</i>
Bid Due Date	<i>45calendar days from the date of RFP</i>
Opening of Financial Bids	<i>60calendar days from the date of RFP</i>
Letter of Award (LOA)to the selected Bidder	<i>70calendar days from the date of RFP</i>
Signing of Concession Agreement	<i>90calendar days from the date of RFP</i>

The Authority reserves the right to modify the above schedule at its discretion which will be binding on the Applicant.

## 2. INSTRUCTION TO BIDDERS

### A. GENERAL

#### 2.1. General terms of Bidding

- 2.1.1. No Bidder shall submit more than one Bid per Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another bid for the Project either individually or as a member of any Consortium, as the case may be.
- 2.1.2. Unless the context otherwise requires, the terms not defined in this RFP but defined in the Request for Qualification document for the Projects (the “**RFQ**”) shall have the meaning assigned thereto in the RFQ.
- 2.1.3. The Feasibility Report of the Project is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the Feasibility Report shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the Feasibility Report.
- 2.1.4. Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 2.1.5. The Additional Bank Guarantee, if applicable, should be submitted in the format specified at ANNEX II in this RFP. The Financial Offer should be furnished online at <https://eprocure.gov.in/eprocure/app> in the provided format, clearly indicating the bid amount in both figures and words, in Indian Rupees, and signed by the Bidder’s authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account
- 2.1.6. The Financial Offer shall consist of a Grant or a Premium, as the case may be, to be quoted by the Bidder. [Grant shall be payable by the Authority to the Concessionaire and the Premium shall be payable by the Concessionaire to the Authority, as the case may be,] as per the terms and conditions of this RFP and the provisions of the Concession Agreement
- 2.1.7. The Bidder shall deposit a Bid Security of Rs 65 (Sixty Five) Lakhs (the “**Bid Security**”) in accordance with the provision of this RFP. The Bidder has to provide the Bid Security either as RTGS/NEFT payment or in the form of a Bank Guarantee acceptable to the Authority, as per format at Appendix-III. The scanned copy of the Bank Guarantee or the scanned copy of the RTGS/NEFT transaction confirmation receipt issued by the transferring bank shall be uploaded along with the online Bid submission and the original Bank Guarantee should be physically submitted within 72 (seventy two) hours from the Bid Due Date at the address specified in Clause 2.11.4
- 2.1.8. The validity of the Bank Guarantee, shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 90 (sixty) days from the Bid Due Date except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement.

- 2.1.9. The Bidder should submit a Power of Attorney as per the format at Appendix-IV authorising the signatory of the Bid to commit the Bidder. The signed and scanned copy of the Power of Attorney shall be uploaded along with the online Bid submission and the original Power of Attorney should be physically submitted within 72 (seventy two) hours from the Bid Due Date at the address specified in Clause 2.11.4
- 2.1.10. In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Appendix-V. The signed and scanned copy of the Power of Attorney shall be uploaded along with the online Bid submission and the original Power of Attorney should be physically submitted within 72 (seventy two) hours from the Bid Due Date at the address specified in Clause 2.11.5
- 2.1.11. Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.12. The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.13. The documents including this RFP and all attached documents, provided by the Authority are and shall remain or become the properties of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.13 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid, document or any information provided along therewith.
- 2.1.14. A Bidder shall not have a conflict of interest (the "**Conflict of Interest**") that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Authority and not by way of penalty for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder's proposal (the "**Damages**"), without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Concession Agreement or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
- i. the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the subscribed and paid up and share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub section (72) of section 2 of Companies Act, 2013. For the purposes of this Clause 2.1.14, indirect

shareholding held through one or more intermediate persons shall be computed as follows:

- a.) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "**Subject Person**") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and
  - b.) Subject always to sub-clause a.) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause b.) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or
- ii. a constituent of such Bidder, is also a constituent of another Bidder; or
  - iii. such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or any Associate or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
  - iv. such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
  - v. such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Application of either or each other; or
  - vi. such Bidder or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.

Explanation: In case a Bidder is a Consortium, then the term Bidder as used in this Clause 2.1.14 shall include each Member of such Consortium.

For the purpose of this RFP, Associate means, in relation to the Bidder/Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/Consortium Member ("**the Associate**"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

- 2.1.15. A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder or the

Concessionaire, as the case may be, after issue of the LOA or execution of the Concession Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security as the case may be, which the Authority may have thereunder or otherwise, the LOA or the Concession Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same . For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFQ for the Project. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

2.1.16. This RFP is not transferable.

2.1.17. Any award of Concession pursuant to this RFP shall be subject to the terms of Bidding Documents.

## **2.2. Change in composition of the Consortium**

2.2.1. Where the Bidder is a Consortium, change in composition of the Consortium may be permitted by the Authority during the Bid Stage, only where:

- a) the Lead Member continues to be the Lead Member of the Consortium;
- b) the substitute is at least equal, in terms of Technical Capacity or Financial Capacity, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification and short-listing criteria for Applicants; and
- c) 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/ Associate of any other Consortium bidding for this Project.

2.2.2. 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. The Bidder must submit its application for change in composition of the Consortium no later than 15 (fifteen) days prior to the Bid Due Date

2.2.3. The modified/ reconstituted Consortium shall submit a revised Joint Bidding Agreement and a Power of Attorney, substantially in the form at Appendix-V, prior to the Bid Due Date.

## **2.3. Change in Ownership**

2.3.1. By submitting the Bid, the Bidder acknowledges that it was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Consortium Members, who will own at least 26% (twenty six percent) of the equity of the Concessionaire. The Bidder further acknowledges and undertakes that each of such Consortium Members shall continue to hold at least 26% of the equity of the Concessionaire until the 2<sup>nd</sup> (second) anniversary of the date of Commercial Operation Date of the Project under and in accordance with the provisions of the Concession Agreement. The Bidder further acknowledges and agrees that the aforesaid obligation shall be minimum, and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with

as such thereunder. For the avoidance of doubt, the provisions of this Clause 2.3.1 shall apply only when the Bidder is a Consortium.

- 2.3.2. By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Technical Capacity and / or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or Contract and/ or the Concession Agreement or otherwise.

**2.4. Cost of Bidding**

- 2.4.1. The Bidders be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

**2.5. Location /site visit, due diligence and verification of information**

- 2.5.1. Bidders are encouraged to submit their respective Bids after visiting the Project location, carrying out due diligence including on the proposed site and ascertaining for themselves the site conditions, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, seismic data, applicable laws and regulations, and any other matter considered relevant by them.
- 2.5.2. It shall be deemed that by submitting a Bid, the Bidder has:
- a. made a complete and careful examination of the Bidding Documents;
  - b. received all relevant information requested from the Authority;
  - c. accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5.1 above;
  - d. satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
  - e. acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.5.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement by the Concessionaire



- f. agreed to be bound by the undertakings provided by it under and in terms hereof
  - g. acknowledged that it does not have any Conflict of Interest; and
  - h. carried out proper due diligence
- 2.5.3. The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, RFQ, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority
- 2.6. Verification and Disqualification**
- 2.6.1. The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFQ, the RFP or the Bidding Documents and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.
- 2.6.2. The Authority reserves the right to reject any Bid and appropriate the Bid Security if:
  - (a) at any time, a material misrepresentation is made or uncovered, or
  - (b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid, orSuch misrepresentation / improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium may be disqualified/ rejected. If such disqualification/ rejection occur after the Bids have been opened and the Lowest Bidder gets disqualified/ rejected, then the Authority reserves the right to:
  - (i) invite the remaining Bidders to submit their Bids in accordance with Clause 3.3.3 and 3.3.4; or
  - (ii) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.
- 2.6.3. In case it is found during the evaluation or at any time before signing of the 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 pre-qualification conditions have not been met by the Bidder, or the Bidder has made material mis-representation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into the Agreement, and if the Select Bidder has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Selected Bidder, or the Concessionaire as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or Concession Agreement, or otherwise.

## **B. DOCUMENTS**

### **2.7. Contents of the RFP**

- 2.7.1. This RFP comprises the Disclaimer set-forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.9.

**Invitation for Bids**

Section 1. Introduction

Section 2. Instruction to Bidders

Section 3. Evaluation of Bids

Section 4. Fraud and Corrupt Practices

Section 5. Pre-Bid Conference

Section 6. Miscellaneous

Appendices

I. Appendix I: Letter comprising the Bid

II. Appendix II: Status of project land; along with Annex 1 and Annex 2 supporting the Appendix

III. Appendix III - Bank Guarantee for Bid Security

IV. Appendix IV - Power of Attorney for signing of Bid

V. Appendix V - Power of Attorney for Lead Member of Consortium

VI. Appendix VI - Instructions for Online Bid Submission

- 2.7.2. The draft Concession Agreement and the Feasibility Report provided by the Authority as part of the Bid Documents shall be deemed to be part of this RFP.

**2.8. Clarifications**

- 2.8.1. Bidders requiring any clarification on the RFP may notify the Authority in writing or by fax and e-mail in accordance with Clause 1.2.10. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3. The Authority shall endeavor to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the Bid Due Date. The responses will be sent by fax or email. The Authority will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

- 2.8.2. The Authority shall endeavor to respond to the questions raised or clarifications sought by the Bidders by publishing it on its website [www.fciweb.nic.in](http://www.fciweb.nic.in) as well as Central Procurement Portal (CPP) <http://eprocure.gov.in/eprocure/app>. 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.

- 2.8.3. The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

**2.9. Amendment of RFP**

- 2.9.1. At any time prior to the Bid Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.

- 2.9.2. Any Addendum thus issued will be published on <https://eprocure.gov.in/eprocure/app>.

- 2.9.3. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Bid Due Date<sup>1</sup>.

**C. Preparation and Submission of Bids**

**2.10. Format and Signing of Bid**

- 2.10.1. The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects.
- 2.10.2. The Bid and its copy shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall also sign each page, in blue ink. In case of printed and published documents, only the cover shall be initialled. All the alteration, omissions, additions or any other amendments made to the Bid shall be counter-signed by the person(s) signing the Bid

**2.11. Sealing and Marking of Bids**

- 2.11.1. The Bidder shall submit the Bids in two parts:
- i. Part A: The Bid shall be submitted online only in the prescribed format on or before the stipulated time on Bid Due Date
  - ii. Part B: The Part shall consist of
    - a) Appendix-I : Original signed document to be submitted in physical form within 72 (seventy two) hours from the Bid Due Date and signed & scanned copy to be uploaded on or before the stipulated time on Bid Due Date
    - b) APPENDIX – II: Status of project land; along with
    - c)

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<sup>1</sup>While extending the Bid Due Date on account of an addendum, the Authority shall have due regard for the time required by Bidders to address the amendments specified therein. In the case of significant amendments, at least 15 (fifteen) days shall be provided between the date of amendment and the Bid Due Date, and in the case of minor amendments, at least 7 (seven) days shall be provided.

- e) ANNEX I or ANNEX II as applicable: Original signed document to be submitted in physical form within 72 (seventy two) hours from the Bid Due Date and signed & scanned copy to be uploaded on or before the stipulated time on Bid Due Date
- f) Bid security in the form of RTGS/NEFT transaction or bank guarantee by a nationalized bank, or a Scheduled Bank in India as per format at Appendix – III: Original document to be submitted in physical form within 72 (seventy two) hours from the Bid Due Date and scanned copy to be uploaded on or before the stipulated time on Bid Due Date
- g) Power of Attorney for signing of Bid in the format at Appendix –IV: Original document to be submitted in physical form within 72 (seventy two) hours from the Bid Due Date and scanned copy to be uploaded on or before the stipulated time on Bid Due Date;
- h) If applicable, the Power of Attorney for Lead Member of Consortium in the format at Appendix –V; Original document to be submitted in physical form within 72 (seventy two) hours from the Bid Due Date and scanned copy to be uploaded on or before the stipulated time on Bid Due Date and
- i) A copy of the Concession Agreement with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in sub-clause g), above.
- j) Scanned copy of Bid document Fee of Rs. 10,000.
- k) Feasibility Report prepared by the consultant together with all the addenda /corrigendum issued by the Authority.
- l) If applicable, the Additional Bank Guarantee by a nationalised bank as per format at Annex II.

2.11.2. The original documents as required for physical submissions under Part 2 under 2.11.1 (ii) shall be placed in an envelope, which shall be sealed.

2.11.3. The envelopes shall clearly bear the following identification:

Bid for the “Selection of developer for construction of Food Grain Silos at Kaimur and Buxar through Public Private Partnership (PPP) On Design, Build, Finance, Own, Operate and Transfer (DBFOT) basis“ Project and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of each of the envelopes.

2.11.4. Each of the envelope shall be addressed to

ATTN. OF:	Mr. Aseem Chhabra
DESIGNATION:	General Manager (Silos)
ADDRESS:	Food Corporation of India, Headquarters, 10 <sup>th</sup> Floor, 16-20, Barakhamba Lane New Delhi-110001
PHONE NO:	011-43527643
FAX NO:	011-43527354
E-MAIL ADDRESS:	<a href="mailto:gmsilos.fci@gov.in">gmsilos.fci@gov.in</a>

2.11.5. 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 Bid submitted and consequent losses, if any, suffered by the Bidder.

2.11.6. Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

## 2.12. Bid Due Date

2.12.1. Bid should be submitted on the CPP Portal before 1100 hours IST on the Bid Due Date, with the specified physical submission at the address provided in Clause 2.11.4 before specified time on or before the Bid Due Date in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified at Clause 2.11.4. The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders

**2.13. Late Bids**

2.13.1. Bids received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

**2.14. Contents of the Bid**

2.14.1. The Bid shall be furnished in the format at Appendix-I in form of [Grant or Premium, as the case may be,] to be quoted by the Bidder. The Bidder shall specify in Indian Rupees the [Grant or Premium, as the case may be, required by him or offered by him, as the case may be,]to undertake the Project in accordance with this RFP and the provisions of the Concession Agreement.

2.14.2. Generally, the Project will be awarded to the Highest Bidder.

2.14.3. The opening of Bids and acceptance thereof shall be substantially in accordance with this RFP.

2.14.4. The proposed Draft Concession Agreement for pilot projects shall be deemed to be part of the Bid.

**2.15. Modifications/ Substitution/ Withdrawal of Bids**

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

2.15.2. The modification, substitution or withdrawal notice shall be prepared, sealed, marked and delivered in accordance with Clause 2.11, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION”, or “WITHDRAWAL”, as appropriate.

2.15.3. Any alteration/modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought by the Authority, shall be disregarded.

**2.16. Rejection of Bids**

2.16.1. Notwithstanding anything contained in this RFP, the Authority reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

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

**2.17. Validity of Bids**

2.17.1. The Bid shall be valid for a period of not less than 120 (one hundred and twenty) days from Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

**2.18. Confidentiality**

2.18.1. Information relating to the examination, clarification, evaluation and recommendation for the Bidders 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 the Bid, 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 or as may be required by law or in connection with any legal process.

**2.19. Correspondence with the Bidder**

- 2.19.1. Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

**D.BID SECURITY**

**2.20. Bid Security**

- 2.20.1. The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clause 2.1.7 and 2.1.8 hereinabove in the form of a Bank Guarantee by a nationalized bank, or a Scheduled Bank in India in India having a net-worth of at-least Rs. 1000 crore (Rs. One thousand crore), in favour of the Authority in the format at Appendix-III(the “**Bank Guarantee**”) and having a validity period of not less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended at the sole discretion of the Authority from time to time. Where the Bid Security is not furnished in the form of bank guarantee, the same shall be deposited in the account of the Authority through RTGS/NEFT. Details of bank account of Food Corporation of India, HQ is CC A/c no. 10220632672, IFSC Code No. SBIN 0005943 (SBI, K.G. Marg, New Delhi).The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The original bank guarantee towards Bid Security shall be required to be submitted in hard copy with scanned copy of the bank guarantee document or RTGS/NEFT transaction confirmation receipt as applicable shall be uploaded on the website <https://eprocure.gov.in/eprocure/app> at the time of Bid submission.In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any Nationalised bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.
- 2.20.2. The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.
- 2.20.3. Any Bid not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive.
- 2.20.4. Save and except as provided in Clauses 1.2.4 and 1.2.5, the Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Authority, and in any case within 90 (sixty) days from the Bid Due Date. Where Bid Security has been paid by deposit, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Authority give the name and address of the person in whose favour the said demand draft shall be drawn by the Authority for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.
- 2.20.5. The Selected Bidder’s Bid Security will be returned, without any interest, upon the Successful Bidder signing the Concession Agreement and furnishing the

Performance Security in accordance with the provisions thereof. The Authority may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Concession Agreement.

- 2.20.6. The Authority shall be entitled to forfeit and appropriate the Bid Security as damages inter alia in any of the events specified in Clause 2.20.7 herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.20.7. The Bid Security shall be forfeited as damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or under the Concession Agreement, or otherwise under the following conditions:
- a. If a Bidder submits a non-responsive Bid;
  - b. If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Section 4 of the RFP;
  - c. If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
  - d. In the case of Selected Bidder, if it fails within the specified time limit –
    - i. to sign the Concession Agreement; or
    - ii. to furnish the Performance Security within the period prescribed thereof in the Concession Agreement; or
    - iii. to sign and return the duplicate copy of LOA;
  - e. In case the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security.

### 3. EVALUATION OF BIDS

#### 3.1. Opening and Evaluation of Bids

- 3.1.1. The Authority shall open the Bids at stipulated time on the Bid Due Date and at the place specified in Clause 2.11.4 and in the presence of the Bidders who choose to attend.
- 3.1.2. The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.
- 3.1.3. To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

#### 3.2. Tests of responsiveness

- 3.2.1. Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of this RFP. A Bid shall be considered responsive only if:
  - a. It is received online
  - b. It contains all Appendixes and Annexes as mentioned in the RFP.
  - c. it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.12;
  - d. it is signed, sealed bound together and marked as stipulated in Clauses 2.10 and 2.11;
  - e. it is accompanied by the Bid Security as specified in Clause 2.1.7;
  - f. it is accompanied by the Power(s) of Attorney as specified in Clauses 2.1.9 and 2.1.10, as the case may be;
  - g. it contains all the information (complete in all respects) as requested in this RFP and / or Bidding Documents (in formats same as those specified);
  - h. it does not contain any condition or qualification
  - i. It is not non-responsive in terms hereof; and
  - j. it is accompanied by the Additional Bank Guarantee, if applicable, as stipulated in Clause 1.2.13.
- 3.2.2. The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid. Provided, however, that the Authority may, in its discretion, allow the Bidder to rectify any infirmities or omissions in form of clarification only against the information submitted, if the same do not constitute a material modification of the Bid.

#### 3.3. Selection of Bidder

- 3.3.1. Subject to the provisions of Clause 2.16.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2.1 and who quotes the highest Premium offered to the Authority, and in the event that no Bidder offers a Premium, then the Bidder quoting the lowest Grant to be paid by the Authority shall be declared as the selected Bidder (the “**Selected Bidder**”). In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 3.3.2. In the event that two or more Bidders quote the same amount of [Premium or Grant, as the case may be] (the “**Tie Bidders**”), all such Bidders being the Lowest Bidder, the Authority shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.



- 3.3.3. In the event that the Highest Bidder withdraws or is not selected for any reason in the first instance (the “**first round of bidding**”), the Authority may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Highest Bidder (the “**second round of bidding**”). If in the second round of bidding, only one Bidder matches the Highest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Highest Bidder in the second round of bidding, then the Bidder whose Bid was higher as compared to the other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth highest Bidders in the first round of bidding offer to match the said Highest Bidder in the second round of bidding, the said third highest Bidder shall be the Selected Bidder.
- 3.3.4. In the event that no Bidder offers to match the Highest Bidder in the second round of bidding as specified in Clause 3.3.3, the Authority may, in its discretion, invite fresh Bids (the “**third round of bidding**”) from all Bidders except the Highest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are higher than the Bid of the second lowest Bidder in the first round of bidding
- 3.3.5. After selection, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.
- 3.3.6. After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Concessionaire to execute the Concession Agreement within a period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Concession Agreement.
- 3.3.7. The evaluation of Bids shall be undertaken as following::
1. Test of Responsiveness in accordance with Clause 3.2
  2. Evaluation of Envelop 1: Financial Offer
- 3.3.8. **Test of Responsiveness:** Bidders not satisfying the Test of Responsiveness in accordance with Clause 3.2 would not qualify for the evaluation of Financial Offer and their bid will be summarily rejected.
- 3.3.9. **Evaluation of Envelop 1: Financial offer:** The Financial Offer should be provided online at the required BOQ format
- 3.3.10. The bidder who offers the highest premium or quotes the lowest grant shall be selected bidder
- 3.4. Contacts during Bid Evaluation**
- 3.4.1. Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award / rejection to the Bidders. While the Bids are under consideration, Bidders and / or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the

Authority and/ or their employees / representatives on matters related to the Bids under consideration.

## 4. FRAUD AND CORRUPT PRACTICES

- 4.1. The Bidders and their respective officers, employees, agents, and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, 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. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise.
- 4.2. Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be
- 4.3. For the purposes of this Section 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) "**corrupt practice**" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under sub clause (d) of Clause 2.1.15, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;

- (b) "**fraudulent practice**" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- (c) "**coercive practice**" means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;
- (d) "**undesirable practice**" means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) "**restrictive practice**" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

## **5. PRE-BID CONFERENCE**

- 5.1.** Pre-Bid conferences of the Bidders shall be convened at the designated date, time and place. Only those persons who have purchased the RFP document shall be allowed to participate in the Pre-Bid Conferences. A maximum of five representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 5.2.** During the course of Pre-Bid conference(s), the Bidders 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 Bidding Process.

## 6. MISCELLANEOUS

- 6.1.** The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and / or in connection with the Bidding Process.
- 6.2.** The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- a) 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;
  - b) consult with any Bidder in order to receive clarification or further information;
  - c) retain any information and / or evidence submitted to the Authority by, on behalf of, and / or in relation to any Bidder; and / or
  - d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3.** It shall be deemed that by submitting the Bid, the Bidder 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 with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and / or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 6.4.** The Bidding Documents and RFQ are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this RFP, in the event of any conflict between them the priority shall be in the following order:
- (a) the Bidding Documents;
  - (b) the RFQ.

i.e. the Bidding Documents at (a) above shall prevail over the RFQ at (b) above.

# Appendices

**APPENDIX - I**  
**Letter comprising the Bid**

*(Refer Clauses 2.1.5 and 2.14)*

Dated:

To,  
General Manager (Silos)  
Food Corporation of India, Headquarters,  
10th Floor, 16-20,  
Barakhamba Lane New Delhi-110001

**Sub: Bid for“ Selection of Developer for construction of Food Grain Silos at Kaimur and Buxar through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer (DBFOT) basis”**

Dear Sir,

1. With reference to your Request for Proposal document dated \*\*\*\*\*<sup>2</sup>, I / we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.
2. I / We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Concessionaire for the development, construction, operation and maintenance of the aforesaid Project.
4. I / We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I / We acknowledge the right of the Authority to reject our Bid 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. I/ We certify that in the last three years, we/ any of the Consortium Members<sup>3</sup> or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part
7. I / We declare that:
  - a) I / We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority; and
  - b) I/We do not have any conflict of interest in accordance with Clauses 2.1.14 and 2.1.15 of the RFP document; and
  - c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement

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<sup>2</sup>All blank spaces shall be suitably filled up by the Applicant to reflect the particulars relating to such Applicant

<sup>3</sup> If the Bidder is not a Consortium, the provisions applicable to Consortium may be omitted



- entered into with the Authority or any other public sector enterprise or any government, Central or State;
- d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
  - e) the undertakings given by us along with the Application in response to the RFQ for the Project were true and correct as on the date of making the Application and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
8. I / We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.16 of the RFP document.
  9. I / We believe that we / our Consortium satisfy(s) the Net Worth criteria and meet(s) the requirements as specified in the RFQ document
  10. I / We declare that we / any Member of the Consortium, or our / its Associates, are not a Member of a/ any other Consortium submitting a Bid for the Project.
  11. I / We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
  12. I / We further certify that in regard to matters relating to security and integrity of the country, we / any Member of the Consortium or any of our / their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
  13. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our Managing Director/CEO or any of our Directors / Managers / Employees.
  14. I / 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 guidelines referred to above, we shall intimate the Authority of the same immediately.
  15. { I / We acknowledge and undertake that our Consortium was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members, who will own at least 26% (twenty six per cent) of the equity of the Concessionaire and undertake that each of such Consortium Members shall continue to hold at least 26% of the equity of the Concessionaire until the 2<sup>nd</sup> (second) anniversary of the commercial operation date of the Project under and in accordance with the provisions of the Concession Agreement. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership. } ,
  16. I / We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and / or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, I / We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I / We further acknowledge and agree that in the event such change in control occurs after signing

- of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to be terminated without the Authority being liable to us in any manner whatsoever.
17. I / We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/Companies Act 2013, or shall incorporate as such prior to execution of the Concession Agreement.
  18. I / We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
  19. In the event of my / our being declared as the Selected Bidder, I / we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me / us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
  20. I / We have studied all the Bidding Documents carefully and also surveyed the project location and carried out due diligence. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
  21. I / We herewith submit a Bid Security of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) to the Authority in accordance with the RFP Document.
  22. The Bid Security in the form of a RTGS/NEFT/ Bank Guarantee by a nationalized bank, or a Scheduled Bank in India (strike out whichever is not applicable) is attached.
  23. I / We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I / we shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me / us or our Bid is not opened or rejected.
  24. I/We have downloaded the RFP for the captioned Projects from the website <https://eprocure.gov.in/eprocure/app> and are submitting our Bid as per prescribed format without any modifications for undertaking the aforesaid Project in accordance with the Bidding Documents and Concession Agreement
  25. I / We shall keep this offer valid for 120 (one hundred and twenty days) from the Bid Due Date specified in the RFP.
  26. I / We agree and undertake to abide by all the terms and conditions of the RFP document.
  27. The documents accompanying the Bid, as specified in Clause **Error! Reference source not found.** of the RFP, have been submitted in a separate envelope.
  28. I/We commit to develop the Project involving silo facility at the Site / Proposed Site. I/We understand that in the event we fail in acquiring the land as mentioned in our Application, the Additional Bank Guarantee shall be invoked by the Authority. }
  29. The [Premium or Grant] has been quoted by me /us after taking into consideration all the terms and conditions stated in the RFP draft Concession Agreement, our own estimates of costs and revenue and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.

30. {We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement. }

In witness thereof, I / we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,

(Signature, name and designation of the Authorised signatory)  
Name and seal of Bidder / Lead Member

Date:

Place:

*Note: Paragraphs in curly parenthesis may be omitted by the Bidder, if not applicable to it, or modified as necessary to reflect Bidder-specific particulars.*

**APPENDIX – II**  
**Status of land parcels for the Project**

To,  
**General Manager (Silos)**  
**Food Corporation of India, Headquarters,**  
**10th Floor, 16-20,**  
**Barakhamba Lane New Delhi-110001**

Sub: Status of land parcels for the project - “Selection of Developer for construction of Food Grain Silos at Kaimur and Buxar through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer (DBFOT) basis”

Dear Sir,

With reference to your Request for Proposal document dated \*\*\*\*\*<sup>4</sup>, I / we, having examined the Bidding Documents and understood their contents, hereby submit my/our status for land parcels for the aforesaid Project.

1. I/ We have examined the stipulations related to the land parcels in the RFP and have understood the Threshold Criteria.
2. I/We propose the land parcels as detailed in
- 3.

5. ANNEX I to this Appendix as the proposed sites for the Projects. I/We confirm that the specified land parcels at location(s) \*\*\*\*\* is/are under my/our registered ownership and comply with requirements as set out in Clause 1.2.14. {Strike out, if not applicable}
6. I/We intend to acquire ownership of land parcels in accordance with Clause 1.2.14 of this document within the time stipulated in the Bidding Documents should I/we be the selected bidder and I/we are called to execute the Concession Agreement for the Project. I/We are submitting Additional Bank Guarantee of Rs \_\_\_\_\_ lakhs herewith in accordance with ANNEX II. {Strike out, if not applicable}

Yours faithfully,  
(Signature, name and designation of the Authorised  
signatory)  
Name and seal of Bidder / Lead Member

**Date:**  
**Place:**

**ANNEX I**Details of designated sites(*Refer Clause 1.2.12, 1.2.13 and 1.2.14*)*To be provided separately for each of the two locations**Details of Kaimur land parcel*

Project Location	
Name of the village/town / city where the proposed land (site) is located Name of revenue district where land is located Name of the person(s) / firm(s) that owns/have procured/identified the land	
Survey numbers of the proposed land parcel (s) <i>(Indicate if land owned by the Applicant or its subsidiary or parent company or consortium partner)</i>	
Area of land (in acres)	
Whether following documents furnished along with the Application :	<i>(Pl clearly tick the applicable option)</i>
Copy of title deed (in case Designated land)	Yes / No/NA
Undertaking from Applicant/Member of Consortium to transfer land to Concessionaire's SPV if Bidder is selected bidder	Yes / No/NA
Non-encumbrance certificate in case of Designated land	Yes / No/NA
Sketch plan indicating boundaries, major highways, rail line	Yes / No
Nearest National / State Highway and distance of the site from the same Description of Connectivity to National / State Highway	
Nearest railway goods shed and distance of the site from the same	
Distance (by road) of the land parcel from the rail head	

Signature of Authorised Signatory  
Stamp of Applicant / Lead Member

*Details of Buxar land parcel*

Project Location	
Name of the village/town / city where the proposed land (site) is located Name of revenue district where land is located Name of the person(s) / firm(s) that own the land	
Survey numbers of the proposed land parcel (s) <i>(Indicate if land owned by the Applicant or its subsidiary or parent company or consortium partner)</i>	
Area of land (in acres)	
Whether following documents furnished along with the Application :  Copy of title deed (in case Designated land)  Undertaking from Applicant/Member of Consortium to transfer land to Concessionaire's SPV if Bidder is selected bidder  Non-encumbrance certificate in case of Designated land  Sketch plan indicating boundaries, major highways, rail line	<i>(Pl clearly tick the applicable option)</i>  Yes / No/NA  Yes / No/NA  Yes / No/NA  Yes / No
Nearest National / State Highway and distance of the site from the same Description of Connectivity to National / State Highway	
Nearest railway goods shed and distance of the site from the same	
Distance (by road) of the land parcel from the rail head	

Signature of Authorised Signatory  
Stamp of Applicant / Lead Member

## ANNEX II

### Format for Additional Bank Guarantee

(Refer to clause 1.2.13)

(Instruction: Signed original physical copy to be submitted in sealed envelope as per Clause 2.11)

Performa of Bank Guarantee to be furnished along with Bid Security as Additional guarantee where land is proposed to be acquired within the stipulated period (Additional Bank Guarantee) (To be submitted on non-judicial stamp paper of appropriate value purchased in the name of the issuing Bank)

This deed of guarantee made this \_\_\_\_ day of \_\_\_\_ between \_\_\_\_ (Name of Bank) having its registered office at \_\_\_\_ (place) and one of its local offices at \_\_\_\_ (hereinafter referred to as the Surety), and \*\*\*\*\*, a body corporate, constituted under -----and having its Head Office at \_\_\_\_\_.

WHEREAS M/s..... (hereinafter referred to as “Bidder”) a Company/Firm registered under \_\_\_\_ (if applicable) and having its registered office at \_\_\_\_ is bound to furnish Additional Guarantee in the form of Bank Guarantee with \*\*\*\*\* (the Authority) in connection with submission of tender for construction of silo complex for Storage Requirements to be constructed and managed and operated by the Applicant, if selected in the Bid Process, at Kaimur and Buxar.

WHEREAS the Applicant as per clause no. 1.2.13 of terms and conditions of the Request for Proposal (RFP) No..... dated..... has undertaken to produce necessary documents evidencing acquisition of land by way of ownership in respect thereof as specified in the RFP within 90 (ninety) days from the date of Concession Agreement and has agreed to furnish additional guarantee by way of Bank Guarantee for Rs.....

NOW THIS WITNESSETH:

1. That the Surety in consideration of the above Application made by the Applicant to \*\*\*\*\* [Authority] hereby undertakes to guarantee payment on demand without demur to \*\*\*\*\* [Authority] and without notice to the Applicant the said amount of Rs .... (Rupees.....) within one week from the date of receipt of the demand from the Authority on presentation of this deed of guarantee which the Applicant is bound to furnish with Authority towards additional guarantee in connection with his Application.

2. This guarantee shall not be affected/discharge by any infirmity or irregularity on the part of the Applicant and by dissolution or any change in the constitution of the Authority, Applicant or the Surety.

3. The Authority shall be eligible to make any claim under this guarantee if the Applicant after submitting his Application, resigns or modifies his offer before acceptance thereof or fails to produce documents evidencing acquisition of specified land by way of ownership within stipulated period of 90 days or violates any the terms and conditions of the contract after acceptance of the tender. The decision of the Authority in this regard shall be final and binding.

4. The payment so made by the Surety under this Guarantee shall be a valid discharge of its liability for payment there under and the Applicant shall have no claim against Surety for making such payment.

5. The Surety shall not and cannot revoke this guarantee during its currency except with previous consent of the Authority in writing.

6. Notwithstanding anything contained in the foregoing, the Surety’s liability under the guarantee is restricted to Rs ..... (Rupees.....).

7. This guarantee shall remain in force and effective up to .....<sup>5</sup> and shall expire and become ineffective only on written intimation given to the Surety by the Authority for this purpose and in that case this guarantee shall stand discharged.

<sup>5</sup>360 days from Application Due Date



8. The Surety shall pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Applicant against the Authority, Bank or any other person(s) in any suit or proceeding pending before any court or tribunal relating thereto as the surety's liability under this guarantee being absolute and unequivocal.

9. Any forbearance, act or omission on the part of the Authority in enforcing any of the conditions of the said tender or showing of any indulgence by the Authority to the Applicant shall not discharge the Surety in any way and the obligations of the Surety under this guarantee shall be discharged only on the written intimation thereof being given to the Surety by the Authority.

10. Notwithstanding anything contained hereinabove, unless a demand or claim under this guarantee is made on the Surety in writing on or before ..... the Surety shall be discharged from all liabilities under guarantee thereafter.

11. The Surety has the power to issue this guarantee under its constitutional documents and the person who is hereby executing this deed has the necessary powers to do so under the authority conferred on him by the Surety.

SIGNED AND DELIVERED  
For and on behalf of above named Bank

For and on behalf of  
(Banker's Name and Seal)

**APPENDIX-III**  
**Bank Guarantee for Bid Security**  
(Refer Clauses 2.20)

B.G. No. \*\*\*\*\*

Dated:

1. In consideration of you, \*\*\*\*\*, having its head office at \*\*\*\*\* (hereinafter referred to as the “Authority”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of ..... [a company registered under the Companies Act, 1956/Companies Act 2013] and having its registered office at ..... [and acting on behalf of its Consortium] (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the “Construction of Food Grain Silo at Buxar and Kaimur {specify location} under Design, Build, Finance, Own Operate and Transfer (DBFOT) basis” (hereinafter referred to as “the Project”) pursuant to the RFP Document dated \*\*\*\*\* issued in respect of the Project and other related documents including without limitation the draft concession agreement (hereinafter collectively referred to as “Bidding Documents”), we [Name of the Bank] having our registered office at ..... and one of its branches at ..... (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of **Rs.\*\*\*\*\*** (**Rupees \_\_\_\_\_ in words \_\_\_\_\_ only**) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding **Rs.\*\*\*\*\*<sup>6</sup> (Rupees \*\*\*\*\*<sup>7</sup>only<sup>7</sup>)**.

<sup>6</sup> Amount in figure to be filled in

<sup>7</sup> Amount in words. Should be same as the amount in figure

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents including, *inter alia*, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfillment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.

12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to **Rs. \*\*\*\*\* (Rupees \*\*\*\*\*only)**. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before [\*\*\* *(indicate date falling 180 days after the Bid Due Date)*].

Signed and Delivered by ..... Bank

By the hand of Mr./Ms. ...., its ..... and authorised official.

(Signature of the Authorised Signatory)

(Official Seal)

**APPENDIX-IV**  
**Power of Attorney for signing of Bid**  
*(Refer Clause 2.1.9)*

Know all men by these presents, We, ..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr./ Ms (Name), son/daughter/wife of ..... and presently residing at....., who is presently employed with us/ the Lead Member of our Consortium and holding the position of ....., as our true and lawful attorney(hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the“Selection of developer for construction of Food Grain Silos at Kaimur and Buxar through Public Private Partnership (PPP) On Design, Build, Finance, Own, Operate and Transfer (DBFOT) basis” Project proposed or being developed by the \*\*\*\*\* (the “Authority”) including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders’ and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, ....., THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ..... DAY OF ....., 20.....

For.....  
(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Accepted  
(Signature, name, designation and address of the Attorney)

Notarized

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.However, the Power of Attorney provided by Bidders from countries that have signed The Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

**APPENDIX-V**  
**Power of Attorney for Lead Member of Consortium**  
*(Refer Clause 2.1.10)*

Whereas the \*\*\*\*\* (the “Authority”) has invited bids from pre-qualified and short-listed parties for the “Selection of developer for construction of Food Grain Silos at Kaimur and Buxar through Public Private Partnership (PPP) On Design, Build, Finance, Own, Operate and Transfer (DBFOT) basis” Project (the “Project”).

Whereas, ....., .....and ..... (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution.

**NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS**

We, ..... having our registered office at ....., M/s. ...., having our registered office at ....., and M/s. ...., having our registered office at (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s ..... having its registered office at ....., being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”) and hereby irrevocably authorise the Attorney (with power to sub delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Concession/ Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, participate in bidders’ and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ..... DAY OF ....., 20....

For .....  
(Signature, Name & Title)  
For .....  
(Signature, Name & Title)  
For .....  
(Signature, Name & Title)

(Executants)

(To be executed by all the Members of the Consortium)

Witnesses:

- 1.
- 2.

*Notes:*

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate*

## APPENDIX - VI

### Instructions for Online Bid Submission

As per the directives of Department of Expenditure, Ministry of Finance, Government of India this Bid document has been published on the Central Public Procurement Portal (CPP) (URL: <http://eprocure.gov.in> ). The Applicants / Bidders are required to submit soft copies of their bids electronically on the CPP Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the bidders in registering on the CPP Portal, prepare their Applications /Bids in accordance with the requirements and submitting their Applications / Bids online on the CPP Portal.

More information useful for submitting online Applications / Bids on the CPP Portal may be obtained at:

<https://eprocure.gov.in/eprocure/app>.

#### REGISTRATION

- 1) Applicants /Bidders are expected to have already enroll on the e-Procurement module of the Central Public Procurement Portal (URL: <https://eprocure.gov.in/eprocure/app>) by clicking on the link “Click **here to Enroll**” on the CPP Portal, the enrolment is free of charge.
- 2) As part of the enrolment process, the Applicants / Bidders will be required to choose a unique username and assign a password for their accounts.
- 3) Applicants / Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the CPP Portal.
- 4) Upon enrolment, the Applicants / Bidders will be required to register their valid Digital Signature Certificate (DSC) (Class II or Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g. Sify / TCS / nCode / eMudhra etc.), with their profile.
- 5) Only one valid DSC should be registered by a bidder. Please note that the Applicants / Bidders are responsible to ensure that they do not lend their DSC’s to others which may lead to misuse.
- 6) Bidder then logs in to the site through the secured log-in by entering their user ID / password and the password of the DSC / e-Token.

#### SEARCHING FOR TENDER DOCUMENTS

- 1) There are various search options built in the CPP Portal, to facilitate Applicants / Bidders to search active tenders by several parameters. These parameters could include Tender ID, organization name, location, date, value, etc. There is also an option of advanced search for tenders, wherein the Applicants / Bidders may combine a number of search parameters such as organization name, form of contract, location, date, other keywords etc. to search for a tender published on the CPP Portal.
- 2) Once the Applicants / Bidders have selected the tenders they are interested in, they may download the required documents / bid schedules. These tenders can be moved to the respective ‘My Tenders’ folder. This would enable the CPP Portal to intimate the Applicants / Bidders through SMS / e-mail in case there is any corrigendum issued to the tender document.
- 3) The Applicants / Bidders should make a note of the unique Tender ID assigned to each tender, in case they want to obtain any clarification / help from the Helpdesk.

#### PREPARATION OF APPLICATION /BIDS

- 1) Applicant/ Bidder should take into account any corrigendum published on the tender document before submitting their bids.
- 2) Please go through the tender advertisement and the tender document carefully to understand the documents required to be submitted as part of the bid. Please note the number of covers in which the bid documents have to be submitted, the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the bid.



- 3) Applicant / Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document / schedule and generally, they can be in PDF / XLS / RAR / DWF formats. Application / Bid documents may be scanned with 100 dpi with black and white option.
- 4) To avoid the time and effort required in uploading the same set of standard documents which are required to be submitted as a part of every bid, a provision of uploading such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the Applicants / Bidders. Applicants / Bidders can use “My Space” area available to them to upload such documents. These documents may be directly submitted from the “My Space” area while submitting a bid, and need not be uploaded again and again. This will lead to a reduction in the time required for application / bid submission process.

#### **SUBMISSION OF APPLICATION / BIDS**

- 1) The Applicant / Bidder should log into the site well in advance for bid submission so that he/she upload the bid in time i.e. on or before the bid submission time. Applicant / Bidder will be responsible for any delay due to other issues.
- 2) The Applicant / Bidder has to digitally sign and upload the required bid documents one by one as indicated in the tender document.
- 3) The Applicant / Bidder has to select the payment option as “offline” to pay the tender fee as applicable and enter details of the instrument.
- 4) The Applicant / Bidder should prepare the Processing Fee, as per the instructions specified in the Bid document. The original should be posted/couriered/given in person to the Tender Processing Section, latest by the last date of bid submission or as specified in the tender documents. The details of the DEMAND DRAFT / PAY ORDER/any other accepted instrument, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise the uploaded bid will be rejected.
- 5) Applicants / Bidders are requested to note that they should necessarily submit their Applications / Bids in the format provided and no other format is acceptable. If the prices bid have been given as a standard BoQ format with the tender document, then the same is to be downloaded and to be filled by all the Applicants / Bidders. Applicants / Bidders are required to download the BoQ file, open it and complete the white coloured (unprotected) Cells with their respective financial quotes and other details (such as name of the bidder). No other cells should be changed. Once the details have been completed, the bidder should save it and submit it online, without changing the filename. If the BoQ file is found to be modified by the bidder, the bid will be rejected.
- 6) The server time (which is displayed on the Applicants / Bidders’ dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the Applicants / Bidders, opening of bids etc. The Applicants / Bidders should follow this time during bid submission.
- 7) All the documents being submitted by the Applicants / Bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer 128 bit encryption technology. Data storage encryption of sensitive fields is done.
- 8) The uploaded documents become readable only after the tender opening by the authorized bid openers of the Authority.
- 9) Upon the successful and timely submission of bids, the portal will give a successful bid submission message & a bid summary will be displayed with the bid no. and the date & time of submission of the bid with all other relevant details.
- 10) The bid summary has to be printed and kept as an acknowledgement of the submission of the bid. This acknowledgement may be used as an entry pass for any bid opening meetings.

#### **ASSISTANCE TO APPLICANTS / BIDDERS**

DEA PPP Pilot Initiative – Food Storage Infrastructure

- 1) Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Authority for a bid or the relevant contact person indicated in the tender.
- 2) Any queries relating to the process of online bid submission or queries relating to CPP Portal in general may be directed to the 24x7 CPP Portal Helpdesk. The contact number for the helpdesk is 1800 233 7315.

**PART 2 :DRAFT CONCESSION AGREEMENT**