

DRAFT TERMS OF REFERENCE FOR ENGAGING THE TECHNICAL ADVISORY GROUP FOR AGRIBUSINESS INFRASTRUCTURE DEVELOPMENT INVESTMENT PROGRAM

A. Background

1. The Government of Bihar's (GOB) vision towards achieving rise in the income of the farmers through higher price discovery is supported by the Government of India (GOI). This is envisaged through (i) adaptation of modern production technology by the farmers to increase agricultural productivity; (ii) ease of access to the market information to be informed about wider markets; (iii) the establishment of various alternative marketing channels to fetch competitive price to their agricultural produce; and (iv) access to the various market risk mitigation measures to reduce market stress. During the preliminary survey it is found that in Bihar there is huge potential for attracting the investments from private sector operator. Hence PPP model was recommended for these Integrated Value Chains (IVCs) infrastructure. GOB has initiated steps to undertake development of IVCs for various agricultural products in the potential regions all over Bihar. The AIDIP is one such intervention to give impetus to the efforts of the state towards achieving greater value addition to agriculture through public-private partnerships (PPPs).

B. The Investment Program

2. GOI has decided to invest \$212 million for a pioneering investment program incorporating an agricultural value chain approach, within a PPP format. This is being partly financed by ADB, which has approved a loan of \$170 million in September 2010 to fund eligible agribusiness infrastructure projects in Bihar and Maharashtra. The program will finance the contracting of private sector concessionaires to be awarded competitively, and these concessionaires will be responsible for investing in and building and operating the IVC infrastructure for the concession period of 20 years. In this manner the investment that is envisaged to be mobilized from the private sector in these two states is expected to be \$1 billion.

3. The investment program aims to address three main constraints on agriculture growth: (i) outdated technologies and management; (ii) lack of public investment in linking infrastructure (such as roads from production areas to collection points); and (iii) lack of private investment and management in modern marketing infrastructure (such as cold chains, controlled atmosphere storages, and automated grading). Using an IVC approach, the investment program will invest in physical and institutional links along horticultural value chains by supporting (i) site development and agribusiness infrastructure; (ii) linking infrastructure to ensure connectivity and basic services across the value chain; (iii) backward links to the production areas through contract farming and producer companies; and (iv) capacity building to strengthen technical and managerial skills along the value chain. The investment program area covers selected regions of Bihar and Maharashtra, two states that have adopted different agri-marketing policies: Bihar promotes the provision of agri-marketing as a private-sector-led function, and Bihar enables greater private sector participation but leaves the role of regulator and market manager with the public sector.

4. The investment program thus envisages leveraging private sector investment and management in to agribusiness infrastructure on privately owned land, within geographically linked spokes & hubs each of which provide collection services, grading and packaging, storing, processing and cold storage facilities to a range of IVCs. The investment program targets to

achieve a functional IVC infrastructure, with IVC stakeholders effectively participating in and managing the IVC, and State Government efficiently performing regulatory and oversight functions of IVCs and the PPP contracts. Accordingly, GOB has passed the resolution of implementation of IVCs under Agribusiness Infrastructure Development Investment Program (AIDIP) by adopting PPP approach.

5. To attract private sector investments, provision has also been made to subsidize a portion of the investment cost providing a Capital Grant from GOB. The PPP contracts will be signed with the private sector concessionaires selected in a transparent and competitive way, with the portion of capital grant as the bidding parameter, and these concessionaires will be responsible to design, build, finance, operate and maintain the IVC. Selected concessionaires will finalize the design in consultation with the State Government, procure works as per the ADB Procurement Guidelines, and fully manage the IVC infrastructure. The PMU will coordinate overall implementation of the project through administrative support, contracting of the PPP transactions, monitoring & evaluation (M&E), and financial management of the project activities.

C. Impact and Outcome

6. The impact of the overall investment program (AIDIP and JFPR¹) will be higher value of horticulture products captured by the stakeholders of the IVCs in selected regions of Bihar, as the private sector brings in world-class technology and modern management, increased integration and linkage of agriculture production with main stream markets and increased income to farmers thereby improving their quality of life. The investment program outcome will be the investment in and management of eight or more IVCs, including small-scale farmers, by the private sector.

D. Implementation Arrangements

7. A National Steering Committee (NSC) for AIDIP is going to be established at central level under the chairmanship of the Secretary of the Ministry of Agriculture (MOA, GOI) with the following as members: representatives of the Department of Economic Affairs (DEA) of Ministry of Finance (MOF, GOI), Ministry of Food Processing Industries (MFPI, GOI) and Planning Commission, representatives of the State Executive Agencies and the Director of Marketing of MOA, GOI who is the Secretary.

8. The State Executing Agency (EA) for the Facility is the Department of Agriculture, GOB. The State has, for the purpose of expeditious implementation of special projects for development of agriculture sector, established in the name and form - Bihar Agribusiness Management Society (BAMS). The BAMS, located in Patna, will act as the Project Management Unit (PMU) to ensure the efficient implementation of AIDIP with a focus on facilitation and coordination rather than direct “hands on” implementation, i.e. sub-contracting of specific activities.

9. The PMU will invite bids from the private sector to design, construct, operate and maintain the IVC projects on PPP basis; and these private sector concessionaires will be expected to invest, build and operate IVC projects (Pilot Projects) on land either purchased by the investor and or on land provided on lease by the government. In parallel, the IVC infrastructure associated with these projects is being constructed and financed by the

¹ US\$1.22 million grant assistance is being provided for *Improving Small Farmers' Access to Markets in Bihar*, under Japan Fund for Poverty Reduction (JFPR-9147)

government under an ADB loan. The ADB loan will support the IVC approach being taken, and finance, inter alia, eligible linking investments (the Link Investments) in site development and agribusiness infrastructure and investments necessary to ensure basic services and connectivity across the value chain; contract farming and producers' companies; as well as capacity building on technical and managerial skills (Stakeholder Capacity Building) for participants along the value chain in Bihar.

E. Current Status

10. In Bihar, under AIDIP, creation of two IVCs in Nalanda and Muzzafarpur regions is envisaged and the Detailed Project Reports (DPRs) for these two IVCs are to be prepared. The design of these projects envisages significant investment and operation in agribusiness by the private sector while leaving the public sector as a regulator and market manager. The documentation regarding the implementation of the initial IVC projects in the Nalanda Region and the Muzzafarpur Region is available with the State Government. With a view to improve the project design in the existing DPRs, the technical advisory group (TAG) is expected to draw upon the experiences and lessons learnt from the pilot IVCs and to ensure that appropriate precaution/interventions (as applicable/required) for incorporated during the development of DPRs for subsequent IVCs.

F. Objectives Of The Assignment

11. The overall objective of the assignment is to assist the Government structure the project through a bid process for selection and engagement of private sector partner for investment in the 2 IVCs in Bihar. The various stages of the work to be done by TAG are detailed below.

G. Scope of Work

12. Procurement shall follow the relevant ADB procurement guidelines.

13. The procurement process is for a challenging sector for which no model documents/procedures of GOI are available. The consultant will therefore need to develop an appropriate framework, design and or recommend changes in the proposed design in the DPRs of the 2 IVCs based on the consultations/road shows with the private sector/potential investors, and finalize the procurement strategy. The scope of work therefore includes, but not limited to, the following:

1. Stage I: Transaction Design

- (i) Review the DPRs of the proposed 2 IVCs, designs, cost estimates and financing plan already prepared for the two IVC projects;
- (ii) Understand the legal framework under which the contracting can be accomplished;
- (iii) In consultation with Government conduct preliminary discussion to explore interest of potential private sector players and get feedback on bankability of project, PPP structure, proposed performance and eligibility criteria. Carryout presentations regarding proposed project structure and disseminate information to evince interest among potential private sector partners to attract quality and credible bids for each IVC.
- (iv) Determine the mode of the agreement (PPP, funding line, etc.) feasible under the legal regime;

- (v) Recommend an appropriate contractual structure for implementation of the Project with related analysis of financial, technical and other aspects;
- (vi) Determine the procurement strategy for selection of preferred project developer, and suggest the required documentation (along with term sheets) for the same; and
- (vii) Hold meetings with stakeholders (private and public) to discuss and finalize the contractual structure, procurement strategy, and term sheets.

2. Stage II: Procurement Documents

- (i) Finalize the technical scoping (input specifications and output parameters) for mandatory facilities, including draft layout drawings, costing, as required, for the procurement process. Scoping should also include suggested services level parameters to be achieved under the project;
- (ii) Prepare a financing/commercial model to assess the project viability. The model should be based on standard banking and accounting principles on a project finance construct, and factor in the viability support from the government;
- (iii) Draft the Project Information Memorandum, Expression of Interest (EOI), Request for Qualification (RFQ), Request for Proposal, and Project Development Agreements subject to approval of ABD and the Government;
- (iv) Carryout presentations regarding proposed project structure and disseminate information to evince interest among potential private sector partners to attract quality and credible bids for each IVC;
- (v) Based on the outcome of the market consultation exercise, effect necessary changes if any required, in the procurement documents, and finalize the same; and
- (vi) Make presentations to government and other stakeholders, as may be required, to solicit process approvals.

3. Stage III: Procurement Process

- (i) Issue EOI and RFQ (may be separate stages or one, depending on approved procurement strategy) in the market, lead bid conferences with potential private sector investors; receive qualification proposals, prepare evaluation report, draw up a shortlist of qualified bidders; submit the evaluation report to State Government for approval;
- (ii) Process approvals of the short list of firms with GOB;
- (iii) Issue of Request for Proposals (RFPs) to shortlisted bidders, invite them to send in their queries and clarifications related to the project structure or bid process to the PMU, formulation of responses to bidder queries;
- (iv) Organize a pre-bid meeting with the shortlisted firms to address all the concerns raised by the bidders. The responses given on behalf of the state will be incorporated into the RFP and issued to all shortlisted bidders;
- (v) Upon receipt of completed proposals, evaluate technical and financial proposals based on predetermined evaluation criteria, prepare bid evaluation report and recommendations in accordance with the criteria in the RFP document, recommending a private developers; and
- (vi) Provide assistance to the State Government in contract negotiations, including its provision and conditions such as guarantee measures and actions in case of default, etc. and continue assistance for processing approvals required for the developer, followed by signing of project development agreement.

4. Deliverables

- (i) Project structure note;
- (ii) Technical scope report;
- (iii) Financial analysis report;
- (iv) Project Information Memorandum;
- (v) EOI and RFQ;
- (vi) RFP including project development agreement;
- (vii) Evaluation report for EOI and RFQ; and
- (viii) Evaluation report of RFP and recommendation of preferred bidder.
- (ix) Assist Government in negotiation process with successful bidder;
- (x) Assist state Government in the processes till signing of Concession Agreement between Government and Concessionaire

H. Consultant team

14. The Consultant should be a firm or other relevant enterprise with a fully operational office in India. In the case of a consortium, the identity of the lead consultant shall be clearly stated and related memorandum of understanding (MOU) must be submitted with the EOIs. The Firm bidding for the assignment should have the following qualification:

- (i) Preferably 10-years professional experience of working on PPP transactions, and bid process management. Experience in agribusiness and marketing will be given additional weightage;
- (ii) Expertise in the following areas: (a) Agribusiness and Marketing especially development of IVCs, (b) Legal processes, and (c) Financial & Policy matters;
- (iii) Experience in successfully managing the process of selection of concessionaire Agribusiness preferably; and
- (iv) International experience to strengthen the firm's experience will be given additional weightage.

The Consultant should have a team of key professional staff as given below:

Sl. No.	Expert	Position	Man Months
1	Lead Transaction Advisor (Project Finance Expert and PPP Specialist)	Team Leader	5
2	Agriculture Business Marketing/ Supply Chain Expert	Specialist	2
3	Civil/ structural/ mechanical engineer	Specialist	2
3	Legal/PPP Contract Expert	Specialist	2
4	Support staff		3
	Total		14

Contract Period: 11 months or until signing of project development agreement, whichever is earlier.

15. The detail scope of work for each of the above specialists is as detailed below:

1. Lead Transaction Advisor (Project Finance Expert and PPP Specialist)

Post Graduate in Management/ Chartered Accountant or equivalent. Minimum 10 years experience in working in financial planning and modeling for private sector projects. Successful Experience in developing at least two PPP projects in infrastructure/ agriculture sector – advantageous/preferred:

- (i) Review project cost prepared for each value chain with reference to the proposed means of finance, assessment pertaining to bankability of the IVC, and the risk mitigation mechanism;
- (ii) Review and recommend project structure; transaction design and procurement strategy for selected private concessionaire/developer;
- (iii) Examine and recommend as appropriate the potential for linking various ongoing government schemes with the project to enhance the viability of the project;
- (iv) Assist the legal expert in preparing contract and procurement documents;
- (v) Assist the Government in evaluation of RFPs, negotiations and signing of Concession Agreement;
- (vi) Selection of concessionaire, initiate the process and assist Government in the successful negotiation and signing of the agreement with the private sector concessionaire;
- (vii) Conduct road shows/workshops/seminars/consultations with potential private sector investors;
- (viii) Identify and draw up lessons learned from the selection process of concessionaires for the two IVCs and submit the same to the Government for future guidance; and
- (ix) Prepare completion report on completion of tasks described in the terms of reference (TOR).

2. Agribusiness Marketing/Supply Chain Specialist

Masters Degree in Agriculture with at least 10 years experience in establishment /working on agribusiness project/sector and five years in supply chain management.. Experience in PPP projects desired

- (i) Assist in holding meetings with key stakeholders in finalizing the contractual structure, procurement strategy and term sheets and evince interest among potential private concessionaire in the process to attract quality and credible bids for each IVC;
- (ii) In coordination with the Lead Transaction Advisor, identify existing value chain operators elsewhere and find ways and means to co-opt them in the proposed 2 IVCs;
- (iii) Review the feedback of the private sector and other potential stakeholders likely to invest in the subprojects along the value chain and incorporate them in the final procurement design; and
- (iv) Assist in the procurement process of potential private concessionaire and approval of shortlisted firms with GOB.

3. Civil/structural/mechanical engineer

B.E. (Civil) or equivalent from recognized University. Minimum 10 years experience in Civil Construction, design and planning. Working experience in multilateral financed projects desirable

- (i) Undertake technical scoping (input specifications and output parameters) for mandatory facilities, including layout drawings, costing, as required, for the procurement process. Services level parameters should be part of the scoping that will be identified under the project;
- (ii) Participate in pre-bid meetings with the shortlisted firms to address all their concerns especially related to mandatory facilities and costing;
- (iii) Assist in the evaluation of technical proposals submitted by potential private sector concessionaire and short-listing of firms; and
- (iv) Perform other tasks as may be assigned by the Lead Transaction Advisor.

4. Legal/PPP Contract Expert

Master’s in Law/Corporate Law with 10 years of practice either with leading law firms/ large industrial houses/High Court/Supreme Court. Experience in drafting legal agreements for PPP/BOOT/BOT projects – highly desired

- (i) Review legal aspects for PPP detailed in the draft bid/contract documents for the two IVCs;
- (ii) Review legal aspects RFQs and RFPs submitted by the concessionaires’; and
- (iii) Respond to specific queries of legal nature in discussion with the PPP expert, Lead Transaction Advisor and in consultation with Government.

16. **Support staff:** The firm may include one support staff to assist the experts in the proposed team during the execution of the contract.

I. Payment terms

17. Payment of the consultancy assignment will be made by the State Government as detailed below:

S. No.	Deliverables	Payment Schedule
1	Issue of RFQs for first 2 IVCs	10 % of the total Amount
2	Road shows, workshops, seminars, consultation, private sector, etc.	15 % of the total Amount
3	Submission of evaluation report of RFP	20 % of the total Amount
4	Negotiation with successful bidder	25 % of the total Amount
5	Upon Signing of Concession Agreement	30 % of the total Amount
	Total	100 %

J. Submission of Expression of Interest

18. Interested international and/or national firms/ organizations are requested to submit their EOIs containing the following documentation:

- (i) Brief profile of the firm .
- (ii) Preferably 10-years professional experience in areas of PPP transaction advisory in agri business & marketing (preferred) and have completed at least two PPP transactions, and development and financial & policy analysis for PPP projects. Please provide details/documentary evidence of such projects and scope of work of the firm for each project.

- (iii) The annual turnover of the firm should not be less than US\$2 million. Please submit Annual audited reports for the last three years to support declaration.
- (iv) Provide list of relevant experts with experience in the firm and confirm availability of the proposed manpower to analyze, and successfully conclude PPP transaction under the assignment. An indicative list of up to three experts per listed position should be submitted with the EOI. The firm with the first-ranked EOI will be required to finalize the specific expert proposed for the assignment upon submission of their technical and financial proposal.

19. Firms may submit their EOIs in joint venture with other firms or a consortium of firms to comply with aforesaid requirements. All firms and experts must be from ADB member countries and otherwise eligible to participate in ADB financed projects under the provisions of ADB's Procurement and Consulting Guidelines.

20. The EOI in full, along with the aforesaid supporting documents must reach the undersigned at the address given below on or before 21-11-2012 at 3.00PM. EOIs received after the due date and time will not be considered for evaluation:.

**MISSION DIRECTOR
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