

**e-Request for Proposal
(eRFP)**

For

**SELECTION OF INDIAN LAW FIRMS
FOR LEGISLATIVE DRAFTING FOR THE
PROPOSED REVAMPING OF THE
EXISTING MERCHANT SHIPPING ACT,
1958 AND RULES / REGULATIONS
THEREUNDER**



**Indian Ports Association
1st Floor, South Tower, NBCC Place,
Bhisham Pitamah Marg, Lodhi Road,
New Delhi 110 003
Email: tender.ipa@nic.in
December, 2018**

INR 2,000/-

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**LETTER FOR ISSUE OF e-RFP
for**

**Selection of Indian Law Firms for Legislative Drafting for the Proposed Revamping of the
existing Merchant Shipping Act, 1958 and Rules /Regulations there under**

**for
Indian Ports Association, New Delhi**

The set of RFP document is issued to:

Name: _____

Address: _____

The cost of the RFP document is INR 2,000/- (Indian Two Thousand Rupees Only)

Signature of the Officer
Issuing the RFP Document:

INDIAN PORTS ASSOCIATION

Tender No. IPA/GAD/Shipping Act /2018

Dated: 28/12/2018

Notice: Inviting eRFP for Selection of Indian Law Firms for Legislative Drafting for the Proposed Revamping of the existing Merchant Shipping Act, 1958 and Rules /Regulations there under

Indian Ports Association, a society registered under the Societies Registration Act, 1860 has been assigned by Ministry of Shipping, Government of India, the task for **Selection of Indian Law Firms for Legislative Drafting for the Proposed Revamping of the existing Merchant Shipping Act, 1958 and Rules /Regulations there under.**

Accordingly, Indian Ports Association (IPA) on behalf of Ministry of Shipping invites **E-Requests for Proposal (eRFP) from reputed Indian laws Firms for Legislative Drafting for the Proposed Revamping of the existing Merchant Shipping Act, 1958 and Rules /Regulations there under.** The eRFP document providing the Terms of Reference (ToR), pre-qualification criteria, terms and conditions including evaluation criteria and application fee are available in the web site <http://ipa.nic.in>, as well as eProcurement Portal (CPPP) www.eprocure.gov.in

The schedule for receipt of the application is as follows:-

1. Pre-bid meeting at 1230 Hrs on 07/01/2019
2. Receipt of Online and offline offers on or before 1500 Hrs on 18/01/2019
3. Online Opening of Technical offers at 1530 Hrs on 18/01/2019

Reputed and interested firms/ consulting firms/consortium may download the RFP from the above website and send in their response to the Managing Director, Indian Ports Association, 1st. floor, South Tower, NBCC Place, Bhisham Pitamah Marg, Lodi Road, New Delhi – 110 003.

In case, RFP document is downloaded from website, the requisite document fee of Rs. 2,000/- in the form of Demand Draft, in favor of Indian Ports Association shall be submitted along with bid.

Online bids shall be accepted only at eProcurement web site <https://eprocure.gov.in/eprocure/app> (CPPP). If any bidder fails to submit the bid online, then the bid shall be treated as “Non-Responsive”.

INDIAN PORTS ASSOCIATION

Selection of Indian Law Firms for Legislative Drafting for the Proposed Revamping of the existing Merchant Shipping Act, 1958 and Rules /Regulations there under

1. Introduction

1.1 India's ports comprise of 12 major ports and around 200 non-major ports along the coast and islands. The Major Ports except one i.e. Kamarajar Port (Ennore) are managed by the respective Port Trust Boards under the Major Port Trust Act, 1963 and the Kamarajar Port is in the form of a Public Limited Company. All the Major Ports are administered by the Central Government under the Ministry of Shipping. The total volume of traffic handled by all the Indian Ports during 2014-15 was 1052.00 million tons and the major ports account for around 57% of the total seaborne trade.

The Government of India has formulated "National Maritime Agenda 2010-20" in which, a number of development projects have also been identified under five projects heads viz. deepening of channels, construction and re-construction of berths, procurement / modernization of equipments, hinterland connectivity and various other developmental works to be taken up, in order to meet the projected traffic and estimated capacity. The expected investment for the Major Ports from 2010-2020 is Rs 127942.35 crores.

1.2 The Directorate General of Shipping, India deals with the implementation of shipping policy and the legislation so as to ensure the safety of life and ships at sea, prevention of marine pollution, promotion of maritime education and training in co-ordination with the International Maritime Organization, regulation of employment and welfare of seamen, development of coastal shipping, augmentation of shipping tonnage, examination and certification of merchant navy officers, supervision and control of the allied offices under its administrative jurisdiction through 13 Mercantile Marine Departments [MMDs] located in the maritime states/union territories.

2. Objective

2.1 The objective of this e-RFP is **Selection of Indian Law Firms specialized in Legislative Drafting for the Proposed Revamping of the existing Merchant Shipping Act, 1958 and Rules /Regulations** other relevant works of law as per Objectives and Scope of Work given in Part 2, The kind of services involved and respective rates shall be finalized in this RFP.

2.2 The e-RFP document provides the Terms of Reference (ToR), pre-qualification criteria, terms and conditions including evaluation criteria, EMD, application fee and suggested response formats for easy understanding, the document has been divided into the following sections:-

Section 1 - Instructions to Law Firms

Section 2 - Terms of Reference (ToR)
Part I - Objective & Scope of Services
Part II - TOR related information, Terms & Conditions

Section 3 - Technical Proposal - Standard Forms & Other Undertakings
Financial Proposal - Standard Forms

(Instructions to Legal Firms)

1. Standard Definitions

(a) “Employer” means the Ministry of Shipping, Government of India/ IPA/Major Ports which has invited the bids for consultancy services and with which the selected Firm signs the contract for the services and to which the selected firm shall provide services as per the terms and conditions and TOR of the contract.

(b) “Firm” means any interested Law firms/companies/agencies who submit their proposals for legal services that they shall provide to the Employer under the contract.

(c) “Contract” means a contract signed by the Parties and all the attached documents listed in its Clause 1, that is the General Conditions (GC), the assignment Specific Conditions (SC), and the Appendices.

(d) “Assignment specific information”, means such part of the Instructions to Firms used to reflect specific assignment and its attendant information/ conditions.

(e) “Day” means a calendar day.

(f) “Government” means the Government of India.

(g) “Instructions to Firms” (Section 1 of the RFP) means the document, which provides Firms with all information needed to prepare their proposals.

(h) “Personnel” means professionals and support staff provided by the Firm or by any approved Sub-firm and assigned to perform the Services or any part thereof.

(i) “Proposal” means the Technical Proposal and the Financial Proposal.

(j) “RFP” means the Request for Proposal prepared by the Employer for selection of Firms.

(k) “Assignment/Job” means the work to be performed by the Firm pursuant to the Contract.

(l) “Sub-Firm” means any person or entity with which the Firm subcontracts any part of the assignment/job with the due approval of the employer.

(m) “Terms of Reference” (TOR) means the document included in the RFP as Section 2 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Employer and the Firm, and expected results and deliverables of the Assignments/job.

2. Introduction

2.1 The Employer shall select a consulting Law firm/organization (the Firm) in accordance with the method of selection specified in Part II of Section 2.

2.2 Detailed scope of the work has been described in the TOR in Section 2.

2.3 The date, time and address for submission of the proposals/bids have been given in Section 1.

2.4 The Indian Law Firms are invited to submit their Proposal, for selection of firm. The Proposal shall be the basis for signing the contract with the selected firm.

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2.5 The Employer shall provide the Law Firm with the inputs and facilities specified in Section 2 without any cost and also make available relevant assignment data and reports.

2.6 The Law Firms shall bear all costs associated with the preparation and submission of their proposals and contract negotiations. The Employer is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to award of contract, without thereby incurring any liability to the Firms.

3. Eligibility of Association of Firms and Sub-Firms

3.1 If the bidder/Firm has formed a consortium of firms, each member of the consortium shall be evaluated as per the qualification/eligibility criteria set forth in Part II of Section 2. The combined score of each member of the consortium shall be taken into account for evaluation purposes. If any member of the consortium is dropped at the RFP stage, such consortium of firms is liable to be rejected by the Employer. However, the Employer, at its sole discretion, may decide to evaluate for short listing such consortium without considering the strength of the dropped member and if found eligible, may allow such consortium to submit their proposal.

3.2 A firm may associate with other firms and/or individual expert at the time of submission of proposal. Under such circumstances each member of the association of firm shall be evaluated as per the qualification/ eligibility criteria set forth in Part II of Section 2. The combined score of each member of the consortium/association of firm shall be taken into account for evaluation purpose. However, the lead member of the consortium /association shall be the firm, who has submitted the proposal and the employer shall deal with only the lead member for the purpose of this assignment. Although, the contract shall be signed by all the members of the consortium/association, the lead member of the association of the firms shall be responsible and liable to the Employer for every aspect of their proposal, contract, etc.

4. Clarification and Amendment of RFP Documents

4.1 Intending bidders/Law firms may request for a clarification on any clause of the RFP documents up to the number of days indicated in Section 1 before the proposal submission date. Any request for clarification shall be sent in writing or by standard electronic means to the Employer's address indicated in Section 1. The Employer may respond in writing or by standard electronic means and may send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all the Firms. Should the Employer deem it necessary to amend the RFP as a result of a clarification, it may do so following the procedure under para 4.2 below.

4.2 At any time before submission of Proposals, the Employer may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be sent to all Firms and shall be binding on them. Firms shall acknowledge receipt of all such amendments. To give Firms reasonable time to take an amendment into account in their Proposals, the Employer may, if the amendment is substantial, extend the deadline for submission of Proposals.

5. Conflict of Interest

5.1 The Employer requires that the firms provide professional, objective, and impartial advice and at all times hold the Employer's interests paramount, strictly avoid conflicts with other Assignments/jobs or their own corporate interests and act without any consideration for future work.

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5.2 Without limitation on the generality of the foregoing, the Firms, and any of their affiliates, shall be considered to have conflict of interest and shall not be recruited, under any of the circumstances set forth below:

Conflicting activities: A firm that has been engaged by the Employer to provide work or Assignment/job other than consulting Assignment/job for a project and any of its affiliates shall be disqualified from providing consulting Assignment/ job related to those works or Assignment/job. Conversely, a firm hired to provide consulting Assignment/job for the preparation or implementation of a project and any of its affiliates shall be disqualified from subsequently providing goods or works or Assignment/job other than consulting Assignment/job resulting from or directly related to the firm's consulting Assignment/job for such preparation or implementation. For the purpose of this paragraph, Assignment/job other than consulting Assignment/job are defined as those leading to a measurable physical output, for example surveys, strategic studies,

Conflicting Assignment/job: A Firm (including its Personnel and Sub- Firms) or any of its affiliates shall not be hired for any Assignment/job that by its nature may be in conflict with another Assignment/job of the Firm to be executed for the same or for another Employer.

Conflicting relationships: A Firm (including its Personnel and Sub- Firms) that has a business or family relationship with a member of the Employer's staff who is directly or indirectly involved in any part of (i) the preparation of the Terms of Reference of the Assignment/job, (ii) the selection process for such Assignment/job, or (iii) supervision of the Contract, shall not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Employer throughout the selection process and the execution of the Contract.

5.3 Firms have an obligation to disclose every situation of actual or potential conflict that impacts their capacity to serve the best interest of their Employer, or that may reasonably be perceived as having this effect. Any such disclosure shall be made as per the Standard forms of technical proposal provided herewith. If the firm fails to disclose said situations and if the Employer comes to know about any such situation at any time, it shall lead to the disqualification of the Firm during bidding process or the termination of its contract during execution of assignment.

5.4 No agency or current employees of the Employer shall work as Firms under their own ministries, departments or agencies.

6. Unfair Advantage

6.1 If a Firm is likely to derive a competitive advantage from having provided consulting Assignment/job related to the Assignment/job in question and which is not defined as conflict of interest as per para 5 above, the Employer may make available to all Firms together with this RFP all information that in that respect give such Firm any competitive advantage over competing Firms.

7. Proposal

7.1 Each Firm shall submit only one proposal. If a Firm submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the participation of the same Sub-Firm, including individual experts, to more than one proposal.

8. Preparation of Proposals

8.1 The proposal as well as all related correspondence exchanged by the Firms and the Employer shall be written in English language, unless specified otherwise.

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8.2 In preparing their Proposal, the Firms shall examine in detail the documents comprising the RFP. Material deficiencies in providing the requested information shall result in rejection of the Proposal.

8.3 While preparing the Technical Proposal, if a Firm considers that it may enhance its expertise for the Assignment/job by associating with other Firms in sub-consultancy, it may associate with a Firm which has not been technically qualified as a part of the application process of this RFP.

8.4 Firms are required to submit their proposal in forms provided in Section 3. **Submission of the wrong type of Proposal shall result in the Proposal being deemed non-responsive.** The Proposal shall provide the information indicated in the following paras from (a) to (d) using the attached Standard Forms (Section 3). Form TP-1 in Section-3 is a sample letter of proposal which is to be submitted along with the proposal.

(a) A brief description of the firm's organization and in the case of a consortium/joint venture such description of each consortium member, shall be provided in Form TP-2. In the same Form, the firm and in the case of a consortium/joint venture, each member thereof shall provide details of experience of assignments which are similar to the proposed assignment/job as per the terms of reference. For each Assignment/job, the outline shall indicate the names of Sub-Firms/Professional staff who participated, duration of the Assignment/job, contract amount, and Firm's involvement. Information shall be provided only for those Assignment/jobs for which the Firm was legally contracted by the Employer as a corporation or as one of the major firms within a joint venture. Assignment/jobs completed by individual Professional staff working privately or through other consulting firms shall not be claimed as the experience of the Firm, or that of the Firm's associates, but may be claimed by the Professional staff themselves in their CVs, which may be aggregated with that of the firm for the purposes of evaluation. Firms shall be prepared to substantiate the claimed experience along with the proposal and must submit letter of award/copy of contract for all the assignments mentioned in the proposal. In case of client confidentiality agreements, a self certification shall be provided by the Partner of the firm.

(b) CVs of the Professional staff as mentioned above duly signed by the staff themselves or by the authorized representative of the Professional Staff shall be submitted(Form TP-5 of Section 3).

(c) The firm shall be deemed to have given an undertaking to the IPA/Ministry of Shipping declaring that it shall have no conflict of interests in advising on each assignment.

8.5 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information shall be declared non-responsive.

8.6 **Financial Proposals:** The Financial Proposal shall be prepared using the attached Standard Forms (Section 3). The financial proposal shall not include any conditions attached to it and any such conditional financial proposal shall be rejected summarily. Formats of Schedule of fees have been provided at FP-2. Firm shall quote/indicate their fees in the said schedule, signed by the bidder on the said schedule itself and shall be submitted in separate sealed cover along with the bid documents.

9. Proposal Validity

The proposal shall be valid for 180 (one hundred and eighty) days from the date of opening of the proposal.

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10. Taxes

The firm shall fully familiarize themselves about the applicable domestic taxes (such as GST, services, income taxes, fees, levies, etc) on amount payable by the employer under the contract. All such taxes (except GST) shall be included by the firm in the financial proposal.

11. Currency

Firm shall express the price of their Assignment/Job in Indian Rupees only.

12. Earnest Money Deposit (EMD) and Performance Guarantee

12.1 Earnest Money Deposit

i. An EMD of ₹2,50,000 (Two Lakhs and Fifty Thousand Indian Rupees Only), in the form of Demand Draft(DD) drawn in favour of Indian Ports Association, payable at New Delhi has to be submitted along with the proposal.

ii. Proposal not accompanied by EMD shall be rejected as non-responsive.

iii. No interest shall be payable by the Employer for the sum deposited as earnest money .

iv. No bank guarantee shall be accepted in lieu of the earnest money .

v. The EMD of the unsuccessful bidders shall be returned within 60 days after the award of job.

12.2 The EMD shall be forfeited by the Employer in the following events:

i. If proposal is withdrawn during the validity period or any extension agreed by the firm thereof.

ii. If the Proposal is varied or modified in a manner not acceptable to the Employer after opening of Proposal during the validity period or any extension thereof.

iii. If the firm tries to influence the evaluation process.

iv. If the first ranked firm withdraws the proposal during financial negotiations (failure to arrive at consensus by both the parties shall not be construed as withdrawal of proposal by the firm).

12.3 Performance Guarantee

EMD of the successful bidder shall be retained by the employer towards Performance Guarantee for entire validity period of empanelment. No interest shall be paid on performance guarantee.

13. Submission, Receipt and Opening of Proposal

13.1 The original proposals, both Technical and Financial Proposals shall contain no interlineations or overwriting, except as necessary to correct errors made by the firms themselves. The person who signed the proposal must initial such corrections. Submission of letters for both Technical and Financial Proposals shall respectively be in the format of TP-1 of Section 3 & FP-1 of Section 3.

13.2 An authorized representative of the firms shall initial all pages of the original Technical and Financial Proposals. **The authorization shall be in the form of a written power of attorney accompanying the proposal or in any other form demonstrating that the representative has been**

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duly authorized to sign. The signed Technical and Financial Proposals shall be marked “ORIGINAL”.

13.3 Applicant must submit:

- **Technical proposal:**

Scanned copies of Technical Bid shall be submitted on e-Procurement Portal (CPPP) <https://eprocure.gov.in/eprocure/app> in the First Cover (Technical Bid) and also two hard copies (one original + one copy) and along with 2 soft copies in word format in CD or Pen drive. This outer envelope shall bear the submission address, reference number be clearly marked “DO NOT OPEN, BEFORE- 1530 Hrs on 18/01/2019”.

- **Financial Proposal:**

The Financial bid shall be submitted online only as per the Price Schedule given in Section 3 Financial Proposal and attached in PDF format in e-procurement Portal only (CPPP) <https://eprocure.gov.in/eprocure/app>. Any indication of ‘Quoted Price’ in the online technical bid documents shall lead to rejection of the bid outright. For evaluation purposes, the uploaded offer documents shall be treated as authentic and final. No hard copy of financial Bid shall be submitted. The price Bid submitted through e-procurement mode only shall be taken up for the purpose for evaluation. Please refer to Annexure-III for further details.

13.4 The proposal shall be sent to the address/ addresses indicated in Section 1 and received by the Employer not later than the time and the date indicated in the Section 1 or any extension to this date in accordance with para 4.2 above. Any proposal received by the Employer after the deadline for submission shall be returned unopened.

14. Proposal Evaluation

14.1 From the time the proposals are opened to the time the contract is awarded, the firms shall not contact the Employer on any matter related to its Technical and/or Financial Proposal. Any effort by Firms to influence the employer in the examination, evaluation, ranking of Proposal, and recommendations for award of contract shall result in the rejection of the firm’s proposal.

14.2 The employer may constitute a selection Committee which shall carry out the entire evaluation process.

14.3 The Selection Committee while evaluating the technical proposal shall have no access to the Financial Proposals until the technical evaluation is concluded and the competent authority accepts the recommendations.

14.4 The selection committee shall evaluate the Technical Proposal on the basis of their responsiveness to the Term of Reference and by applying the evaluation criteria specified in Section 2.

14.5 Financial proposals of only those firms which are technically qualified shall be opened on the date & time specified by the employer in the presence of the firms’ representatives who choose to attend.

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15. Technical Negotiations

15.1 Technical negotiation may include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organization and staffing, and any suggestions made by the firm to improve the Terms of Reference. The employer and the firms shall finalize the Terms of Reference, staffing Schedule, work schedule, logistics and reporting. These documents shall then be incorporated in the contract.

15.2 Availability of Professional/Staff/expert: Employer shall require assurances that the Professional staff shall be actually available.

16. Award of Contract

After technical Negotiations, the employer shall issue a letter of intent (LOI) to the selected firm. The firm shall then sign the contract after fulfilling all the formalities/pre-conditions like submission of Performance Bank Guarantee, etc.

17. Confidentiality

Information relating to evaluation of Proposal and recommendations concerning short-listing shall not be disclosed to the firms who submitted the proposal or to other persons not officially concerned with the process, until the publication of the approved short-list. The undue use by any firm of confidential information related to the process shall result in the rejection of its proposal and shall also be subject to the provisions of the Employer's antifraud and anti-corruption policy.

18. Timelines and Schedule

The schedule for receipt of the application is as follows:-

1. Pre-bid meeting at 1230 Hrs on 07/01/2019
2. Receipt of offers on or before 1500 Hrs on 18/01/2019
4. Opening of Technical offers at 1530 Hrs on 18/01/2019

19. Contents of Proposal Document: The Proposal Document comprises the contents as mentioned in this document and additionally includes Addendum if any, issued by the Chief Administrative Officer, IPA.

20. Scrutiny and Evaluation of Proposals:

Preliminary Scrutiny:

In the first instance the officer of (Tender Inviting Authority) appointed for opening of proposals shall ascertain the availability of proper Proposal Security. In case a proposal is received without the requisite and proper Proposal Security, it shall be summarily rejected and the second envelope of such proposal containing Financial Proposal shall be returned unopened to the concerned bidder/s.

Responsiveness of Proposals:

The proposals received on time, accompanied by the requisite and proper Proposal Security shall thereafter be examined for responsiveness. A responsive proposal is one which conforms to all requirements of the Proposal Document. A proposal shall be treated non-responsive for any or all of the following reasons: -

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- a. The bidder/s not meeting all of the 'Minimum Eligibility Criteria' as stipulated in the 'Notice Inviting RFP'.
- b. All the information as indicated in the Proposal Document is not furnished.
- c. Validity of proposal not confirmed.
- d. Proposal documents not signed and sealed in the manner prescribed in the Proposal Document.
- e. The proposal and supporting documents show significant variations and or inconsistency/ies.
- f. If the technical proposal indicates/ discloses directly or indirectly financial proposal.

A non-responsive proposal shall be rejected at this stage and the second envelope of concerned bidder/s shall be returned unopened to them.

21. Scrutiny of Technical Proposals:

Responsive bids shall be examined in details for their technical contents. Compliance to detailed Scope of work, Experience of bidder, proposed work plan for implementation, team composition etc. of the bidders shall be checked. In the process of this examination, some clarifications may become necessary. These shall be sought and furnished in writing. However, the basis of proposal shall not be permitted to be changed or altered either to fulfill minimum eligibility criteria or to make a non-responsive proposal responsive or to qualify for meeting the technical proposal parameters. The proposals which are found deficient or defective or unacceptable due to any reason shall be treated as non-responsive.

22. RFP Document

The RFP document providing the Terms of Reference (ToR), pre-qualification criteria, terms and conditions including evaluation criteria and application fee are available on the website <http://www.ipa.nic.in> as well as eProcurement Portal (CPPP) www.eprocure.gov.in

Reputed and interested firms/consulting firms/consortia may download the eRFP from the above website

In case, RFP is downloaded from website, the requisite document fee of Rs.2,000/- in form of Demand Draft in favor of Indian Ports Association shall be submitted along with bid.

23. Submission of Proposal

Proposal, complete in all respects as specified in the RFP document, shall be submitted to;

Managing Director,
Indian Ports Association,
1st. floor, South Tower, NBCC Place,
Bhisham Pitamah Marg,
Lodi Road, New Delhi – 110 003

The bids received after the due date shall be rejected and no action shall be taken on these bids.

Section 2

(Terms of Reference)

PART I: Objective & Scope of Work

1. Objective :

- i. The first Indian Merchant Shipping Act was enacted in 1923, the provisions of which were in line with the U.K. Merchant Shipping Act, 1894. After independence, taking into account of new conditions and changes that have taken place in the Shipping Industry, a comprehensive legislation was passed by the Parliament of India in 1958 known as Merchant Shipping Act, 1958 ('the Act').
- ii. The Act has been constantly under revision and amendments to ratify the changes approved by the International Maritime Organization, through its conventions and protocols, to which India is a Member.
- iii. Maritime trade, and consequently merchant shipping, is essential pivot for holistic development of any economy. India is experiencing a fast-paced growth, with development of internal domestic consumer markets as well as being uniquely positioned to undertake manufacturing for the world. Movement of goods through maritime channels is essential to this development and growth. The Government of India has brought in a renewed focus on development of maritime trade, enhancing investor competitiveness of the sector and ensuring ease of doing business. With these objectives, the Ministry of Shipping/IPA wishes to engage a Law Firm to provide legislative research and drafting services as detailed herein below for revising the legal and regulatory provisions under the Act.

2. Scope of Work

The Law firm, under the overall guidance of the Ministry of Shipping/IPA, shall *inter-alia* do the following tasks as a part of the Scope of Work:-

A. For the Act:

- i. To Re-visit the provisions of existing legislation (including Acts, Rules and Notifications, etc) related to Merchant Shipping Act, 1958
- ii. To examine corresponding Acts of some prominent Maritime Nations to replicate or adapt them to Indian conditions and requirements.
- iii. To participate in two to three national workshops for consultations.
- iv. To draft and Re-write and submit suggestions for amendments, new legislations and framing of new rules w.r.t Merchant Shipping Act
- v. To circulate the new draft MS Bill to stakeholders & concerned Departments for consultation.
- vi. To participate in discussions with the stakeholders as the Employer might require
- vii. To examine the areas to be regulated but not included in the existing Act/Bill which may be incorporated.

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- viii. To suggest the changes i.e. modification, deletion or addition of new clauses in the Bill and to formulate/ the draft text of such modifications/new clauses with justifications thereof for such changes.
- ix. To remove the outdated provisions of the Act.
- x. Examine the existing international conventions which have been approved by the Government but yet to be incorporated in the MS Act (the names of the conventions ie Nairobi Convention, Salvage Convention etc be provided after consultation with DG (Shipping)).
- xi. To examine the Conventions which are not approved by the Government of India which need to be incorporated into the MS Act to meet obligations under the International Conventions to which India is party or need to be a party
- xii. To examine the existing Act and provisions with a view to remove stiff controls presently incorporated in the Act.
- xiii. To suggest those aspects of the existing Act which are more procedural in nature and which may be very well covered under the rules to be framed.
- xiv. To suggest Business Process reengineering through e-governance initiatives.
- xv. To suggest regulatory framework for ease of operation of coastal ships.
- xvi. To examine the registration process of different countries and to suggest a simplified registration process for the Indian ships.
- xvii. To examine the extensive suggestions given by the Parliamentary Standing Committee on the draft MS Bill, 2016.
- xviii. Modification in the draft MS Bill as per inputs received during consultations.
- xix. To assist Ministry of Shipping/ IPA in preparation and submitting a Note for Cabinet and Dependent documents for onward submission.

B. For the Rules/Regulations under the Act: Upon tabling of the amendments to the Act before the Parliament of India or at such time notified by the Ministry of Shipping/IPA –

- i. To conduct document findings on the nature and scope for appropriate administrative legislation for implementing the approved changes under the Act.
- ii. To provide legal support for drafting of the proposed Rules / Regulations under the Act.
- iii. To assist Ministry of shipping/IPA to take the revised MS Bill in the Parliament for approval.

Note : The above scope of work includes drafting of all legal and supporting documents (preparation and making power point presentations before various Departments/Stakeholders, concept notes, briefing material) related to or in connection with the above.

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PART II : TOR related information

1. Conditions under which this RFP is issued

i. This RFP is not an offer and is issued with no commitment. IPA reserves the right to withdraw the RFP and change or vary any part thereof at any stage. IPA also reserves the right to disqualify any bidder, should it in its absolute discretion feel it to be so necessary at any stage. Information provided in this RFP to the applicants is on a wide range of matters, some of which depend upon interpretation of law. The information given is not a complete or authoritative statement of law. The Ministry of Shipping/IPA accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

ii. IPA may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP.

iii. The Applicant shall bear all its cost associated with or relating to the preparation and submission of its proposal including but not limited to preparation, copying, postage, delivery fess, expenses associated with any demonstration or presentations which may be required by IPA or any other costs incurred in connection with or relating to its proposal. All such cost and expenses shall remain with the applicant and IPA shall not be liable in any manner whatsoever for the same or for any other expenses incurred by an applicant in preparation or submission of the Proposal.

iv. IPA reserves the right to withdraw this RFP, if it is in the best interest of the Government of India.

v. Timing and sequence of events resulting from this RFP shall ultimately be determined by IPA.

vi. No oral conversations or agreements with any official, agent or employee of IPA shall affect or modify any terms of this RFP and any alleged oral agreement or arrangement made by a bidder with any Department, agency, official or employee of IPA shall be superseded by the definitive agreement that results from this RFP process. Oral communications by IPA to bidders shall not be considered binding on IPA, nor shall any written materials provided by any person other than IPA.

vii. Neither the bidder nor any of the bidder's representatives shall have any claims whatsoever against IPA or any of their respective officials, agents, or employees arising out of, or relating to this RFP or these procedures (other than those arising under a definitive service agreement with the bidder in accordance with the terms thereof).

viii. Applicants who are found to canvass, influence or attempt to influence in any manner the qualification or selection process, including without limitation, by offering bribes or other illegal gratification, shall be disqualified from the process at any stage.

2. Rights to the Contents of the Proposal

For all the bids received before the last date and time of bid submission, the proposals and accompanying documentation of the qualification proposal shall become the property of IPA and shall not be returned after opening of the qualification proposal. IPA is not restricted in its rights to use or disclose any or all of the information contained in the proposal and may do so without compensation to the bidders. IPA shall not be bound by any language in the proposal indicating the confidentiality of the proposal or any other restriction on its use or disclosure.

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3. Acknowledgement of Understanding of Terms

By submitting a proposal, each bidder shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and annexure hereto, and has fully informed itself as to all existing conditions and limitations.

4. Evaluation of Proposals

The bidders' proposals in the bid document shall be evaluated as per the requirements specified in the RFP and adopting the qualification criteria spelt out in this RFP. The bidders shall submit all required documentation in support of the qualification, criteria specified in RFP. Ministry of Shipping/IPA may constitute a Committee to evaluate the proposal and monitor the progress/completion of assignment.

5. Language of Proposals

The proposal and all correspondence and documents shall be written in English only.

6. Eligibility Criteria

S. NO.	CRITERION	DETAILS /EXPLANATORY NOTES, IF ANY
A. Criterion for Law Firm		
1	Should be an Indian legal entity providing legal advisory services, consistent with the requirements under the Bar Council of India	NGOs / Foreign Law Firms / Consortium of Individual Lawyers not attached to a Firm are not permitted
2	Should have been in existence for at least three (3) years	Three (3) years from date of issuance of the RFP
3	Should work out from National Capital Region – Delhi /have substantial presence in National Capital Region - Delhi	Seat of the Managing Partner / Owner of the entity or highest head-count in National Capital Region - Delhi
4	Should have average annual turnover of at least Rs 5 Crores in the last three (3) preceding financial years	FY 15-16 to FY 17-18
5	Should have carried out at least one drafting of a Bill for or on behalf the Union or the State Govt. engaged directly / indirectly, relating to areas connected to transport/ trade/logistics during the last five years on the closing date of the tender.	A certificate to that effect from the concerned Ministry/ Department of the Union or the State Govt. needs to be submitted OR A certificate/ documentary evidence from the concerned Ministry/Department of the Union or the State Govt. need to be submitted. Or a certificate/documentary evidence from the agency who assigned the task to the bidder,

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		certifying that the said agency was assigned the task by the Ministry/Department of the Union or the State Govt. needs to be submitted.
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7. Self Certified Documentary Evidence to be submitted in support of Eligibility with Technical Proposal

- i. A certificate by Partner of the consulting firm confirming the empanelment of the firm by Government/ Banks/PSU, giving names of organizations, period of empanelment and specific area of expertise for which empanelled along with documentary proof like Letter of Empanelment(LOE)/ engagement letter from client.
- ii. Applicable Registration Certificate.
- iii. Detailed resume of the team leader and the team members, including outside experts along with their signed letters of consent, indicating the details of qualifications and professional experience.
- iv. Gross Annual Revenue (audited annual account) from consultancy during the last three years. Where audited account is not available for the immediately preceding financial year, provisional account confirmation from chartered accountant may be made available.
- v. An undertaking stating that the firm/organization is not blacklisted by Government or its agencies including Central/State Level Public Enterprises.
- vi. A Certificate regarding non-disclosure/sharing of confidential information with third parties.
- vii. Duly filled in check list as given in Annexure I of the RFP.

8. Proposal Submission

Interested firm shall submit both technical and financial proposals in two parts as per the Schedule mentioned in Section 1 i.e. Timeline and Schedule.

■ Technical proposal:

Scanned copies of Technical Bid shall be submitted on e-Procurement Portal (CPPP) <https://eprocure.gov.in/eprocure/appin> the First Cover (Technical Bid) and also two hard copies (one original + one copy) and along with 2 soft copies in word format in CD or Pen drive. This outer envelope shall bear the submission address, reference number be clearly marked “**DO NOT OPEN, BEFORE- 1530 hrs on 18.01.2019**”. The envelope shall bear the title of the assignment “Selection of Indian Law Firms for Legislative Drafting for the proposed Amendments to Merchant Shipping Act, 1958 and Rules/Regulations thereunder”.

■ Financial proposal:

The Financial bid shall be submitted online only as per the Price Schedule given in Section 3 Financial Proposal and attached in PDF format in e-procurement Portal only(CPPP) <https://eprocure.gov.in/eprocure/app> Any indication of ‘Quoted Price’ in the online technical Bid documents shall lead to rejection of the bid outright. For evaluation purpose the uploaded offer documents shall be treated as authentic and final .No hard copy of financial bid shall be submitted.

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The price Bid submitted through e-procurement mode only shall be taken up for the purpose for evaluation. Please refer Annexure-II for further details.

I. Technical Proposal Content

Technical proposal shall be prepared considering the Terms of Reference, and any other information to highlight the capability of the firm.

Technical Proposal shall be submitted in the forms and duly signed as per Section 3 of RFP i.e. Technical Proposal-Standard Forms and other undertakings.

Technical Proposal shall be a complete document and shall be bound as a volume. The documents shall be page numbered and duly signed by Authorized Representative who has the capacity to sign along with Authorization Letter.

II. Financial Proposal Content

a) Financial proposal (in Indian Rupees) shall be in the form of price schedule in the prescribed proforma inclusive of all taxes (except GST) for the entire Scope of Services.

b) Financial proposal shall be submitted in the duly signed forms as per Section 3 of RFP i.e. Technical Proposal-Standard Forms

9. Evaluation of Proposal (for technical & financial bid)

After the applicants submit their Technical and Financial proposals according to the instructions provided herein, the proposals shall be evaluated through a two-stage process as described below:

- i. Technical Evaluation
- ii. Financial Evaluation (Calculation of Final Score)

A. Technical Evaluation

As the first step, the Technical Proposal shall be evaluated based on the “Technical Evaluation Methodology” provided herein below. Only those technical proposals that qualify the eligibility criterion (having technical qualifications of bid) shall be evaluated hereunder. Total points shall be designated as “Technical-Score” for each applicant.

S. NO	CRITERION	GUIDANCE FOR MARKING(S) ¹	MAXIMUM MARK(S)
1.	Experience of the Firm		
1a.	Average annual turnover in the last three (3) preceding financial years	>= Rs 5 Crores – 5 Mark >= Rs 7 Crores – 7 Mark >= Rs 10 Crores – 10 Mark	10

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1b.	Legislative drafting of a Bill	<p>1. Legislative Drafting assignment for Ministry / Department under the Government of India – 15 Marks each for drafting of one Bill</p> <p>2. Legislative Drafting assignment for Ministry / Department under State Government(s) – 10 Marks each for drafting of one Bill.</p>	30
1c.	Area of Drafting of a Bill	<p>i. Maritime Sector – 10 marks*</p> <p>ii. Transport Sector – 7.5 marks*</p> <p>iii. Trade – 5 marks</p> <p>iv. Others – 2 marks</p> <p>* For each draft Bill.</p>	20
1d.	Time since of submission of Legislative drafting of a Bill	<p>Within two years- 5 marks</p> <p>Within 2-4 years- 3 marks</p> <p>More than 4 years- 1 mark</p> <p>(only one legislative drafting shall be considered for which max. marks have been given)</p>	5
2.	Qualification, Experience and Expertise of the Team		
2a.	<p>Team Lead</p> <p>LLM, LLB with 15 years of experience. The Mandatory experience shall be</p> <p>1. Specialized demonstrable expertise in Legislative Drafting</p> <p>2. Atleast One (1) legislative drafting assignment completed with Ministry / Department under the Government of India / State Government</p>	<p>1. Legislative Drafting experience for Ministry / Department under the Government of India / State Government / Multilateral Agency – 5</p> <p>2. If the LLM degree is in Maritime law- 10 Marks</p>	15
2b.	<p>Counsel</p> <p>LLB with 10 years of experience. The Mandatory experience shall be</p>	<p>1. Legislative Drafting experience for Ministry / Department under the Government of India – 5 marks each</p>	10

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	<p>1. Specialized demonstrable expertise in Legislative Drafting</p> <p>2. Atleast One (1) legislative drafting assignment completed with Ministry / Department under the Government of India / State Government</p>	<p>2.Legislative Drafting experience for State Government / Multilateral Agency – 2.5 Marks each</p>	
2c.	<p>Senior Associate</p> <p>LLB with 5 years of experience. The Mandatory experience shall be</p> <p>1.Specialized demonstrable expertise in Legislative Drafting</p> <p>2. At least One (1) legislative drafting assignment completed with Ministry / Department under the Government of India / State Government</p>	<p>1.Legislative Drafting experience for Ministry / Department under the Government of India – 5 marks each</p> <p>2.Legislative Drafting experience for State Government / Multilateral Agency – 2.5 Marks each</p>	10
Total			100

¹ Maximum mark(s) are indicated against each field. The issuer of the Tender reserves the right to award lower mark(s) for each criterion basis relevance and subjective review of evidence submitted for each qualification by applicant(s). Preference may be given to experience statements that have greater relevance to the current assignment sought to be awarded under the RFP.

B. Financial Evaluation

- i. The Financial Proposals of only those applicants whose Technical-Score is equal to or higher than 65 points shall be opened and evaluated. The Financial Proposals of the other applicants shall be returned unopened
- ii. Of the Financial proposals opened, the lowest “Project-Cost” shall be designated as “L1” and awarded a “Financial-Score” of 100.
- iii. For the other qualifying applicants, their “Financial-Score” shall be calculated according to the formula:

$$\text{Financial-Score} = (\text{Project-Cost of "L1"}) / (\text{Project-Cost of Applicant}) * 100$$

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C. Calculation of Final Score

The “Final-Score” of each qualifying Applicants shall be calculated as indicated below:

$$\text{Final-Score} = 0.8 * (\text{Technical-Score}) + 0.2 * (\text{Financial-Score})$$

The Applicant with the highest Final-Score shall be invited for award of contract. In case of a tie in Final-Score, the Applicant with the higher Technical-Score may be invited for award of contract.

Note: Firm shall submit the self-evaluation sheet as per above criteria along with Technical Proposal with proper page numbering for supporting documents.

10. Payment Terms

10.1 The payment instalments shall be released as per the following schedule:-

For the Act/Bill:-

S. No	Deliverables	Timeframe	Payments
1.	On execution of engagement letter / letter of award	N/A - date of issuance of letter of award	5%
2.	On submission of the global best practices based on the scope and ambit provided by the Employer and finalization of the project methodology	1 month	10%
3.	Re-Visit & Re-Write MS ACT. Submitted 1 st draft of MS ACT for discussion & Consultation	2.5 Months	50%
4.	Three (3) Consultations with stakeholder and concerned Department and submission of revised MS Act	As per Employer notification	15%
5.	Submission of revised draft based on stakeholder Consultations for approval by the Ministry	As per Employer notification	10%
6.	Submission of Note for Cabinet and dependent documents	As per Employer notification	5%
7.	Assist in taking the MS ACT in the parliament for approval	As per Employer notification	5%

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For the Rules/Regulations:-

S. No	Deliverables	Timeframe	Payments
1.	On intimation by Employer of commencement of Rules/Regulations sub-part of the assignment	As per Employer notification	5%
2.	On submission of the enumerative list of Rules /Regulations required under the Bill tabled / passed by the Hon'ble Parliament of India alongwith a detailed scope of work and timeline schedule, including items requiring technical inputs	15 days	10%
3.	On submitting 1 st draft of 40% of the Rules / Regulations	1.5 Months	15%
4.	On submitting 1 st draft of next 30% of the Rules / Regulations	1.5 Months	15%
5.	On submitting 1 st draft of next 30% of the Rules / Regulations	1.5 Months	15%
6.	Three (3) Consultations with stakeholder and concerned Department and submission of revised Rules / Regulations	As per Employer notification	10%
7.	Submission of revised comprehensive drafts of the Rules / Regulations based on stakeholder Consultations for approval by the Ministry	As per Employer notification	20%
8.	Submission of Note and other dependent documents for notification and tabling of Rules / Regulations	As per Employer notification	10%

10.2 All payments under this Agreement shall be made to the account of the Law Firm as may be notified to the Employer by the Law Firm.

10.3 No advance payment shall be admissible and made.

10.4 TDS shall be deducted as applicable.

10.5 It is agreed by the Law Firm that items such as stakeholder and inter-ministerial consultation are dependent on several external factors, and may or may not be completed during such timeline. Timelines contained above shall, therefore, stand amended according to any longer internal timelines notified by the Employer from time to time.

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10.6 Notwithstanding Clause 10.5 above, the Employer undertakes that the payment till S.No. 3 above shall be defrayed to the Firm immediately after lapse of 90 days of the commencement of the assignment. The said payment may be made to the Firm in all other circumstances unless the delay on completing the milestone under S. No. 4 above may be attributed to the Firm.

11. Deliverables:

The Law Firm shall submit the Deliverables in accordance with the Payment Schedule as above.

12. Penalty for error/variation:

In case any error or variation is detected in the reports submitted by the Law Firm and such error or variation is the result of negligence or lack of due diligence on the part of the Law Firm, the consequential damages thereof shall be quantified by the Employer in a reasonable manner and recovered from the Law Firm from payments due to him by way of penalty, subject to a maximum of 50% (fifty percent) of the fee for the respective project.

13. Liquidated Damages for default:

Subject to Clause 10.5 above, the assignments shall be completed as per the time schedule given in Clause No. 10 of this RFP.

On the occurrence of any of the event of default on the part of the bidder, IPA shall be at liberty to terminate the contract/Work Order/LoI and claim refund of any money paid or invoke the Performance Bank Guarantee and refuse to make any more payments.

14. General Terms and Conditions

(i) Information provided to the firm is confidential in nature. The firm shall not share the information without IPA permission. A certificate regarding non-sharing/ informing of confidential data to third party shall be submitted by the firm along with the Proposal.

(ii) At the time of submission of bid, the bidder shall ensure that each page is duly signed by the bidder or his duly authorized representative. In case the bid is signed by the authorized representative, a letter of authorization shall be enclosed with the bid.

(iii) The bidding institution (s) shall provide professional, objective and impartial advice and at all times hold the client's interest paramount, without any consideration for future works, and that in providing advice they avoid conflicts with other assignments and their own corporate interests.

(iv) Rates quoted shall remain firm till completion of empanelment.

(v) The empanelment made by IPA is intended to be used by all Major Ports, Ministry of Shipping and IPA, which shall be valid for the entire period of the assignment

(vi) The jurisdiction in case of disputes shall be the Courts of Delhi/New Delhi.

(vii) The bidder shall be one who is registered under relevant Laws/Acts of the country.

(viii) In case of any dispute arising, the decision of the IPA shall be final and binding.

(ix) Firm shall have a regular setup of a team of persons having sufficient legal experience as per the scope of work.

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(x) If there is any change in the key personnel or team lead, it shall be brought to the notice of IPA immediately for considering either to accept such changes or otherwise. The details of qualification, experience, etc of such key personnel when there is change and if they are replaced with the equivalent level of qualification, etc the same shall be intimated. In case the change of personnel/professional is ultimately not acceptable to IPA, the firm shall not continue to be empanelled.

(xi) During the empanelment period, if the performance of firm is not satisfactory, its name shall be struck off from the panel list and security deposit may **forfeited**, which shall be as per sole Judgment of Ministry of Shipping/IPA.

(xii) Even though the applicants satisfy the necessary requirements, they are subject to disqualification if they have:-

- a. Made untrue or false representation in the form, statements required in the application document.
- b. Records of poor performance such as abandoning work, not properly completing contract, financial failures or delayed completion.

(xiii) **Right to accept or reject any or all proposals**

a. Notwithstanding anything contained in this document IPA reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

b. The Employer reserves the right to reject any Proposal if: (a) at any time, a material misrepresentation is made or discovered, or (b) the Applicant does not provide, within the time specified by the Employer, the supplemental information sought by the Employer for evaluation of the Proposal. Misrepresentation/ improper response by the Applicant shall lead to the disqualification of the Applicant. If the Applicant is the Lead Member of a consortium, then the entire consortium may be disqualified / rejected. If such disqualification/ rejections occurs after the proposals have been opened and the highest ranking Applicant gets disqualified / rejected, then the Employer reserves the right to consider the next best Applicant, or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

(xiv) **Fraud and corrupt practices**

a) The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection' Process. Notwithstanding anything to the contrary contained in this document, the Authority shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices") in the Selection Process. In such an event, the Authority may, without prejudice to its any other rights or remedies, forfeit and appropriate the Bid Security or Performance Security, as the case may be, as 'mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, in regard to this document, including consideration and evaluation of such Applicant's Proposal.

b) Without prejudice to the rights of the Employer herein above and the rights and remedies which the Employer may have under the LOA or the Agreement, if an Applicant or Firm, 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 Selection Process, or after the issue of the LOA or the execution of the Agreement, such

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Applicant or Firm shall not be eligible to participate in any tender or RFP issued by the Authority during a period of three years from the date such Applicant or Firm, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.

c) For the purposes of this Section, 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 action of any person connected with the Selection 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 Selection Process or the LOA or has dealt with matters concerning the 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 Selection Process); or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the 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 firm! adviser of the Authority in relation to any matter concerning the Project; (b) "fraudulent practice" means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process; (c) "coercive practice" means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person's participation or action in the Selection 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 Selection Process; or (ii) having a Conflict of Interest; and (e) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

xiv) DISPUTE RESOLUTION

Amicable Settlement

If any dispute or difference or claim of any kind arises between the Employer and the Tenderer in connection with construction, interpretation or application of any terms and conditions or any matter or thing in any way connected with or in connection with or arising out of this Agreement, or the rights, duties or liabilities of any Party under this Agreement, whether before or after the termination of this Agreement, then the Parties shall meet together promptly, at the notice of any Party, in an effort to resolve such dispute, difference or claim by discussion between them.

Assistance of Expert

The Parties may, in appropriate cases agree to refer the matter to an Expert appointed by them with mutual consent. The Expert so appointed shall, after hearing the parties, try to resolve the dispute referred to him by way of settlement. The cost of obtaining the service of the Expert shall be shared equally.

xv) ARBITRATION

Arbitrators

Failing amicable settlement and/or settlement with the assistance of Expert appointed by the Parties by mutual consent within a period of 30 days unless time is extended with the mutual consent of the

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parties w.e.f. the date of service of notice of the any party referred in Clause 19.1 the dispute or differences or claims as the case may be, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996 as amended upto date. Unless the Parties mutually agree otherwise, within 30 (thirty) Days of invocation of the arbitration as mentioned below, the rules of arbitration prescribed by the International Centre for Alternative Dispute Resolution, New Delhi shall apply to the arbitration. The arbitration shall be by a panel of three Arbitrators, one to be appointed by each Party and the third, who shall act as presiding arbitrator, to be appointed by the two arbitrators appointed by the Parties. The arbitration may be invoked by one party issuing to the other a notice in writing invoking the arbitration and appointing an Arbitrator. Upon receipt of the notice, the other Party shall appoint the second Arbitrator. The two Arbitrators so appointed shall appoint the third Arbitrator who shall act as the 'Presiding Arbitrator'. If the other Party fails to appoint a second Arbitrator within 30 (thirty) Days from the receipt of the request to do so, then the Arbitrator so appointed by the first party shall adjudicate the disputes as 'Sole Arbitrator'.

Place of Arbitration

The place of arbitration shall be New Delhi.

English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and rulings shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings

Procedure

The procedure to be followed within the arbitration, including appointment of arbitrator/arbitral tribunal, the rules of evidence which are to apply shall be in accordance with the Arbitration and Conciliation Act, 1996 as amended upto date.

Enforcement of Award

Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceeding or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof.

Fees and Expenses

The fees and expenses of the arbitrators and all other expenses of the arbitration shall be initially borne and paid equally by respective Parties subject to determination by the arbitrators. The arbitrators may provide in the arbitral award for the reimbursement to the successful party of its costs and expenses in bringing or defending the arbitration claim, including legal fees and expenses incurred by the Party.

Performance during Arbitration

Pending submission of and/or decision on a dispute, difference or claim or until the arbitral award is published; the Parties shall continue to perform all of their obligation under this Agreement without prejudice to a final adjustment in accordance with such award.

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APPLICABLE LAW

This contract shall be governed by the Laws of India for the time being in force. Subject to the clauses on arbitration above, the courts of Delhi shall have exclusive jurisdiction in all matters or disputes arising under or in respect of this Contract. DEFENCE OF SUITS If any action in court is brought against the Purchaser or an officer or agent of the Purchaser for the failure or neglect on the part of the Supplier to perform any acts, matters, covenants or things under the Contract, or for damage or injury caused by the alleged omission or negligence of the part of the Bidder, his agent, representatives or his sub Bidders, workman, contractors or employees, the Supplier shall in all such cases indemnify and keep the Purchaser and/or his representative, harmless from all losses damages expenses or decrees arising out of such action. All claims regarding indemnity shall survive the termination or expiry of contract.

(Technical Proposal-Standard Forms)

Form TP 1: Letter of Proposal submission

Form TP 2: Firm's organization & experience

Form TP 3: Comments & Suggestions on TOR

Form TP 4: Curriculum vitae

Form TP 5: Information regarding any conflicting activities and declaration thereof.

Technical Proposal-Other Undertakings

1. An undertaking stating that firm/organization is not blacklisted by Government or its agencies including Central/State Level Public Enterprises.

2. Undertaking stating that

“Team Leader/Members be maintained during the actual assignment to be awarded in case they are selected. In case replacement is inevitable, the equivalent qualification and experienced team/lead/member shall be inducted to carry out the assignment in case of award.”

3. Undertaking stating that

‘I/We certify that in the last three years, we/any of the consortium members have neither failed to perform on any contract, as evidenced by imposition of 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.’

4. An undertaking regarding non-disclosure/sharing of confidential information with third parties.

(Financial Proposal-Standard Forms)

(TO BE FILLED IN BY THE BIDDERS AND ATTACHED IN PDF FORMAT IN SECOND COVER ON CPPP)

Form FP-1: Financial Proposal submission Form

Form FP-2(1 of 2): Financial Proposal (for Act)

Form FP-2(2 of 2): Financial Proposal (for Rules)

Note: The Financial bid shall be submitted online only as per the Price Schedule given in Section 3 Financial Proposal and attached in PDF format in e -procurement Portal only (CPPP) <https://eprocure.gov.in/eprocure/app>. Please refer Annexure-II for further details.

LETTER OF PROPOSAL SUBMISSION

TO: [Name and address of Employer]

Dear Sirs,

We, the undersigned, offer to provide the consulting Assignment/job for [**Selection of Indian Law Firm for legislative Drafting for the Proposed Revamping of the existing Merchant Shipping Act, 1958 and Rules/Regulations there under**] in accordance with your request for qualification dated [insert date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal sealed under a separate envelope and requisite EMD.

We are submitting our Proposal in association with [Insert a list with full name and address of each Consultant]

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

If negotiations are held during the period of validity of the Proposal, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely

Authorized Signature [in full and initials];

Name and Title of Signature:

Name of Firm:

Address:

CONSULTANTS ORGANIZATION AND EXPERIENCE

A- Consultant’s Organization

[Provide here a brief description of the background and organization of your firm/entity and each associate for this Assignment/job. The brief description shall include ownership details, date and place of incorporation of the firm, objectives of the firm etc. Also if the consultant has formed a consortium, details of each of the member of the consortium, name of lead members etc shall be provided]

B- Consultant’s Experience

[Using the format below, provide information on each Assignment/job for which your firm, and each partner in the case of consortium or joint venture, was legally contracted either individually as a corporate entity or as one of the major partners within an association, for carrying out consulting Assignment/job similar to the ones requested under this Assignment/Job (if possible, the employer shall specify exact assignment/job for which experience details may be submitted). In case of consortium, association of consultants, the consultant must furnish the following information for each of the consortium member separately]

A) Organizational Experience

Sl. No	Name of Entity with complete communication address.	Order No. and Date	Scope of work	Date of award of contract & Contract Period	Value of Contract	Actual Date of Completion	Person/ Project authority Who could be Contact for Further Information.	Supporting Document

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B) Gross Annual Revenue (in ‘Rs’)

Financial year	Gross Annual Revenue/Turnover	Revenue/Turnover from consultancy business	Remarks
2015-16			
2016-17			
2017-18			

(Seal & Signature of Bidder)

Note: Please provide documentary evidence from the client i.e. details of the work order and / or completion certificate for each of above mentioned assignments. The Competent Authority of the consulting firm shall self-certify if the firm has non-disclosure agreements with its clients. The experience shall not be considered for evaluation if such requisite support documents are not provided with the proposal.

**COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE AND ON
FACILITIES TO BE PROVIDED BY THE EMPOLYER**

1. On the Terms of Reference

[Suggest and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the Assignment/job (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions shall be concise and to the point, and incorporated in your proposal]

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CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

1. Proposed Position:

[For each position of key professional separate from Tech-5 shall be prepared]:

2. Name of Firm:

[Insert name of firm proposing the Staff]:

3. Name of

Staff: [Insert full
name]:

4. Date of birth:

5. Nationality:

6. Education:

[Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]:

7. Membership of Professional Associations:

8. Other Training:

9. Countries of work experience:

[List countries where staff has worked in the last ten years]:

10. Languages:

[For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]:

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11. Employment Record:

[Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment name of employing organization, positions held]:

From [Year]: To

Year] Employer:

Positions held:

12. Detailed Tasks Assigned:

[List all tasks to be performed under this Assignment/Job]:

13. Work undertaken that best illustrates Capability to Handle the Tasks Assigned:

[Among the Assignment/Jobs in which the staff has been involved, indicate the following information for those Assignment/jobs that best illustrate staff capability to handle the tasks listed under point 12]

Name of Assignment/job or project:

Year:

Location:

Employer:

Main project features:

Positions held:

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Activities performed:

14. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

[Signature of staff member or authorized representative of the staff]

[Full name of authorized representative]

Date:

Place:

**INFORMATION REGARDING ANY CONFLICTING ACTIVITIES AND
DECLARATION THEROF**

Are there any activities carried out by your firm or group company which are of conflicting nature as mentioned in para 4 of Section 1, If yes, please furnish details of any such activities.

If no, please certify,

We hereby declare that our firm does not indulged in any such activities which can be termed as the conflicting activities under para 4 of Section 1. We also acknowledge that in case of misrepresentation of the information, our proposals/contract shall be rejected/terminated by the employer which shall be binding on us.

Authorized Signature [in full and initials]:

Name and title of Signatory:

Name of Firm:

Address:

FINANCIAL PROPOSAL SUBMISSION FORM

(TO BE FILLED BY THE BIDDERS AND ATTACHED IN PDF FORMAT IN SECOND COVER ON CPPP)

[Location, Date]

To: [Name and address of employer]

Dear Sirs:

We, the undersigned, offer to provide the consulting Assignment/job for [insert title of Assignment/job] in accordance with your Request for Proposal dated [insert date] and our Technical Proposal. Our financial proposal is (**sum of Financial Proposal for Acts & Financial Proposal for rules**)! This amount is exclusive of the GST, which shall be payable by the Employer on a reverse-charge basis as per applicable law.

We hereby confirm that the financial proposal is unconditional and we acknowledge that any condition attached to financial proposal shall result in reject of our financial proposal.

Our financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal. We understand you are not bound to accept any Proposal you receive.

Yours Sincerely,

[Authorized Signature [in full and initials]:

[Name and title of Signatory:]

[Name of Firm:]

Address:

FINANCIAL PROPOSAL**(for Act)****(TO BE FILLED BY THE BIDDERS AND ATTACHED IN PDF FORMAT IN SECOND COVER ON CPPP)****To**

Managing Director,
 Indian Ports Association,
 1st Floor, NBCC Place, South Tower,
 Bhisham Pitamah Marg,
 Lodi Road, New Delhi – 110 003
 Email: tender.ipa@nic.in

S. No	Description of Work (Deliverables)	Amount in ₹	Total amount in ₹
1.			
2.			
3.			
4.			
Grand Total			
In words:			

The above cost includes cost of filing document/Obtaining copies and Out of pocket expenses like attestation, stamping, etc

Authorised Signatory
 Company/Firm Name
 Date:

FINANCIAL PROPOSAL**(for Rules)****(TO BE FILLED BY THE BIDDERS AND ATTACHED IN PDF FORMAT IN SECOND COVER ON CPPP)****To**

Managing Director,
 Indian Ports Association,
 1st Floor, NBCC Place, South Tower,
 Bhisham Pitamah Marg,
 Lodi Road, New Delhi – 110 003
 Email: tender.ipa@nic.in

S. No	Description of Work (Deliverables)	Amount in ₹	Total amount in ₹
1.			
2.			
3.			
4.			
Grand Total			
In words:			

The above cost includes cost of filing document/Obtaining copies and Out of pocket expenses like attestation, stamping, etc

Authorised Signatory
 Company/Firm Name
 Date:

Check list of Documents

EMD (Rs 2,50,000/-), Document fee (Rs 2,000/-)	Yes/No _____
Firm registration certificate	Yes/No
Copy of Work Orders/ Self-certification	Yes/No
Copy of client's completion certificates along with value of project	Yes/No
Resume of Team Leader & Team members with supporting documents	Yes/No
Undertaking that the firm/Institution is not blacklisted by any Government/ CPSE/SLPE/Local Authority for corrupt or fraudulent practices	Yes/No
Authority Letter , if any	Yes/No
Duly Audited copy of Annual Accounts of Last three years	Yes/No
Undertaking regarding Non-Disclosure	Yes/No
Duly filled in format (as given in Technical bid with & Financial bid)	Yes/No

Instructions for Online Bid Submission

Instructions to the Bidders to submit the bids online through the Central Public Procurement Portal for e Procurement at <https://eprocure.gov.in/eprocure/app>

- 1) Possession of valid Digital Signature Certificate (DSC) and enrolment/registration of the contractors/bidders on the eProcurement/ e-tender portal is a prerequisite for e-tendering.
- 2) Bidder shall do the enrolment in the eProcurement site using the “Click here to Enroll” option available on the home page. Portal enrolment is generally free of charge. During enrolment/registration, the bidders shall provide the correct/true information including valid email-id. All the correspondence shall be made directly with the contractors/bidders through email id provided.
- 3) Bidder need to login to the site through their user ID/ password chosen during enrolment/registration.
- 4) Then the Digital Signature Certificate (Class II or Class III Certificates with signing key usage) issued by SIFY/TCS/nCode/eMudra or any Certifying Authority recognized by CCA India on eToken/Smart Card, shall be registered.
- 5) The DSC that is registered only shall be used by the bidder and shall ensure safety of the same.
- 6) Contractor/Bidder shall go through the tenders published on the site and download the required tender documents/schedules for the tenders he/she is interested.
- 7) After downloading / getting the tender document/schedules, the Bidder shall go through them carefully and then submit the documents as asked, otherwise bid shall be rejected.
- 8) If there are any clarifications, this shall be obtained online through the tender site, or through the contact details. Bidder shall take into account the corrigendum published before submitting the bids online.
- 9) Bidder then logs in to the site through the secured log in by giving the user id/ password chosen during enrolment/registration and then by giving the password of the e-Token/Smart Card to access DSC.
- 10) Bidder selects the tender which he/she is interested in by using the search option & then moves it to the ‘my tenders’ folder.
- 11) From my tender folder, he selects the tender to view all the details indicated.
- 12) It is construed that the bidder has read all the terms and conditions before submitting their offer. Bidder shall go through the tender schedules carefully and upload the documents as asked; otherwise, the bid shall be rejected.

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13) Bidder, in advance, shall get ready the bid documents to be submitted as indicated in the tender document/schedule and generally, they can be in PDF/xls/rar/zip/dwf formats. If there is more than one document, they can be clubbed together and can be provided in the requested format. Each document to be uploaded through online for the tenders shall be less than 2 MB. If any document is more than 2MB, it can be reduced through zip/rar and the same can be uploaded, if permitted. Bidders Bid documents shall be scanned with 100 dpi with black and white option. However, if the file size is less than 1 MB, the transaction uploading time shall be very fast.

14) If there are any clarifications, this shall be obtained through the site, or during the pre-bid meeting if any. Bidder shall take into account the corrigendum published from time to time before submitting the online bids.

15) The Bidders can update well in advance, the documents such as certificates, annual report details etc., under My Space option and these can be selected as per tender requirements and then send along with bid documents during bid submission. This may facilitate the bid submission process faster by reducing upload time of bids.

16) Bidder shall submit the Tender Fee/ EMD as specified in the tender. The original shall be posted/couriered/given in person to the Tender Inviting Authority, within the bid submission due date & time for the tender. Scanned copy of the instrument shall be uploaded as part of the offer.

17) While submitting the bids online, the bidder reads the terms & conditions and accepts the same to proceed further to submit the bid packets.

18) The bidder has to select the payment option as offline to pay the Tender FEE/ EMD as applicable and enter details of the instruments.

19) The details of the DD/any other accepted instrument, physically sent, shall tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise submitted bid shall not be acceptable.

20) The bidder has to digitally sign and upload the required bid documents one by one as indicated. Bidders to note that the very act of using DSC for downloading the bids and uploading their offers shall be deemed to be a confirmation that they have read all sections and pages of the bid document including General conditions of contract without any exception and have understood the entire document and are clear about the requirements of the tender requirements.

21) The bidder has to upload the relevant files required as indicated in the cover content. In case of any irrelevant files, the bid shall be rejected.

22) If the price bid format is provided in a spread sheet file like PDF_xxxx.xls, the rates offered shall be entered in the allotted space only and uploaded after filling the relevant columns. The Price Bid/PDF template must not be modified/replaced by the bidder, else the bid submitted is liable to be rejected for this tender.

23) The bidders are requested to submit the bids through online e-tendering system to the Tender Inviting Authority (TIA) well before the bid submission end date & time (as per Server System

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Clock). The TIA shall not be held responsible for any sort of delay or the difficulties faced during the submission of bids online by the bidders at the eleventh hour.

24) After the bid submission (i.e. after Clicking “Freeze Bid Submission” in the portal), the acknowledgement number, given by the system may be printed by the bidder and kept as a record of evidence for online submission of bid for the particular tender and shall also act as an entry pass to participate in the bid opening date.

25) The time settings fixed in the server side & displayed at the top of the tender site, shall be valid for all actions of requesting, bid submission, bid opening etc., in the e-tender system. The bidders shall follow this time during bid submission.

26) All the data being entered by the bidders be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered shall not viewable by unauthorized persons during bid submission & not be viewable by any one until the time of bid opening.

27) Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid openers public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.

28) The confidentiality of the bids is maintained since the secured Socket Layer 128 bit encryption technology is used. Data storage encryption of sensitive fields is done.

29) The bidder shall logout of the tendering system using the normal logout option available at the top right hand corner and not by selecting the (X) exit option in the browser.

30) For any queries regarding e-tendering process, the bidders are requested to contact as provided in the tender document. Parallely, for any further queries, the bidders may contact over phone: 0120-4200462, 0120-4001002 and 8826246593 or send a mail over to cphp-nic@nic.in ; support-eproc@nic.in..
