



Request for Proposal

**Selection of Agency for Transaction Cum Legal Adviser for Modernization/Commercialization
of Semi-Conductor Laboratory, Mohali**

Reference No. W-38/28/2021-IPHW

Dated: 13.06.2022

Government of India

Ministry of Electronics and Information Technology

Table of Contents

1. Disclaimer	3
2. Introduction	4
3. Notice Inviting Proposal	5
4. Important Information	6
5. About Semi-Conductor Laboratory, Mohali	7
6. Roles and Responsibilities of a Transaction cum legal adviser	7
7. Key Deliverables	9
8. Eligibility Criteria	10
9. Evaluation and Award Criteria	11
10. Submission of RFP	14
11. Queries	15
12. Duration of Contract	15
13. Payment Terms	16
14. Expenses of Parties	16
15. General Instruction to Bidders	17
16. Important Terms and Conditions	18
17. Relevant annexures	18

1. Disclaimer

The information contained in this request for proposal document dated 13/06/2022 along with its appendices, and includes the Addenda and clarifications (if any) issued by Ministry of Electronics and Information Technology (MeitY) in accordance with the terms hereof (the “RFP”) or subsequently provided to Applicant(s), whether verbally or in documentary or any other form by or on behalf of Ministry of Electronics and Information Technology(MeitY) or any of its employees or advisers, is provided to Applicant(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor an invitation by Ministry of Electronics and Information Technology (MeitY) to the prospective applicants or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by Ministry of Electronics and Information Technology (MeitY) in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each applicant may require. This RFP may not be appropriate for all Persons, and it is not possible for Ministry of Electronics and Information Technology (MeitY), its employees or advisers to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

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

Ministry of Electronics and Information Technology (MeitY) also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any applicant upon the statements contained in this RFP.

Ministry of Electronics and Information Technology (MeitY) may in its absolute discretion, but

without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP. No communication in whatever form shall be construed to be a part of, or supersede this RFP unless an Addendum/clarification, in writing, is issued to all applicants by Ministry of Electronics and Information Technology (MeitY).

The issue of this RFP does not imply that Ministry of Electronics and Information Technology(MeitY) is bound to select an applicant or to appoint the selected Applicant, as the case may be, for the Project and Ministry of Electronics and Information Technology(MeitY) reserves the right to, (a) reject all or any of the Applicants or Proposals and/or (b) modify, cancel or re-issue the RFP, in each case, without assigning any reasons whatsoever and the Applicants or any other Person will not have any claim against Ministry of Electronics and Information Technology(MeitY) in this regard.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by Ministry of Electronics and Information Technology (MeitY) or any other costs incurred in connection with or relating to its proposal. All such costs and expenses will remain with the applicant and Ministry of Electronics and Information Technology (MeitY) shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an applicant in preparation or submission of the proposal, regardless of the conduct or outcome of the selection process. It is clarified to the Applicants that Ministry of Electronics and Information Technology (MeitY) shall not be responsible, *inter-alia*, for any postal/courier related delays in relation to submission of the Registration Form, Demand Draft (if applicable), Proposal and/or any other information/document required to be submitted by the Applicants.

2. Introduction

The Union Cabinet has approved a comprehensive program for the Development of Semiconductor and Display Manufacturing ecosystem in India on 15.12.2021. Cabinet has also accorded approval of Modernization/Commercialization of Semi-Conductor Laboratory located in Mohali which includes exploration of the possibility for the Joint Venture (JV) of Semi-Conductor Laboratory (SCL) with a commercial fab partner(s) to modernize the brownfield fab facility. The JV shall be constituted after the approval of Union Cabinet. SCL, Mohali with JV Partner and the form of a Joint Venture in the JVA wherein the objectives of the modernization plan are achieved:

- (a) Bring autonomy, accountability and efficiency in manufacturing of advanced technology based Very Large-Scale Integrated Circuits (VLSI) / Compound Semiconductors / Micro Electro Mechanical Systems (MEMS) for global markets.
- (b) Transform SCL into an entity with volume production and profitable assets.
- (c) Develop capabilities for design, fabrication, testing and packaging of wide range of semiconductor products.
- (d) Enhance competitiveness, improve quality and bring cost effectiveness

Semi-Conductor Laboratory is registered as a society under Societies Registration Act, 1860 with Society registration certificate taken in FY 2005-06 vide Ref No. 1711. SCL, Mohali is under administrative control of Ministry of Electronics and Information Technology (MeitY) vide Gazette Notification dated 07.02.2022.

The said entity is an Integrated Device Manufacturer which undertakes activities pertaining to design, development, fabrication, assembly & packaging, testing and quality assurance of Silicon CMOS and MEMS Devices for various applications. Presently, SCL has two wafer fabrication lines, i.e., 200 mm wafer line operating in 180nm CMOS technology and 150 mm wafer line for MEMS technology. SCL predominantly caters to low volume requirements of strategic users like Indian Space Research Organisation (ISRO), Department of Atomic Energy (DAE), Defence Research and Development Organization (DRDO), Railways, Indian Air Force (IAF).

3. Notice Inviting Proposal

3.1 Ministry of Electronics and Information Technology (MeitY) invites RFP from Companies / LLPs for the selection of transaction cum legal adviser for the Modernization/Commercialization of SCL, Mohali. The Applicant who is selected by Ministry of Electronics and Information Technology pursuant to the terms and conditions of the RFP (“Selected Applicant”), shall be required to assist MeitY in Modernization/Commercialization of SCL, Mohali by providing legal and financial advisory surrounding such transaction.

3.2 Interested Companies/LLP who meet the eligibility criteria may furnish their proposals separately with all the necessary documents in a sealed cover. Applicants may furnish financial bids w.r.t. Modernization/Commercialization of SCL in a separate envelope. The financial bids of only eligible applicants would be opened.

3.3 RFPs must be submitted within 30 days from the date of publication by 16:00 hrs. at the following address:

Joint Secretary (Electronics)
 Ministry of Electronics and Information Technology
 Electronics Niketan,
 6, CGO Complex, Lodi Road, New Delhi - 110 003

3.4 RFPs submitted by email/telegram/fax etc. shall not be considered. Ministry of Electronics and Information Technology (MeitY) shall not be responsible for any postal delay or non-receipt/non- delivery of the documents. No further correspondence on the subject will be entertained.

3.5 Ministry of Electronics and Information Technology shall receive Proposals pursuant to this RFP in accordance with the terms set forth in this RFP, and all Proposals shall be prepared and submitted in accordance with such terms on or before the date specified in para 4.

4. Important Information

Submission of a proposal in response to this notice shall be deemed to have been done after careful study and examination of this document with full understanding of its terms, conditions, and implications.

S. No.	Information	Details
1	RFP No. and Date	Ref. no. 38/28/2021-IPHW dated: 13/06/2022
2.	Last date for submission of Request for Proposal (RFP)	13/07/2022
3.	Address at which proposal in response to RFP is to be submitted	Joint Secretary (Electronics) Room No. 4016, Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi – 110003
4	Pre-Bid Meeting	28/06/2022
5.	Opening of responses / RFP	28/07/2022

5. About Semi-Conductor Laboratory, Mohali

Semi-Conductor Laboratory is registered as a society under Societies Registration Act, 1860 with Society registration certificate obtained in FY 2005-06 vide Ref No. 1711. SCL, Mohali is under administrative control of Ministry of Electronics and Information Technology w.e.f. 09.02.2022. The latest annual report for SCL for FY 2020-21 can be downloaded from the link below.

https://www.scl.gov.in/pdf/pdf_document_ar_bilingual-20-21.pdf

6. Roles and Responsibilities of a Transaction cum legal adviser

The Transaction adviser (TA) cum Legal adviser shall be a company/LLP and will be required to undertake tasks related to all aspects of the proposed strategic commercialization culminating into successful completion of the transaction and would, *inter-alia*, include but not limited to advising and assisting MeitY on modalities of modernization/ commercialization and the timing; recommend the need for other intermediaries required for the process of commercialization and also help in identification and selection of the same with proper Terms of Reference; preparation of all documents like Preliminary Information Memorandum (PIM), Confidential Information Memorandum (CIM), Request for Proposal (RFP), Confidentiality Agreement, Joint Venture Agreement etc.; structuring the transaction; organizing roadshows, suggesting measures to fetch optimum value; positioning of the strategic sale, inviting and evaluating the bids, assisting and professionally guiding during the negotiations with prospective buyers, drawing up the sale/other agreements and advising on post-sale matters on a continuous basis.

Roles and Responsibilities of a Transaction cum legal adviser:

- a) Advising MeitY on the modalities and the timing of the strategic modernization/ commercialization of SCL, Mohali and preparing and submitting a detailed operational scheme to successfully implement the strategic commercialization process, indicating tentative timelines for each activity.
- b) Preparing the deal collateral for the transaction including drafting of the following documents but not limited to:
 - i. Preliminary Information Memorandum (“PIM”) with intent to providing prospective buyers information about SCL, Mohali and its business to enable them to send in their Expression of Interest.

- ii. Confidential Information Memorandum (“CIM”) covering detailed information about SCL, Mohali and its business.
 - iii. Request for Proposal (“RFP”) inviting a suitable JV Partner for the brownfield facility.
 - iv. Joint Venture Agreement (“JVA”) post selection of the JV partner, if a joint venture is a suitable structure for the commercial arrangement of SCL Mohali.
- c) Advise and assist MeitY in identifying and selecting specialized professional intermediaries required for the transaction to be appointed by MeitY and their work to be coordinated by the adviser.
- d) Facilitating execution of Non-Disclosure Agreements (“NDA”) and subsequent communication and providing the bidders with information on the asset and the transaction.
- e) Finalizing the process of strategic commercialization (through bidding/ auction etc).
- f) Managing a transparent process of bidding/interest solicitation from potential buyers including:
 - i. Preparation and issuance of advertisement/RFP etc.; and organizing pre-bid meeting(s) and site visit(s).
 - ii. Analysis of and framing/drafting replies to queries of prospective bidders and making necessary modifications, if required in the bid documents.
 - iii. Invitation and evaluation of bids from prospective purchasers/ investors and preparation of requisite documents leading to short listing of bidders for negotiations.
 - iv. Assisting in negotiations with shortlisted bidders.
- g) Assist MeitY in fixing the range of the fair reserve price considering the valuation of SCL, Mohali, based on the methods employed in the financial services sector and highlighting the pros and cons of various methods and also highlighting the fact that many variations of these valuations exist. MeitY will have the option of valuation done from any other agency.
- h) Preparation and execution of requisite agreements (share purchase agreement, shareholders’ agreement etc.), and all legal documentation required for execution of the transaction on behalf of MeitY, on mutually acceptable terms with the successful bidder.

- i) Ensuring compliance of applicable regulatory requirements including obtaining statutory approvals and clearances, wherever necessary, and coordinating and monitoring the progress of the transaction until its completion.
- j) Assist in closure of the transaction.
- k) Advising on post-sale matters, if any.
- l) Providing any other analytical and transactional support required by MeitY for successful completion and help in structuring of the transaction

7. Key Deliverables

7.1 Key deliverables during the assignment includes:

- a) Preliminary Information Memorandum ("PIM") with intent to providing prospective buyers information about SCL, Mohali and its business to enable them to send in their Expression of Interest.
- b) Confidential Information Memorandum ("CIM") covering detailed information about SCL, Mohali and its business.
- c) Request for Proposal ("RFP") inviting a suitable JV Partner for the brownfield facility.
- d) Status of outreach to the companies/ Road show.
- e) Any other documentation/presentation/information required by MeitY.

7.2 Preliminary Information Memorandum (PIM) shall, *inter-alia*, include the following:

- Overview of the Semiconductor Industry
- Overview of SCL, Mohali including resources available along with valuation.
- Terms and conditions for Bidders for EOI
- Information for Bidders:
 - Expression of Interest
 - Deed of Confidentiality Undertaking
 - Adherence to relevant DIPAM Guidelines 2017
 - Power of Attorney

7.3 Confidential Information Memorandum (CIM) shall, *inter-alia*, include the following:

- A detailed description of the business and its operations;
- A summary of the industry and opportunities within the market;

- Financial information including analysis of historical results and future projections; and
- A summary of the modernization process including the proposed structure of the timing and timing for receipts of expressions of interest or letters of intent.
- Customer diversification;
- Barriers to entry from competitors;
- Ability and plan to achieve future projections;
- Future growth opportunities;
- Strength of management team;
- Scalability of operations; and
- Opportunities in the external market place.

Sub-contracting of the assignment will not be allowed. The appointed adviser shall be solely responsible for all the required final deliverables.

8. Eligibility Criteria

The Applicants are required to satisfy each of the criteria set out below:

- (a) Any company under Companies Act 1956 or 2013, Limited Liability Partnership (LLP) which is eligible to work in India under the laws of India (subject to such parties obtaining all statutory approvals from GoI/FIFP/RBI etc. by themselves) shall be eligible to participate in the bidding process
- (b) Bidder should be a reputed professional consulting firm / investment banker/ merchant banker / financial institution / law firm /bank having experience of at least 5 years for providing similar advisory services for merger / acquisition / takeover / strategic commercialization / private equity investment transaction involving transfer in management control. The bidder should have completed at least 3 transactions in the last 5 years (01.04.2016 to 31.03.2021).
- (c) Bidders should have advised, handled and successfully completed at least one transaction of merger and acquisition / takeover / strategic commercialization / private equity investment transaction of a listed / unlisted company of the size of Rs.500 Crore (Rupees Five Hundred Crore Only) or more in last 4 years (i.e. between the period from 01.04.2018 to 31.03.2022).
- (d) The company/LLP should be a reputed professional firm having overall experience of at least 10 years in providing advisory services for strategic disinvestment or strategic sale or Merger & Acquisition activities or private equity investment transactions etc.

- (e) The selected bidder must have specialized teams for legal advisory and transaction advisory to be deputed for this assignment having a team of at least 15 partners having at least 4 partners as lawyers.

9. Evaluation and Award Criteria

The method of selection under this RFP is Combined Quality cum Cost Based Selection (CQCCBS). The eligible bidders shall be required to submit a technical and financial proposal which shall be evaluated by Ministry of Electronics and Information Technology (MeitY).

9.1 Technical and Financial Evaluation

9.1.1 In this stage, the Technical Proposal will be evaluated on the basis of the bidder's experience, its understanding of the Scope of Work, proposed methodology and work plan and the qualifications and experience of Key Personnel

9.1.2 Each proposal will be assigned a score. The maximum score which a bidder can attain is 100 marks.

9.1.3 A minimum of 75 marks/Score should be scored in the technical proposal for the bidder to be declared technically qualified. The Financial Bids of only those bidders who have obtained a Technical Score of 75 or more shall be opened.

9.1.4 The technical evaluation shall be in terms of the following parameters and marking scheme:

9.2 Technical Evaluation marks scheme

The technical evaluation shall be in terms of the following parameters and marking scheme:

Technical Evaluation marks scheme

S. No.	Parameter	Max. Marks/ Score	Criteria for Technical Evaluation- Technical Score
1	Bidder should be a reputed professional consulting firm / investment banker/ merchant banker / financial institution / law firm /bank having relevant experience of at least 5 years for	15	Based on the Number of Transactions completed by the company/LLP/Firm. The documentation should include: •Proposed transaction structure and

	providing similar advisory services for merger / acquisition / takeover / strategic commercialization / private equity investment transaction involving transfer in management control. The bidder should have completed at least 3 transactions in the last 5 years.		<p>its advantages</p> <ul style="list-style-type: none"> •Overview of valuation methodologies used in the previous transactions •Suitable. Methodology for the present case •Action Plan with tentative timelines
2	Bidder should have advised, handled and successfully completed at least one transaction of merger and acquisition / takeover / strategic commercialization / private equity investment transaction of a listed / unlisted company of the size of at least Rs.500 Crore (Rupees Five Hundred Crore Only) or more in last 4 years (i.e. between the period from 01.04.2018 to 31.03.2022).	15	Based on the company size for which the transaction was done. Indicate work done in the sector like studies or research undertaken and exhibit strength/expertise in the sector, if any
3	The company/LLP/firm should be a reputed professional firm having overall experience of at least 10 years in providing advisory services for strategic disinvestment or strategic sale or Merger & Acquisition activities or private equity investment transactions etc.	30	Based on overall understanding and work done in Indian Capital Markets and relevance of this experience for the current transaction
4	The selected bidder must have specialized teams for legal advisory and transaction advisory to be deputed for this assignment having a team of at least 15 partners having at least 4 partners as lawyers.	40	Based on Profile of the organization, capability, capacity and previous experience of the Firm and expertise in handling such assignments. Marks will be awarded in respect of the

			company profile and CVs furnished of the proposed Key Personnel to be deployed for the project with relevant experience.
Total		100	

9.3 Financial Evaluation marks scheme

In this stage, the financial evaluation of the proposal will be carried out of the bidders who qualify in the technical evaluation after determining whether the Financial Proposals are complete, unqualified and unconditional.

The Financial bids shall be ranked and evaluated on the basis of the Contract Price quoted by the bidders. The bidder shall have to quote as per the financial template given in table below:

	Cost of ‘Y’ (in INR) Y as defined in Section 13 and 14, payment Schedule of this RFP
In numerals	
In words	

Note: ‘Y’ is to be quoted exclusive of applicable taxes. Taxes will be paid extra as applicable.

The Contract price shall be all inclusive such as any stationery, telephone expenses, infrastructure requirements such as laptops, data cards, etc. as may be required by any of the resources deployed. Cost of domestic visits (if any) has to be borne by the bidder.

The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the agency to be compensated and the liability to fulfil its obligations as per the Scope of Work within the total quoted price shall be that of the bidder.

The payment shall be made on an as per actual basis for the ‘Y’ component.

9.4 Bid evaluation and Award of Work

Tender Evaluation committee constituted by MeitY shall evaluate the bids.

The decision of the Tender Evaluation Committee in the evaluation of the Technical (including Pre-Qualification) and Financial bids shall be final.

All the bidders who meet the minimum qualifying criteria during technical evaluation as prescribed above will be considered for opening of the financial bids. Bidders whose proposals will not meet the technical evaluation criteria or were found non-responsive to RFP will be notified as rejected and their financial proposals will be returned unopened after completing the selection process.

The marks scored by the short-listed bidders in the technical evaluation will then be given weightage of 80. Similarly, the financial bids of the shortlisted bidders will be given a weightage of 20. The combined score based on Quality cum Cost Based System (QCBS) of technical and financial bids will determine as H1, H2, H3 and so on.

Proposals will be ranked according to their combined technical Scores (St) (as indicated in Clause 9.2) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; F = the weight given to the Financial Proposal; T + F = 1) using the formula mentioned below:

$$S = St \times T\% + Sf \times F\%$$

Calculation of Financial Score: The financial score of each bidder will be calculated through a normalization process where the lowest bidder will be taken as 100 and scores of all other bidders are normalized against the lowest Bidder.

Calculation of Technical Score: The technical score of each bidder will be calculated as per the parameters mentioned in Clause 9.2.

The firm achieving the highest combined technical/ financial score will be H1 Bidder and will be invited for negotiations for the purpose of scope of this RFP. In the event of conflict of interest, H1 bidder shall recuse and the case shall be allotted to the H2 bidder. If the situation so arises that both the bidders have worked for the applicant at some stage in any capacity both the bidders will recuse from the assignment and the assignment would be undertaken by engaging H3 Bidder.

In case of a tie in H1, H2, H3 positions, the bidder who has a higher technical score will be selected.

10. Submission of RFP

The proposal shall be submitted in a single sealed cover comprising of two separate sealed envelopes each for eligibility / technical evaluation and financial evaluation. The cover should be superscripted as "RFP – Selection of transaction cum legal adviser for Modernisation/Commercialization of SCL,

Mohali under the Ministry of Electronics and Information Technology (MeitY)” and **RFP No. W-38/28/2021-IPHW dated 13-06-2022.**

- This envelope should contain signed hard copy of RFP proposal and other necessary documents.
- Applicants shall enclose supporting proofs and documents as will be necessary to prove eligibility as per Para 8 to be considered for the award of work.
- No overwriting / changes are allowed in submitted RFP documents.

11. Queries

All queries may be sent to the following Officer of Ministry of Electronics and Information Technology by post, or e-mail on or before 28-06-2022.

Joint Secretary
Ministry of Electronics and Information Technology
Electronics Niketan,
6, CGO Complex, Lodi Road, New Delhi – 110003

All queries / clarifications from the Applicants, related to this RFP, must be directed in writing exclusively to the contact person(s). Queries received after the due date shall not be entertained.

The preferred mode of delivering questions is through e-mail. Telephonic responses, if sought for, shall not be treated as valid responses. The queries by the applicants shall be raised in the following format:

S. No.	Page	Clause of the RFP	Clarification required

All the queries would be addressed in Pre-Bid Meeting.

12. Duration of Contract

The contract will be valid till the completion of commercialization of SCL, Mohali (to be assessed on yearly basis till the validity of this contract) which is expected to be 3 years and extendable with the approval of the competent authority.

13. Payment Terms

13.1 The fee to the selected Bidder shall be paid in Indian Rupees after successful completion of the aforesaid transaction in the following manner:

- (a) 20%, - on issuance of the EoI/PIM, if required
- (b) 20% - on issuance of the RFP and CIM
- (c) 50%,- completion of transaction by selection of party/ies and approval of Share Purchase Agreement/Company Incorporation with or without a JV Partner
- (d) 10% - successful completion of commercialization of SCL, Mohali and on-boarding of a commercial partner

13.2 The Bidder is required to quote Transaction fee as a Lump sum amount in the multiples of Re.1.

13.3 The fee quoted should be inclusive of all duties and expenses but excluding GST.

13.4 The Fee quoted by the bidder shall remain FIRM till successful completion of transaction. The fee quoted should be unconditional.

13.5 The Bidders will be liable to pay taxes/ duties/cess etc., if any applicable as per prevailing law at their end.

14. Expenses of Parties

14.1 In performing its services, selected bidder/agency shall bear the following expenses:

- (a) All fees and expenses related to external professionals appointed by agency;
- (b) All out of pocket, travelling/hotel and other cost, charges and expenses incurred by agency or its officers, employees or agents in connection with performing any services save and except Clause 14.2 which shall be borne by MeitY
- (c) The parties shall bear the cost of their respective telephone calls, facsimile transmission, computer related hardware/software, couriers, dispatches and postage.

14.2 MeitY shall bear the following expenses:

- (d) Fees and expenses related to external legal advisors appointed by MeitY for drafting and providing shareholders agreement and such other related agreements related to the strategic sale;

- (e) Fees and expenses related to external professionals appointed by MeitY/SCL,
- (f) Travelling/hotel and other cost incurred in connection with domestic or international travel of SCL/MeitY personnel, officers and employee;
- (g) All advertisement and printing expenses relating to the services under this agreement; Restructuring costs, if any.

15. General Instruction to Bidders

15.1 Verification and Disqualification

15.1.1 Ministry of Electronics and Information Technology reserves the right to verify all statements, information and documents submitted by the Applicant in response to the RFP and the Applicant shall, when so required by Ministry of Electronics and Information Technology, make available all such information, evidence and documents as may be necessary for such verification. Any such verification, or lack of such verification, by Ministry of Electronics and Information Technology shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of Ministry of Electronics and Information Technology thereunder.

15.1.2 Ministry of Electronics and Information Technology reserves the right to reject any proposal and appropriate the proposal security if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Applicant does not provide, within the time specified by Ministry of Electronics and Information Technology, the supplemental information sought by Ministry of Electronics and Information Technology for evaluation of the Proposal.

Such misrepresentation/ improper response shall lead to the disqualification of the Applicant. If the Applicant is a Consortium, then the entire Consortium and each Member may be disqualified / rejected.

15.1.3 If such disqualification / rejection occurs after the Proposals have been opened and the Selected Applicant gets disqualified / rejected, then notwithstanding anything to the contrary contained herein, Ministry of Electronics and Information Technology reserves the right to take any such measure as may be deemed fit in the sole discretion of Ministry of Electronics and Information Technology, including, (a) awarding the Project to the Qualified Applicant who has obtained the second highest Techno-Commercial Score; or (b) annulment of the selection process.

15.1.4 In case it is found during the evaluation or at any time before signing of the letter of award or after its execution and during the period of subsistence thereof, that one or more of the Minimum Eligibility Criteria have not been met by the Applicant, or the Applicant has made material misrepresentation or has given any materially incorrect or false information, such Applicant shall be disqualified forthwith. Notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by Ministry of Electronics and Information Technology to the Selected Applicant without Ministry of Electronics and Information Technology being liable in any manner whatsoever to the Selected Applicant, as the case may be. In such an event, Ministry of Electronics and Information Technology shall be entitled to forfeit and appropriate the Proposal Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy which Ministry of Electronics and Information Technology may have under this RFP.

15.1.5 Ministry of Electronics and Information Technology may, in its sole discretion and on grounds of reciprocity, disqualify an applicant, if any or all of its constituents are entities incorporated in a country where an entity incorporated in India does not have similar rights of applying for contracts contemplated hereunder.

15.1.6 In the event that only a single proposal is received pursuant to the RFP process or if only one applicant is found to satisfy the Minimum Eligibility Criteria, Ministry of Electronics and Information Technology, reserves the right to:

- (a) accept the Proposal for Techno-Commercial evaluation; or
- (b) reject the Proposal; or
- (c) take any other course of action in accordance with applicable law, including initiating a fresh RFP process.

15.1.7 Sub-contracting of the assignment will not be allowed. The appointed adviser shall be solely responsible for all the required final deliverables.

16. Important Terms and Conditions

16.1 RFP Preparation and cost related Issues

The Applicant agency/organization shall bear all costs incurred in connection with participation in this process, including, but not limited to, costs incurred in preparation of proposal, participation in

meetings / discussions. Ministry of Electronics and Information Technology will not be responsible or liable for these costs, regardless of the conduct or outcome of the RFP evaluation process.

This RFP does not commit Ministry of Electronics and Information Technology to award a contract or to engage in negotiations. Further, no reimbursable cost may be incurred in anticipation of award or for preparing this RFP.

All materials submitted by the Applicants will become the property of Ministry of Electronics and Information Technology and may be returned completely at its sole discretion.

16.2 Responses to pre-submission queries & issue of corrigendum

Based on the response to the RFP, queries from interested parties would be taken to clarify / amend the scope, if required. After publication of the RFP, the contact person notified by Ministry of Electronics and Information Technology will accept written questions from the applicants. Ministry of Electronics and Information Technology will endeavor to provide timely response to all queries. However, Ministry of Electronics and Information Technology makes no representation or warranty as to the completeness or accuracy of any response made in good faith, nor does Ministry of Electronics and Information Technology undertake to answer all the queries that have been posed by the applicants.

16.2.1 At any time prior to the last date for receipt of RFP, Ministry of Electronics and Information Technology may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective applicant, modify the RFP document by a corrigendum.

16.2.2 The corrigendum (if any) shall be posted only online at <https://meity.gov.in/>

16.2.3 Any such corrigendum shall be deemed to be incorporated into this RFP.

16.2.4 In order to provide prospective applicants reasonable time for taking the corrigendum into account, MeitY may, at its discretion, extend the last date for the receipt of RFP proposals which shall again be notified online through Ministry of Electronics and Information Technology portal <https://meity.gov.in/>.

16.3 Performance Bank Guarantee (PBG)

16.3.1 Within 15 days after intimation of selection, the selected firms shall have to submit a Performance Bank Guarantee equivalent to 3% of the project cost in the form of unconditional,

unequivocal and irrevocable Bank Guarantee (BG) from any Commercial Indian Bank and valid for 3 years and any applicable extension periods as may be mutually accepted.

16.3.2 The Proposal Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to Ministry of Electronics and Information Technology under the RFP or otherwise, if

- (a) An Applicant submits a non-responsive Proposal;
- (b) An Applicant engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;
- (c) An Applicant withdraws its Proposal during the period of Proposal validity as specified in this RFP and as extended by mutual consent of the respective Applicant(s) and Ministry of Electronics and Information Technology;
- (d) the Selected Applicant fails within the specified time limit:
 - (i) to sign and return the duplicate copy of LOA; or
 - (ii) to furnish the Performance Security within the period prescribed hereunder.

16.3.3 Bank Guarantee shall be returned within three months from the date of successful completion of the assignment, as approved by MeitY.

16.4 Earnest Money Deposit

16.4.1 Bidders shall submit, along with their Bids, Earnest Money Deposit (EMD) of Rs. 1,00,000/- (Rupees One Lakh Only), in the form of Bank Guarantee or Demand Draft issued by any commercialized bank in favor of “Pay and Accounts Officer, Ministry of Electronics and Information Technology” payable at New Delhi, and should be valid for at least three months from the due date of the RFP.

16.4.2 EMD of all unsuccessful bidders would be returned by MeitY within thirty working days of the bidder being notified as being unsuccessful. The EMD, for the amount mentioned above, of successful bidder would be returned upon submission of Performance Bank Guarantee.

16.4.3 The EMD amount is interest free and will be returned to the unsuccessful bidders without interest.

16.4.4 The bid / proposal submitted without EMD, mentioned above, will be summarily rejected.

16.4.5 The EMD may be forfeited:

- If a bidder withdraws its bid during the period of bid validity
- In case of a successful bidder, if the bidder fails to sign the contract in accordance with this RFP.

Annexure-I

(Covering Letter on Letterhead duly signed by Authorized signatory)

<Location, Date>

To,

Joint Secretary,

Ministry of Electronics & Information Technology,

Electronics Niketan, 6 CGO Complex, Lodi Road, New Delhi – 110 003

Kind Attn. – Joint Secretary, Ministry of Electronics and Information Technology (Ministry of Electronics and Information Technology)

Dear Sir / Madam,

We, the undersigned, offer to act as transaction cum legal adviser for modernization/commercialization of SCL, Mohali.

We are hereby submitting our proposal. We understand that you are not bound to accept any proposal that you receive.

We fully understand and agree to comply with the condition that upon verification, if any of the information provided here is found to be misleading, we are liable to be dismissed from the RFP selection process or termination of the contract during the project.

We agree to abide by the conditions set forth in this RFP. We hereby declare that our proposal submitted in response to this RFP is made in good faith and the information contained is true and correct to the best of our knowledge and belief.

Sincerely,

<Signature of the authorized signatory with seal>

<Name>

<Designation>

<Name of the Organization>

<Phone & E-mail>

Annexure-II

(Declaration by the Authorized signatory on Letterhead)

BID SECURING DECLARATION

We accept that if we withdraw or modify the “Request for Proposal (RFP)” during the period of validity, or if we fail to sign the contract after the contract is awarded to us, or if we fail to submit a performance security before the deadline defined in the request for RFP / work order document, we will be suspended for the period of time specified in the RFP document from being eligible to submit the RFP for contracts with the entity that invited the proposal.

<Signature of the authorized signatory with seal>

<Name>

<Designation>

<Name of the Organization>

<Phone & E-mail>

Place:

Date

Annexure-III

Draft NDA

This Non-Disclosure Agreement (“Agreement”) is made effective from this day of [month year] between [agency name] having office at [address of agency] and Ministry of Electronics and Information Technology, having office at Electronics Niketan, 6 CGO Complex, Lodhi Road, New Delhi - 110003 (“Client”).

(Client and [agency name] shall be individually referred to hereinafter as a “Party” and collectively as the “Parties”)

WHEREAS, the Client has appointed [agency name] for rendering < consultancy> services at < Ministry of Electronics and Information Technology, Electronics Niketan, 6 CGO Complex, Lodhi Road, New Delhi – 110003> during the period commencing from to < ddmmyyy>

WHEREAS, the parties hereto are willing to execute this Agreement in order to protect certain information to be disclosed to each other for the aforesaid purposes. NOW, THEREFORE, in consideration of the recitals set forth above and the covenants set forth herein, the Parties agree that:

1. It is hereby agreed that the discretion applied at the time of disclosure would provide the best protection of Confidential Information of either Party. Accordingly, a Disclosing Party shall ensure that only those Confidential Information which serve the engagement objectives shall be disclosed as per an agreed procedure to the identified individuals at the recipient’s end.
2. Recipient agrees to protect Confidential Information received from the Disclosing Party with at least the same degree of care as it normally exercises to protect its own proprietary information of a similar nature. Recipient agrees to promptly inform the Disclosing Party of any unauthorized disclosure of the Disclosing Party’s Confidential Information.
3. In the case of Confidential Information that is disclosed only orally, Disclosing Party shall, within seven days after such disclosure, deliver to the Receiving Party a brief written description of such Confidential Information; identifying the place and date of such oral disclosure and the names of the representatives of the Receiving Party to whom such disclosure was made. It is expected that such information will bear a legend or label of “Confidential” or other similar designation manifesting intent that the information is confidential (“Confidential Information”).
4. The restrictions set forth in this Agreement on the use or disclosure of Confidential Information shall not apply to any information which:
 - a. is independently developed by the Recipient; or

- b. is rightfully received free of restriction from another source having the right to so furnish such information; or
 - c. has become generally available to the public; or
 - d. at the time of disclosure to the Recipient was rightfully known to such party or
 - e. its affiliated companies free of restriction as evidenced by documentation in its possessions; or
 - e. the non-Disclosing Party agrees in writing to be free of such restrictions; or
 - f. is required to be furnished to any authority, department, office or body by a decree, order or authorization of law
5. Each Party shall use Confidential Information of the other Party which is disclosed to it only for the purpose of this Agreement and shall not disclose such Confidential Information to any third party, without the other Party's prior written consent, other than to [agency name] subcontractors and to each other's employees on a need-to know basis.
 6. All information shall remain the property of the Disclosing Party and shall be returned upon written request or upon the Recipients determination that it no longer has a need for such information except that both parties may retain copies of the Confidential Information, to the extent required to comply with applicable legal and regulatory requirements.
 7. The Parties agree that during the existence of the term of this Agreement, neither Party shall solicit directly or indirectly the employees of the other Party.
 8. The term of this Agreement shall be xxxx from the date of its execution by both Parties. Both the parties shall jointly review this Agreement after end of xxxx and shall extend it for xxxxx at a time if mutually agreed upon by both the parties
 9. The authorised representatives from [agency name] side shall be –
 - a. <xx>
 10. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by in accordance with the Arbitration and Conciliation Act, 1996. Any claim for losses under this Agreement shall be restricted to direct losses only.
 11. This Agreement constitutes the entire understanding between the Parties hereto as to the information and merges all prior discussions between them relating thereto. No amendment or modification of this Agreement shall be valid or binding on the Parties unless made in writing

and signed on behalf of each of the Parties by their respective authorised officers or representatives.

12. The Parties agree that the laws of India, other than its conflict of law provisions, shall apply in any dispute arising out of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date set forth above.

For and on behalf of	For and on behalf of
Sig.:	Sig.:
Name:	Name:
Title:	Title:
Place:	Place:

Witness:

Signature:

Name:

Title:

Annexure-IV

Proforma for Bank Guarantee towards Performance Security (From Any commercial bank)

This Deed of Guarantee executed on this _____ day of _____, 2012 at by _____ (from any commercial bank), having its Head Office/Registered Office at _____ and, *inter-alia*, a Branch Office at _____ (hereinafter referred to as the Bank. or .“the Guarantor”, which expression shall unless it be repugnant to the subject or context hereof be deemed to include its successors and assigns)

In favor of

Ministry of Electronics and Information Technology, Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi-110003(MeitY).

WHEREAS

- A. [.....], a company within the meaning of the Companies Act, 1956 and having its Registered Office at [] (herein after referred to as “the Consultant”, which expression unless repugnant to the subject or context includes its successors, legal representatives and permitted assigns) has been awarded the contract for Selection of transaction cum legal adviser for Modernisation/Commercialization of SCL, Mohali ;
- B. In terms of clause of the said Agreement, the Consultant has to provide a Performance Guarantee for an amount equivalent to ----- of the Bid Price in the format specified.
- C. At the request of the Agency, the Guarantor has agreed to provide this guarantee, being these presents, guaranteeing the due and punctual performance/discharge by the Vendor of its obligations under the said contract during the implementation period.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS

- A. The Guarantor hereby irrevocably guarantees the due and punctual performance by the Consultant of all its obligation under the said Agreement during the implementation period;
- B. B. The Guarantor shall, without demur, pay to MeitY sums not exceeding in aggregate Rs. (Rupees) within five (5) calendar days of receipt of a written demand thereof from MeitY stating that the Contractor has failed to meet its performance obligations under the said contract during the implementation period. The Guarantor shall have not to go into the veracity of any breach or failure on the part of the Consultant or validity of the demand so made by MeitY and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Vendor or any other person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof;
- C. In the event of delay on the part of the Guarantor to pay on demand, the Guarantor shall be liable to pay interest at the rate of fifteen (15) per cent, compounding quarterly, to MeitY. There shall not be any delay in payment of the guaranteed amount and payment of interest shall not be an excuse for delaying the payment of guarantee amount. Time is the essence of this Performance Guarantee;
- D. The Guarantor shall also indemnify and keep MeitY indemnified against all losses, damages, costs, charges claims and expenses whatsoever which MeitY may suffer, pay or incur by reason of or in connection with any default on the part of the Vendor, including legal proceedings taken against the said Consultant and/or the Guarantor for the recovery of the monies referred to above;
- E. The Guarantor hereby agrees that without the concurrence of the Guarantor, MeitY and the Consultant shall be at liberty to vary, alter or modify the terms and conditions of the contract executed by the MeitY with the Consultant, and in particular to defer, postpone or revise the payment schedule under the contract, modify the work at site and payment of interest or other monies under the contract on such terms and conditions as maybe considered necessary by MeitY;
- F. The Guarantor agrees that its liability under this guarantee shall in no manner be affected by any such variation, alteration, modification, waiver dispensation with or release of security

and that no further consent of the Guarantor is required for giving effect to any such variation, alteration, modification, waiver dispensation with or release of security;

- G. This Guarantee shall be enforceable against the Guarantor notwithstanding that any security or securities comprised in any instrument executed or to be executed by the Consultant in favor of MeitY may at the time when the proceedings are taken against the Guarantor of this guarantee be outstanding or unrealized or lost. In order to give effect to this Guarantee, MeitY shall be entitled to treat the Guarantor as the principal debtor
- H. This Guarantee shall be irrevocable and shall remain in full force and effect until unless discharged/released earlier by MeitY in accordance with the provisions of the said contract. The Guarantor's liability in aggregate shall be limited to a sum of Rs. (Rupees only);
- I. This Guarantee shall not be affected by any change in the constitution or winding up of the Consultant/the Guarantor or any absorption, merger or amalgamation of the Consultant/the Guarantor with any other person;
- J. The Guarantor has power to issue this Guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under _____

All future correspondence with reference to this Guarantee shall be made to(Bank Name and Address).

The jurisdiction in relation to this Guarantee shall be the Courts at New Delhi and Indian Law shall be applicable.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

SIGNED AND DELIVERED by _____ Bank by the hand of _____, its _____ and authorized official.