

REQUEST FOR QUALIFICATION

FOR

**OPERATIONALIZATION OF PHASE 1 HOSPITAL
PROJECT OF SHRI MATA VAISHNO DEVI INSTITUTE
OF MEDICAL EXCELLENCE (SMVDIME) ON A PPP
MODE**

GLOSSARY

Definitions	Clause
Applicant(s)	Refer Clause Number 1.2.1
Application	As defined in Disclaimer
Application Due Date	Refer Clause Number 1.1.5
Associate	Refer Clause Number 2.2.8
Authority	Refer Clause Number 1.1.1
Average Annual Turnover	Refer Clause Number 2.2.3(ii)
Bids	Refer Clause Number 1.2.3
Bid Due Date	Refer Clause Number 1.2.3
Bid Security	Refer Clause Number 1.2.4
Bidders	Refer Clause Number 1.2.1
Bidding Documents	Refer Clause Number 1.2.3
Bidding Process	Refer Clause Number 1.2.1
Bid Stage	Refer Clause Number 1.2.1
BROT	Refer Clause Number 1.1.1
Conflict of Interest	Refer Clause Number 2.2.1(c)
Consortium	Refer Clause Number 2.2.1(a)
Control	Refer Clause Number 2.2.8
Concession Agreement	Refer Clause Number 1.1.2
Concession Period	Refer Clause Number 1.1.1
Concessionaire	Refer Clause Number 1.1.2
Financial Capacity	Refer Clause Number 2.2.2(b)
Jt. Bidding Agreement	Refer Clause Number 2.2.5(g)
Lead Member	Refer Clause Number 2.2.5(c)
LOA	Letter of Association
Highest Bidder	Refer Clause Number 1.2.8
Member	Member of a Consortium
Net Worth	Refer Clause Number 2.2.3(ii)
PPP	Refer Clause Number 1.1.1
Premium	Refer Clause Number 1.2.8
Project	Refer Clause Number 1.1.1
Qualification	Refer Clause Number 1.2.1
Qualification Stage	Refer Clause Number 1.2.1
Re. or Rs. or INR	Indian Rupees
RFP or Request for Proposals	Refer Clause Number 1.2.1
RFQ	As defined in Disclaimer
SPV	Refer Clause Number 2.2.5
Technical Capacity	Refer Clause Number 2.2.2(a)
Total project Cost	Refer Clause Number 1.1.4

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

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DISCLAIMER

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

This RFQ is not an agreement and is neither an offer nor invitation by the Authority to the prospective Applicants or any other person. The purpose of this RFQ is to provide interested parties with information that may be useful to them in the formulation of their application for qualification pursuant to this RFQ (the “**Application**”). This RFQ includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFQ may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFQ. The assumptions, assessments, statements and information contained in this RFQ 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 RFQ and obtain independent advice from appropriate sources.

Information provided in this RFQ 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. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

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

The Authority 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 RFQ.

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

The issue of this RFQ does not imply that the Authority is bound to select and short-list pre-qualified Applications for Bid Stage or to appoint the selected Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Applications or Bids without assigning any reasons whatsoever.

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

1 INTRODUCTION

1.1. Background

1.1.1. Shri Mata Vaishno Devi Shrine Board (SMVDSB) (the “**Authority**”) is an autonomous body set up in 1986, through an enactment of Jammu & Kashmir State Legislature viz Jammu & Kashmir Shri Mata Vaishno Devi Shrine Act, 1988. The Authority is engaged in the management, administration and governance of Holy Shrine of Shri Mata Vaishno Devi Ji and its endowments including the appurtenant lands and buildings. The Authority has undertaken development of Shri Mata Vaishno Devi Institute of Medical Excellence (SMVDIME), a flagship project of the SMVDSB, and located in a place called Kakryal, which is around 15 km from Katra town (base camp of the pilgrimage to Holy Shrine) and 40 km from Jammu. It is located just opposite Shri Mata Vaishno Devi University, which has also been set up by SMVDSB. SMVDIME has been conceived as a Medical College with 730 bedded Multi-specialty hospital in three phases:

- Phase -1: 230 bed multi specialty hospital.
- Phase -2 : 500 bed multi specialty hospital block
- Phase -3 : Medical College

The RFQ is in respect of Phase-I Hospital Project only. As per the plan, Phase-II and III may be developed in future by SMVDSB.

Execution of Phase-1 of the project started in the year 2006 by the Authority. An expenditure of 175 crores is being estimated for the completion of Phase-1 Hospital Project of SMVDIME. The Authority has substantially completed the construction of hospital building and is expected to be completed before March 2013. The Authority also plans to construct doctors and nurses hostel adjacent to the hospital building, at its own cost. The Authority has decided to undertake installation of medical equipments and operation/maintenance of hospital under Phase 1 of SMVDIME (the “**Project**”) through Public-Private Partnership (the “**PPP**”) on Build, Refurbish, Operate and Transfer (the “**BROT**”) basis, and has decided to carry out the bidding process for selection of a private entity as the bidder to whom the Project may be awarded. The Authority intends to pre-qualify and short-list suitable Applicants who will be eligible for participation in the Bid-Stage for awarding the Project through an open competitive bidding process in accordance with the procedure set out herein. The Authority shall complete the remaining infrastructure and civil works for the hospital while the private partner is expected to invest in medical equipments for the hospital. The Authority shall provide the hospital building and other infrastructure to the private partner for operations and maintenance for a “**Concession**” period to be specified in RFP (the “**Concession Period**”) in lieu of a concession fee. Brief description of the particulars of the hospitals and project facility requirements are provided in the Project Overview in Appendix VI.

1.1.2. The Selected Bidder, who is either a company incorporated under the Companies Act, 1956 or an organization registered under the Societies

Registration Act 1860 or any relevant Act as per the statutory laws of the Govt. of India (GoI) or any relevant Act of a State or Union Territory. (the “**Concessionaire**”), shall be responsible for designing, engineering, installing medical equipments, financing, procurement, refurbishment, operation and maintenance of the Project under and in accordance with the provisions of a long-term concession agreement (the “**Concession Agreement**”) to be entered into between the Concessionaire and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto

- 1.1.3. The scope of work of the private player will be to procure and finance Medical Equipments, refurbish existing facilities, commission, operate and maintain the Hospital. The Selected Bidder shall be responsible for the operations and administration of the Hospital under the oversight of a Governing Body having members from SMVDSB and the private partner. At the end of the Concession period, the private partner shall hand over the hospital including medical equipments in well maintained and proper condition to the Authority.
- 1.1.4. Estimated capital cost of the Project is Rs. 62 crores (the “**Total Project Cost**”), which may be revised and specified in the Bidding Documents of the Project. The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.5. The Authority shall receive Applications pursuant to this RFQ in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by the Authority, and all Applications shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Applications (the “**Application Due Date**”)

1.2. Brief description of Bidding Process

- 1.2.1. The Authority has adopted a two-stage process (collectively referred to as the “**Bidding Process**”) for selection of the bidder for award of the Project. The first stage (the “**Qualification Stage**”) of the process involves qualification (the “**Qualification**”) of interested parties/ consortia who make an Application in accordance with the provisions of this RFQ (the “**Applicants**”, which expression shall, unless repugnant to the context, included the Members of the Consortium).

The Applicant shall pay to the Authority a sum of Rs. 5,000 (Rupees Five Thousand) as the cost of the RFQ process by a Demand Draft in the favour of “Chief Accounts Officer, Shri Mata Vaishno Devi Shrine Board” payable at Katra.

At the end of this stage, the Authority shall announce a short-list of all pre-qualified Applicants (the “**Bidders**”) who shall be eligible for participation in the second stage of the Bidding Process (the “**Bid Stage**”) comprising Request for Proposals (the “**Request for Proposals**” or “**RFP**”).

Government of India has issued guidelines (see **Appendix-V**) for qualification of bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply mutatis mutandis to this Bidding Process. The Authority shall be entitled to disqualify an Applicant in accordance with the aforesaid guidelines at any

stage of the Bidding Process. Applicants must satisfy themselves that they are qualified to bid, and should give an undertaking to this effect in the form at **Appendix-I**.

- 1.2.2. In the Qualification Stage, Applicants would be required to furnish the information specified in this RFQ. Only those Applicants that are pre-qualified and short-listed by the Authority shall be invited to submit their Bids for the Project. The Authority is likely to provide a comparatively short time span for submission of the Bids for the Project. The Applicants are, therefore, advised to visit the site and familiarize themselves with the Project.
- 1.2.3. In the Bid Stage, the Bidders will be called upon to submit their financial offers (the "**Bids**") in accordance with the RFP and other documents to be provided by the Authority, (collectively the "**Bidding Documents**"). The Bidding Documents for the Project will be provided to every Bidder on payment of tender cost as specified in the Bidding Documents. The Bid shall be valid for a period of not less than 120 days from the date specified in Clause 1.3 for submission of bids (the "**Bid Due Date**").
- 1.2.4. In terms of the RFP, a Bidder will be required to deposit, along with its Bid, a bid security (the "**Bid Security**"), of amount specified in the Bidding Documents, refundable not later than 60 days from the Bid Due Date except in the case of the selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Authority and in such event, the validity period of the demand draft or bank guarantee, as the case may be, shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.
- 1.2.5. Generally, the Highest Bidder shall be the selected Bidder.
- 1.2.6. During the Bid Stage, Bidders shall be invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the concession including implementation of the Project.
- 1.2.7. As part of the Bidding Documents, the Authority will provide a draft Concession Agreement and feasibility report prepared by the Authority/ its consultants and other information pertaining/ relevant to the Project available with it.
- 1.2.8. Bids will be invited for the Project on the basis of the highest concession fees (the "**Premium**") offered by a Bidder for implementing the Project.

In this RFQ, the term "**Highest Bidder**" shall mean the Bidder who is offering the highest Premium.
- 1.2.9. The Concessionaire shall be entitled to levy and charge a pre-determined

user fee from users of the Project.

1.2.10. Further and other details of the process to be followed at the Bid Stage and the terms thereof will be spelt out in the Bidding Documents.

1.2.11. Any queries or request for additional information concerning this RFQ shall be submitted in writing or by fax and e-mail to the officer designated in Clause 2.13.3 below. The envelopes/ communications shall clearly bear the following identification/ title:

"Queries/ Request for Additional Information: RFQ for "Hospital Project of Shri Mata Vaishno Devi Institute of Medical Excellence (SMVDIME) at Kakryal (Katra), Jammu & Kashmir to be executed as on BROT Pattern."

1.3. Schedule of Bidding Process

1.3.1. The Authority shall endeavour to adhere to the following schedule:

<i>Event Description</i>	<i>Date</i>
Qualification Stage	
Last date for receiving queries	Upto the date of pre-application conference.
Pre-application conference	November 5, 2012 at 2:00 pm
Authority response to queries latest by	November 8, 2012
Application Due Date	November 19, 2012
Announcement of Prequalified Applicants	November 25, 2012
Bid Stage	
The detailed schedule shall be notified later on.	

2 INSTRUCTIONS TO APPLICANTS

A. GENERAL

2.1. Scope of Application

- 2.1.1. The Authority wishes to receive Applications for Qualification in order to pre qualify experienced and capable Applicants for the Bidding Stage.
- 2.1.2. Pre-qualified Applicants may be subsequently invited to submit the Bids for the Project.

2.2. Eligibility of Applicants

- 2.2.1. For determining the eligibility of Applicants for their pre-qualification hereunder, the following shall apply:

- (a) The Applicant for pre-qualification may be a single entity or a combination of maximum of 3 (Three) entities (the “**Consortium**”), coming together to implement the Project. However, no applicant applying individually or as a member of a Consortium, as the case may be, can be member of another Applicant. The term Applicant used herein would apply to both a single entity and a Consortium.
- (b) An Applicant may be an organization under the Companies Act 1956 or an organization registered under the Societies Registration Act 1860 or any relevant Act of the Govt. of India (GoI) or any relevant Act of a State or Union Territory. The Applicant should be registered in India and permissible by the statutory laws of GoI to provide healthcare services for the Project in India. Any combination of such organisations with a formal intent to enter into an agreement or under an existing agreement to form a Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.3 below.
- (c) An Applicant shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Applicant found to have a Conflict of Interest shall be disqualified. An Applicant shall be deemed to have a Conflict of Interest that affects the Bidding Process, if:
 - (i) the Applicant, its Member or Associate (or any constituent thereof) and any other Applicant, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an applicant, its Member or an Associate thereof (or any shareholder thereof having a shareholding of not more than 25% of the paid-up and subscribed share capital of such Applicant, Member or Associate, as the case may be) in the other Applicant, its Member or Associate, as the case may be, is not more than twenty five per cent of the paid up and subscribed share capital thereof; provided further that this disqualification

shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act 1956;. For the purposes of this Clause 2.2.1 (c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

- (ii) A constituent of such Applicant is also a constituent of another Applicant; or
 - (iii) Such Applicant, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Applicant, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Applicant, its Member or any Associate thereof; or
 - (iv) Such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
 - (v) Such Applicant, or any Associate thereof has a relationship with another Applicant, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each others’ information about, or to influence the Application of either or each other; or
 - (vi) such Applicant or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.
- (d) An Applicant shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Applicant, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such advisor was engaged by the Applicant, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFQ. Nor will this disqualification apply where such adviser is engaged after a period of 3 years from the date of commercial operation of the Project.

Explanation:

In case an Applicant is a Consortium, then the term Applicant as used in this Clause 2.2.1, shall include each Member of such Consortium.

2.2.2. To be eligible for pre-qualification and short-listing, an Applicant shall fulfil the following conditions of eligibility:

(a) **Technical Capacity:** For demonstrating technical capacity and experience (the “**Technical Capacity**”), the Applicant must meet the following criteria:

- (i) At least 400 beds under management of the Applicant; and
- (ii) At least 1 multi specialty hospital in India with a minimum bed capacity of 150 beds under the ownership of the Applicant offering super specialty services in Orthopaedics, Cardiology and cardiothoracic surgery, Neurosurgery and Oncology; and
- (iii) The Applicant should have a NABH/JCI or any equivalent Accreditation related to healthcare operations or should be in the process of such Accreditation for its multi specialty hospital(s).
- (iv) At least 3years of operating experience of multi specialty hospitals in India; and

The above experience should be demonstrated by the single entity or in case of the Consortium, by the Lead Member of the Consortium.

(b) **Financial Capacity:** In the immediately preceding financial year, the Applicant shall demonstrate, a minimum Average Annual Turnover of Rs. 100 crores for preceding three financial years (2011-12, 2010-11 and 2009-10) and Net Worth of Rs. 60 crores (the “**Financial Capacity**”) as at the close of the preceding financial year (2011-12).

Provided further that each member of Consortium shall have a minimum Net worth of Rs. 15 crores in the immediately preceding financial year.

2.2.3. The Applicants shall enclose with its application, to be submitted as per the format at Appendix-I, complete with its Annexes, the following:

- (i) Certificate(s) from statutory auditors stating the technical capacity of the Applicant or Lead Member (in case of Consortium) as specified in paragraph 2.2.2(a) above. In case a particular hospital has been jointly operated/owned by the Applicant or Lead Member (as part of a consortium), he should further support his claim of operation or ownership of hospital by producing a certificate from its statutory auditor or the client; and
- (ii) Certificate(s) from its statutory auditors specifying the annual turnover and net worth of the Applicant, as at the

close of the preceding financial year, and also specifying that the methodology adopted for calculating such Annual Turnover and net worth conforms to the provisions of this Clause 2.2.3 (ii). For the purposes of this RFQ, net worth (the “**Net Worth**”) shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity shareholders. For the purposes of this RFQ, average annual turnover (the “**Average Annual Turnover**”) shall mean simple mean average of the preceding three financial years of gross annual revenue not including income from other sources like interest, dividend, rent etc.

** In case an Applicant has issued any fresh Equity Capital during the current financial year, the same will be permitted to be added to the Applicants assessed Net-worth subject to the Statutory Auditor of the Applicant certifying to this effect*

2.2.4. The Applicant should submit a Power of Attorney as per the format at **Appendix- II**, authorizing the signatory of the Application to commit the Applicant. In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead member as per format at **Appendix-III**.

2.2.5. Where the Applicant is a single entity, it may be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act 1956 (the “**SPV**”), to execute the Concession Agreement and implement the Project. In case the Applicant is a Consortium, it shall in addition to forming a SPV, comply with the following additional requirements:

- (a) Number of members in a consortium should be limited to 3 (Three);
- (b) Subject to the provisions of clause (a) above, the Application should contain the information required for each member of the Consortium;
- (c) members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity shareholding of at least 51% of the paid-up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at **Appendix-III**, signed by all the other members of the Consortium;
- (d) the Application should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial and technical obligations;
- (e) an individual Applicant cannot at the same time be member of a Consortium applying for pre-qualification. Further, a member of a particular Applicant Consortium cannot be member of any other Applicant Consortium applying for pre-qualification;
- (f) the parties to a Consortium shall form an appropriate SPV to execute the Project if awarded to the Consortium; and

- (g) members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-IV (the “**Jt. Bidding Agreement**”) for the purpose of making the Application and submitting Bid in the event of being short-listed. The Jt. Bidding Agreement shall, inter alia:
- (i) convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this RFQ, which would enter into the Concession Agreement and subsequently carry out all the responsibilities as Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;
 - (ii) clearly outline the proposed roles and responsibilities of each member at each stage;
 - (iii) commit the minimum equity stake to be held by each member;
 - (iv) Commit that the Lead Member, shall subscribe to 51% or more of the paid up and subscribed equity of the SPV and shall further commit that the Lead Member shall through the Concession Period, hold equity share capital not less than; (i) 51% of the subscribed and paid up equity share capital of the SPV;
 - (v) Commit that the members (other than the Lead Member), shall subscribe to 26% or more of the paid up and subscribed equity of the SPV and shall further commit that such member shall through the Concession Period, hold equity share capital not less than; (i) 26% of the subscribed and paid up equity share capital of the SPV;
 - (vi) include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close of the Project is achieved in accordance with the Concession Agreement
- (h) except as provided under this RFQ and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Authority.

2.2.6. Any entity which has been barred by the Central/ State Government, or any entity controlled by them, from participating in any project (BROT or otherwise), and the bar subsists as on the date of Application, would not be eligible to submit an Application, either individually or as member of a Consortium.

2.2.7. An Applicant including any Consortium member or Associate should, in the last three years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant Consortium Member or Associate, as the case may be, nor been expelled from any project or contract by any public entity nor have had any contract terminated

for breach by such Applicant/ Consortium Member or Associate

- 2.2.8. In computing the Technical Capacity and Financial Capacity of the Applicant/ Consortium Members under Clauses 2.2.2, 2.2.3 and 3.2, the Technical Capacity and Financial Capacity of their respective Associates would also be eligible hereunder.

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

It is clarified that a certificate from a qualified external auditor who audits the book of accounts of the Applicant or the Consortium Member shall be provided to demonstrate that a person is an Associate of the Applicant or the Consortium as the case may be.

- 2.2.9. The following conditions shall be adhered to while submitting an Application:

- (i) Applicants should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Applicants may format the prescribed forms making due provision for incorporation of the requested information;
- (ii) information supplied by an Applicant (or other constituent Member if the Applicant is a Consortium) must apply to the Applicant, Member or Associate named in the Application and not, unless specifically requested, to other associated companies or firms. Invitation to submit Bids will be issued only to Applicants whose identity and/ or constitution is identical to that at pre-qualification;
- (iii) in responding to the pre-qualification submissions, Applicants should demonstrate their capabilities in accordance with Clause 3.1 below; and
- (iv) in case the Applicant is a Consortium, each Member should substantially satisfy the pre-qualification requirements to the extent specified herein.

- 2.2.10. For the avoidance of doubt, financial year shall, for the purposes of an Application hereunder, mean the accounting year followed by the Applicant in the course of its normal business.

2.3. Change in composition of the Consortium

- 2.3.1. Change in the composition of a Consortium will not be permitted by the

Authority during the Qualification Stage.

- 2.3.2. Where the Bidder is a Consortium, change in the composition of a Consortium may be permitted by the Authority during the Bid Stage, only where:
- (a) the application for such change is made no later than 15 (fifteen) days prior to the Bid Due Date.
 - (b) the Lead Member continues to be the Lead Member of the Consortium;
 - (c) the substitute is at least equal, in terms of Technical Capacity, to the Consortium. Member who is sought to be substituted and the modified Consortium shall continue to meet the prequalification and short-listing criteria for Applicants; and
 - (d) the new Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and is not an Applicant/Member/Associate of any other Consortium bidding for this Project.
- 2.3.3. Approval for change in the composition of a Consortium shall be at the sole discretion of the Authority and must be approved by the Authority in writing.
- 2.3.4. The modified/ reconstituted Consortium shall be required to submit a revised Jt. Bidding Agreement before the Bid Due Date.
- 2.3.5. Notwithstanding, anything to the contrary contained in sub-clause 2.2.1(c)(i), an Applicant may, within 10 days after the Application Due Date, remove from its Consortium any Member who suffers from a Conflict of Interest, and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof.

2.4. Number of Applications and costs thereof

- 2.4.1. An Applicant is eligible to submit only one Application for /the Project. An applicant applying individually or as a member of a Consortium shall not be entitled to submit another application either individually or as a member of any Consortium, as the case may be.
- 2.4.2. The Applicants shall be responsible for all of the costs associated with the preparation of their Applications and their participation in either the Qualification Stage or the Bid Stage. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.5. Site visit and verification of information

- 2.5.1. Applicants are encouraged to submit their respective Applications after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of

materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.

2.6. Acknowledgement by Applicant

2.6.1. It shall be deemed that by submitting the Application, the Applicant has:

- (a) made a complete and careful examination of the RFQ;
- (b) received all relevant information requested from the Authority;
- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFQ or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5 above; and
- (d) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.6.2. The Authority shall not be liable for any omission, mistake or error on the part of the Applicant in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFQ or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

2.7. Right to accept or reject any or all Applications/ Bids

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

2.7.2. The Authority reserves the right to reject any Application and/ or Bid if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Applicant does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Application. Such misrepresentation/ improper response shall lead to the disqualification of the Applicant/Bidder.

If the Applicant/Bidder is a Consortium, then the entire Consortium shall be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the lowest/ highest Bidder gets disqualified/ rejected, then the Authority reserves the right to

- (c) invite the remaining Bidders to submit their Bids in accordance with the RFP; or (ii) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.

- 2.7.3. In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by the Authority, that one or more of the pre-qualification conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Applicant has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQ, be liable to be terminated, by a communication in writing by the Authority to the Applicant, without the Authority being liable in any manner whatsoever to the Applicant and without prejudice to any other right or remedy which the Authority may have under this RFQ, the Bidding Documents, the Concession Agreement or under applicable law.
- 2.7.4. The Authority reserves the right to verify all statements, information and documents submitted by the Applicant in response to the RFQ. Failure of the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.

B. DOCUMENTS

2.8. Contents of the RFQ

- 2.8.1. This RFQ comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.10.

Invitation for Qualification

- Section 1. Introduction
- Section 2. Instructions to Applicants
- Section 3. Criteria for Evaluation
- Section 4. Fraud & Corrupt Practices
- Section 5. Pre Application Conference
- Section 6. Miscellaneous

Appendices

- I. Letter comprising the Application
- II. Power of Attorney for signing of Application
- III. Power of Attorney for Lead Member of Consortium

- IV. Joint Bidding Agreement for Consortium
- V Guidelines of the Department of Disinvestment

2.9. Clarifications

- 2.9.1. Applicants requiring any clarification on the RFQ may notify the Authority in writing or by fax and e-mail in accordance with Clause 1.2.11. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 5 (five) days prior to the Application Due Date. The responses will be sent by fax or e-mail. The Authority will forward all the queries and its responses thereto, to all purchasers of the RFQ without identifying the source of queries.
- 2.9.2. The Authority shall endeavour to respond to the questions raised or clarifications sought by the Applicants. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.
- 2.9.3. The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Applicants. All clarifications and interpretations issued by the Authority shall be deemed to be part of the RFQ. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

2.10. Amendment of RFQ

- 2.10.1. At any time prior to the deadline for submission of Application, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFQ by the issuance of Addenda.
- 2.10.2. Any Addendum thus issued will be uploaded on the website www.maavaishnodevi.org
- 2.10.3. In order to afford the Applicants a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Application Due Date.

C. PREPARATION AND SUBMISSION OF APPLICATION

2.11. Language

- 2.11.1. The Application and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Applicant with the Application may be in

any other language provided that they are accompanied by appropriate translations of the pertinent passages in the English language. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Application, the English language translation shall prevail.

2.12. Format and signing of Application

- 2.12.1. The Applicant shall provide all the information sought under this RFQ. The Authority will evaluate only those Applications that are received in the required formats and complete in all respects. Incomplete and /or conditional Applications shall be liable to rejection.
- 2.12.2. The Applicant shall prepare one original set of the documents comprising the Application (together with originals/ copies of documents required to be submitted along therewith pursuant to this RFQ) and clearly marked "ORIGINAL". In addition, the Applicant shall submit 1 (one) copy of the Application, along with documents required to be submitted along therewith pursuant to this RFQ, marked "COPY". The Applicant shall also provide 2 (two) soft copies on Compact Disc (CD). In the event of any discrepancy between the original and the copy, the original shall prevail.
- 2.12.3. The Application and its copies shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant who shall also initial each page in blue ink. In case of printed and published Documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Application shall be initialled by the person(s) signing the Application. The Application shall contain page numbers and shall be bound together in hard cover.

2.13. Sealing and Marking of Applications

- 2.13.1. The Applicant shall submit the Application in the format specified at Appendix-I, together with the documents specified in Clause 2.13.2, and seal it in an envelope and mark the envelope as "APPLICATION". The Applicant shall seal the original and each copy of the Application, together with their respective enclosures, in separate envelopes duly marking the envelopes as "ORIGINAL" and "COPIES". The envelopes shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.13.2 and 2.13.3.
- 2.13.2. Each envelope shall contain:
 - (i) Application in the prescribed format (Appendix-I) along with Annexes and supporting documents;
 - (ii) Power of Attorney for signing the Application as per the format at Appendix II;
 - (iii) if applicable, the Power of Attorney for Lead Member of Consortium as per the format at Appendix-III;
 - (iv) copy of the Jt. Bidding Agreement, in case of a Consortium; substantially in the format at Appendix-IV

- (v) copy of Memorandum and Articles of Association, if the Applicant/Consortium Member is a body corporate, and if a partnership then a copy of its partnership deed;
- (vi) copies of Applicant's/ each Consortium Member's duly audited balance sheet and profit and loss account for the preceding five years;
- (vii) Demand Draft of Rs. 5,000 as the cost of RFQ as per Clause 1.2.1;

2.13.3. Each of the envelopes shall clearly bear the following identification:

“Application for Qualification: Phase-I Hospital Project of Shri Mata Vaishno Devi Institute of Medical Excellence (SMVDIME) at Kakryal (Katra), Jammu & Kashmir to be executed as on BROT Pattern”

and shall clearly indicate the name and address of the Applicant. In addition, the Application Due Date should be indicated on the right hand corner of each of the envelopes.

Each of the envelopes shall be addressed to:

ATTN. OF: Sh. Navin K. Choudhary, IAS
DESIGNATION: Chief Executive Officer,
Shri Mata Vaishno Devi Shrine Board, Katra, J&K.

ADDRESS: C/o Principal Resident Commissioner, J&K,
5-Prithvi Raj Road,
New Delhi-110011.

Phone No: 01991-232124, 232075, 0194-2500909

FAX NO: 01991-232120

E-MAIL: ceo@maavaishnodevi.net, addlceo@maavaishnodevi.net

2.13.4. If the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Application and consequent losses, if any, suffered by the Applicant.

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

2.14. Application Due Date

2.14.1. Applications should be submitted before 1500 hours (3.00 pm) IST on the Application Due Date, at the address provided in Clause 2.13.3 in the manner and form as detailed in this RFQ.

2.14.2. The Authority may, in its sole discretion, extend the Application Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Applicants.

2.15. Late Applications

2.15.1. Applications received by the Authority after the specified time on the Application Due Date shall not be eligible for consideration and shall be summarily rejected.

2.16. Modifications/ substitution/ withdrawal of Applications

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

2.16.2. The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.13, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

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

D. EVALUATION PROCESS

2.17. Opening and Evaluation of Applications

2.17.1. The Authority shall open the Applications at 1530 hours IST (3.30 pm) on the Application Due Date, at the place specified in Clause 2.13.3 and in the presence of the Applicants who choose to attend.

2.17.2. Applications for which a notice of withdrawal has been submitted in accordance with Clause 2.16 shall not be opened.

2.17.3. The Authority will subsequently examine and evaluate Applications in accordance with the provisions set out in Section 3.

2.17.4. Applicants are advised that pre-qualification of Applicants will be entirely at the discretion of the Authority. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.

2.17.5. Any information contained in the Application shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant if any Project is subsequently awarded to it under the Bidding Process on the basis of such information.

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

2.17.7. If any information furnished by the Applicant is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant project from computation of the

Eligible Score of the Applicant.

2.17.8. Where any information is found to be patently false or amounting to a material misrepresentation, the Authority reserves the right to reject the Application and/ or Bid in accordance with the provisions of Clauses 2.7.2 and 2.7.3.

2.18. Confidentiality

2.18.1. Information relating to the examination, clarification, evaluation, and recommendation for the short-listed pre-qualified Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of Application, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

2.19. Tests of responsiveness

2.19.1. Prior to evaluation of Applications, the Authority shall determine whether each Application is responsive to the requirements of the RFQ. An Application shall be considered responsive only if:

- (a) it is received as per format at Appendix-I.
- (b) it is received by the Application Due Date including any extension thereof pursuant to Clause 2.14;
- (c) it is signed, sealed, hard bound and marked as stipulated in Clause 2.13;
- (d) it is accompanied by the Power(s) of Attorney as specified in Clause 2.2.4 and Clause 2.2.5(c);
- (e) it contains all the information (complete in all respects) as requested in this RFQ;
- (f) it contains information in formats same as those specified in this RFQ;
- (g) it contains certificates from its statutory auditors in the formats specified at Appendix-I of the RFQ for eligibility.
- (h) It contains the Demand Draft of Rs. 5,000 (Rupees Five Thousand) to Authority towards the cost of the RFQ Document.
- (i) it is accompanied by the Jt. Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.2.5(g);
- (j) it does not contain any condition or qualification; and

(k) it is not non-responsive in terms hereof.

2.19.2. The Authority reserves the right to reject any Application which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Application.

2.19.3. Any entity (the Bidder, its Member or Associate was, either by itself or as a member of a Consortium) which has been barred by the Central Government, or any entity controlled by it, from participating in any project (BROT or otherwise) and the bar subsists as on the date of Application, or has been declared by the Authority as non-performer/ blacklisted would not be eligible to submit an Application, either individually or as member of a Consortium

2.20. Clarifications

(i) To facilitate evaluation of Applications, the Authority may, at its sole discretion, seek clarifications from any Applicant regarding its Application. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) shall be in writing.

(ii) If an Applicant does not provide clarifications sought under Sub-Clause (i) above within the prescribed time, its Application shall be liable to be rejected. In case the Application is not rejected, the Authority may proceed to evaluate the Application by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

E. QUALIFICATION AND BIDDING

2.21. Pre-Qualification and notification

After the evaluation of Applications, the Authority would announce a list of pre-qualified Applicants (Bidders) who will be eligible for participation in the Bid Stage. At the same time, the Authority would notify the other Applicants that they have not been pre-qualified. The Authority will not entertain any query or clarification from Applicants who fail to qualify.

2.22. Submission of Bids

The Bidders will be requested to submit a Bid in the form and manner to be set out in the Bidding Documents.

Only pre-qualified Applicants shall be invited by the Authority to submit their Bids for the Project. The Authority is likely to provide a comparatively short time span for submission of the Bids for the Project. The Applicants are therefore advised to visit the site and familiarise themselves with the Project by the time of submission of the Application. No extension of time is likely to be considered for submission of Bids pursuant to invitation that may be issued by the Authority.

2.23. Proprietary data

All documents and other information supplied by the Authority or submitted by an Applicant to the Authority shall remain or become the property of the Authority. Applicants are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Application. The Authority will not return any Application or any information provided along therewith.

2.24. Correspondence with the Applicant

Save and except as provided in this RFQ, the Authority shall not entertain any correspondence with any Applicant in relation to the acceptance or rejection of any Application.

3 CRITERIA FOR EVALUATION

3.1. Evaluation parameters

3.1.1. Only those Applicants who meet the eligibility criteria specified in Clauses 2.2.2 above shall qualify for evaluation under this Section 3. Applications of firms/ consortia who do not meet these criteria shall be rejected.

3.1.2. The Applicant's competence and capability is proposed to be established by the following parameters:

(a) Technical Capacity; and

(b) Financial Capacity

3.2. Technical and Financial Capacity for purposes of evaluation

To be eligible for pre-qualification and short-listing, an Applicant shall fulfil the conditions of eligibility for Technical and Financial capacity as provided in Clause 2.2

Details of Experience

3.2.1. The Applicants must provide the necessary information relating to Technical Capacity as per format at Annex-II of Appendix-I.

3.2.2. The Applicant should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity, as per format at Annex-IV of Appendix-I

3.3. Financial information for purposes of evaluation

3.3.1. The Application must be accompanied by the Audited Annual Reports of the Applicant (of each Member in case of a Consortium) for the last 3 (three) financial years, preceding the year in which the Application is made.

3.3.2. In case the annual accounts for the latest financial year are not audited and therefore the Applicant could not make it available, the Applicant shall give an undertaking to the same effect and the statutory auditor shall certify the same. In such a case, the Applicant shall provide the Audited Annual Reports for three years preceding the year for which the Audited Annual Report is not being provided.

3.3.3. The Applicant must establish a minimum Net Worth and Average Annual Turnover specified in Clause 2.2.2(b), and provide details as per format at Annex-III of Appendix-I.

3.4. Pre-qualification of Applicants

3.4.1. All Applicants who fulfil the conditions of eligibility specified in Clause 2.2.2 and meet the other conditions specified in this RFQ shall be pre-qualified.

4 FRAUD AND CORRUPT PRACTICES

4.1.

The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Authority shall reject an Application 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 in the Bidding Process.

4.2.

Without prejudice to the rights of the Authority under Clause 4.1 hereinabove, if any Applicant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, such Applicant shall not be eligible to participate in any tender or RFQ issued by the Authority during a period of 2 (two) years from the date such Applicant 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, as the case may be.

4.3.

For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project
- (b) “**fraudulent practice**” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process ;
- (c) “**coercive practice**” means impairing or harming or threatening to

impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;

- (d) “**undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) “**restrictive practice**” means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

5 PRE-APPLICATION CONFERENCE

- 5.1.** A Pre-Application conference of the interested parties shall be convened at the designated date and time at the following venue. A maximum of three representatives of each interested party shall be allowed to participate

ADDRESS: Principal Resident Commissioner, J&K,
5-Prithvi Raj Road,
New Delhi-110011.

Phone No: 01991-232124, 232075, 0194-2500909

FAX NO: 01991-232120

E-MAIL: ceo@maavaishnodevi.net, adlceo@maavaishnodevi.net

- 5.2.** During the course of Pre-Application conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process

6 MISCELLANEOUS

- 6.1.** The Bidding Process shall be governed by, and construed in accordance with, the laws applicable in Jammu & Kashmir and the Courts at Jammu only shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2.** The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Applicant in order to receive clarification or further information;
 - (c) pre-qualify or not to pre-qualify any Applicant and/ or to consult with any Applicant in order to receive clarification or further information;
 - (d) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Applicant; and/ or
 - (e) independently verify, disqualify, reject and/ or accept any and all
 - (f) submissions or other information and/ or evidence submitted by or on behalf of any Applicant.
- 6.3.** It shall be deemed that by submitting the Application, the Applicant agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection herewith and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or future.

Appendix I

Letter Comprising the Application for Pre-Qualification (Refer Clause 2.13.2)

Dated:
To,

Chief Executive Officer,
Shri Mata Vaishno Devi Shrine Board, Katra, J&K.

Sub: Application for pre-qualification for “Operationalization of Phase 1 Hospital Project of Shri Mata Vaishno Devi Institute of Medical Excellence (SMVDIME) on a PPP Mode”

Dear Sir,

With reference to your RFQ document dated¹, I/we, having examined the RFQ document and understood its contents, hereby submit my/our Application for Qualification for the aforesaid project. The Application is unconditional and unqualified.

2. I/ We acknowledge that the Authority will be relying on the information provided in the Application and the documents accompanying such Application for prequalification of the Applicants for the aforesaid project, and we certify that all information provided in the Application and in Annexes I to IV is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.

3. This statement is made for the express purpose of qualifying as a Bidder for the aforesaid Project.

4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Qualification statement.

5. I/ We acknowledge the right of the Authority to reject our Application without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

7. I/ We declare that:

¹ All blank spaces shall be suitably filled up by the Applicant to reflect the particulars relating to such Applicant.

(a) I/ We have examined and have no reservations to the RFQ document, including any Addendum issued by the Authority;

(b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) and 2.2.1(d) of the RFQ document;

(c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFQ document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and

(d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFQ document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Application that you may receive nor to invite the Applicants to Bid for the Project, without incurring any liability to the Applicants, in accordance with Clause 2.17.6 of the RFQ document.

9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(s) the Net Worth criteria and meet(s) all the requirements as specified in the RFQ document and are/ is qualified to submit a Bid.

10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium applying for pre-qualification.

11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.

12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.

13. I/ We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Consortium or against our/ their Associates or against our CEO or any of our directors/ managers/ employees.

14. [I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GOI vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply *mutatis mutandis* to the Bidding Process. A copy of the aforesaid guidelines forms part of the RFQ at Appendix-V thereof.]

15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFQ, we shall intimate the Authority of the same immediately.

16. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-I of the RFQ document, and duly signed, is enclosed. The power of attorney for signing of application and the power of attorney for Lead Member of consortium, as per format provided at Appendix II and III respectively of the RFQ, are also enclosed.

17. I/ We understand that the selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956, or shall incorporate as such prior to execution of the Concession Agreement.

18. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of Applicants, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

19. I/ We agree and undertake to abide by all the terms and conditions of the RFQ document.

20. I/ We certify that in terms of the RFQ, my/our Net worth is Rs.
(Rs. in words) as on (insert date)

{21. We agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement. }²

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

Yours faithfully,

Date: (Signature, name and designation of the Authorised Signatory)

Place: Name and seal of the Applicant/ Lead Member

Note: Paragraphs in square parenthesis may be omitted, if not applicable, or modified as necessary.

² Omit if the member is not a consortium

Appendix I

ANNEX-I Details of Applicant

1.
 - (a) Name:
 - (b) Country of incorporation:
 - (c) Address of the corporate headquarters and its branch office(s), if any, in India:
 - (d) Date of incorporation and/ or commencement of business:
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:
3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
 - (a) Name:
 - (b) Designation:
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:
 - (g) Fax Number:
4. Particulars of the Authorised Signatory of the Applicant:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number:
 - (e) Fax Number:
5. In case of a Consortium:
 - (a) The information above (1-4) should be provided for all the Members of the Consortium.

(b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.2.5(g) should be attached to the Application

(c) Information regarding role of each Member should be provided as per table below:

S.No.	Name of Member	Role* {Refer clause 2.2.5(d)}	Percentage of equity in the Consortium {Refer Clauses 2.2.5(a), 2.2.5(c), 2.2.5(g)}
1			
2			
3			

*The role of each Member, as may be determined by the Applicant, should be indicated in accordance with instruction 4 at Annex-IV.

(d) The following information shall also be provided for each Member of the Consortium:

Name of Applicant/ member of Consortium:

No.	Criteria	Yes	No.
1.	Has the Applicant/ constituent of the Consortium been barred by the Central/ State Government, or any entity controlled by them, from participating in any project (BROT or otherwise).		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Application?		
3.	Has the Applicant/ constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

6. A statement by the Applicant and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary).

Appendix I

ANNEX-II

Technical Capacity of the Applicant

(Refer to Clauses 2.2.2 (A), 3.2 and 3.3 of the RFQ)

Part A: Summary of experience in respect of all hospitals operated and managed by the Applicant

#	Name & Address of the Hospital	Association with Hospital (Operator/Owner/Both)	Equity stake (% holding)	Date of commissioning	If Accredited	Details of Accreditation	No. of Beds under operation
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

Total Number of Beds under management: _____

Number of years of experience in operating multi specialty hospitals in India: _____

(Signature of Authorized Signatory)
(NAME, TITLE AND ADDRESS)

Note: Please attach proofs for the beds and years of experience as provided above. Proofs may include filings with statutory authorities, MoU in case of association as an “Operator”, certificates from local bodies etc.

Part B: Summary of experience in respect of Multi specialty Hospital in India with a minimum bed capacity of 150 beds under the ownership of the Applicant with various super specialty services in Orthopaedics, Cardiology and cardiothoracic surgery, Neurosurgery and Oncology

#	Name & Address of the Hospital	No. of beds	Super-specialty dept.	List of available Medical equipments specific to the department
1.			Orthopaedics	
			Cardiology and cardiothoracic surgery	
			Neurosurgery	
			Oncology	

Details of Accreditation of the Hospital: _____

Details of super specialty services (Please provide the number of surgeries/ procedures below)

Specialty & Surgery	2012	2011	2010
Orthopaedics			
Total Knee Replacement			
Total Hip Replacement			
Other major surgeries (please specify)			
Cardiology & Cardiothoracic surgery			
CABG			
Valvular procedures			
Angioplasty			
Angiography			
Neurosurgery			
Craniotomy			
Spinal procedures			
Other major surgeries (please specify)			
Oncology			
Patients treated on LINAC			
Onco surgeries			
Chemotherapy			
Brachytherapy			

Note: Details of additional hospitals may be provided in the same format as above by attaching extra sheets

(Signature of Authorized Signatory)
(NAME, TITLE AND ADDRESS)

Part C: Accreditation certificate(s) for Multi specialty Hospital(s)

Please provide a copy of the NABH/JCI/ or any equivalent Accreditation certificate related to healthcare operations or proof of submission of Application in case the Applicant has applied for such accreditation.

Kindly note that the above statements should also be certified by the Statutory Auditors of the Sole Applicant / Lead member.

Appendix I

ANNEX-III

Financial Capacity of the Applicant

(Refer to Clauses 2.2.2 (B), 2.2.3 (ii) and 3.3 of the RFQ)

(In Rs. Crores)

Applicant type ^{\$}	Annual Turnover for preceding three Financial Years			Net worth 2012
	2012	2011	2010	
(1)	(2)	(3)	(4)	(5)
Single entity Applicant				
Consortium Member 1				
Consortium Member 2				
Consortium Member				
TOTAL				

\$ An Applicant consisting of a single entity should fill in details as per the row titled Single entity Applicant and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Applicant may be ignored.

Instructions:

- 1) The Applicant/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 5 (five) years preceding the Application Due Date. The financial statements shall:
 - (a) reflect the financial situation of the Applicant or Consortium Members and its/ their Associates where the Applicant is relying on its Associate's financials;
 - (b) be audited by a statutory auditor;
 - (c) be complete, including all notes to the financial statements; and
 - (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
- 2) Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
- 3) Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Application Due Date falls

within three months of the close of the latest financial year, refer to Clause 2.2.10. In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.2.5(g) of the RFQ document.

- 4) The applicant shall also provide the name and address of the Bankers to the Applicant.
- 5) The Applicant shall provide an Auditor's Certificate specifying the Average Annual Turnover and Net Worth of the Applicant and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.3 (ii) of the RFQ document.

Appendix I

ANNEX-IV

Details of Hospitals

(Refer to Clauses 2.2.2 (A), 3.2 of the RFQ)

Name of the Associate Member: - _____

Item (1)	Particulars of the hospital (2)
Name and address of hospital	
Name of the hospital operator – (Sole Applicant / Lead member / Associate)	
Name of the owner of hospital (in case the hospital is managed by the Sole Applicant / Lead member / Associate under a management contract ³)	
Date of commissioning of hospital by the Sole Applicant / Lead member of the consortium and / or Associates	
Type of Hospital (General / Multi specialty / Super specialty)	
Bed strength	
A brief description of infrastructure and facility available in the hospital	
Name/ type of super specialty department in each hospital, their size (in terms of beds allocated to each super –specialty department)	
Equity shareholding	
Year-wise brief financials of the hospital for last three years a. Revenue (Rs. in Crores) b. Contributions / donations / revenue grants (Rs. in Crores) c. Bed utilization (%) d. Gross Block (Rs in Crores) e. Net Profit (Rs. in Crores)	

³ Enclose copy of the Management contract of the Applicant with the owner.

Instructions:

- 1) Applicants are expected to provide information in respect of each hospital meeting the Technical Capacity as per Clause 2.2.2 in this Annex. Information provided in this section is intended to serve as a backup for information provided in the Application. Applicants should also refer to the Instructions below.
- 2) A separate sheet should be filled for each Hospital.
- 3) In the event that credit is being taken for the eligible experience of an Associate, as defined in Clause 2.2.8, the Applicant should also provide a certificate in the format below:

Certificate from Statutory Auditor/ Company Secretary regarding Associates

Based on the authenticated record of the Company, this is to certify that more than 50% (fifty per cent) of the subscribed and paid up voting equity of (name of the Associate) is held, directly or indirectly, by (name of Applicant/ Consortium Member). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Associate in terms of Clause 2.2.8 of the RFQ.

A brief description of the said equity held, directly or indirectly, is given below:

{Describe the share-holding of the Applicant/ Consortium Member in the Associate}

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of the authorised signatory).

Date:

In the event that the Applicant/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% in order to establish that the chain of “control” is not broken.

- 4) It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project

Appendix I

ANNEX-V

Statement of Legal Capacity

(To be forwarded on the letterhead of the Applicant/ Lead Member of Consortium)

Date:

To,

Chief Executive Officer,
Shri Mata Vaishno Devi Shrine Board, Katra, J&K.

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the application) satisfy the terms and conditions laid out in the RFQ document.

We have agreed that (insert member's name) will act as the Lead Member of our consortium.*

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf* and has been duly authorized to submit the RFQ. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

*Please strike out whichever is not applicable

APPENDIX II

Power of Attorney for signing of Application

(Refer Clause 2.2.4)

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr/ Ms (name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for pre-qualification and submission of our bid for the “Operationalization Of Phase 1 Hospital Project Of Shri Mata Vaishno Devi Institute Of Medical Excellence (SMVDIME) on PPP Mode to be executed as BROT Project proposed or being developed by SMVD SB (the “Authority”) including but not limited to signing and submission of all applications, bids and other documents and writings, participate in Pre-Applications and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

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

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 2.....

For
(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Accepted

.....

(Signature)

(Name, Title and Address of the Attorney)

(Notarised)

(Signature, Name and Address of the Notary)

Seal of the Notary

Registration Number of the Notary

Date: _____

Notes:

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

APPENDIX III

Power of Attorney for Lead Member of Consortium

(Refer Clause 2.2.4)

Whereas the SMVDSB (“the Authority”) has invited applications from interested parties for Operationalization Of Phase 1 Hospital Project of Shri Mata Vaishno Devi Institute Of Medical Excellence (SMVDIME) on PPP Mode to be executed on BROT pattern (the “Project”).

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

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

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

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

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise

of the powers hereby conferred shall and shall always be deemed to have been done by us/
Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS
POWER OF ATTORNEY ON THIS DAY OF 2012

For

(Signature)

.....

(Name & Title)

For

(Signature)

.....

(Name & Title)

For

(Signature)

.....

(Name & Title)

Witnesses:

1.

2.

.....

(Executants)

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

(Notarised)

Person identified by me/ personally

\appeared before me/ signed before me/Attested/ Authenticated*

(*Notary to specify as applicable)

(Signature, Name and Address of the Notary)

Seal of the Notary

Registration Number of the Notary

Date: _____

Notes:

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

APPENDIX IV

Joint Bidding Agreement

(Refer Clause 2.13.2)

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this theday of 20
...

AMONGST

1. { Limited, a company incorporated under the Companies Act, 1956} and having its registered office at

.....(hereinafter referred to as the "First Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. { Limited, a company incorporated under the Companies Act, 1956} and having its registered office at

(hereinafter referred to as the "Second Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. { Limited, a company incorporated under the Companies Act, 1956 and having its registered office at

.....(hereinafter referred to as the "Third Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)}

The above mentioned parties of the FIRST, SECOND, and THIRD PART are collectively referred to as the "Parties" and each is individually referred to as a "Party"

WHEREAS,

- (A) SMVDSB (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited applications (the Applications") by its Request for Qualification No. dated..... (the "RFQ Operationalization Of Phase 1 Hospital Project of Shri Mata Vaishno Devi Institute Of

Medical Excellence (SMVDIME) on PPP Mode to be executed on BROT pattern (the "Project").

- (B) The Parties are interested in jointly Bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFQ document reference number NO: _____, RFQ document and other Bidding documents in respect of the Project, and
- (C) It is a necessary condition under the RFQ document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFQ.

2. Consortium

2.1 The Parties do hereby irrevocably constitute a consortium (the "Consortium") for the purposes of jointly participating in the Bidding Process for the Project.

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- (a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding
- (b) Party of the Second Part shall be the Technical Member of the Consortium; }
- (c) Party of the Third Part shall be the Technical Member of the Consortium }

4. Joint and Several Liabilities

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFQ and the Service Provider Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Service Provider Agreement.

5. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power to enter into this Agreement;
- b) The execution, delivery and performance by such Party of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and Commission to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
 - i. require any consent or approval not already obtained;
 - ii. violate any Applicable Law presently in effect and having applicability to it;
 - iii. violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
 - iv. violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - v. create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

6. Miscellaneous

6.1 This Joint Bidding Agreement shall be governed by laws of India.

6.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Commission.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of LEAD MEMBER by:

Signed

Name

Designation

Address

SIGNED, SEALED AND DELIVERED

For and on behalf of SECOND PART by:

Signed

Name

Designation

Address

SIGNED, SEALED AND DELIVERED

For and on behalf of THIRD PART by:

Signed

Name

Designation

Address

SIGNED, SEALED AND DELIVERED

Notes:

1. *The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
2. *Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and Commission to execute this Agreement on behalf of the Consortium Member.*
3. *For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.*

APPENDIX V

Guidelines of the Department of Disinvestment

(Refer Clause 1.2.1)

No. 6/4/2001-DD-II
Government of India
Department of Disinvestment

Block 14, CGO Complex
New Delhi.
Dated 13th July, 2001.

OFFICE MEMORANDUM

Sub: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment

Government has examined the issue of framing comprehensive and transparent guidelines defining the criteria for bidders interested in PSE-disinvestment so that the parties selected through competitive bidding could inspire public confidence. Earlier, criteria like net worth, experience etc. used to be prescribed. Based on experience and in consultation with concerned departments, Government has decided to prescribe the following additional criteria for the qualification/disqualification of the parties seeking to acquire stakes in public sector enterprises through disinvestment:

(a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory authority that casts a doubt on the ability of the bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case to case basis after considering the facts of the case and relevant legal principles, by the Government of India.

(b) In regard to matters relating to the security and integrity of the country, any charge-sheet by an agency of the Government/ conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.

(c) In both (a) and (b), disqualification shall continue for a period that Government deems

appropriate.

(d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.

(e) The disqualification criteria would come into effect immediately and would apply to all bidders for various disinvestment transactions, which have not been completed as yet.

(f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.

(g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors/ Managers/ employees, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along with EOI.

sd/-

(A.K. Tewari)

Under Secretary to the Government of India

APPENDIX VI

Project Overview

(Refer Clause 1.1.1)

INTRODUCTION

Shri Mata Vaishno Devi Shrine Board (SMVDSB) is an autonomous body constituted since 1986, through an enactment of J&K State Legislature viz Shri Mata Vaishno Devi Shrine Act, 1988. The Board, chaired by His Excellency the Governor of J&K, has been established for better management, administration and governance of Shri Mata Vaishno Devi Shrine, which is one of the most revered Hindu shrines of the country.

Shri Mata Vaishno Devi Institute of Medical Excellence (SMVDIME) is a flagship project of the Shrine Board, and located in a place called Kakryal, which is around 15 km from Katra town (base camp of the pilgrimage to Holy Shrine) and 40 km from Jammu. It is located just opposite Shri Mata Vaishno Devi University, which has also been set up by SMVDSB.

The objectives of SMVDIME are

- To be an institution of excellence
- Provide relief to devotees and poor & needy as per the Board Policy
- Uniform services and treatment at uniform prices

SMVDIME is planned to be developed in 3 phases –

Phase 1 – 230 bed multi specialty hospital

Phase 2 – 500 bed multi specialty hospital block

Phase 3 – Medical College

The scope of this PPP project is limited to Phase 1 – 230 bed Multi Specialty Hospital.

SMVDSB wishes to take the PPP route to operationalise the Phase I of this hospital project to bring in professional and technical expertise of the private sector in efficient operation and management of the hospital.

PHASE 1 HOSPITAL DETAILS

Land & Building:

Total Land Area of SMVDIME: 45 acres

Land area for the Hospital Phase 1 – 9 acres

Hospital Built up area Building (Phase-1) : 2.94 lakh sft

Currently the civil works for the hospital building have been completed and work on interiors in under progress. The Board is also constructing accomodation for Doctors and Nurses.

Services Mix

The hospital is planned as a tertiary care hospital offering super specialty services in cardiology and cardio thoracic surgery, neurology and neurosurgery, orthopaedics and oncology. Services in these super specialties are lacking in the state of J&K and the hospital aims to fill this gap as well as emerge as a centre of excellence in the region. The planned specialties include

Super-specialties	Secondary Specialties	Primary level of care
Medical Oncology	Gynaecology & Obstetrics	General / Internal Medicine
Surgical Oncology	Paediatrics	General Surgery
Radiation Oncology	Gastroenterology	Dentistry
Bone Marrow Transplant	Gastro enteric surgery	Ophthalmology
Emergency & Trauma	Gastro – MAS	Otorhinolaryngology
Neurology	Nephrology & Dialysis	Dermatology
Neurosurgery	Urology	Diabetology
Cardiology	Neonatal care	
Cardiac Surgery		
Thoracic Surgery		
Orthopaedics & Joint Replacement		

Diagnostic and Laboratory Facilities

Key diagnostics and laboratory services shall include MRI, CT Scan, LINAC, Nuclear Medicine, Cathlab, Mammography, fully equipped laboratory services and Blood Bank

Bed Classification

The bed classification has been planned for tertiary care operations with adequate Intensive care units.

Category	Total
Inpatient	131
Intensive Care	54
Day Care	18
Emergency	9
Other Beds	18
Grand Total of Beds	230

Outpatient Consultation Rooms – 24 OP rooms

Operating Rooms – 6 OTs have been planned including Cardiothoracic, Orthopaedic and Neurosurgery, Oncosurgery. Additionally a labour room and emergency procedure room have also been planned.

SCOPE OF SERVICES

SMVDIME wishes to render health care services, of the highest quality, thereby acquiring a reputation of being one of the leading hospitals in the region. The Board wishes to establish and operate the hospital on a PPP basis with the following scope of services for the private partner.

The scope of work of the private player will be to procure and finance Medical Equipments, refurbish existing facilities, commission, operate and maintain the Hospital. The Selected Bidder shall be responsible for the operations and administration of the Hospital under the oversight of a Governing Body having members from SMVDSB and the private partner.

THE PPP MODEL

The Board shall complete the remaining infrastructure and civil works for the hospital while the private partner is expected to invest in medical equipments for the hospital. The Board shall provide the hospital building and other infrastructure to the private partner for operations and maintenance for a “Concession” period to be specified in RFP in lieu of a concession fee. There shall be uniform pricing of services for all categories of patients. The pricing of services level shall be specified during the bidding stage along with the feasibility report. Any changes in the pricing of services during the operation stage of the project shall be decided by the Governing Body comprising of members of the Board and the private partner. In case of needy patients who are not able to afford the services of the hospital, the Board shall decide on subsidies for them and directly pay the subsidies to the hospital.

The private partner is expected to operate and provide all services at the hospital. The private partner is expected to provide a concession fee to the Board, the details of which shall be notified as a part of the RFP.

The private partner shall be responsible for the operations and administration of the Hospital under the oversight of a Governing Body having members from SMVDSB and the private partner.

At the end of the Concession period, the private partner shall hand over the hospital including medical equipments in well maintained and proper condition to the Board.

PROJECT COST

The capital cost for Phase 1 Hospital project is estimated to be about Rs. 175 crores. The Board shall invest in all buildings and supporting infrastructure whereas the private partner shall bring in investments in medical equipments.

Estimated cost for medical equipment including installation and commissioning of the hospital is about Rs. 62 crores which shall be put in by the private partner.

The Board shall undertake the completion of buildings including construction of Doctors’ and Nurses’ hostel and associated services estimated at Rs. 113 crores.