



Tamil Nadu Infrastructure Development Board

TNIDB Manual (Draft)

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DISCLAIMER

The Tamil Nadu Infrastructure Development Board (TNIDB) has prepared this Manual as reference material for Government Agencies, Officials, Consultants and Bidders who may have to interface with TNIDB for different reasons. It provides an overview of TNIDB's role in the development of infrastructure projects in Tamil Nadu and its associated processes. However, this Manual should not be relied upon for its accuracy or exhaustiveness, as it is of a general reference nature only and is not intended to address the specific circumstances of any particular project, Government Agency, Officials, Consultants or Bidders.

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Preface

The development and procurement of infrastructure projects in Tamil Nadu is guided and regulated by a slew of legislations including the following:

1. Tamil Nadu Infrastructure Development Act, 2012
2. Tamil Nadu Infrastructure Development Rules, 2012
3. Tamil Nadu Infrastructure Development Board Regulations, 2013
4. Tamil Nadu Transparency In Tenders Act, 1998
5. Tamil Nadu Transparency In Tenders Rules, 2000
6. Tamil Nadu Transparency In Tenders (Public Private Partnership Procurement) Rules, 2012

The Tamil Nadu Infrastructure Development Board (TNIDB), as the nodal agency for infrastructure development, has prepared this manual as a simplified guidance material for Investors, Government Agencies, Officials, Consultants and Bidders. In addition to providing an overview of TNIDB's role in the development of infrastructure projects in Tamil Nadu and relevant tendering processes, the manual also attempts to consolidate and simplify, wherever possible, the procedures and processes prescribed, for project development and procurement, under the legislations listed above.

We hope that this manual will be a useful reference document for Investors, Government Agencies, Officials, Consultants and Bidders who may be interested in the steps and procedures for infrastructure development in Tamil Nadu and may have to interface with TNIDB for various reasons.

Summary Sheet

TAMIL NADU INFRASTRUCTURE DEVELOPMENT ACT, 2012	<ul style="list-style-type: none"> • Introduction to TNID Act, 2012 • Extent of the Act • Application • Commencement • Sectors that have been identified for Infrastructure Development 		
TAMIL NADU INFRASTRUCTURE DEVELOPMENT BOARD (TNIDB)	Introduction to TNIDB		
	Functions of the Board	<ul style="list-style-type: none"> • Project Development Role • Project Facilitator Role • Policy Driver Role • Project Monitoring Agency Role • Manager of State support to projects 	
	Organization Structure of TNIDB	<ul style="list-style-type: none"> • The Board members chaired by Honorable Chief Minister • The Executive Committee chaired by Chief Minister 	
	Tenure and Roles of the Experts and Governing Provisions		
	Powers of the Board	<ul style="list-style-type: none"> • Sanction of State Support - TNIDF • Project Conceptualization Sanction for Project Preparation Fund – PPF • Project Scope and Structuring • Approval of Tender and Concession Agreement • Project Monitoring • Change Project Structure or Discontinue Projects • Impose Cess/Abuser Charges • Other powers 	
FUNDS CREATED UNDER TNID ACT	Tamil Nadu Infrastructure Development Fund (TNIDF)	<ul style="list-style-type: none"> • Uses of the TNIDF • Limits on TNIDF support • Management of TNIDF • Application and Release of Funds from TNIDF • Powers of Sanction from TNIDF 	
	Project Preparation Fund (PPF)	<ul style="list-style-type: none"> • Uses of PPF • Application under PPF • Management of PPF and Sanctioning Powers 	

Phase	Stages	Steps	Duration	Cumulative	Done
Project Development (PD) Under TNIDB	Stage I: Project Conception and Planning – Project Concept Note	Step 1: Project Scoping Step 2: Options Analysis Step 3: Pre-feasibility Study Step 4: Project Concept Note	10 days	10 days	
	Stage II: Project Development – TNIDB Directive to conduct feasibility	Step 1: Approval of Project Concept note Step 2: Support from TNIDB for Financial Assistance and Facilitation Support	10 days	20 days	Sequential with Stage I of PD
	Stage III: Project Development – Feasibility Study	Part A: Feasibility Assessment Part B: Structuring	90 days	110 days	
	Stage IV: Application for TNIDF		30 days	140 days	
	Stage V: Recommendation of the Board on Feasibility Study, Project Concept Note and Mode of Implementation	Step1: Approval of Feasibility Study and Project Concept Note Step2: Determination of Mode of Implementation by the Board	30 days	140 days	Parallel with Stage IV of PD
	Stage VI: Approval from Government on Mode of Implementation	A. Project to be Implemented in the Public Sector mode <ul style="list-style-type: none"> • Receipt of Government’s direction • Direction to the Designated Public Agency 		30 days –for receipt of Government decision	170 days
B. Project to be Implemented in the PPP mode <ul style="list-style-type: none"> • Step 1 B: Receipt of Government’s direction • Step 2 B: Publication of Project Details • Step 3 B: Submission of Observations and Suggestions 			30 days – Step 2B & 3B	200 days	

	Stage VII: Project Structuring and Final Approval for Public Private Partnership Projects	Step 1: Finalization of Scope and Structure Step 2: Finalization of Financial Support	30 days	230 days	Sequential with Stage VI of PD
Procurement – Planning & Process (PP)	Stage I: Preparatory Stage	Step 1: Formation of Tender Inviting Authority, the Tender Scrutiny and Evaluation Committee and the Tender Accepting Authority. Step 2: Engaging Consultants or Advisors (optional) Step 3: Procurement Process Modalities – Single stage vs. Multi-stage process: Step 4: Preparation of Tender Documents Step 5: Selection of Basis for tender evaluation criteria Step 6: Approval of tender documents and concession agreement by TSEC	30 days	230 days	Parallel with Stage III of PD and/or Sequential to Stage VII of PD
	Stage II: Approval of Tender Documents & Concession Agreement by TNIDB	Step 1: Submission and Approval of Tender Document	30 days	260 days	Sequential with Stage I of PP
	Stage III: Notice Inviting Tenders	<ul style="list-style-type: none"> • Publication of Tenders • Details to be mentioned in the Notice Inviting Tenders: • Supply of Tender Documents 	10 days	-	Sequential with Stage II of PP
	Stage IV: Bid Process Stage	Stage IV (A): Request for Expression of Interest <ul style="list-style-type: none"> • Step 1: Issue of REOI • Step 2: Pre Submission Meeting • Step3: Submission of REOI 	30 days	-	Sequential to Stage III of PD or Sequential to Stage III of PP

		<p>Stage IV (B): Request for Qualification</p> <ul style="list-style-type: none"> • Step 1: Issue of RFQ • Step 2: Pre Submission Meeting • Step 3: Submission of REOI • Step 4: Removal of Conflict of Interest • Step 5: Evaluation of Applications • Step 6: Notification of Qualification 	60 days	320 days	Sequential to Stage III of PP
		<p>Stage IV (C): Request for Technical Proposal (<i>optional</i>)</p> <ul style="list-style-type: none"> • Step 1: Issue of RTP • Step 2: Pre Submission Meeting • Step 3: Technical Evaluation • Step 4: Notification of passed Technical Proposals to Qualified Applicants 			
		<p>Stage IV (D): Request for Proposal</p> <ul style="list-style-type: none"> • Step 1: Issue of RFP • Step 2: Pre Submission Meeting • Step 3: Evaluation of the Tenders 	60 days	380 days	Sequential to Stage IV(B) or IV(C) of PP
	Stage V: Bid Finalisation Stage	<p>Step 1: Opening of Tenders</p> <p>Step 2: Selection and Evaluation of Lowest Tenderer</p> <p>Step 3: Finalization and Award of Project</p>	45 days	425 days	Sequential to Stage IV(D) of PP
Implementation and Monitoring	Project Management	<p>Step 1: Appointment of Project Managers / Project Management Facility</p> <p>Step 2: Preparation Project Management Plan</p> <p>Step 3: Project Monitoring</p> <p>Step 4: Exit strategy for Continued Service Delivery after Exit</p>			Sequential to Stage V of PP

Tamil Nadu Infrastructure Development Act, 2012

Introduction

The Tamil Nadu Infrastructure Development Act, 2012, was passed in the Tamil Nadu Legislative Assembly and received the assent of the Governor of Tamil Nadu on the 31st May 2012.

The Act provides for an enabling and facilitative environment in the State for financing, design, construction, maintenance and operation of infrastructure projects through Public Agencies and also through private sector participation, and to provide for an institutional framework for identification, prioritization and implementation of projects.

Extent of the Act

The Act extends to the whole of Tamil Nadu.

Application

The Act shall apply to all Projects of a value exceeding Rs. 500 crore implemented by a public agency and apply to all Public Private Partnership projects of a value in excess of Rs. 10 crore.

The Act shall not apply to any project undertaken by the Central Government or a public sector undertaking of the Central Government, either independently or as a joint venture with the State Government.

Commencement

The Act came into force on 15th June, 2012.

Sectors that have been identified for Infrastructure Development

The TNID Act has identified 21 sectors for development of infrastructure in the State. The Act includes provision of assets and services in any of the sectors as those under its purview. The list of sectors that have been identified is given in Schedule I of the TNID Act.

Sl. No.	Sector	Sector Code
1	Agriculture Infrastructure including Marketing and Post Harvest Infrastructure	AG
2	Development of Minor Minerals	MM
3	Drinking and Industrial Water Supply Systems, Desalination Plants	WT
4	Education related Infrastructure	ED
5	Fisheries	FS
6	Gas and Gas Works	GG
7	Health Infrastructure	HI
8	Housing including Slum Development and Development of Satellite Towns	HD
9	Industrial Estates including Industrial Parks and Special Economic Zones	IE
10	Information and Communication Technology related Projects	IT
11	Inland Waterways other than National Waterways	IW
12	Irrigation including Dams, Irrigation, Structures, Canals	ID
13	Land Reclamation Projects	LR
14	Ports (other than major ports) and Harbour thereof	PT

Sl. No.	Sector	Sector Code
15	Power Generation, Transmission and Distribution System	PW
16	Roads, Bridges including Rail over and under Bridges and By-passes	RD
17	Solid Waste Management	SW
18	Sports & Recreation Infrastructure	SP
19	Tourism and Hospitality Projects	TH
20	Urban transportation System, Bus Terminals, Multi level parking facilities	UT
21	Waste water, Sewerage treatment systems	WS

Tamil Nadu Infrastructure Development Board (TNIDB)

Introduction

The Tamil Nadu Infrastructure Development Board (TNIDB) was set up under the Tamil Nadu Infrastructure Development Act (TNID Act) 2012. The Board is envisaged as the nodal agency for infrastructure development in the State of Tamil Nadu. TNIDB is expected to play a critical role in infrastructure development in the State by ensuring project development happens in a seamless, efficient and transparent manner. The Board will coordinate infrastructure development activities in the State and facilitate projects undertaken solely by Government institutions as well as projects undertaken through Public-Private Partnerships (PPP).

The Act along with the Rules and Regulations therein provide the Board with the necessary administrative authority and lay down a clear framework of processes and procedures to ensure speedy project development.

Functions of the Board

The functions of the Board as given under Section 7 of the TNID Act can be broadly grouped under the following heads.

Project Development Role

- Act as a nodal agency to co-ordinate the efforts of the State Government with regard to the development of the infrastructure sectors in the State;
- Identify or conceptualize, prioritize and determine the sequence of projects and recommend to the Government a shelf of projects for implementation in the State.
- Manage and utilize the Project Preparation Fund.

Project Facilitator Role

- Co-ordinate with the departments concerned and the implementing agencies
- Prepare documents including feasibility study reports and detailed project study reports, internally or through external consultants or experts
- Promote and oversee, capacity building for project appraisal, project management, procurement and related areas in Government departments and public agencies

Policy Driver Role

- Identify bottlenecks in the projects and recommend policy initiatives to rectify the same;
- Formulate policies related to the sectors specified in Schedule I so as to ensure that project risks are identified and allocated between the stakeholders;

Project Monitoring Agency Role

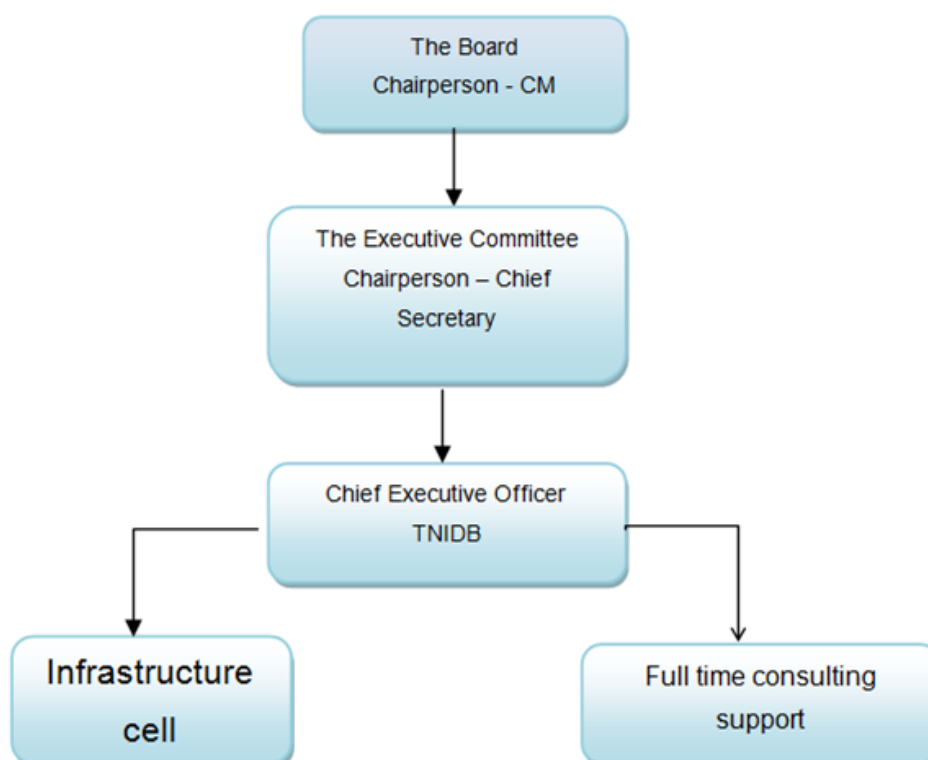
- Scrutinize, evaluate and prioritize the projects proposed by a public agency and recommend its implementation to the Government;
- Prescribe the form of tender documents for all Projects;
- Designate the public agency which shall implement a Project through public sector mode or through a public private partnership
- Approve concession agreements in respect of the Projects identified by the Board

Manager of State Support to Projects Role

- Evaluate and recommend financial support from the Government under the Tamil Nadu Infrastructure Development Fund or from the Central Government;
- Co-ordinate with the Government, any Government agency and the sponsoring agency in the execution of public-private partnership projects;

Organization Structure of TNIDB

TNIDB is chaired by the Chief Minister, the Minister in-charge of Finance and Secretaries of 10 departments of the Secretariat. The Executive Committee is chaired by the Chief Secretary with the Secretaries of 10 departments of the Secretariat and other officials concerned and experts as members and special invitees.



The CEO, TNIDB is in-charge of the day to day affairs of TNIDB. The CEO is assisted by a small core in-house team and supported by external consultants / experts in various fields who have been appointed for a period of 2 years from 1-11-2013.

The Board Members (Section 3 (3), TNID Act)

The Board shall have the following members namely (Section 3(3) of the TNIDB Act)

- The Chief Minister, who shall be the Chairperson, ex-officio;
- The Minister in-charge of Finance, who shall be the Vice-Chairperson, ex-officio;
- The Chief Secretary to Government, who shall be the Member-Secretary, ex-officio;
- The Secretary to Government, Finance Department, ex-officio;
- The Secretary to Government, Public Works Department, ex-officio;
- The Secretary to Government, Industries Department, ex-officio;
- The Secretary to Government, Municipal Administration and Water Supply Department, ex-officio;
- The Secretary to Government, Rural Development and Panchayat Raj Department, ex-officio;
- The Secretary to Government, Housing and Urban Development Department, ex-officio;
- The Secretary to Government, Law Department, ex-officio;
- The Secretary to Government, Revenue Department, ex-officio;
- The Secretary to Government, Environment and Forests Department, ex-officio;
- The Secretary to Government, Agriculture Department, ex-officio;
- The Chief Executive Officer of the Board, ex-officio

The Executive Committee (Section 9 (2), TNID Act)

The Executive Committee shall have the following members:

- The Chief Secretary to Government, who shall be the Chairperson, ex-officio;
- The Secretary to Government, Finance Department, ex-officio;
- The Secretary to Government, Public Works Department, ex-officio;
- The Secretary to Government, Industries Department, ex-officio;
- The Secretary to Government, Municipal Administration and Water Supply Department, ex-officio;
- The Secretary to Government, Rural Development and Panchayat Raj Department, ex-officio;
- The Secretary to Government, Housing and Urban Development Department, ex-officio;
- The Secretary to Government, Law Department, ex-officio;
- The Secretary to Government, Revenue Department, ex-officio;
- The Secretary to Government, Environment and Forests Department, ex-officio;
- The Secretary to Government, Agriculture Department, ex-officio;

- The Chief Executive Officer of the Board shall be Member-Secretary ex-officio
- Experts in the fields of banking, finance, economics, commerce, industry, environment, law, technology and the like and not exceeding five members, as may be nominated by the Chairperson of the Board.

In addition, the Secretary to Government of the administrative department shall attend the Executive Committee as a special invitee. Also the Chairperson of the Executive Committee can invite any other person as may be considered necessary to attend a meeting of the Executive Committee.

Tenure and Roles of the Experts and Governing Provisions

The experts nominated by the Executive Committee are expected to provide inputs on projects and sectors and such other matters as may be requested by the Chairperson or the members. The expert members so appointed will serve on the Executive Committee for 3 years. They may be reappointed for a further period of 3 years and cannot serve more than 2 consecutive terms of three years each.

Section 12, TNID Act also allows the Board to constitute other committees and empower them as it deems fit. Such committees can be either the Board members or others as the Board deems fit.

Powers of the Board

Power to Sanction State Support - TNIDF

TNID Act has created a separate Fund for the purpose of providing state support to the PPP projects. The Fund is created under Section 24, TNID Act. The Fund, designated as Tamil Nadu Infrastructure Development Fund (TNIDF) is expected to be used for the purpose of providing state support to PPP projects. The type of state support is specified in Section 2(v), TNID Act and also in Rule 9, TNID Rules.

Once the project reaches a stage of public bids and the scope and structure are determined, the amount of state support will be clear. At that point the sponsoring agency can apply to TNIDB for assistance under TNIDF. For PPP projects up to Rs. 100 crore, the powers to approve financial support are with the Executive Committee. Anything over and above this will have to go to the full Board for sanction.

The ceiling of state support per project is defined in Rule 10(3), TNID Rules. The ceiling is normally restricted to 20% of the project cost. In case where the Board is the Procuring Entity, the ceiling is restricted to 40% of the project cost. (Situations specified in Rule 7). The nuances of project support and modalities are dealt with in detail in the section on TNIDF. For the purpose of this section, it is important to note that the Board has the power to sanction the state support for PPP projects.

Activity	Relevant Provisions
Tamil Nadu Infrastructure Development Fund	<i>Section 24, TNID Act;</i>
Limit on Financial Support from TNIDF	<i>Rule 10 (3), TNID Rules;</i>
Need for Financing and Application for Financing	<i>Rule 12 (2),(3),(4) & (5), TNID Rules;</i>
Release from TNIDF	<i>Rule13 of TNID Rules</i>
Recommendation of the Board for Financial Support	<i>Regulation 10 (5), TNIDB Regulations.</i>

Project Conceptualization Powers

The Board in its role as a project developer has powers to initiate projects on its own accord or to evaluate projects sponsored by other public agencies.

Section 14(1), TNID Act coupled with Rule 8(1), TNID Rules empower the Board to ask for information from the public agency in order to conceptualize the project better. Also Rule 8(2), TNID Rules provides the Board with powers to recommend policy changes to remove any impediments in project implementation.

Once the project idea is developed, the Board can also direct the public agency to conduct a detailed feasibility study and other studies as may be required to ensure that all the aspects of the projects are understood and evaluated.

Activity	Relevant Provisions
Project Identification and Prioritization	Section 14 (1), (2) & (4), TNID Act;
Power of the Board relating to Project Conceptualisation and Monitoring	Rules 8 (1) & (2), TNID Rules;
Direction for Feasibility Study	Regulation 7(4), TNIDB Regulations.

Power of Sanction from Project Preparation Fund – PPF

The Project Preparation Fund (PPF) is another Fund created under Section 25 of the TNID Act. Broadly the PPF can be used by the project sponsor for any market or feasibility studies, hiring of experts and other project development related activities. The purposes for which the PPF can be used are elaborated in Rule 15 of TNID Rules.

The power to sanction money from the PPF is as follows (Rule 16 (3) of TNID Rules)

- Upto Rs. 5 lakh - CEO;
- Rs. 5 – 50 lakh – Sub-committee of the Executive Committee (CEO, Principal Secretary to govt. Finance Department, CEO, Secretary to Govt. of the concerned Administrative Dept. and one other nominee – vide Rule 16 (3)(b), TNID Rules)
- Rs. 50 lakh – Rs. 5 crore – Executive Committee

- Rs.5 crore – The Board

Activity	Relevant Provisions
Project Preparation Fund	<i>Section 25, TNID Act</i>
Use of PPF	<i>Rule 15 ,TNID Rules</i>
Power to sanction money from the PPF	<i>Rule 16 (3),TNID Rules</i>

Project Scope and Structuring Powers

Once the project studies are done, the Board shall decide whether the project is to be implemented in the public sector mode or PPP mode. Even where it is to be implemented through the public sector, TNIDB can decide which public sector agency will implement the project.

Once the mode of implementation is decided, the Board can decide on the extent and mode of Government support for PPP projects. This will also have a bearing on the type of concession and the tender process.

Activity	Relevant Provisions
Detailed Project Study and Project Structuring	Section 17, TNID Act;
Project Study and Project Structure Approval from TNIDB	Regulation 10 (4), (5) & (6), TNIDB Regulations
Final Approval on Project Structure from TNIDB	Regulation 14, TNIDB Regulations

Powers to Approve Tender and Concession Agreement

The Board can direct the project sponsor to take its approval before finalizing the tender documents and draft Concession Agreements. Once the standard formats are created by TNIDB, the project sponsor is expected to adopt these standard documents with suitable variations. Till such time, the Union Planning Commission model agreements can be adopted. Whatever the document, TNIDB will approve the tender and Concession Agreement considering the project scope and structure and the implications on the State and the State financial support.

Activity	Relevant Provisions
<i>Format and Approval of Tender Documents from the Board</i>	<i>Section 18 (3) and (4), TNID Act</i>
<i>Approval of Tender Document and Concession Agreement</i>	<i>Regulation 15, TNIDB Regulations</i>

Project Monitoring Powers

Once the project is bid out, there is a need to monitor the projects both during implementation and after they become operational. This will ensure that the projects are being monitored against the envisaged performance metrics. TNIDB has the power to appoint

project managers and request for information in prescribed format on achievement and Expectation Reports to the Board on a quarterly basis, within thirty days of the end of the quarter.

Activity	Relevant Provisions
Project Monitoring Powers	<i>Sections 19, 20 & 21, TNID Act Regulations 16 , 17, 18 &19 TNIDB Regulations</i>

Powers to change project structure or discontinue Projects

TNIDB has the power to discontinue projects or to move it for implementation for public sector mode in case it believes it cannot be implemented in the PPP mode.

Activity	Relevant Provisions
<i>Project Structuring Approval</i>	<i>Regulation 14 (6), TNIDB Regulations</i>

Power to impose cess / abuser charges

TNIDB can levy infrastructure cess and also fees for any services rendered. It can also recommend to the Government to levy infrastructure cess. Conversely, the Board can levy abuser charges for misuse of rights accorded in the Concession Agreement.

Activity	Relevant Provisions
Infrastructure Cess, User Charges and Fees/Abuser Charges	<i>Sections 22 and 23, TNID Act</i>

Other Powers

Sections 30 and 31, TNID Act prescribe certain other additional powers that vest with the Board and Government to amend the various aspects of the governing rules and regulations.

Funds Created under TNID Act

Introduction

The TNID Act, 2012 has created two Funds that are aimed at facilitating both project development and project implementation. The delineation of these Funds and specifying the usage of the allocations to these Funds is expected to ensure that project development and implementation are not delayed for want of state support. The two Funds;

- Tamil Nadu Infrastructure Development Fund (TNIDF) and
- Project Preparation Fund (PPF) have a distinct role in the project development cycle

A. Tamil Nadu Infrastructure Development Fund (TNIDF)

The TNIDF has been created with a view to providing financial support in the design, development, working, administration and management of projects. The TNIDF is being

created through an initial corpus from the State Government. This will be subsequently topped up with Government grants and amount collected as infrastructure cess. The other source of funding for TNIDF could be any contributions from multi-lateral lending agencies, financial institutions or public bodies.

Uses of the TNIDF

The TNID Rules (Rule 10 (1)) prescribes the avenues of utilization of the TNIDF. Broadly, they are:

- Subsidy or capital grant during the construction period;
- Operational grant during the operational period;
- Annuity payments for a specified time period over the life of the project;
- Equity investment in the entity implementing the project;
- Loans to the entity implementing the project
- Any other form of project financing that may be notified by the Government

Financial support from the TNIDF shall ordinarily be approved only after the opportunities to avail state support from the Sponsoring agency's own resources or regular departmental budgetary resources or Central Government Support have been exhausted.

Limits on TNIDF support

The total public finance support can be from the sponsoring agency's own resources, regular departmental budgets, Central Government support, other support from Government of Tamil Nadu and TNIDF support.

The overall financial support from TNIDF shall not exceed 20% of the total project cost (including annuity payments). The only exception will be in the case of those projects where TNIDB is the Procuring Entity in which case the financial support (excluding annuity payments) shall not exceed 40% of the project cost.

As per Rule 10(2), TNID Rules, any assistance from TNIDF will constitute as being part of the state support. State support for a project in the form of capital grant, subsidy and equity participation shall not exceed 20% of the total project costs.

Total public financial support in the form of subsidy, capital grant, equity participation, net present value of operational grants, loans and net present value of quantifiable tax incentives shall not exceed 40% of the total project cost. The ceiling for state support and public financial support shall not include any annuity payable under the Concession Agreement.

State support for the purpose of the Act shall include the following:

- i. Subsidy or capital grant not exceeding such proportion of the cost of the Project, as may be prescribed in the Rules;
- ii. Equity;
- iii. Loans;

- iv. Guarantee by the Government;
- v. Opening and operation of escrow account;
- vi. Conferment of right to develop any land;
- vii. Incentives in the form of exception from the payment of, or deferred payment of, any tax or fees levied under any law or such other incentives, as may be prescribed in the Rules.
- viii. Exemption from payment or deferred payment or refund or loan in lieu of payment of cesses, royalty, seigniorage or other statutory levies;
- ix. Right to trade any specially created development rights on land or property;
- x. Any other incentive that the Government may specifically notify.

Total Project Cost for this purpose means the lowest of the total project cost mentioned in the tender documents or actual capital cost of the project upon completion of the Project as certified by the Independent Engineer; or total project cost as set forth in the financing documents.

Particulars	Relevant Provisions
Definition of Public Financial Support	Section 2(p), TNID Act
Definition of State Support	Section 2(v), TNID Act
TNIDF	Section 24, TNID Act
Types of incentives for the Concessionaire	Rule 9, TNID Rules
Use of TNIDF	Rule 10, TNID Rules
Limit on State and Public Financial Support	Rule 11, TNID Rules
Definition of Total Project Cost	Rule 2(h), TNID Rules

Management of TNIDF

The management of TNIDF is vested with the Secretary to Government, Finance (Infrastructure Cell) Department who is the custodian of the Fund. The operational aspects of drawing and disbursement will be done by CEO, TNIDB. The Fund will be part of the public accounts and can be either part of the general cash balances of the Government or kept as a separate bank account as directed by the Government.

Activity	Relevant Provisions
Management of TNIDF	Rule 14, TNID Rules

Application and release of Funds from TNIDF

Once the project details and structure are finalized by the project sponsor and approved by TNIDB, the need, timing and extent of finance from the TNIDF will be clear. The case for

financing from TNIDF shall be made by the project sponsor with a proper financial model that is discussed and approved by TNIDB. At this stage (stage IV), an application shall be made by the project sponsor to TNIDB for support under TNIDF. The format for this application is specified in Appendix II of the TNID Rules.

The TNIDF releases will normally be aligned to the Concession Agreement and subject to the conditions laid down. The project sponsor shall make the application in the prescribed format (Appendix –IV, TNID Rules) to TNIDB. The CEO, TNIDB on satisfying himself that the release is in accordance with the Board’s approval and Concession Agreement shall recommend to the Government for the release of the funds. If there is any need to avoid delay, the CEO may even recommend release of funds in advance. Then the onus is on the project sponsor to ensure that the conditions are being met before release of the funds to the Concessionaire.

Activity	Relevant Provisions
Intimation of need for Financing and Application for Financing	Rule 12(7), TNID Rules
Releases from the TNIDF	Rule 13, TNID Rules
Format for Memorandum for In-Principle Approval for Financial Support from TNIDF	TNID Rules Appendix II The format can be downloaded from http://tnidb.tn.gov.in/Forms1.php
Format for Release of State Support	TNID Rules Appendix IV

Powers of sanction from TNIDF

As discussed in the earlier section, for PPP projects, the Executive Committee shall have the power to sanction TNIDF support for projects of a value of upto Rs.100 crore. Any support exceeding this amount shall go to the Board. But once the sanction from the relevant authority is obtained, the periodic releases from the fund shall be done by the Finance (Infrastructure Cell) Department based on the recommendations by CEO, TNIDB. The CEO TNIDB shall satisfy himself that (a) sanction terms of the Board are met; (b) the amount is as per the concession agreement.

Activity	Relevant Provisions
Approval by Board for TNIDF	Rule 12(4), TNID Rules
Power of Executive Committee to Approve Financial Support	Rule 12(5), TNID Rules
Approval from Board and Recommendation from CEO to Government for Release of Funds	Rule 13(3) & (5), TNID Rules
Management of TNIDF	Rule 14 (3) & (4), TNID Rules

B. Project Preparation Fund

The other Fund set up under TNID Act, 2012 is the Project Preparation Fund. The Project Preparation Fund or PPF may be utilized by the project sponsoring agencies mainly for

conducting studies, hiring experts, consultants, conducting feasibility studies, detailed project studies, capacity building, etc.,

Uses of PPF

The detailed use of the PPF is found in the Rule 15, TNID Rules which states the uses as follows:

- Any technical study required to finalize the technical, legal or financial parameters of a project including legal reviews and commercial assessment studies;
- Preparation of Impact Assessment Studies including Environmental Impact Assessment Studies;
- Preparation of tender documents including standard tender documents;
- Preparation of other essential project documentation prior to signing Concession Agreement;
- Training and conduct of outreach events including seminars and conferences;
- Any other activities decided by the Board related to the above;
- Conduct of the meetings of the Board or the Executive Committee; and
- Sitting fees and allowances of expert members and any staff recruited by the Board.

PPF shall not be used for

PPF cannot be used for the following:

- Staff expenses incurred by the Public Agency on its own staff;
- Expenses incurred for engagement as consultants of any serving employees of the Government by the Board or a public agency.

Application under PPF

Any project sponsor can apply to TNIDB for support from the PPF for any of the purposes specified. Even if the study is being undertaken by the project sponsor on a suo-moto basis without being recommended by the TNIDB under (Section 14(4), TNID Act), they would still be eligible for support from PPF. They will have to approach TNIDB with their application in the prescribed format. (Appendix II of TNID Rules)

Management of PPF and Sanctioning Powers

The PPF, similar to TNIDF will be created initially with a corpus from the Government. Subsequently the following amounts might add to the corpus: (a) further grants from the Government through levy of any fees, user or abuser charges; (b) contributions from public bodies, multilateral agencies and other financial institutions.

The management will vests with the Board and similar to TNIDF, it can either be part of the Public Account, Government cash balances or kept in a separate bank account as deemed fit by the Board.

The power to sanction expenditure from the TNIDF is as follows:

- a) Upto Rs. 5 lakh – CEO, TNIDB
- b) Rs. 5 lakh – Rs. 50 lakh – Sub-committee of the Executive Committee (comprising Principal Secretary to Government, Finance Department; CEO, TNIDB and another nominee decided by the Executive Committee)
- c) Rs. 50 lakh – Rs. 5 crore- Executive Committee
- d) Above Rs. 5 crore – The Board chaired by the Honourable Chief Minister

The CEO shall have the operational rights over this account.

Recoveries to the PPF can happen through recovery from the tenderers or a successful tenderer or both. If the project sponsor is supposed to collect the money from sale of tender documents, the money so collected shall be deposited back into the PPF account.

Relevant Provisions on PPF – Act, Rules & Regulations

Activity	Relevant Provisions
Project Preparation Fund	Section 25 ,TNID Act
Use of PPF	Rule15, TNID Rules
Application for Assistance from PPF	TNID Rules, Appendix III
Approval for Sanction of PPF	Rule 16 (3), TNID Rules
Recovery of expenditure made through PPF	Rule 17, TNID Rules

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Project Development

Stage I: Project Conception and Planning – Project Concept Note

Step 1: Project Scoping

Typically a project starts with someone in the department / sponsoring agency initiating it. The Board may also initiate a project on its own accord based on a study or inputs from third parties. Irrespective of who initiates the project, the first step is to create a frame work for addressing the various aspects of the project. This will entail first identifying the various needs that the project is expected to fulfill. It should be noted that while an infrastructure project is conceptualized, the aim is to provide a service and not create assets. At the time of scoping the project, the project agency should typically identify the need or service that it is hoping to achieve and the expected improvement.

Step 2: Options Analysis

An options analysis is a mode by which the sponsor ensures that various asset lean options have been evaluated. The following table gives an example of how an options analysis will work:

Options	Modalities and examples
Use a non- asset solution	This will involve any leakage / gaps in the service either by the sponsor or through a private vendor E.g.,: Water distribution and billing, management contracts
Improve existing assets	<ul style="list-style-type: none">• Give maintenance contracts to private vendors;• Multi-storeyed parking lots in place of old ones
Create new assets	Develop new infrastructure to cater to the larger need

Once the option is identified, there should be a preliminary study i.e., a Pre-Feasibility Study will need to be undertaken to assess the project.

Step 3: Pre-feasibility Study

Pre-feasibility is a study which is not elaborate but normally conducted at the department or sponsor level. This is more of an assessment rather than a scientific detailing. Nonetheless, there should be preliminary assessment of the various financial indicators as well.

A Pre-Feasibility Study should ideally cover the following aspects:

a. Technical Pre-feasibility

- The engineering and technical aspects as envisaged;
- New technology, if any;
- Places where it has been implemented;
- Operational aspects and ease / difficulty of managing the same;
- Technical and operational risks summary

b. Financial Feasibility

- Approximate costs of the project;
- Financial risks in the project;
- Private sector interest in the project;
- Identification of socio economic benefits

While the feasibility study is more to decide on a go / no go decision, this cannot in anyway substitute a full-fledged assessment of the project. The pre-feasibility analysis can be conducted by the sponsor themselves or can be done through an outsourced consultant. The department may carry out the evaluation themselves if there is enough data available to conduct it themselves.

Step 4: Project Concept Note

The Project Concept Note covers the basics of the project in terms of type of infrastructure and service to be provided. The Project Concept Note is expected to answer some basic questions of the project. It should contain all the departmental information that may be available at that point in time. If a feasibility study is available for the same, then the feasibility report will be an additional input to the CEO, TNIDB along with the Project Concept Note.

The output at this stage is a document called as a Project Concept Note that captures the various aspects of the project and that is submitted to the Board.

Project Concept Note is a summary of the project that is being initiated either by a sponsoring Government Agency or in some cases by the Board on its own accord based on inputs from a study conducted (on its own or by a third party). It essentially gives a brief of the project and its boundaries. From TNIDB point of view, Project Concept Note is a first step towards registration and acknowledgement of the project for the consideration of the Board.

Check list for the Project Sponsor at the Project Concept Note stage

Activity	Relevant Provisions
Project sponsor initiating the project	Section 14 (2), TNID Act
TNIDB initiating the project and consulting the public agency	Section 14 (1), TNID Act
Details about the Project Concept Note	Regulation 7, TNIDB Regulations
Project Concept Note Format	Appendix I of TNIDB Regulation The format can be downloaded from http://tnidb.tn.gov.in/Forms1.php

Stage II: Project Development –TNIDB Directive to conduct Feasibility Study

Step 1: Approval of Project Concept Note

When the Project Concept Note has only the preliminary information that is available within the sponsor department, the CEO TNIDB has two options. If the project is not within the ambit of the Board, the CEO can return the same to the public agency. Alternately, the CEO TNIDB can send the Project Concept Note with a recommendation to conduct a feasibility study.

A feasibility study is a detailed study with primary and secondary data that will look at the project from various angles. If the project sponsor does not have the capability to conduct the feasibility study based on in-house data, the project sponsor can take the help of external experts / consultants.

Activity	Relevant Provisions
Directive to conduct a Feasibility Study	Section 14 (4), TNID Act
Project not within the ambit of the Board	Regulation 7 (3), TNIDB Regulations
Conduct / direct to conduct a Feasibility Study	Regulation 7 (4), TNIDB Regulations

Approval for	Authority	Relevant Provisions
Approval of Project Concept Note	CEO TNIDB	Regulations 7 (3) & (4), TNIDB Regulations

Step 2: Support from TNIDB in appointment of Financial Support and Financial Assistance

The sponsor department can expect both facilitation support as well as financial assistance from TNIDB for engaging consultants to conduct a feasibility study.

a. Facilitation Support: One of the roles envisaged for TNIDB under the TNID Act is that of a facilitator of projects. As per Regulation 6, TNIDB Regulations the Board has been empowered to empanel consultants who are available to the project departments for various studies and other support. The sponsoring agency can use the services of these empanelled consultants to conduct the feasibility study. The sponsoring agency has to decide on the specified scope of work and ask for a financial quote and select the lowest tender. Hence the project sponsor can choose to avail the services of one of the empanelled feasibility consultants to do detailed project feasibility.

b. Financial Assistance: In order to appoint the consultant, the project sponsor may need some funds. The Project Preparation Fund created under TNIDB Act helps the project sponsor to approach TNIDB for financial assistance for appointing consultants.

Types of Consultant for whom approvals are in place

The Board has given the powers to CEO, TNIDB to appoint two types of consultants – Sector experts who will assist TNIDB; Empanelled Consultants who will be available to support project sponsors. The sector experts will be staff engaged by TNIDB for a period of 2 years.

Sector Experts who will assist TNIDB:

- Urban Infrastructure and Services;
- Transport Infrastructure and Services;
- Social Infrastructure specifically Health and Education; Industrial, Commercial Infrastructure including Tourism; Energy;
- Agriculture, Animal Husbandry and related Sectors;
- Financial Expert.

Empanelled consultants who will be available with TNIDB:

- Technical / engineering experts,
- Feasibility and market study experts,
- Legal advisors,
- Financial advisors
- Transaction advisors

Support from the Board to engage consultants – Relevant Sections

Activity	Relevant provision
Details of Project Preparation Fund	Section 25, TNID Act
Use of Project Preparation Fund	Section 25 (25), TNID Act Rule 15, TNID Rules
Powers to approve disbursement from the PPF	Rule 16 (3), TNID Rules
Format for application under PPF	Appendix III of TNID Rules The format can be downloaded from http://tnidb.tn.gov.in/Forms1.php

Approval for PPF	Authority	Relevant Provisions
Up to Rs.5 lakhs	CEO, TNIDB	Rule 3, TNID Rules
Rs. 5lakhs – Rs.50 lakhs	Sub-committee of the Executive Committee	
Rs.50 lakhs – Rs.5 crores	Executive Committee	
Above Rs.5 crores	The Board chaired by Honourable Chief Minister	

Stage III: Project Development – Feasibility Study

Feasibility study is a study that covers the many aspects of the project that includes the market impact, the technical issues, economic and social impact as well as the legal implications of the project. The study also makes an objective assessment of the risks and the allocation of the same between the state and the private sector Concessionaire in a PPP project. At the end of the feasibility the project sponsor has clarity on the suitability of the project for a PPP mode. If not, it can even decide to implement it through the public sector mode. This is done through assessing the cost and benefits of the project being done through a PPP mode vis-à-vis a public sector comparator.

A good feasibility report shall help the project sponsor / TNIDB to decide on the following: (a) go / no go (b) mode of implementation; (c) project structuring; (d) extent of financial support and modalities thereof; (e) appropriate concession mechanism.

Difference between pre-feasibility and full feasibility

In some instances project sponsors' confuse pre-feasibility assessment with a full feasibility study. This can be counterproductive as a pre-feasibility is by definition a quick assessment by the concerned department based on in-house data and some external validation. Since the scope and depth of this analysis is limited, it can sometimes lead to a different conclusion. While a quick departmental pre-feasibility is desirable so that some basic project development building blocks are in place, it cannot be an alternate to an in-depth and well researched feasibility study. Also it should be noted that there should not be any reservations about a feasibility study resulting in a different view on the go / no go decision or the modalities of the project as compared to the pre-feasibility assessment.

Part A: Feasibility Assessment

a. Project Background

This section should provide a background on the project location, type of infrastructure, the Contracting

Authority, previous studies undertaken, and previous approvals received, etc.

b. Strategic Needs Assessment, Demand Assessment and Project Scoping

This section will analyse current and future needs. An analysis of the user's needs should be included. The following issues should be addressed:

- I. Existing or envisioned service gaps;
- II. Key stakeholders and their requirements; and
- III. Consultation plan with key stakeholders to ensure that the Project remains relevant.

Assessment of demand should also be included in this section. Project scoping component should determine and define the scope of the Project, outlining the services to be delivered.

c. Service Standard — Output and Services

This section will translate the needs identified in the previous step into specific outputs. The following issues should be addressed:

- i. Impact of the proposed Project on the service gaps identified above and overall objectives the Project aims to achieve;
- ii. Outputs expected from the Project, stated in measurable and quantifiable terms as far as possible;
- iii. Support service outputs (the outputs that are not the key drivers of the Projects, but have the potential to enhance the Project's value for money); and
- iv. Relevance of the Project to the Contracting Authority's long-term strategic goals and overall national development plan.

d. Market Assessment

Once the project outputs have been specified, assessment of the market potential can commence. The purpose of market assessment study is to assist the Contracting Authority in deciding the design, and deliver the Public Private Partnership Project. The study may address the following elements:

- I. Description of the industry;
- II. Current market analysis (current offerings, market players and their capability and appetite);
- III. Competition (alternative service and product offerings);
- IV. Anticipated future market potential;
- V. Potential market players and sources of revenues;
- VI. Demand projections.

e. Technical Feasibility

This component details how the Project can be delivered (i.e., outline technical solution). The study should address the following elements:

- i. Field surveys of the project site, which may include (depending on the Project) mapping, topographical and eco-technical surveys;
- ii. A preliminary technical design of facilities required to provide the project outputs. This should consider alternative design options, taking into account uncertainty in the demand projections and other site-related uncertainties;
- iii. Materials and other inputs requirements;
- iv. Alternatives (such as those involving usage of existing assets for the Project, rather than creating new ones; or achieving the desired outputs by some means other than the proposed solution) and their assessment in relation to the possibility of achieving the targets of the Project;

- v. Capital expenditure cost assessment and operating and maintenance cost assessment based on the components of the preliminary technical design.

f. Financial Feasibility

This component provides an estimate of project costs based on recommended technical solution and identifies possible financing solutions. The study should address the following elements:

- I. Project costs (initial and replacement capex, cost of upgrades, opex);
- II. Start-up capital;
- III. Sources of financing;
- IV. Potential revenues;
- V. Estimated returns;
- VI. Consulting costs.

If the project requires financial support from the Tamil Nadu Infrastructure Development Fund, the sponsoring agency shall prepare a financial model and submit an application for assistance to the Board in the format as prescribed in TNID Rules, Appendix II along with the financial model for the project.

g. Social and Environmental Feasibility

Social impacts will be the extent of resettlement requirement and the communities affected by the project. The cost of such resettlement should be built in the assessment and also the resistance and the appropriate communication mechanism should be evaluated.

Environmental impact includes any adverse impact on account of the project in the area of the project and the best options for mitigating the same.

While assessing the socio – economic impact, it is important to look at both the direct and indirect impact. For example a displacement will be a direct impact, but maybe unplanned resettlement can cause health and community issues in the new areas which may not have been factored. While the quantifiable costs and benefits are easy to measure it is important to assess the non-quantifiable impact as well. The secondary effects should be included in the assessment. Public consultation is often a part of the social and environmental feasibility process.

Clarity on the socio-economic impact is important to give a realistic picture to the bidders on the costs of the impact. Also from the Government point of view, this will help avoid the project getting stuck in legal uncertainties. The public consultative process should be done in a transparent manner to ensure feedback from all sections of the society.

The final assessment of environmental and social costs and benefits is an input to the economic assessment of the project. Therefore, in addition to being a requirement from a legal and regulatory perspective, the social and environmental analysis is an important part of the assessment of the project's overall welfare impact

Environmental Clearance and EIA

Environment Clearance is important from the project bid out aspect and is also mandated by the Central Government Regulation. An Environment Impact Assessment (EIA) Report has to be prepared and is important for environment clearance. While in some cases the EIA is done in detail at the time of procurement, if it is a large project it might be useful to do an EIA parallel to the feasibility study.

h. Legal Framework

This component examines the suitability of existing legislative environment for the execution and running of the Project, as well as any licences or requirements that potential service providers need to comply with. The study should address the following elements:

- i. Appraisal of current legislative environment in relation to requirements of the Project;
- ii. Assessment of required amendments to the current legislation;
- iii. Legal requirements for the proposed market and organisational structure; and
- iv. Other legal issues that may inhibit / prevent the development of the Project.

i. Stakeholder consultation findings and public interest evaluation

This component should state the findings of the consultation process with the various stakeholders including but not limited to:

- I. Users;
- II. Developers;
- III. Community participants;
- IV. Citizens likely to be affected;
- V. Financers; and
- VI. Other relevant government authorities.

j. Economic feasibility

The economic analysis is more comprehensive and addresses the project from multiple angles. The economic feasibility assesses the relative costs and benefits of the project from the economic standpoint rather than the financial IRR.

Economic costs and benefits includes the impact of the project on the livelihood, health and productivity of the people, the increase in underlying asset value and the longer term benefit on education and social well being.

Economic analysis can be done by a combination of secondary and primary data. The user charges willingness survey is usually a critical part of the economic analysis and can provide useful inputs in project pricing and returns. The factors both in benefits and costs will vary depending on the project.

Decision criteria: NPV and EIRR

The final output of the economic feasibility assessment will include the **Net Present Value (NPV)** of the project's economic costs and benefits. This captures the value today of the costs and benefits that occur over the life of the project. It has the benefit of summarising a lifetime of values into a single figure and allowing easy comparison of value between different projects. Comparisons of the NPVs of different projects are assessed using the same **discount rate** (required rate of return).

An **Economic Internal Rate of Return (EIRR)** is commonly also calculated, which is a similar decision factor to the financial IRR. The EIRR indicates the rate of return at which the present value of the economic costs and benefits of the project are equal. In other words, it is the discount rate for which the net present value is zero.

The EIRR should be compared with the socially required rate of return. Projects that are found to have an EIRR that is higher than the socially required rate of return would be said to be economic investments. These may then proceed for detailed analysis of their viability as PPPs.

The NPV and EIRR give different sorts of information about a project. The NPV provides a decision criterion on whether the project should proceed at all (in general a project with a negative NPV should not be pursued) and also allows direct comparison of actual value between projects. On the other hand, the EIRR is better suited to being a decision criterion only. By allowing a project to be compared against a required rate of return it gives a yes or no answer about whether it is economic. However, the EIRR alone does not give enough information to say whether one project should be pursued ahead of another. This is a value comparison and the NPV should be used.

k. The Public Sector Comparator (PSC), Value for Money and Recommendations

This section should state the reference project and detail the computation of the Public Sector Comparator and resultant Value for Money for the Public Agency.

Value for Money (VfM) is specified as an integral part of the feasibility and the evaluation to determine whether to execute the project through the conventional procurement options or through the PPP framework. As per the Department of Economic Affairs guidelines, the VfM is a combination of qualitative and quantitative analysis.

In quantitative terms an assessment of the capital inflow from the private operator and the amount of risk assumed by the operator. The analysis assumes the entire life cycle cost of the PPP operator and that of the public sector comparator. In addition to the quantitative tests, there should be some qualitative analysis done to assess the desirability of the PPP. These shall include among other things

Viability assessment – whether the reason for a private sector executor is to improve efficiency, how and what will be measured and whether the requirement is flexible enough.

I. Conclusion and Recommendations on Feasibility Assessment

This component should detail the key conclusions and recommendations on the Feasibility Assessment.

Part B: Structuring

a. Risk Assessment

This section should identify all material risks associated with the Project, specifying the external and project development risks for the Contracting Authority, the project risks to be allocated to the private entity in the case of Public Private Partnerships and those to be retained by the Contracting Authority.

b. Key Commercial Principles including Payment Mechanisms

This section should detail the key commercial principles for the Project. These commercial principles would include among other principles, the payment mechanisms, relief, compensation and force majeure events, default events, termination payments, the Contracting Authority's step- in, cure rights, insurance etc.

c. Evaluation Criteria for selection of the private entity

This section should explain the options regarding the evaluation criteria for selection of the private entity. This would be preliminary and subject to finalization of the RFP.

d. Implementation Plan

This section should detail the activities and timelines during the project development period. It should also state the person or entity responsible for each activity.

e. Project resource requirement

This section should detail the resources required during and after the project development period.

f. Conclusion and Recommendations on Structuring

This section should detail the key conclusions and recommendations on the project structuring

Activity	Act / Rules / Regulations
Definition of Feasibility	Section 2 (f), TNID Act Rule 2(m), TNTIT (PPP Procurement) Rules
Definition of Public Private Partnership	Section 2(m), TNID Act Rule 2(u), TNTIT (PPP Procurement) Rules
Power of CEO to direct conduct of a feasibility study	Section 14(4), TNID Act
Various aspects to be covered in the feasibility report	Regulation 8, TNIDB Regulations
Definition of public sector comparator	Rule 2(w), TNTIT (PPP Procurement) Rules
Definition of value for money assessment	Rule 2(af), TNTIT (PPP Procurement) Rules

Value for money analysis requirement	Regulation 9, TNIDB Regulations
Format for feasibility study	Appendix II , TNIDB Regulations

Stage IV: Application for TNIDF

Financial support from the Tamil Nadu Infrastructure Development Fund shall ordinarily be approved only after the opportunities to avail state support and other public financial support from the Sponsoring agency's own resources or regular departmental budgetary resources or Central Government Support have been exhausted.

Before the Board recommends projects for implementation to the Government under Section 14(4), TNID Act, the Board shall provide a preliminary indication of the extent and form of state support and specifically support from the Tamil Nadu Infrastructure Development Fund and for this purpose the Board may obtain necessary information from the Sponsoring Agency in such manner as may be prescribed in the Regulations.

The sponsoring agency shall prepare a financial model as per the regulation and if any state support including the support from the Tamil Nadu Infrastructure Development Fund is required, they may submit an application for assistance to the Board in the format as prescribed in Appendix II along with a financial model for the project;

Limits of State Support

- State support for a project in the form of subsidy, capital grant, and equity participation during the period of construction of the project shall not in the aggregate exceed 20 per cent of the total project cost.
- Total public financial support for a project in the form of subsidy, capital grant, equity participation, net present value of operational grants, loans and the net present value of quantifiable tax incentives shall not exceed 40 per cent of the total project cost.

Activity	Act / Rules / Regulations
Use of TNIDF	Rules 10, TNID Rules
Approval of TNIDF	Rule 10(4), TNID Rules Rules 13(3) & (4), TNID Rules
Eligibility for state support	Section 24 (4), TNID Act
Limits on State Support and Public Financial Support	Rules Rule 12, TNID Rules
Intimation of need for financing	Rules Rule 12, TNID Rules
Memorandum for in-principle approval from TNIDF	TNID Rules – Appendix II The format can be downloaded from http://tnidb.tn.gov.in/Forms1.php
Application for actual release of the funds	TNID Rules – Appendix IV

Approval for	Authority	Relevant Provisions
Approval of release of TNIDF	Board : Full powers EC: upto Rs. 10 crore.	Rules 13(3), TNID Rules
Release of Advance Payments	CEO TNIDB	Rules 13(4), TNID Rules

Stage V: Recommendation of the Board on Feasibility Study, Project Concept Note and Mode of Implementation

Step1: Approval of Feasibility Study and Project Concept Note

On considering the note prepared by CEO TNIDB as per Regulation 7(5), TNIDB Regulations, on the Project Concept Note and the Feasibility Study, the Board shall make a determination as to the feasibility and the desirability of implementing the project on account of its socio-economic benefits, including the priority of such implementation vis-a-vis other projects under its consideration.

Activity	Relevant Provisions
Recommendation of the Board	Section 14(4), TNID Act Regulation 10, TNIDB Regulations
Note from CEO for Consideration of Board	Regulation 7(5), TNIDB Regulations

Step2: Determination of Mode of Implementation

Upon deciding that the project is feasible and is of priority, the Board shall, make a determination as to whether the public private partnership mode or the public sector mode would be appropriate.

The Board shall then recommend to Government those projects which are to be implemented in the public sector mode, those which may be implemented in either mode, and those which are to be implemented in the public-private partnership mode.

In cases where the Board recommends implementation through the Public Private Partnership mode;

- it shall be subject to the provisions of Regulation 11, TNIDB Regulations
- it shall also indicate the appropriate form of Concession Agreement to be entered into from out of those in Schedule II of the TNID Act.
- it shall indicate the possible extent and form of public financial support that the project may require in accordance with Rule 12, TNID Rules

NATURE OF CONCESSION AGREEMENTS. (Schedule –II, TNID Act, 2012)

1. Investment or Financing related Agreements
 - Build-Operate-and- Transfer (BOT)
 - Build-Own-and-Operate (BOO)
 - Build-Own-Operate-Transfer (BOOT)
 - Build- Transfer-and-Operate (BTO)
 - Design-Build-Finance-Operate- Transfer (DBFOT)
2. Operations and Maintenance related Agreements
 - Management Agreement
 - Lease Management Agreement
 - Build-Lease-and- Transfer (BL T)
 - Rehabilitate-Operate-and- Transfer (ROT)
 - Rehabilitate-Own-and-Operate (ROO)

In cases where the Board recommends implementation through the public sector mode, the Board shall indicate in its recommendations the public agency which is to implement the project in the public sector mode, or which is to be designated as the sponsoring agency for Public Private Partnership mode of implementation

Activity	Act / Rules / Regulations
Form of Concession Agreement for PPP	Schedule II, TNID Act
Public Financial Support	Rules 12, TNID Rules
Recommendation to Government by the Board	Section 14(4), TNID Act Regulation 10(4), TNIDB Regulations
Selection of public agency for implementation through public sector mode	Regulation 10(6), TNIDB Regulations
Factors to be considered by the Board in determining a PPP project	Regulation 11, TNIDB Regulations

Approval for	Authority	Relevant Provisions
Approval of Feasibility Study and Project Concept Note	Board: Full powers EC : Exceeding Rs. 50 crore and up to Rs. 500 crore SC : up to Rs.50 crore	Section 14(4), TNID Act Regulation 10, TNIDB Regulations

Stage VI: Approval from Government on Mode of Implementation

Once the project is studied in detail and the various issues listed in the respective regulations are addressed, the project is ready for implementation.

The Government shall consider the recommendations of the Board and communicate its decision on the implementation of the Project including the mode of its implementation within 30 days.

A. Project to be implemented in the Public Sector mode

On receipt of the Government's decision to implement a project in the public sector mode, if the Board is of the view that the information available (regarding the technical, economic, social or financial parameters of the project) are adequate to proceed with the implementation of the project, it shall inform the designated public agency and direct them to commence implementation forthwith.

In cases where the Board is of the view that the information is inadequate it may cause further detailed project study covering all or any specific aspects of the project for which further information is required and upon being satisfied with the further information provided, it will direct the designated public agency to commence implementation forthwith.

Activity	Relevant Provisions
Government's decision on mode of Implementation	Section 14(6), TNID Act
Recommendation to implement under public sector	Section 15(1), TNID Act
Recommendation of the Board naming the public agency for implementation	Regulation 10(6), TNIDB Regulations
Modalities of public sector implementation	Regulation 12, TNIDB Regulations

B. Project to be implemented in the PPP Mode

Step 1 B: Receipt of Government's direction

With the receipt of the Government's direction to implement a project in the Public Private Partnership mode the CEO shall intimate the same to the Sponsoring Agency within five days.

Step 2 B: Publication of Project Details

On receipt of the information from the CEO, the Sponsoring Agency shall get the project details published in the public domain to invite suggestions and objections. The details of the proposed project is to be published in the format prescribed in Appendix III on the Notice Board of their respective offices and their offices near the project site and on the official website. The notice shall invite objections and suggestions with regard to the proposed project development for a period of thirty days, which in special cases may be reduced to fifteen days with the approval of the Board.

Step 3 B: Submission of Observations and Suggestions

Based on the objections and suggestions received, the Sponsoring Agency shall submit a report, in the format prescribed in Appendix IV to the Board, within a period of thirty days from the last date of receipt of objections and suggestions, inter alia responding to the objections and suggestions and proposing such modifications in the project as it deems appropriate.

Activity	Relevant Provisions
Government's decision on mode of Implementation	Section 14(6), TNID Act
Receipt of Government's direction	Regulation 13(1), TNIDB Regulations
Requirement of publication of project details	Section 16, TNID Act
Details of public information	Regulation 13, TNIDB Regulations
Submission of Observations and Suggestions	Regulation 13(4), TNIDB Regulations
Format for inviting public suggestions	TNIDB Regulations – Appendix III The format can be downloaded from http://tnidb.tn.gov.in/Forms1.php
Format of report to TNIDB after consolidating public suggestions	TNIDB Regulations – Appendix IV The format can be downloaded from http://tnidb.tn.gov.in/Forms1.php

Approval for	Authority	Relevant Provisions
Designate the Public Agency for implementing all the Projects implemented through Public Sector mode.	EC: Full powers. However, in case of difference of opinion in 'EC', the Board may decide.	Section 15, TNID Act (delegation of Powers)
Approval of Mode of Implementation through PPP Mode	CEO : Full powers	Section 16, TNID Act (delegation of Powers)
Decision to Publish or not publish the details of projects on the website.	EC : Full powers	Section 14(5), TNID Act (delegation of Powers)

Stage VII: Project Structuring and Final Approval for Public Private Partnership Projects

Step 1: Finalization of Scope and Structure

A. Based on the report (Regulation 13(4), TNIDB Regulations), if the Board is of the view that the information provided is adequate, it will direct the Executive Committee to finalize the scope and structure of the project.(or)

B. If the Board is of the view that the information provided is not adequate, it may cause for a Detailed Project Study to be submitted and upon being satisfied with the further information

provided; it will direct the Executive Committee to finalize the scope and structure of the project. (or)

C. If the Board concludes that project cannot be implemented in the Public Private Partnership mode, it may recommend to the Government that the project may be implemented in the public sector mode or dropped altogether.

Step 2: Finalization of Financial Support

A. Financial Support from TNIDF

In finalising the scope and structure of the project, the Executive Committee shall subject to the provisions of Rule 12 of the Tamil Nadu Infrastructure Development Rules 2012 either approve of its own accord or secure the Board's specific approval for the extent and form of public financial support for the project.

B. Financial Support from State

In cases where the public financial support is to be state support, the possible extent and form of state support proposed shall be reported to the Government forthwith, including whether such state support is proposed to be a tender criterion.

B. Financial support from Centre

In cases where the public financial support is to be support from the Central Government, the concerned administrative department and the sponsoring agency shall be advised to directly approach the agencies concerned in the Central Government.

Activity	Relevant Provisions
Project structure finalization	Section 17, TNID Act
Financial Support from TNIDF	Section 24(4), TNID Act Rule 12 (5), TNID Rules
Assessing state support	Regulation 14, TNIDB Regulations
Deciding on state support	Rule 12, TNID Rules

Approval for	Authority	Relevant Provisions
Approval of Scope and Structure	EC : For Projects exceeding Rs. 1000 crore SC: For Projects exceeding Rs.100 crore up to Rs. 1000 crore CEO : For Projects upto Rs. 100 crore	Section 17, TNID Act Regulation 14, TNIDB Regulations
Financial Support from TNIDF	EC : For Project value upto Rs.100 crore Board : Full Powers	Section 24(4), TNID Act Rule 12 (5), TNID Rules

Procurement – Planning & Process

Stage I: Preparatory Stage

On approval of the scope of work and structure, the sponsoring agency shall initiate the procurement process.

The procurement process – planning, execution and management is critical in order to ensure that the project gets the kind of market and financial results.

Step 1: Formation of Tender Inviting Authority, Tender Scrutiny and Evaluation Committee and Tender Accepting Authority.

(A) Tender Inviting Authority

The Government or the Procuring Entity, may, by order, appoint an officer under its control as Tender Inviting Authority for carrying out the functions assigned to it under this Act.

Functions of the Tender Inviting Authority

- The Tender Inviting Authority shall invite tenders in the form of a notice.
- The Tender Inviting Authority shall communicate the notice inviting tenders to the Bulletin Officers according to the value of the procurement. The Tender Inviting Authority shall also publish the notice inviting tenders in Indian Trade Journal and in daily newspapers having wide circulation depending upon the value of the procurement prescribed.
- The Tender Inviting Authority shall supply the schedule of rates and tender documents in such manner and in such places as may be prescribed to every intending tenderer who has applied for such document.
- The Tender Accepting Authority shall cause an objective evaluation of the tenders taking into consideration the schedule of rates as mentioned in the tender document and the prevailing market rate for procurement and comparison of the tenders in accordance with the procedure and criteria specified in the tender document.

(B) Tender Accepting Authority

The Government or the Procuring Entity, may, by order, appoint an officer or a committee consisting of such number of officers as may be prescribed as Tender Accepting Authority for carrying out the functions assigned to it under this Act.

Functions of the Tender Inviting Authority

- The Tender Accepting Authority or any other officer authorised by it, shall open the tenders in the presence of tenderers present and who have submitted tenders
- The Tender Accepting Authority shall cause an objective evaluation of the tenders taking into consideration the schedule of rates as mentioned in the tender document and the prevailing market rate for procurement and comparison of the tenders in accordance with the procedure and criteria specified in the tender document.

- After evaluation the Tender Accepting Authority shall accept the lowest tender ascertained on the basis of objective and quantifiable factors specified in the tender document and giving relative weights among them.
- The Tender Accepting Authority shall intimate the information regarding the name and address of the tenderer whose tender has been accepted along with the reasons for rejection of other tenders to the appropriate Tender Bulletin Officers.

(C) Tender Scrutiny and Evaluation Committee (TSEC)

As per the TNITT PPPP rules, the sponsoring agency shall form a Tender Scrutiny and Evaluation Committee to evaluate each stage of procurement. And as per the TNTIT Act, 1998, the sponsoring agency shall form the Tender Inviting Authority and Tender Accepting Authority.

Members of the TSEC

- i. Head of the Procuring Entity or his nominee who shall serve as Chairman;
- ii. Secretary to the Government of the Administrative Department concerned or his nominee;
- iii. Secretary to the Government, Law Department or his nominee where essential;
- iv. Secretary to the Government, Finance Department or his nominee;
- v. Representative of the Tamil Nadu Infrastructure Development Board for projects covered under the Act – provided the same person may represent both finance department and the TNIDB;
- vi. Experts not exceeding three in number with relevant experience that the Procuring Entity or the Government by general or specific order may include.

Functions of the TSEC

- i. Scrutinize and approve tender documents prior to their issue and recommend any changes;
- ii. Supervise the conduct of pre-submission meetings and conferences with prospective Bidders;
- iii. Supervise the opening of tenders;
- iv. Carry out the preliminary examination and detailed evaluation of the tenders received; and
- v. Prepare an evaluation report for the consideration of the Tender Accepting Authority.

Relevant Provision: Rule 7, TNTIT (PPP Procurement) Rules

Activity	Relevant Provisions
Formation of Tender Inviting Authority and Tender Accepting Authority	Section 7, TNTIT Act
Functions of Tender Inviting Authority	Sections 9, TNTIT Act
	Sections 8, 10 & 12, TNTIT Act
Formation of Tender Scrutiny and Evaluation Committee	Rule 7, TNTIT (PPP Procurement) Rules

Step 2: Engaging Consultants or Advisors (optional)

Wherever the Procuring Entity needs specialized support, it may engage the services of a consultant or advisor to assist the Tender Inviting Authority, the Tender Scrutiny and Evaluation Committee and the Tender Accepting Authority. The services may include assisting the relevant authority in the process throughout or in any stage and also include the preparation of tender documents and doing a first round evaluation of the tenders and making recommendation to the concerned entity.

Activity	Relevant Provisions
Engaging Consultants or Advisors	Rule 8, TNTIT (PPP Procurement) Rules

Step 3: Procurement Process Modalities – Single Stage vs. Multi-Stage Process:

A single stage process is one where the project is directly done through the RFP (Request for Proposal) mode. Based on the proposal and the commercial implications, the best suitor is selected. This can be done for projects that are relatively well known or where the parties who might be interested are a select group of developers.

In a multi-stage process, the sponsor goes through the following stages:

- Expression of Interest;
- Request for Qualification; (RFQ)
- Request for Technical Proposal (RTP)
- Request for Proposal – Technical;
- Request for Proposal – Financial

Factors to consider when choosing a procurement option

Procurement options	Factors to consider	
	How well defined is the project?	How well defined are the Bidders? How much work will proposals require?
Single-stage: RFP	Project scope is clear Service options have been well-defined	Number of interested Bidders is limited Potential Bidders are known and identified <i>In this case it is not necessary to identify interested Bidders or to reduce their number</i>

Multi-stage option 1: RFQ + RFP (with or without RTP)	Project scope is not clear, extensive discussions are needed to finalise the service option	Potential Bidders are known and identified, but Number of interested bidders is large Considerable effort required by Bidders to submit proposals <i>In this case RFQ is useful to reduce number of Bidders.</i>
Multi-stage option 2: EOI + RFP (with or without RTP)	Project scope is not clear, extensive discussions are needed to finalise the service option	Number of interested Bidders likely to be limited, but Potential Bidders not yet well known or identified Considerable effort required by Bidders to submit proposals <i>In this case EOI is useful to identify interested Bidders.</i>
Multi-stage option 3: EOI + RFQ + RFP (with or without RTP)	Project scope is not clear, extensive discussions are needed to finalise the service option	Uncertainty about the level of interest in the project – unknown if interest is limited or large Potential bidders not yet well known or identified Considerable effort required by Bidders to submit proposals <i>In this case EOI is useful to identify interested Bidders and level of interest; RFQ is useful to reduce the number of bidders</i>

Activity	Relevant Provisions
Procurement Process Modalities	Rules 3, 4,5 & 6, TNTIT (PPP Procurement) Rules

Step 4: Preparation of Tender Documents

The sponsoring agency shall prepare the draft tender documents as per the prescribed standard tender documents of TNIDB. In case standard TNIDB tender documents are not available, the sponsoring agency may prescribe to the model tender documents and Model Concession Agreements for Public Private Partnership projects prepared by the Union Planning Commission with such modifications as may be necessary.

Activity	Relevant Provisions
Tender documents to follow provisos in the regulations	Section 18 (3), TNID Act
Model Tender Documents	Regulation 15(3), TNIDB Regulations
Preparation of REOI, RFQ, RFTP, RFP, DCA	Chapter III to VI & Schedule I, TNTIT (PPP Procurement) Rules

Step 5: Selection of Basis for tender evaluation criteria

The tender documents should also contain the bidding criteria for the project.

- Quality cum Cost Based Selection (QCBS) – weights are given for each aspect of the requirement and the weighted average score is taken. Normally preferred for projects where there is a certain technical skill required, but is available in the market.
- Quality Based Selection (QBS) – Is done for complex projects requiring high levels of technical inputs.
- Least Cost Method – (LCM) – for relatively simple projects.

Activity	Relevant Provisions
Selection of Basis for tender evaluation criteria	Rule 49, TNTIT (PPP Procurement) Rules

Step 6: Approval of tender documents and Concession Agreement by TSEC

Once the tender documents have been drafted, the TSEC shall scrutinize and approve the tender documents prior to their issue and recommend changes, if any.

Activity	Relevant Provisions
Approval of Tender Documents by TSEC	Rule 7 (3), TNTIT (PPP Procurement) Rules

Stage II: Approval of Tender Documents & Concession Agreement by TNIDB

Once the project approvals, project structure, method of concession and application for state support are in place, the project is ready to be bid out. On receiving the approved tender documents from TSET, the tender documents are sent to the Board for final approval.

Step 1: Submission and Approval of Tender Document

On receiving the approved documents from the TSEC, the Board may suggest any substantive changes and approve the tender documents.

The sponsoring agency may with the prior concurrence of the Board issue a Request for Expression of Interest at any time and even the project scope and structure are finalized by the Board under section 17 of the Act.

The sponsoring agency shall issue the Request for Quotations only after the project scope and structure have been finalised by the Board under Section 17 of the Act and the financial support from Tamil Nadu Infrastructure Development Fund, if any, is approved under Rule 12 of the Tamil Nadu Infrastructure Development Rules, 2012.

Activity	Relevant Provisions
Tender documents to follow provisos in the regulations	Section 18(3), TNID Act
Approval of tender documents and Concession Agreements	Section 18 (3) & (4), TNID Act Regulation 15, TNIDB Regulations

Approval for	Authority	Relevant Provisions
Approval of tender documents and Concession Agreement	EC: For Projects exceeding Rs. 1000 crore SC: For Projects upto Rs. 1000 crore CEO: For Projects upto Rs. 100 crore	Section 18 (3) &(4) , TNID Act (delegation of Powers)

Stage III: Notice Inviting Tenders

Publication of Tenders

The Tender Inviting Authority shall publish the Notice Inviting Tenders in the following places:

- i. Notice inviting tenders and decision on tenders in respect of PPP shall be published in the State Tender Bulletin;
- ii. Notice inviting tenders shall be published on the notice board of the offices of the concerned public agency, district collectorate and other public offices;
- iii. Notice inviting tenders shall be published on the website of procuring entities, the Government of Tamil Nadu website and any other website as may be indicated by the Government;
- iv. The tender inviting authority may also send the notice inviting tenders to all possible registered tenderers including registered contractors, potential suppliers and any other well known firm or company directly;
- v. Where the project value exceeds Rs. 50 crore, the Tender Inviting Authority shall have the Notice Inviting Tenders published in the Indian Trade Journal;
- vi. The number, editions and language of newspapers wherein the Notice Inviting tenders will be published will be based on the value of procurement and adequate publication will be ensured in the districts where the projects are to be implemented; (Reference "Guidelines to be followed while publishing advertisements in newspapers etc.- vide G.O.Ms.No.307, Finance (Salaries) Department, dated 1st November, 2011)
- vii. For tenders with project value >Rs. 50 lakh the Director of Information and Public Relations shall publish the Notice Inviting Tenders as per the instructions of the Procuring Entity. No additional insertion shall be made unless requested by the Procuring Entity.
- viii. For projects of value exceeding Rs. 200 crore, the Notice Inviting Tenders shall be published once every week for 3 consecutive weeks in at least 2 national newspapers. Of these one should be financial or business newspaper and one a local newspaper with a circulation in the district or city where the project is to be implemented.

Details to be mentioned in the Notice Inviting Tenders:

- i. Name, address and contact details of the Procuring Entity and the designation and address of the Tender Inviting Authority;
- ii. Name of the project for which the procurement is being made;

- iii. The date upto which and places including websites from where the tender documents can be obtained;
- iv. The amount of Earnest Money Deposit (EMD) if any payable
- v. The last date, time and place for receipt of tenders;
- vi. The date, time and place for opening of tenders received;
- vii. Any other information considered relevant by the Tender Inviting Authority

Supply of Tender Documents

From the date of publication of the Notice Inviting Tenders, the tender document shall be available both in soft and hard copies. The payment, if any, should be collected in such manner as feasible for both downloads from the website or purchase from the offices of the Procuring Entity or Tender Inviting authority. Wherever requested for, the Tender Inviting Authority shall also send the tender by registered post after collecting the cost of the document.

Activity	Relevant Provisions
Publication of Notice Inviting Tenders	Rules 9, 11 & 12, TNTIT (PPP Procurement) Rules
Details to be mentioned in Notice Inviting Tenders	Rule 10, TNTIT (PPP Procurement) Rules
Supply of Tender Document	Rule 13, TNTIT (PPP Procurement) Rules

Stage IV: Bid Process Stage

On receiving approval of the tender document and Concession Agreement, the project is ready to be bid out.

Record of Tender Proceedings

The Procuring Entity shall maintain all records of the procurements which shall include:

- a) Subject matter of the procurement process;
- b) Basic information including names / addresses of the authorized representatives of respondents;
- c) Submissions made by the respondents at each stage of the process;
- d) Report (s) of the Tender Scrutiny & Evaluation Committee;
- e) Statements of the reasons for decisions taken by the Tender Inviting Authority and Tender Accepting Authority;
- f) Requests for clarifications and responses thereof;
- g) Statement of reasons for rejection of tender;
- h) Principal terms of Concession Agreement;
- i) Deviations if any, from the model tender documents.
 - *Relevant Provision: Rule 27, TNTIT (PPP Procurement) Rules*

Conflict of Interest

The Tender Inviting Authority and the Tender Accepting Authority have to ensure that the prospective tenderers do not have conflict of interest. The PPP rules have a detailed description of what constitutes conflict of interest. In summary, conflict is deemed to exist if:

- a) any prospective tenderer or a member of consortium or any associate or constituent have

common controlling shareholders or other ownership interest of another prospective tenderer.

- b) any prospective tenderer, or any associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Applicant or Respondent, or any associate thereof has provided any such subsidy, grant, concessional loan or subordinated debt to any other Applicant or Respondent, its member or any associate thereof; or
- c) any prospective tenderer has the same legal representative for purposes of the Tender Proceedings as any other prospective tenderer; or
- d) such prospective tenderer, its member or any associate thereof, has a relationship whether directly or through common third party/ parties, that puts them in a position to have access to each other's information about, or to influence the Response of either or each other; or
- e) any prospective tenderer, its member or any associate thereof, has participated as a consultant to the Tender Inviting Authority and Tender Accepting Authority in the preparation of any documents, design or technical specifications of the Public Private Partnership (PPP) Project; or
- f) if any advisor of the Tender Inviting Authority and Tender Accepting Authority in relation to the Project is engaged by the prospective tenderer, in any manner for matters related to or incidental to the Project. Provided that this clause shall not apply where such engagement expired or was terminated 6 (six) months prior to the date of issue of concerned Tender Document or where such advisor is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

Relevant Provision: Rule 15, TNTIT (PPP Procurement) Rules

Confidentiality

The Tender Inviting Authority shall ensure complete confidentiality of the process until the process is complete. The Tender Inviting Authority shall treat all the information submitted in confidence and require all those who have access to such material to read in confidence and shall not disclose unless:

- a) it is directed to do so by any statutory entity that has power under law to require such disclose; or
- b) such disclosure is to enforce or assert any right or privilege of the statutory entity or Procuring Entity; or
- c) it is required to do so by law or in connection with any legal process.

Relevant Provision: Rule 26, TNTIT (PPP Procurement) Rules

Earnest Money Deposit (EMD)

- (A) The Tenderer shall be required to provide an EMD not exceeding 2% of the estimated total project cost in the form of demand draft, banker's cheque or where deemed fit an unconditional and irrevocable bank guarantee.
- (B) For operations and maintenance contracts the EMD shall not be less than 10% of the annual payments or 2% of project value whichever is less.

The EMD shall remain valid for a period of 30 days beyond the validity of the tender in order to provide adequate time for the procuring entity if the security is to be called. The Procuring Entity may also seek to extend the EMD if the validity of the tenders gets extended due to any reason.

The EMD will be forfeited if:

- (a) the tenderer withdraws after submission but before opening of the tender;
- (b) after the opening of the tender, the tenderer withdraws before the effective period of the tender or
- (c) Fails to furnish a performance security at the stage where he is called upon to do so by the tender documents.

The EMD of the unsuccessful tenderers will be released within 60 days after letter of award or after the expiration of the tender validity period, whichever is earlier. In the case of the successful tenderer the EMD will be discharged on provision of the performance security.

Stage IV (A): Request for Expression of Interest

CHAPTER-III REQUEST FOR EXPRESSION OF INTEREST TNTIT PPP Rules

A Request for Expression of Interest (REOI) is desirable to assess the level of interest in the project. While for projects wherein some interest is already expressed there is a merit in directly proceeding to qualification and proposal stage, for other projects it might be useful to go through an REOI stage.

The REOI should have (a) basic project details; (b) request for expression of interest; (c) closing date for seeking clarifications.

In exceptional cases, the Tender Inviting Authority may at the time of issuing Request for Expression of Interest (REOI) reduce the minimum time limits prescribed in sub-rule (6) for reasons to be recorded in writing and with the prior permission of the authority superior to the Tender Inviting Authority.

Step 1: Issue of REOI

The Request for Expression of Interest (REOI) shall be published in accordance with the provisions of rules 9, 10, 11 and 12.

Step 2: Pre Submission Meeting

The Tender Inviting Authority may convene meetings to interact with Applicants, so as to facilitate greater interest and understanding of the proposed Project among potential private partners. Pre-submission meetings convened under sub-rule (5) shall be held at least 7 (seven) days before the due date and clarifications on the queries of Applicants shall be issued not less than 4 (four) days before the due date.

Step3: Submission of REOI

The due date shall ordinarily be not less than 30 (thirty) days from the date of advertisement or notification of the Request for Expression of Interest (REOI) whichever is later;

REOI Calendar

Activity	Timeline
Due date for submission of EOI	30 days from the date of advertisement or notification of REOI whichever is later
Pre-submission meetings	7 days before the due date
Clarifications of queries raised in pre-submission meetings	4 days before the due date
Corrigenda / Notifications of amendments	4 days before the due date

Activity	Relevant Provisions
Request for Expression of Interest	Chapter III, TNTIT (PPP Procurement) Rules

Stage IV (B): Request for Qualification

CHAPTER-IV REQUEST FOR QUALIFICATION

The Request for Qualification (RFQ) called for under Rule 4, TNTIT (PPP Procurement) Rules is intended for the following purposes;

- publicise the information on the Public Private Partnership (PPP) Project and the services or infrastructure or both that the Procuring Entity seeks to obtain;
- communicate the proposed timeframes and the qualification criteria;
- ascertain the level of interest in the Project;
- provide an avenue through which prospective tenderers can comment on the proposed Project; and
- allow the Procuring Entity to qualify Applicants who are most capable of meeting project objectives over the project term for the Request for Technical Proposal (RTP) stage or Request for Proposal (RFP) stage or both.

In exceptional cases, the Tender Inviting Authority may at the time of issuing the Request for Qualifications (RFQ) reduce the minimum time limits prescribed in Rule 4(1), TNTIT (PPP Procurement) Rules for reasons to be recorded in writing and with the prior permission of the authority superior to the Tender Inviting Authority.

Provided that in no case shall the due date be advanced after the publication of the notification or advertisement of the Request for Qualification (RFQ):

Provided further that in cases where the tender documents require the clearance of the Tamil Nadu Infrastructure Development Board under the Tamil Nadu Infrastructure Development Act (Tamil Nadu Act 22 of 2012), such reduction of time would have to be specifically authorized by the Board.

Step 1: Issue of RFQ

The Request for RFQ shall be published in accordance with the provisions of Rules 9, 10, 11 and 12, TNTIT (PPP Procurement) Rules.

Step 2: Pre Submission Meeting

Pre-submission meeting, if any, shall be held at least 3 (three) weeks before the due date. The clarifications on the queries of Applicants shall be issued not less than 1 (one) week before the due date and Corrigenda or notifications of amendments in the Request for Qualification (RFQ) shall be issued not less than 1 (one) week before the due date.

Step 3: Submission of RFQ

The due date shall ordinarily be not less than 30 (thirty) days from the date of advertisement or notification of the Request for Expression of Interest (REOI) whichever is later;

Step 4: Removal of Conflict of Interest

The Procuring Entity may allow an Applicant, within 10 (ten) days after the due date, to remove from its consortium any member who suffers from a Conflict of Interest under Rule 15, TNTIT (PPP Procurement) Rules.

Step 5: Evaluation of Applications

- 1) The submitted Request for Qualification (RFQ) applications shall be evaluated by the Tender Scrutiny and Evaluation Committee by using the qualifying criteria as specified in the Request for Qualification (RFQ).
- 2) The Applicants shall be assessed on the basis of whether they achieve the pre-specified minimum pass or fail threshold.
- 3) Only those Applicants who clear the threshold shall be qualified for the next stage of the Tender Proceedings, as the case may be.

Step 6: Notification of Qualification

- a. The Procuring Entity shall promptly notify each Applicant in writing whether or not it has been qualified and shall make available to any person, the names of all Applicants that have been qualified.
- b. The Tender Accepting Authority may decide not to proceed further with the tender if the said authority is of the view that an adequate number of Applicants have not qualified to have a competitive tender

RFQ Calendar

Activity	Timeline
Due date for submission of RfQ	8 weeks from the date of advertisement or notification of RFQ whichever is later
Pre-submission meetings	3 weeks before the due date
Clarifications of queries raised in pre-submission meetings	1 week before the due date
Corrigenda / Notifications of amendments	1 week before the due date
Removal of Applicants with conflict of interest	10 days after due date

Activity	Relevant Provisions
Request for Qualification	Chapter IV, TNTIT (PPP Procurement) Rules

Stage IV (C): Request for Technical Proposal

The Request for Technical Proposal (RTP) is allowable per Rule 5, TNTIT (PPP Procurement) Rules and is envisaged for projects that are technically complex wherein the tender inviting authority wants to get a feel of the project appreciation from the Qualified Applicants. As the name indicates it is a RTP and the evaluation will necessarily centre on the technical capabilities.

The RTP should be made prior to the Request for Proposal and the Tender Inviting Authority shall issue a Request for Technical Proposals to all Qualified Applicants.

The RTP shall specify the Minimum Technical Requirements (MTR), formulated based on the Feasibility Study or detailed project study or such other study. The MTR shall be a description of outcomes that are sought to be achieved and not necessarily the means by which they are to be achieved. The MTR shall be technology and brand neutral

Step 1: Issue of RTP

The Tender Inviting Authority shall issue a Request for Technical Proposals to all Applicants who have qualified in the RFQ stage.

Step 2: Pre Submission Meeting

Pre-submission meeting shall be held at least 3 (three) weeks before the due date. The clarifications on the queries of Qualified Applicants shall be issued not less than 1 (one) week before the due date and Corrigenda or notifications of amendments in the Request for Technical Proposal (RTP) shall be issued not less than 1 (one) week before the due date.

Step 3: Technical Evaluation

The submitted Technical Proposals shall be evaluated by the Tender Scrutiny and Evaluation Committee as per the criteria laid down in the Request for Technical Proposals (RTP). The Technical Proposals shall be evaluated on the basis of whether they achieve the minimum threshold or cut-off score specified in accordance with rule 37(7), TNTIT (PPP Procurement) Rules.

Step 4: Notification of passed Technical Proposals to Qualified Applicants

The Procuring Entity shall promptly notify each Qualified Applicant whether or not the Technical Proposal submitted by it has passed. Only Qualified Applicants who's Technical Proposals have passed shall be entitled to participate further in the Tender Proceedings.

RTP Calendar

Activity	Timeline
Due date for submission of RTP	6 weeks from the date of issue of RTP
Pre-submission meetings	3 weeks before the due date
Clarifications of queries raised in pre-submission meetings	1 week before the due date
Corrigenda / Notifications of amendments	1 week before the due date

Combining Request for Technical Proposal with Request for Proposal (Rule 41 of the PPP Rules, 2012)

For cases not covered under sub-rule (1) of Rule 37 to optimize cost and effort when the Project does not merit a separate stage of Request for Technical Proposal (RTP), the Procuring Entity may combine the Request for Technical Proposal (RTP) stage with the Request for Proposal (RFP) stage to ensure price competition through adequate number of tenders.

Activity	Relevant Provisions
Request for Technical Proposal	Chapter V, TNTIT (PPP Procurement) Rules
Open Competitive Tendering with RFTP	Rule 5, TNTIT (PPP Procurement) Rules

Stage IV (D): Request for Proposal

The Request for Proposal (RFP) is a critical stage in the project development lifecycle as by this time the project details, the type of Bidders, the service level expectation and the financial impact on the State are finalized. The RfP shall be issued to only the qualified Bidders who have cleared the earlier stages.

Step 1: Issue of RFP

The Tender Inviting Authority shall prepare the RFP and Draft Concession Agreement and issue it to all the Qualified Applicants from the RFQ stage. The RFP shall solicit binding Final Offers from the qualified.

Step 2: Pre Submission Meeting

Pre-submission meeting shall be held at least 4 (four) weeks before the due date. The clarifications on the queries of Qualified Applicants shall be issued not less than 2 (two) week before the due date and Corrigenda or notifications of amendments in the Request for Proposal (RFP) shall be issued not less than 1 (one) week before the due date.

Relevant Provision: PPP Rules 2012 Rule 50.

Step 3: Evaluation of the Tenders

The submitted Proposals shall be evaluated by the Tender Scrutiny and Evaluation Committee as per the criteria laid down in the Request for Proposals (RFP). The commercial/financial

conditions are the single most important criterion and the final offer to determine the Lowest Tenderer

RFP Calendar

Activity	Timeline
Due date for submission of RFP	8 weeks from the date of notification of RfP or from the date of advertisement whichever is later
Pre-submission meetings	4 weeks before the due date
Clarifications of queries raised in pre-submission meetings	2 week before the due date
Corrigenda / Notifications of amendments	1 week before the due date

Activity	Relevant Provisions
Request for Proposal	Chapter VI, TNTIT (PPP Procurement) Rules

Stage V: Bid Finalisation Stage

Step 1: Opening of Tenders

The time and place of opening will be as specified in the Notice Inviting Tenders or in the case of e-tenders the Tender Inviting Authority or a member of the Tender Scrutiny and Evaluation Committee can use their digital signature. Opening should happen immediately after the deadline for submission in the presence of the representative of the tenderers.

Procedure for opening of Tenders

- All envelopes received in hard copy or through email in the website to be counted and opened;
- Time barred submissions will be returned unopened;
- Member of Tender Scrutiny and Evaluation Committee shall initial main tender and any corrections;
- A record of corrections to be maintained;
- Name of tenderers and quoted price shall be read aloud;
- EMD submission may be indicated;
- Minutes of the proceedings to be recorded and the tenderer / representative signature obtained.
- No changes / material alterations allowed after the final submission

Initial responsiveness assessment

An initial examination shall be done by the Tender Scrutiny and Evaluation Committee. This shall include the following factors:

- Tenderer meets the eligibility criteria laid down in the tender documents;
- Documents are duly signed;

- Documents have been authenticated by digital signature in the case of tenders submitted electronically;
- Requisite EMD with appropriate validity is furnished;
- Tender is substantially responsive to the technical specifications and commercial conditions

Tenders that do not meet the initial examination criteria shall be returned as unresponsive. All the other tenders that meet the substantial responsiveness criteria shall be taken up for evaluation.

Activity	Relevant Provisions
Opening of Tenders	Rules 21, 22, 23 & 24, TNTIT (PPP Procurement) Rules

Step 2: Selection and Evaluation of Lowest Tenderer

Bidding Round	Selection	Attendant process
Round1	Lowest Tenderer	<ul style="list-style-type: none"> - All qualified tenderers shall be ranked as per the evaluation criteria and the Tenderer with the most advantageous financial offer shall be the Lowest Tenderer. - The Tender Accepting authority may negotiate with the Lowest Tenderer for further improvement of offer. No negotiation or changes in the draft Concession Agreement
Round 1 outcome	<ul style="list-style-type: none"> - The Lowest Tenderer may accept the negotiated terms and conditions of the Tender Inviting Authority (or) - The Lowest Tenderer withdraws or has been found to be banned by any Procuring Entity. In such an event the Tender Inviting Authority may invite another round of tenders 	
Round 2	Invite all the remaining tenderers	<ul style="list-style-type: none"> - Extend / revalidate EMD - Invite other tenderers to match the Lowest Tenderer in Round 1
Round 2 outcome 1	Only one tenderer matches the L1 of Round 1	The tenderer matching L1 will be the Lowest Tenderer and selected
Round 2 outcome 2	More than one tenderer match the L1 of Round 1	<ul style="list-style-type: none"> - Ranking will be equal for Round 2 + Ranking based on Round 1 Hence the tenderer whose bid was more attractive than the others in Round 1 + Round 2 will be the Lowest Tenderer
Round 2 outcome 3	No tenderer matches the L1 of Round 1	<ul style="list-style-type: none"> - Extend/ revalidate EMD - Initiate 3rd round of bidding
Round 3	L2 of Round 1 becomes the price of reckoning	Rank the offers which are lower than the price offered by L2 in Round 1 and then pick the most preferred offer

Treatment of Equal Tenders (Rule 5, TNTIT (PPP Procurement) Rules)

If two Applicants have given an equal quote, then either (a) the experience score of the tenderer as evaluated in RfQ stage shall be taken and the tenderer with the higher score will be selected; or (b) both parties will be asked to provide a best and final offer and the tenderer providing a better offer will be adjudged the Lowest Tenderer.

Treatment of Speculative Tenders (Rule 5, TNTIT (PPP Procurement) Rules)

Where the price quoted by the tenderer is abnormally low or high in relation to the subject matter and raises concerns about the ability of the tenderer to perform the contract such tenders may be rejected. The tenderer shall be given an opportunity to explain their rationale in writing before such rejection is done. The entire proceedings including the explanations from the tenderer and the rationale for rejection will be recorded in the tender proceedings. Whatever the outcome, the decision of the Tender Accepting Authority shall be communicated to the tenderer.

Activity	Relevant Provisions
Evaluation of Tenders by TSEC	Rule 55, TNTIT (PPP Procurement) Rules
Selection of Lowest Tenderer	Rule 56, TNTIT (PPP Procurement) Rules
Treatment of Equal Tenders	Rule 57, TNTIT (PPP Procurement) Rules
Treatment of Speculative Tenders	Rule 58, TNTIT (PPP Procurement) Rules

Step 3: Finalization and Award of Project

- (i) The Tender Inviting Authority shall submit the results of the selection to the Tender Accepting Authority for approval.
- (ii) Only after obtaining the approval of the Tender Accepting Authority shall the Tender Inviting Authority notify the Lowest Tenderer to all the tenderers and convey its intention to execute the Concession Agreement with the Lowest Tenderer.
- (iii) After the selection notification has been made, the Procuring Entity shall issue the Letter of Award (LOA) in duplicate to the Lowest Tenderer.
- (iv) The Lowest Tenderer shall on receipt of the LOA return a duly signed copy within 7 (seven days).
- (v) The Sponsoring Agency shall forward to the Board the Concession Agreement to be signed with the tenderer whose tender has been accepted with a certificate that no changes have been affected in the final Draft Concession Agreement which formed part of the RFP.
- (vi) Subject to the conditions precedent in the RFP and LOA the Lowest Tenderer shall execute the Concession Agreement with the Procuring Entity

Activity	Relevant Provisions
Tender Finalisation and Award	Rule 59, TNTIT (PPP Procurement) Rules
(v) Submission of Concession Agreement to TNIDB with certificate	Regulation 15(7), TNIDB Regulations

Approval for	Authority	Relevant Provisions
Approval of Concession Agreement (if any changes made to the final Draft Concession Agreement)	EC: For Projects exceeding Rs. 1000 crore SC: For Projects upto Rs. 1000 crore CEO: For Projects upto Rs. 100 crore	Section 18(3) & (4), TNID Act (delegation of Powers)

Implementation and Monitoring

Step 1: Appointment of Project Managers / Project Management Facility

Once a Successful Bidder is chosen, there is a need to monitor the project implementation during and after the construction period. TNIDB is authorized to monitor the project during implementation with a view to ensuring that the project is proceeding as envisaged. To this end, the Board may request for periodic reports from the sponsoring agency as well as recommend corrective action to the Government. Also the CEO, TNIDB will appraise the Executive Committee about the status of the projects.

To enable this to be done in an effective manner the Board may recommend appointment of a Project Management Facility. The Project Management Facility can be an entity in case of large projects and can be a designated individual in the case of less complex projects.

The Project Management Facility or Project Manager, as the case may be, shall continue to be in existence until the project is completed and the project asset is transferred to the public agency or Government or until such time as the Government may determine

Activity	Relevant Provisions
Appointing a project management agency	Section 20, TNID Act
Monitoring the project	Section 21, TNID Act
Appointment of Project Manager / Project Management Facility	Regulation 16 & 17, TNIDB Regulations
Functions of the Project Management Facility	Appendix-V, TNIDB Regulations
Period of existence of PMF/Project Manager	Regulation 18(6), TNIDB Regulations

Step 2: Preparation Project Management Plan

The Project Management Facility or the Project Manager shall prepare the Project Management Plan in the principle contained in Appendix-V (TNIDB Regulations, 2013) at a stage no later the signing of the Contract or the Concession Agreement.

The Project management Plan shall also serve as a repository of basic project related documentations.

- a) define the processes that enable all parties to meet their obligations;

- b) monitor performance by the Parties of their respective obligations under the contract or the Concession
- c) Agreement;
- d) manage differences through proactive relationship management;
- e) manage unanticipated developments and mitigating risks through efficient risk management;
- f) resolve disputes in an expeditious manner, with minimal impact on service delivery.

The Project Management Plan shall also serve as a repository of basic project related documentation and shall

Include;

- a) The Contract or Concession Agreement and its schedules;
- b) All financing agreements as well as financial models, where applicable;
- c) The names, roles and contact details of key individuals of both parties;
- d) Implementation plan during development, construction, operations and exit phases;
- e) Performance management plan;
- f) Risk management plan;
- g) Financial and contract administration plan;
- h) Relationship management and Contingency plan;
- i) Contract Termination and Handover plan.

Activity	Relevant Provisions
Creation of a Project Management Plan	Regulation 19, TNIDB Regulations
Project management principles	Appendix-V, TNIDB Regulations

Step 3: Project Monitoring

The Project Management Facility or the Project Manager shall submit to the Board

- An Achievement and Exception Report on a quarterly basis, within 30 days of the end of the quarter
- Periodic reports during the construction phase on status of project implementation, including in terms of time, cost, safety and other factors
- Periodic status reports during the operational phase on achievement of key performance indicators, other contractual, social, economic, economic and financial indicators.

The reports shall be presented in formats and frequency as prescribed by the instruction of the Board.

In case of PPP Projects, the Project Management Facility or Project Manager shall also be responsible for certifying the eligibility of the Concessionaire for release, of State Support in accordance with the terms of the Concession Agreement.

The Project Management Facility or Project Manager, shall be responsible on behalf of the public agency or sponsoring agency for the maintenance of project documentation, including what is contained in the Project Management Plan, in such format, structure or manner as the Board may from time to time prescribe

Step 4: Exit strategy

The Project Management Facility shall be responsible for implementation of exit strategy at the end of contract term. After the exit of the Private Sector Participant, the Sponsoring Agency may decide to continue the delivery of the service through a fresh operations and maintenance contract.

Exit Strategy for a Project

The Public Agency or Sponsoring Agency shall ensure that the Contract or Concession Agreement provides for a hand back and exit strategy for the Project.

The exit strategy shall include:

- a. Review of options to ensure service continuity;
- b. Testing and valuation of assets;
- c. Resource allocation for implementing the exit strategy;
- d. Obligation of the parties in relation to the exit strategy.

Activity	Relevant Provisions
Implementation of Exist Strategy	Regulation 20 (3) & (4), TNIDB Regulations
Exit Strategy for a Project	Regulation 20 (1) &(2, TNIDB Regulations

Details of Tender Documents

Request for Expression of Interest

Introduction

As mentioned in the Procurement Planning section, a Request for Expression of Interest (REOI) is desirable to assess the level of interest in the project. While for projects wherein some interest is already expressed there is a merit in directly proceeding to qualification and proposal stage, for other projects it might be useful to go through an REOI stage.

Elements of an REOI

Since the REOI by definition is an intention to participate, the information asked for will be essentially basic. The REOI should have (a) basic project details; (b) request for expression of interest; (c) closing date for seeking clarifications.

- Relevant Provision : Rule 28(2), TNTIT (PPP Procurement) Rules

Dissemination of Information

REOI should be published in TN Tenders site, newspapers, notice board of the concerned public agency, website and direct intimation to the prospective tenderers. Details and modalities of the dissemination are detailed in a separate section titled Project Process & Steps. In addition to these aspects, the tender inviting authority should interact with prospective Bidders to generate interest and understand their perspective on the project.

- Relevant Provision: Rule 28(3) & (5) and Rules 9-12, TNTIT (PPP Procurement) Rules

Calendar of REOI

Activity	Timeline
Due date for submission of EOI	30 days from the date of advertisement or notification of REOI whichever is later
Pre-submission meetings	7 days before the due date
Clarifications of queries raised in pre-submission meetings	4 days before the due date
Corrigenda / Notifications of amendments	4 days before the due date

Change of these specified time lines can be done for valid reasons with the approval of the superior to the Tender Inviting Authority. If the documents need clearance from TNIDB then the reduction of time should be authorized by the Board.

- Relevant Provision: Rule 28(6), TNTIT (PPP Procurement) Rules

Request for Qualification

Introduction

The Request for qualification (RFQ) is intended to invite the serious Bidders for a PPP project as well as to assess their interest as well as their views on the project. This process also aims at reducing the number of prospective contenders to the next stage be it Request for Technical Proposal or Request for Proposal as the case may be. Broadly the RFQ aims at (a) publicise the information; (b) communicating timeframes and qualification criteria; (c) ascertaining level of interest; (d) invite feedback from prospective tenderers; (e) short listing some of the aspirants for the next stage.

- Relevant Provision: Rule 29(1), TNTIT (PPP Procurement) Rules

(Model Document can be downloaded at

http://www.infrastructure.gov.in/pdf/PreQualif_bidders.pdf)

Elements of an RFQ

The RFQ shall be have a two way objective – (i) Conveying to the tenderer whether they have the capability as specified; (ii) information requested is unambiguous and will ensure transparent short listing. Keeping these in mind the elements of an RFQ shall have:

- (a) Project description and project cost;
- (b) Tender process description and the schedule;
- (c) Eligibility conditions;
- (d) Information sought and the format of the information;
- (e) Parameters for evaluation;
- (f) Grounds for disqualification

In short, the details should enable applicants to do a self appraisal of whether they are suitable for the project and also ensure that the short listing criterion is clear and transparent.

- Relevant Provision: Rule 29(2) & Rule 30, TNTIT (PPP Procurement) Rules

Eligibility of Applicants:

The eligibility and desired qualification will vary from project to project. But the PPP rules specifies the following: (a) An application maybe a single entity or a consortium; (b) No Applicant either individually or as a member of the consortium can be member of another Applicant; (c) An Applicant maybe a natural person, private entity or a combination or a combination with a public agency. The only caveat being the public agency does not have any controlling interest in the consortium already in place or intends to get one.

These criteria effectively prevent some Applicants from being part of multiple consortiums while ensuring that wherever possible Applicants can collaborate to make a winning bid.

- Relevant Provision: Rule 29(2) & Rule 31, TNTIT (PPP Procurement) Rules

Criteria for Qualification

The foundation for evaluation is selection and not rejection. Hence the criteria should be achievable while at the same time filtering certain Applicants. The aim of specifying the criteria is to facilitate evaluation in a transparent and equitable manner. It is usually desirable to specify criteria that is easy to understand and objective so that the marking is not subject to interpretations or doubts. For example: A criteria like “Should have a reasonable good turnover and been a profit making entity” is open to interpretation. What is reasonable turnover and how much profit are acceptable? The same criteria can be restated as “Should have a turnover of at least Rs. 50 crore in the last 3 years and a profit after tax of at least Rs. 5 crore in these years.” This means that anyone who does not meet the criteria of turnover AND profits will be disqualified in that criteria. The criteria specified should ideally cover the execution capabilities and the financial capabilities of the Applicant Consortium as one without the other will lead to project mortality.

Technical criteria

- Track record and experience in similar projects;
- Execution track record and service level track record;
- Ability to invest capital in the project;
- Ability to raise funds to finance the project;
- Track record in meeting and capability to meet contractual terms.

Financial Strength Criteria

- Net worth of the Applicant (calculation to be specified clearly in the tender documents);
- Average turnover for a minimum of preceding three years;
- Average net cash accrual for a period of preceding three years;
- Other relevant financial information.
- Net worth is normally defined as (Share capital +Unencumbered reserves). If there is group exposure it is normally advisable to net off such group exposures from net worth.
- Net cash accruals is normally defined as Profit after tax + depreciation & amortization + non-cash write offs and expenses – dividends paid out

Other Qualifying Criteria

In addition to the technical and financial which is preferable for all projects, there could be other criteria including but not limited to the following:

- Impact of project on existing commitments and ability to deliver on the additional commitment;
- People and expertise brought in especially for highly technical projects;

- Familiarity with local conditions
- Others as relevant.

Pass-Fail test

A marking system should be developed which assigns specific marks for each of the criteria and the total score decides the individual Applicant’s position. The scoring pattern should be such that it results in a minimum threshold leading to a pass fail test for moving the Applicants with the pass score to the next stage.

- Relevant Provision: Rule 32(5), TNTIT (PPP Procurement) Rules

Calendar for RfQ

Activity	Timeline
Due date for submission of RfQ	8 weeks from the date of advertisement or notification of RfQ whichever is later
Pre-submission meetings	3 weeks before the due date
Clarifications of queries raised in pre-submission meetings	1 week before the due date
Corrigenda / Notifications of amendments	1 week before the due date
Removal of applicants with conflict of interest	10 days after due date

Change of these specified time lines can be done for valid reasons with the approval of the superior to the Tender Inviting Authority. If the documents need clearance from TNIDB then the reduction of time should be authorized by the Board. Within 10 days of the due date, Applicants with conflict of interest under Rule 15 (detailed in Procurement Process & Steps) shall be removed from the evaluation list

- Relevant Provision: Rule 33(2) & Rule 34, TNTIT (PPP Procurement) Rules

Evaluation of Applicants & Notification of Qualification

The evaluation of the balance Applicants after weeding those with conflict of interest will be conducted by the Tender Scrutiny and Evaluation Committee (detailed in Procurement Process& Steps). Applicants clearing the minimum threshold will be deemed to be qualified.

Once the short list is ready, the procuring entity shall (a) notify the applicants who have qualified; (b) it should be available to anyone with interest in the project. If inadequate numbers qualify, the Tender Accepting Authority may decide not to proceed further.

- Relevant Provision: Rules 35 & 36, TNTIT (PPP Procurement) Rules

Request for Technical Proposal

Introduction

As discussed in the Procurement Planning Section, the Request for Technical Proposal (RTP) is allowable per Rule 5 of PPP Rules 2012 and is envisaged for projects that are technically complex wherein the tender inviting authority wants to get a feel of the project appreciation from the Qualified Applicants. As the name indicates it is a RTP and the evaluation will necessarily centre on the technical capabilities.

- Relevant Provision: Rules 5 & 37(1), TNTIT (PPP Procurement) Rules.

Criteria for Qualification

The objective of criteria in the RTP is to enable the Tender Issuing Authority to satisfy themselves that the Qualified Applicant understand the Minimum Technical Requirements (MTR) for the project. The MTR should be outcome centric and not process centric. In other words, the service delivery aspect should be more important irrespective of the underlying brand or technology. The MTR can be derived from the expected project outcomes and can be formulated based on the detailed project report or feasibility study.

- Relevant Provision: Rule 2 (r) & 37 (3), (4), TNTIT (PPP Procurement) Rules.

MTR Criteria

- (a) The physical facilities including capacity, individual components and related aspects;
- (b) Output specifications – target users, levels of services, quality and performance parameters;
- (c) Design and safety codes including social and environmental impact;
- (d) Detailed operational requirement including service levels, redundancy and impact on waiting, customer redressal, safety, security, labour relations and compliance issues;
- (e) Maintenance standards, schedules and requirements;
- (f) Key performance indicators (KPIs) for testing & performance monitoring requirements.

- Relevant Provision: Rule 37(5), TNTIT (PPP Procurement) Rules.

Documents to be evaluated

Corporate Information

- Details of the corporate;
- Constitutional information;
- Annual reports;
- Details of business;

- Others;

Experience Details

- Project experience;
- Certificates and other awards;

Approach & Methodology

- Appreciation of scope of work
- Solution proposed including technology, implementation and other variables;
- Time lines;
- Facility or service proposed;
- Construction plan;
- Operation & maintenance plan;

Business plan - Operational

- Organisational structure – existing and proposed for the project;
- Marketing plan;
- Environmental and social impact management plan;
- Tie-ups and associations;
- Risk assessment, management and mitigation plan.

Business plan - Financial

- Capital structure and sources of finance;
- Plan for sustainability;
- Key assumptions and projected key financial ratios.

Relevant Provision: Rule 37(6), TNTIT (PPP Procurement) Rules

Pass-Fail test

A marking system should be developed which assigns specific marks for each of the criteria and the total score decides the individual Applicant's position. The scoring pattern should be such that it results in a minimum threshold leading to a pass fail test for moving the Applicants with the pass score to the next stage.

- Relevant Provisions: Rules 37(7) & (8), TNTIT (PPP Procurement) Rules

Calendar for RTP

Activity	Timeline
Due date for submission of RTP	6 weeks from the date of issue of RTP
Pre-submission meetings	3 weeks before the due date
Clarifications of queries raised in pre-submission meetings	1 week before the due date
Corrigenda / Notifications of amendments	1 week before the due date

Change of these specified time lines can be done for valid reasons with the approval of the superior to the Tender Inviting Authority. If the documents need clearance from TNIDB then the reduction of time should be authorized by the Board.

- Relevant Provision: Rule 38, TNTIT (PPP Procurement) Rules

Evaluation of Applicants & Notification of Qualification

The evaluation of the balance Applicants after weeding those with conflict of interest will be conducted by the Tender Scrutiny and Evaluation Committee (detailed in Procurement Process & Steps). Applicants clearing the minimum threshold will be deemed to be qualified.

Once the short list is ready, the Procuring Entity shall notify the Applicants who have qualified.

- Relevant Provision: Rules 39 & 40, TNTIT (PPP Procurement) Rules

Combining RTP with RfP

As mentioned earlier, RTP is not a mandatory stage but only desirable where the projects are of a complex nature. Hence for relatively straight forward projects, the Tender Inviting Authority can proceed from an RFQ to a Request for Proposal (RfP) stage directly. There shall be a two cover system for submission of technical proposal and the final offer. The first filtering will be done on the technical proposal and then the final offer of only the shortlisted applicants will be evaluated.

- Relevant Provision: Rule 41, TNTIT (PPP Procurement) Rules.

Request for Proposal

Introduction

The Request for Proposal (RFP) is a critical stage in the project development lifecycle as by this time the project details, the type of bidders, the service level expectation and the financial impact on the State are all more or less finalized. Hence the Draft Concession Agreement defining the roles and responsibilities of the various stake holders should also be ready. The RfP shall be issued to only the qualified tenderers who have cleared the earlier hurdles.

- Relevant Provision: Rule 42(1) & (2), TNTIT (PPP Procurement) Rules.

(Model Document can be downloaded from http://www.infrastructure.gov.in/pdf/Model_REQ.pdf)

Elements of the RFP

The RfP shall have the following information:

- Project Related Details:
 - ✓ Feasibility report or Project information memorandum;
 - ✓ Project objectives and rationale;
 - ✓ Site details;
 - ✓ Role of the public agency & stakeholders;
 - ✓ Project scope;
 - ✓ Output specifications;
- Instruction to tenderers
 - ✓ Process of tender submission
 - ✓ Evaluation
 - ✓ Procedures for submission by tenderers and Procuring Entity;

Provisions of a Draft Concession Agreement

The provisions of the Draft Concession Agreement shall cover:

- i. Recitals- identifying the parties to the contract, offer and acceptance;
- ii. Definitions- defining the key terms of the contract to ensure uniformity of usage and interpretation throughout the document;
- iii. Scope of the Public Private Partnership (PPP) Project;
- iv. Grant of concession, whereby the Procuring Entity grants the concession to the Concessionaire subject to the terms and conditions of the Concession Agreement;
- v. Conditions precedent;
- vi. Obligations of the Concessionaire;
- vii. Obligations of the Procuring Entity;
- viii. Representations and warranties of both the parties;
- ix. Form and value of Performance Security to be submitted by the Concessionaire;
- x. Matters related to the site;
- xi. The construction of the facility including Minimum Technical Requirements thereof, date for completion of construction etc.;
- xii. Performance monitoring during construction including key performance indicators, monitoring responsibilities and related provisions;
- xiii. Completion of construction including provisions for testing, approval and certification;
- xiv. Change in scope during the contract period;
- xv. Operation and maintenance of the facility and provision of service including minimum technical requirements;
- xvi. Performance monitoring during operations and maintenance including key performance indicators, monitoring and reporting responsibilities and related provisions;
- xvii. Appointment, role and functions, remuneration and reporting requirements of Independent Engineer and Independent Auditor;
- xviii. Financial close;
- xix. State support, grant expected or revenue share or premium to be paid;

- xx. Payments by users, authority for tariff fixation, procedure of revision of tariff and related provisions;
- xxi. Collection of user charges, including allocation of the authority to collect and retain user charges;
- xxii. Financial aspects of the contract including escrow account, other payments between the parties to the contract;
- xxiii. Maintenance of books of accounts and audit requirements;
- xxiv. Insurance;
- xxv. Force Majeure – definition, procedure for recognition under the contract, consequences and compensation on termination due to occurrence of Force Majeure events;
- xxvi. Events of default and consequences of default;
- xxvii. Termination of the contract and consequences of termination;
- xxviii. Assignments and charges;
- xxix. Change in law including consequences for change in law;
- xxx. Liability and indemnity;
- xxxi. Dispute resolution.
- xxxii. Exit strategy for continued service delivery after exit
 - *Schedule I, TNTIT (PPP Procurement) Rules*
 - *Regulation 21, TNIDB Regulations*
 - *Rules 44-47, TNTIT (PPP Procurement) Rules*
 - *Scope of Work of Independent Auditor – Schedule II*
 - *Scope of Work of Independent Engineer- Schedule III*

Performance Security

- (A) The Concessionaire as a condition precedent shall provide performance security that does not exceed 5% of project value subject to changes of the underlying project value.
- (B) In the case of O&M contracts, the performance security is kept at not more than 50% of the likely annual payment due.

The performance security shall be in the form of a demand draft, banker’s cheque, specified small saving instrument, unconditional and irrevocable bank guarantee or where the Procuring Entity deems fit, in the form of an escrow account or a combination of different forms.

- Relevant Provision: Rule 14, TNTIT (PPP Procurement) Rules

Variation Clauses

Normally the concession agreement provides for procedure for amendment for known variations and day to day operational variations that have a material impact. Those that do not have a material impact will be absorbed by the Concessionaire. The procedure for variation shall evaluate the nature of variation and its impact on contract terms. If the variation materially changes the contract terms, an additional value for money amendment has to be undertaken.

- *Relevant Provision : Rule 48, TNTIT (PPP Procurement) Rules*

Any internal discrepancies within these documents should be explained or avoided to the extent possible. In case there are any discrepancies, the terms in the concession agreement shall be considered final.

Project Scope

A detailed project scope specifying the details of the project and the objective of the project shall be enumerated. The output in terms of technical, quality and performance issues shall also be specified. The entire project scope shall be described in a precise, generic way without ambiguity or trademark references.

- Relevant Provision: Rule 42 (3) & (4) and Rule 43, TNTIT (PPP Procurement) Rules

Criteria for Evaluation

At this stage most of the basic information about the tenderer, the solution proposed etc., have been already evaluated. Hence the commercial conditions are the single most important criterion and the final offer to determine the lowest tenderer. The single criteria could be one or a combination of:

- ✓ State support sought;
- ✓ Expected revenue including from sources such as property development & advertisement;
- ✓ Tariff;
- ✓ Present value of lifecycle cost;
- ✓ Period of concession;
- ✓ Upfront premium;
- ✓ Equity stake;
- ✓ Share of subsidized facilities to the Procuring Entity;
- ✓ Revenue share;
- ✓ Lease rent;
- ✓ Annuity payment;
- ✓ Any other financial criterion relevant to the project.

- Relevant Provisions : Rule 49, TNTIT (PPP Procurement) Rules

Calendar for RFP

Activity	Timeline
Due date for submission of RFP	8 weeks from the date of notification of RfP or from the date of advertisement whichever is later
Pre-submission meetings	4 weeks before the due date
Clarifications of queries raised in pre-submission meetings	2 week before the due date
Corrigenda / Notifications of amendments	1 week before the due date

Change of these specified time lines can be done for valid reasons with the approval of the superior to the Tender Inviting Authority. If the documents need clearance from TNIDB then the reduction of time should be authorized by the Board.

- Relevant Provision: Rule 50, TNTIT (PPP Procurement) Rules

Other Support

Creation of a Data Room

Wherever there is a substantial amount of data to be shared with the prospective Bidders, the Procuring Entity can keep an actual or virtual data room which will house all the project related data. All documents relating to the project that are not distributed may be available in the data room. The access to the data room shall be available to all the Qualified Applicants or prospective tenderers until the completion of the RFP stage. The modalities of access shall be stated in the RFP.

Site visits

Wherever the project requires physical infrastructure development, the prospective tenderers may be invited to visit the site preferably in the earlier part of the RFP stage.

- Relevant Provision: Rules 51 and 52, TNTIT (PPP Procurement) Rules

Change in composition of Tenders

If the tender had been submitted by a consortium of Bidders, change in composition is allowed under certain circumstances. The approval for the change will be at the sole discretion of the Procuring Entity. The reconstituted consortium shall submit a revised agreement before the due date. Some of the conditions governing change in the consortium member are:

- Application is made 15 days prior to the due date;
 - There is no change in the lead member;
 - The substitute proposed is at least equal (in both technical and financial terms) to the consortium member being replaced;
 - Modified consortium meets the pre-qualification criteria and short listing criteria;
 - New member or members adopt the responses expressly as if part of the original consortium;
 - There is no conflict of interest as specified in Rule 15;
- Relevant Provision: Rule 53, TNTIT (PPP Procurement) Rules

Tender Effectiveness

After the submission of the tender the tenderer shall keep the same valid during the time specified in the RFP. If the evaluation takes time or due to other reasons, the Procuring Entity

may request the tenderers to extend the period of validity. A tenderer can withdraw tender without forfeiting the Earnest Money Deposit (EMD). The Procuring Entity may either request for an extension of the period of the EMD or ask for a fresh EMD. If a tenderer does not do either (i.e. DOES not extend the EMD or give a fresh EMD), it will be construed as a refusal to extend the period of effectiveness of the tender.

- Relevant Provision: Rule 54, TNTIT (PPP Procurement) Rules

Evaluation of Tenders

The tender evaluation shall be done by the Tender Scrutiny and Evaluation Committee and shall follow the criteria as specified in the RFP. All the tenders will be ranked and the one with most advantageous financial offer shall be the lowest tenderer.

Lowest Tenderer Selection

Bidding Round	Selection	Attendant process
Round1	Lowest Tenderer	Tender Accepting authority may negotiate with the Lowest Tenderer for further improvement of offer. No negotiation or changes in the draft concession agreement
Round 1 outcome	Lowest tenderer withdraws or has been banned by any Procuring Entity (Section 10 sub-section 4 of TN Transparency in Tenders Act 1998 – Invite another round of tenders	
Round 2	Invite all the remaining tenderers	Extend / revalidate EMD Invite other tenderers to match the Lowest Tenderer in Round 1
Round 2 outcome	Only one tenderer matches the L1 of Round 1	The tenderer matching L1 will be the Lowest Tenderer and selected
Round 2 outcome	More than one tenderer match the L1 of Round 1	Stacking will be equal for Round 2 + Stacking based on Round 1 Hence the tenderer whose tender was more attractive than the others will be the Lowest Tenderer
Round 2	No tenderer matches the L1 of Round 1	Initiate 3 rd round of bidding Extend/ revalidate EMD
Round 3	L2 of Round 1 becomes the price of reckoning	Stack the offers which are lower than the price offered by L2 in Round 1 and then pick the most preferred offer

Equal Tenders:

If two tenderers have given an equal quote, then either (a) the experience score of the tenderer as evaluated in RFQ stage shall be taken and the tenderer with the higher score will be selected; or (b) both parties will be asked to provide a best and final offer and the tenderer providing a better offer will be adjudged the Lowest Tenderer.

Speculative Tenders

Where the price quoted by the tenderer is abnormally low or high given the underlying constituents and raises concerns about the understanding and the ability of the tenderer to perform such tenders may be rejected. The tenderer shall be given an opportunity to explain their rationale in writing before such rejection is done. The entire proceedings including the explanations from the tenderer and the rationale for rejection will be recorded in the tender proceedings.

Whatever the outcome, the decision of the Tender Accepting Authority shall be communicated to the tenderer.

- Relevant Provision: Rules 56-58, TNTIT (PPP Procurement) Rules

Tender Finalisation and Award

The results of the evaluation shall be submitted to the Tender Accepting Authority. On approval, the Tender inviting authority shall notify the Lowest Tenderer. Also the other tenderers shall be informed about the selection of the Lowest Tenderer and the initiation of Concession Agreement finalization with that tenderer. The Letter of Award shall be provided to the Lowest Tenderer. On acceptance of the same by the tenderer, the tenderer shall proceed to sign the Concession Agreement with the Procuring Entity. On entering into a Concession Agreement, the Procuring Entity shall also get the necessary set-up in place to monitor the performance of the Successful Tenderer including appointment of Independent Auditors and Engineer as detailed earlier. The monitoring should include both collection and analysis of data as well as corrective steps were required.

- Relevant Provision: Rules 59 & 60, TNTIT (PPP Procurement) Rules

Change in Ownership

After award of the contract, the individual members of the consortium shall hold at least 51% of the issued and paid up share capital of the Concessionaire for the term of the concession or as per the stages specified in the Concession Agreement. If there is a change in the member / associate whose technical / financial capacity were perceived as adding to the consortium at the time of evaluation, the tenderer shall inform the Procuring Entity. The Procuring Entity may depending on the assessment of the change withdraw the letter of award and forfeit the EMD or performance security.

If this change happens after signing of the Concession Agreement but before financial closure, then this would constitute a breach of the Concession Agreement and the same can be terminated without any liability to the Procuring Entity.

- Relevant Provision: Rule 61, TNTIT (PPP Procurement) Rules

Contract finalisation and award

The Concession Agreement can be signed with the Selected Bidder thereby bringing the bid process to a close. The Concession Agreement should ideally be included as the RFP documents especially if it is a model concession agreement. Also by giving a Draft Concession Agreement at the RFP stage, the Bidders have an opportunity to express their views on the same. This will also avoid unnecessary wastage of time in negotiation with Preferred Bidders. Also usage of standard concession agreement ensures that there is transparency and lesser legal loopholes. Any minor clause alteration can be negotiated with the Concessionaire. But the sponsor should be clear on the non-negotiable clauses ab initio. Once the contract is awarded, the name of the selected contractor should be displayed in the website and in the list of projects against that project.

The Concessionaire then moves on to the financial closure and begins delivering on the project. This is a delicate phase where he may need support from the sponsor on details of the viability / support from the Government. The project sponsor should support the Concessionaire in his endeavour at financial closure as it is in the interest of the project to do so. This could mean providing additional information, any policy level support or approving the viability gap funding through a formal communiqué

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