

**RFP**  
**For**  
**Selection of Financial Institution/AMC**  
**To House**  
**Electronics Development Fund (EDF)**

(Ref no: 8(9)/2011-IPHW)  
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(Doc. Date 03/06/2015)

**Department of Electronics and Information Technology**  
**Ministry of Communication & Information Technology**  
**Government of India**  
**6, CGO Complex, Delhi**

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## 1 Invitation for Proposal

a. Department of Electronics and Information Technology (DeitY), Government of India invites the bidders to submit their technical and financial offers for housing Electronics Development Fund (EDF), in accordance with the conditions and manner prescribed in this Request for Proposal (RFP) document.

b. Bidder agencies are advised to study this RFP document carefully before submitting their proposals in response to the RFP Notice. Submission of a proposal in response to this notice shall be deemed to have been done after careful study and examination of this document with full understanding of its terms, conditions and implications.

c. This RFP document is not transferable.

<b>S. No.</b>	<b>Information</b>	<b>Details</b>
1.	RFP release date	03-06-2015
2.	Last date for submission of written queries for clarifications	10-06-2015
3.	Date of pre-bid conference	16-06-2015(2:00 pm) in Conference Hall No. 4009 of Electronics Niketan
4.	Release of response to clarifications	19-06-2015
5.	Bid validity period	180 days from the last date (deadline) for submission of proposals
6.	Last date (deadline) for submission of bids	30-06-2015 (3:00 pm)
7.	Opening of technical bids	01-07-2015 (3:00 pm)
8.	Technical presentation by bidders	03-07-2015 (10:00 am – 1:00 pm)
9.	Place, time and date of opening of financial proposals received in response to the RFP notice	Will be intimated later
10.	Earnest Money Deposit (EMD) in the form of a bank guarantee	INR 10,00,000/- (Indian Rupees Ten lakhs only)
11.	Contact person for queries	Mr. Prashant Kumar Scientist 'D', DeitY Tel No. +91-11-24301482 Email: prashant@deity.gov.in
12.	Addressee and address at which proposal in response to RFP notice is to be submitted	Shri Rajesh Suri Dy. Director, DeitY Room No. 4216, 4th Floor, Electronics Niketan, 6, CGO Complex Lodhi Road, New Delhi – 110003 Tel: +91 11 24301922

## **2 Overview**

As part of the “Digital India” agenda of the Government, it is envisaged to develop the Electronics System Design and Manufacturing (ESDM) sector to achieve net zero imports by 2020. Setting up of EDF is one of the important strategies which would enable creating a electronics industry ecosystem in the country in this regard. Electronic Development Fund (EDF) has been approved by the Cabinet on 10<sup>th</sup> Dec 2014 as a “Fund of Funds” to participate in “Daughter Funds” which in turn will provide risk capital to companies developing new technologies in the area of electronics, nano-electronics and Information Technology (IT). The EDF Policy has been notified by the Government vide Govt. Notification No.8(9)/2011-IPHW dated 06/01/2015 and is available at <http://deity.gov.in/esdm/electronics-development-fund-edf-policy>.

The policy aims to leverage Government funding in the area of R&D and innovation in the areas of electronics, IT and nanoelectronics and allied areas. It is expected that it will create a battery of Daughter funds and Fund Managers thereby creating a vibrant and competitive venture capital eco-system in the aforementioned areas.

While the EDF policy does not lay down size of the EDF, an earlier assessment made in a Detailed Project Report (DPR) prepared for setting up of EDF had projected a requirement of Rs 10,000crore for EDF by 2020. A copy of the said DPR is available at <http://deity.gov.in/esdm/electronics-development-fund-edf-policy> However, it has been felt that instead of predeciding the size of EDF, the same may be determined based on market requirements. DeitY would provide funds to EDF based on the requirements of Daughter Funds and subject to its budgetary allocation.

### **Salient Features of EDF Policy**

1. The Electronics Development Fund (EDF) shall be created in a financial institution like SIDBI or an Asset Management Company (AMC) based in India.

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2. The EDF should make investments in Daughter Funds which would invest in ESDM, nanoelectronics and IT sectors. This fund should act as a catalyst to attract private venture fund investors to such Daughter Funds.
3. The EDF participation in a Daughter Fund would be on a non-exclusive basis.
4. The corpus of a Daughter Fund may be determined by market requirements and the capacity of its Fund Manager to cater to the requirements of the Fund. The EDF would typically take minority participation in the Daughter Fund. The entire responsibility of raising the fund, investing and monitoring individual investments would be the responsibility of the Fund Manager of the Daughter Fund.
5. Since government is only one of the participants, and a minority participant in Daughter Funds, the market dynamics should determine the demand for the Daughter Funds.
6. In the ESDM sector, the EDF participation in Venture Capital Funds shall be available across the value chain of ESDM sector and its ecosystem including fabless semiconductor start-ups, research & development, the materials technologies required for electronic devices, design and manufacturing and product design.
7. The EDF may, in certain cases, choose to cap its return from a Daughter Fund provided the EDF is given seniority on payments out of the said Daughter Fund.
8. The EDF may also set up Daughter Funds with **100%** funding if the products are of strategic importance and for which either there is not adequate commercial interest to participate or for which it is in national interest to have fully Government owned fund for strategic reasons.
9. As per SEBI, AIF Regulations, 2012, the manager or sponsor for a category I and II AIF shall have a continuing interest in the AIF of not less than 2.5% of the initial corpus or Rs.5 crore, whichever is lower and such interest shall not be through the waiver of management fees.
10. The financial institution housing the EDF will set up a High Level EDF Management Board including representatives of Department of Electronics and IT, Government of India. The roles and responsibilities of the High Level EDF Management Board would, inter alia, include:
  - a. Appraise and make recommendations to the Government for participation in the Daughter Funds

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- b. Make recommendation to government for release of funds as per its commitment to participate in the Daughter fund.
- c. High level monitoring of the progress and performance of the Daughter funds.

### **3 Purpose**

Department of Electronics and Information Technology (DeitY) Requests for Proposal (RFP) from bidders to house Electronics Development Fund (EDF). The objective of the EDF policy is to support Daughter Funds including Early Stage Angel Funds and Venture Funds in the area of Electronics System Design and Manufacturing, Nano-electronics and IT. The supported Daughter Funds will promote innovation, R&D, product development and within the country in the specified fields of ESDM, nanoelectronics and IT. They will also support acquisition of foreign companies and technologies for products imported in India in large volume. The core focus of the Daughter Funds would be to develop domestic design capabilities. The Daughter Funds supported will create a resource pool of IP within the country in the specified fields.

### **4 Scope of Work**

The 'Scope of Work' for the selected financial institution/AMC shall be to select Daughter Funds (Angel Funds and Venture Funds) in the area of Electronics System Design and Manufacturing, nanoelectronics and IT.

More specifically, the selected financial institution/AMC will undertake the detailed scope of services as under:

1. **Floating Request for EoI and/or Request for Proposal (RFP)/Any other mechanism for setting up of Daughter Funds.**
2. **Review of Bids received**  
The appraising agency will review and scrutinize all the documents and agreements. The review of these documents would include the analysis of the terms of reference and intentions of the project document(s) so as to ensure the objectives. The exercise would verify that provisions of the project document(s) are consistent amongst themselves.
3. **Setting up of EDF Management Board**



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The financial institution housing the EDF will set up a High Level EDF Management Board including representatives of Department of Electronics and IT, Government of India. The roles and responsibilities of the High Level EDF Management Board would, interalia, include:

- i. Appraise and make recommendations to the Government for participation in the Daughter Funds.
- ii. Make recommendation to the Government for release of funds to participate in the Daughter Funds.
- iii. High level monitoring of the progress and performance of the Daughter Funds.

#### **4. Selection of Daughter Funds**

- i. Any Daughter Fund which is registered in India and abides with relevant rules and regulations including the SEBI regulations on Venture Funds and is set up to achieve the objectives mentioned above will be eligible for support from the EDF.
- ii. The Daughter Funds supported under the EDF should be professionally managed.
- iii. The Daughter Funds should have a track record and investment experience in the relevant sector. The experience should be commensurate with the activities of the proposed Daughter Fund.
- iv. A Daughter Fund, to be eligible for support by the EDF, should be created within India, as per Indian laws and regulations. The Fund Manager of the Daughter Fund shall ensure that the laws of the land are fully complied with, in respect to setting up and operation of the Fund. Offshore funds may ensure that necessary RBI / FIPB approval are obtained before they participate in any Venture Capital Fund in India.
- v. The EDF may also set up Daughter Funds with 100% funding if the products are of strategic importance and for which either there is not adequate commercial interest to participate or for which it is in national interest to have fully Government owned fund for strategic reasons.
- vi. The selection of Daughter Funds shall be done by a committee comprising of Area Experts, Technical and Financial experts.

#### **5. Facilitating disbursement of Funds**

Typically, the Fund Managers would approach the Government for a commitment from the Government for the intended Government participation in the Fund. On securing Government

commitment, they would raise the balance from other investors. Upon securing commitments from the entire targetted fund size (or part thereof in case of part closure), the Fund Manager may enter into legally binding agreement with all contributors including Government. Following this, the Fund Managers would scout for investment opportunities and seek approval from their investment committee. This would be followed by actual drawdown of funds on pro-rata basis.

To facilitate drawdown at relatively short notices, the government may consider an appropriate fast responsive mechanism to enable quick disbursement of funds.

Completion of other paper work related to terms & conditions and contract.

#### **6. Monitoring and Control**

Conducting/Coordinating Quarterly Review cum Monitoring Meetings. These include travel, accommodation, logistics arrangements and honorariums of experts, as applicable.

#### **7. Communicating performance of investments made through the Fund**

The review reports to be submitted to DeitY should have an executive summary and progress of the Daughter Funds. The executive summary should summarize the conclusions and recommendations covering all the critical aspects of the investments. Also, the selected financial institution/AMC has to prepare and submit the annual Utilization Certificates (UC)/Statements of Expenditure (SEs) to DeitY.

#### **8. Exit/Disbursement of Proceeds**

Upon realizing the exits, the Fund Manager would distribute the proceeds.

The responsibilities of the selected FI/AMC would include:

- Obtaining/Preparing Completion Report, along with UCs and SEs from Daughter Funds
- Carrying out financial accounting and providing the necessary UCs/SEs for the funds received from DeitY for programme implementation

#### **9. All other work which is required**

- i. To ensure compliance of EDF Policy as approved by Cabinet.
- ii. To make suggestions to Government for implementation of the EDF Policy.
- iii. To suggest suitable mechanisms for recycling funds realized through exit into the EDF.

- iv. To advise Government regarding successful fulfilment of the objectives of the EDF policy and other steps that are essential for making the EDF Policy successful. These may include, but not limited to, changes in tax regulations, procedures for approvals, etc

## **5 Timelines & Deliverables**

### **5.1 Timelines**

The policy would be available for approval of new Daughter Funds upto 31.3.2017. However funding support to Daughter funds approved upto 31.3.2017 will be provided till complete drawdown. The involvement of the selected Financial Institution/AMC is required till the exit from the last Daughter Fund.

It is also envisaged that the funds realized from the exit of the Daughter Fund shall be recycled through the EDF. Necessary approvals will need to be taken for the purpose. The recycling of funds in EDF would be done through subsequent series of EDF (ie. EDF1, EDF2, .... ). The life of the fund will be 7 years and 2 years could be the extension period depending on the conditions/need arising then.

### **5.2 Deliverables**

Set up Daughter funds in the area of electronics, nano-electronics and Information Technology (IT).

The desired Hurdle Rate for Government investments is 8 %. Applicable for calculation at the time of exit from individual Daughter Funds.

## **6 Fees**

### **6.1 Component I**

Management Fees will be bid by the bidder. However, it shall range between 0.5 – 1.5% of the committed capital (annually) till such time the scheme is open for selecting new Daughter Funds. Thereafter, the management fee would be reduced to 50% of the decided amount.

## **6.2 Component II**

A fixed carried interest component (Based on Total number of daughter funds supported and Total Corpus of such Daughter funds) shall also be paid over and above the Management fees.

No of daughter Funds	Total Corpus (in crores)	Carried Interest
<=20	<= Rs 2000	30%
>20 and <=50	> Rs 2000 and <= Rs 5000	35%
>50	> Rs 5000	40%

Note that both the conditions, No. of Daughter Funds **and** Total Corpus, must be satisfied in order to be eligible for Carried Interest of that bracket else the base Carried Interest component of 30% shall be paid.

## **6.3 Component III**

Program Implementation fees of Rs. 25 Lakhs shall be paid to the selected Financial Institution/AMCs which will be adjusted in the management fees.

Please note that the financial bids are invited for Component I only.

## **7 Evaluation & Award Criteria**

The bidders shall be required to submit a technical and financial proposal which shall be evaluated by DeitY.

### **7.1 Technical Evaluation**

1. In this stage, the Technical Proposal will be evaluated on the basis of the
  - Average Annual Turnover (of Financial Institution/AMC) of last 3 F.Y.
  - The Total corpus that the FI/AMC can invest till 31.3.2017.
  - Ability to Network with Global Funds in ESDM /IT and Nano electronics sector. Preference will be given to funds exhibiting ability to promote ESDM sector
  - AUM, No. of funds managed in the past and Cumulative Performance of these

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funds.

- Leverage (By how many multiple times of the DeitY's share, the FI/AMC can promise to get from open market).
  - Past experience in managing either fund of funds or in managing big funds in Technology areas like ESDM, IT, Nano-electronics.
  - Technical resources (Team)
2. Proposal Presentations: DeitY may invite each bidder to make a presentation. The purpose of such presentations would be to allow the bidders to present the key points in their proposals.
  3. Each technical proposal will be assigned a technical score (ST). The maximum technical score which a bidder can attain is 100 marks.
  4. A minimum of 70 marks should be scored in the technical proposal for the bid to be declared technically qualified. The Financial Bids of only those bidders who have obtained a Technical Score of 70 or more shall be opened.
  5. The technical evaluation shall be in terms of the following parameters and marking scheme:

### 7.1.1 Technical Evaluation marks scheme

S.No.	Parameter	Max. Marks	Criteria for Technical Evaluation
1	Average Annual Turnover (of Financial Institution/AMC) of last 3 FYs.	10	>100 Rs Crore: 100% <=100 & >50 Rs Crore: 80% <=50 & >25 Rs Crore: 60% <=25 & >10 Rs Crore: 40% <=10 & >5 Rs Crore: 20% <=5 & >0 Rs Crore: 10% 0 Rs Crore: 0%

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2	The Total corpus that the FI/AMC can invest in Daughter Funds till 31.3.2017.	10	>5000: 100% <= 5000 and >2000: 75% <=2000: 50% <=500: 0% <i>(amount in Rs crore)</i>
3	Ability to Network with Global Funds in ESDM sector.	15	Inputs (to be provided by Financial Institutions/AMC) shall be evaluated qualitatively.
4	AUM, No. of funds managed in the past and Cumulative Performance of these funds.	15	Cumulative score on a scale of 10 <10 and >=8: 100% <8 and >=6: 75% <6 and >=4: 50% <4 and >=2: 25% <2: 0%
5	Leverage (By how many multiple times of the DeitY's share, the FI/AMC can promise to get from open market).	15	4 times and higher: 100% <4 & >=3: 80% <3 & >=2: 50% <2 & >=1: 20% <1 & >0: 10% 0:0%
6	Past experience in managing either fund of funds or in managing big funds in Technology areas like IT, Electronics, Nan-electronics.	20	10 Years and Above: 100% Between 10 and 8 Years: 80% Between 8 and 5 Years: 60% Between 5 and 3 Years: 40% Greater than 0 and Less than 2 Years: 20% 0 years of experience: 0% <i>(Lower limit is inclusive)</i>
7.	Technical resources (Team)	15	Inputs (to be provided by Financial Institutions/AMC) shall be evaluated qualitatively.

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	Total	100	
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All the bidders which meet the minimum qualifying criteria of 70 % during technical evaluation as prescribed above will be considered for opening of the financial bids. Bidders whose proposals will not meet the technical evaluation criteria or were found non-responsive to RFP will be notified as rejected and their financial proposals will be returned unopened after completing the selection process.

The bidder shall have to provide Technical Evaluation Parameters as per the template given in table above.

**7.2 Financial Evaluation**

1. In this stage, the financial evaluation of the proposal will be carried out of the bidders who qualify in the technical evaluation. The Financial Proposals shall be complete, unqualified and unconditional.
2. The Financial bids (to be submitted in sealed envelope in indelible ink) shall be ranked and evaluated on the basis of the Management Fees (Component I of the Fees) quoted by the bidders. The bidder shall have to quote as per the financial template given in table below:

**Financial bid template**

<b>Management Fees ( in % of the Committed Capital) as mentioned in Section 6</b>	
In numerals	
In words	

3. The Contract Price shall be all inclusive.
4. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the agency to be compensated and the liability to fulfil its obligations as per the Scope of Work within

the total quoted price shall be that of the bidder.

5. Any conditionality included in the financial bid shall lead to summary disqualification of the entire bid and forfeiture of the Earnest Money Deposit (EMD).

### **7.3 Award of Work**

All the bidders selected in Technical evaluation phase (above 70%) shall qualify for financial evaluation. The financial bids of only selected bidders shall be opened and shall be evaluated based on 70:30 criteria where 70 % weightage will be assigned to technical parameters and 30% will be to financial aspects. The bidder who scores the maximum marks shall be awarded the contract to house EDF.

### **7.4 Contract Duration**

The contract with the bidder will be on a non-exclusive basis till the exit of Government interest from the last Daughter Fund.

## **8 Instructions to Bidders**

### **8.1 Completeness of Response**

1. Bidders are advised to study all instructions, forms, terms, requirements and other information in the RFP documents carefully. Submission of bid will be deemed to have been done after careful study and examination of the RFP document with full understanding of its implications.
2. The response to this RFP should be full and complete in all respects. Failure to furnish all information required by the RFP documents or submission of a proposal not substantially responsive to the RFP documents in every respect will be at the Bidder's risk and may result in rejection of its proposal.

### **8.2 Proposal Preparation Costs**

1. The bidder is responsible for all costs incurred in connection with participation in this process, including, but not limited to, costs incurred in conduct of informative and other



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diligence activities, participation in meetings/discussions/presentations, preparation of proposal, in providing any additional information required by DeitY to facilitate the evaluation process, and in negotiating a definitive contract or all such activities related to the bid process. DeitY will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

2. This RFP does not commit DeitY to award a contract or to engage in negotiations. Further, no reimbursable cost may be incurred in anticipation of award or for preparing this bid.
3. All materials submitted by the bidder become the property of DeitY and may be returned completely at its sole discretion.

### **8.3 Bidder enquiries & Clarifications**

1. All enquiries / clarifications from the bidders, related to this RFP, must be directed in writing exclusively to the contact person notified in this RFP document.
2. The preferred mode of delivering written questions to the aforementioned contact person would be through fax or email. Telephone calls will not be accepted. In no event will the DeitY be responsible for ensuring that bidders' inquiries have been received by DeitY. The queries by the bidders will be provided in the following format:

S No.	Page	Section	Sub Section	Details	RFP clause on which clarification is required	Clarification Required

3. DeitY will endeavour to provide a full, complete, accurate, and timely response to all questions. However, DeitY makes no representation or warranty as to the completeness or accuracy of any; neither response nor does DeitY undertake to answer all the queries that have been posed by the bidders. The responses to the queries from all bidders will be distributed to all.
4. No request for clarification from any bidder will be entertained after the due date.

### **8.4 Pre-bid Meeting**

DeitY will hold a pre-bid meeting with the prospective bidders on as per schedule.

## **8.5 Amendment to RFP**

1. DeitY reserves the right to (a) relax or waive any of the conditions stipulated in this RFP document as deemed necessary in the best interest of the DeitY and the objective of the project without assigning any reasons thereof and (b) include any other item in the Scope of work at any time after consultation in the pre-proposal meeting or otherwise.
2. The amendment will be notified in writing and by email to all prospective bidders who have been issued this RFP document and will be binding on them.
3. In order to afford prospective bidders reasonable time in which to take the amendment into account in preparing their bids, DeitY may, at its discretion, extend the last date for the receipt of bids.

## **8.6 DeitY's Right to Modify Submission Deadline**

DeitY may, in exceptional circumstances and at its discretion, can extend the deadline for submission of proposals by issuing an corrigendum through website and in writing by intimating all bidders who have been provided the proposal documents, in writing, in which case all rights and obligations of the project and the bidders previously subject to the original deadline will thereafter be subject to the deadline as extended.

## **8.7 DeitY's Right to Terminate the Process**

1. DeitY may terminate the RFP process at any time and without assigning any reason. DeitY makes no commitments, explicit or implied that this process will result in a business transaction with anyone.
2. This RFP does not constitute an offer by DeitY. The bidder's participation in this process may result in DeitY selecting the bidder to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by DeitY to execute a contract or to continue negotiations. The DeitY may terminate negotiations at any time without assigning any reason.

## 8.8 DeitY's Right to Accept/Reject all/ Any Proposals

DeitY reserves the right to accept or reject any proposal, and to annul the bidding process and reject all Bids at any time prior to award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected bidder or bidders of the grounds for DeitY's action.

## 8.9 Ernest Money Deposit (EMD)

1. Bidders shall submit, along with their bids, EMD of INR 10,00,000/- (Indian Rupees Ten lakh only) in the form of a Bank Guarantee only in favour of "Pay and Accounts Officer, Department of Electronics and Information Technology, GoI", payable at Delhi, **from any Commercial Bank** valid for 6 months. EMD in any other form shall not be entertained.
2. The EMD shall be denominated in Indian Rupees only. No interest will be payable to the bidder on the amount of the EMD.
3. Unsuccessful bidder's EMD will be discharged / returned as quickly as possible, but not later than 30 days after the award of the contract to the successful bidder .
4. The EMD may be forfeited:
  - If a bidder withdraws his / her bid or increases his / her quoted prices during the period of bid validity or its extended period, if any;

**OR**

- In the case of a successful bidder, if the bidder fails to sign the contract or to furnish Performance Bank Guarantee within specified time in accordance with the format given in the RFP.
5. The EMD shall be submitted with the technical bid in a separately sealed envelope as mentioned in this section. Bids submitted without adequate EMD will be liable for rejection.

## 8.10 Submission of Bids

- a. The bidders should submit their offers in two parts namely, "Technical bid" and "Financial bid" and in the format given in this document.
  - Technical Bid – Original – 1 hard Copy + 1 soft copy

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- Financial Bid – Original – 1 hard Copy
- b. The bidder should submit soft copy of technical bid on a non-rewritable CD media in a sealed envelope technical bid should be in a single file in PDF format
  - c. The CD media must be duly signed using a permanent pen/marker and should bear the name of the bidder.
  - d. The hardcopies and softcopy of the technical proposal should be in a single sealed envelope, clearly marked as “Technical Proposal – Selection of Financial Institution/AMC to house Electronics Development Fund (EDF)”.
  - e. The hardcopy of the financial proposal should be in separate sealed envelope, clearly marked as “Financial Proposal – Selection of Financial Institution/AMC to house Electronics Development Fund (EDF)”.
  - f. All the envelopes including Technical & Financial Bid (s) shall be sealed in an outer envelope marked "RFP for Selection of Financial Institution/AMC to house Electronics Development Fund (EDF) – DO NOT OPEN BEFORE ..... hours on ..... (date). Both technical and financial bids have to be sealed properly in separate envelopes. If any of the technical / financial bids is found open, bids will be liable to be rejected.
  - g. The outer envelope shall indicate the name and address of the bidder to enable the proposal to be returned unopened in case it is declared “late”. Both inner and outer envelopes shall be addressed to DeitY at the address specified in this section.
  - h. The proposal shall contain no inter-lineation or overwriting, except as necessary to correct errors made by the bidder itself.
  - i. Any such corrections must be initiated by the person (or persons) who sign(s) the proposals.
  - j. All pages of the proposal must be sequentially numbered and shall be initialled by the authorised representative of the bidder.

### **8.11 Venue and Deadline for Submission**

- a. Proposals must be received at the address specified below , on or before the scheduled time on last date of submission:

Shri Rajesh Suri  
Dy. Director, DeitY

**RFP for Selection of Financial Institution to house Electronics Development Fund (EDF)**

Room No. 4216, 4th Floor,  
Electronics Niketan, 6, CGO Complex  
Lodhi Road, New Delhi – 110003  
Tel: +91 11 24301922 / 24301917 / 24301919

- b. Any proposal received by DeitY after the above deadline shall be rejected and returned unopened to the Bidder.
- c. The bids submitted by telex / telegram / fax / e-mail etc. shall not be considered and no correspondence will be entertained on this matter.
- d. DeitY shall not be responsible for any postal delay or non-receipt / non-delivery of the documents. No further correspondence on the subject will be entertained.
- e. Any default by the bidder in respect of tender terms and conditions will lead to rejection of the bid.

DeitY reserves the right to modify and amend any of the above-stipulated condition / criterion depending upon project priorities vis-à-vis urgent commitments.

## **8.12 Document Comprising the Bid**

1. Proposal Covering letter
2. A power of attorney by the CEO or competent authority authorizing the Bidder to sign / execute the proposal as a binding document and also execute all relevant agreements forming part of RFP.
3. Earnest Money Deposit (EMD) amount in the form of a Bank Guarantee
4. Technical proposal
  - a. Inputs as per Section 7.
  - b. Understanding of scope
  - c. Approach & Methodology
  - d. Work plan
  - e. Staffing schedule
  - f. Team Composition
  - g. Forms & annexure
  - h. Others
  - i. Presentation
5. Financial proposal Cover letter
6. Financial proposal

### **8.13 Negotiations and Contract Finalization**

- a. DeitY shall notify the successful bidder in writing by hand delivery, speed post or by fax, that its proposal has been accepted.
- b. Until a formal contract is signed, the notification of award along with the complete RFP document including all annexure and appendices will constitute a binding contract between successful bidder and DeitY.

### **8.14 Notification of Award**

- a. Prior to the expiration of the period of proposal validity, the successful bidder will be notified by DeitY in writing or by fax or email that its proposal has been accepted.
- b. Until a formal contract is signed, the notification of award along with the RFP document will constitute a binding Contract between Successful bidder and DeitY. Upon the Successful bidder/implementation agency's executing the contract with DeitY, DeitY will promptly notify each unsuccessful bidder.

### **8.15 Signing of Contract**

From the time DeitY notifies the successful bidder that its bid has been accepted, a formal contract shall be signed between the selected bidder and DeitY incorporating all agreements as provided in Annexure.

### **8.16 Performance Bank Guarantee (PBG)**

Within 15 days of the selected firms being intimated about their selection they are to submit a Performance Bank Guarantee of Rs 50 lakhs in the form of unconditional, unequivocal and irrevocable Bank Guarantee (BG) from any Commercial Indian Bank and valid for 5 years and any applicable extension periods as may be mutually accepted. The EMD submitted as security will be discharged after the receipt of the Performance Bank Guarantee from the selected bidder.

### **8.17 Failure to Abide by Terms & Conditions of RFP/ Contract**

Failure of the Successful bidder to agree with the Terms & Conditions of the RFP / Contract shall constitute sufficient grounds for the annulment of the award of contract, in which event the contract may be awarded to the next most responsive bidder.

## **9 General Terms & Conditions**

### **9.1 Applicability**

These general conditions shall apply to the extent that they are not superseded by provisions in any other part of the contract.

This is not an exclusive arrangement and the Government reserves the right of similar arrangements with other Financial Institutions/AMCs for funds of similar Nature.

### **9.2 Standards of Performance**

The selected Financial Institution/AMC shall perform the services and carry out its obligations under the contract with due diligence, efficiency and economy, in accordance with generally accepted techniques and practices used in the industry and with professional consulting standards recognized by international professional bodies and shall observe sound management practices. The selected Financial Institution/AMC shall always act, in respect of any matter relating to the contract, as faithful advisors to DeitY and shall, at all times, support and safeguard DeitY's legitimate interests in any dealings with third parties.

### **9.3 Use of contract document and information**

The selected Financial Institution/AMC shall not, without DeitY's prior written consent, disclose the contract or any provision thereof, or any information furnished by or on behalf of DeitY in connection therewith, to any person other than a person employed by the selected Financial Institution/AMC in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.

The selected Financial Institution/AMC shall not without DeitY's prior written consent, make use of any document or information forming a part of this tender and/or otherwise acquired regarding DeitY including its business except for purpose of performing the contract. Any document forming a part of this tender, other than the contract shall solely remain the property of DeitY

### **9.4 Currency of Payments**

Payment shall be made in Indian Rupees (INR) only.

## **9.5 Change Orders**

DeitY may at any time, by a written order given to the selected Financial Institution/AMC make changes within the general scope of the contract in the services to be provided by the selected Financial Institution/AMC. If any such change causes an increase in the cost of, or the time required for the selected Financial Institution's/AMC's performance of any part of the work under the contract, whether changed or not changed by the order, an equitable adjustment shall be made in the contract price or delivery schedule, or both and the contract shall accordingly be amended. Any claims by the selected Financial Institution/AMC for adjustment under this clause must be asserted within thirty days from the date of receipt of change order by the selected Financial Institution/AMC.

## **9.6 Contract Amendment**

No variation in or modification of the terms of the contract shall be made except by written amendment signed by both parties to the Contract.

## **9.7 Delay in Performance**

Any unexcused delay by the selected Financial Institution/AMC in the performance of his implementation / service / other obligations as per conditions of the contract shall render the selected bidder liable to any or all of the following sanctions;

- a. Imposition of liquidated damages, and / or
- b. Termination of the contract for default

If at any time during performance of the contract, the selected bidder should encounter conditions impeding timely implementation of the services, performance of services, the selected bidder shall promptly notify DeitY in writing of the fact of the delay, the likely duration and its cause(s), before the scheduled delivery date. DeitY shall evaluate the situation after receipt of the notice and may at their discretion extend the time schedule for delivery

## **9.8 Liquidated damages**

Forfeiting the Performance Bank Guarantee.



### **9.9 No Claim Certificate**

The selected Financial Institution/AMC shall not be entitled to make any claim, whatsoever against DeitY under or by virtue of or arising out of the contract, nor shall DeitY entertain or consider any such claim, if made by the selected Financial Institution/AMC after it shall have signed a “No claim” certificate in favour of DeitY in such forms as shall be required by DeitY after the works are finally accepted.

### **9.10 Force Majeure**

Notwithstanding the provisions of Clause on Termination and Delay in selected Financial Institution’s/AMC’s Performance, the selected Financial Institution/AMC shall not be liable for forfeiture of his performance security, liquidated damages or termination for default, if and to the extent that, his delay in performance or other failure to perform his obligations under the contract is caused due to circumstances beyond his reasonable control and is the result of an event of Force Majeure.

For purposes of this Clause, “Force Majeure” means an event beyond the control of the selected Financial Institution/AMC and not involving the selected Financial Institution/AMC and not involving the selected Financial Institution’s/AMC’s fault or negligence and not foreseeable. Such events may be inclusive, but are not limited to, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes. If a Force Majeure situation arises, the selected Financial Institution/AMC shall as soon as practicably possible notify DeitY in writing of such conditions and the cause thereof. Unless otherwise directed by DeitY, the selected Financial Institution/AMC shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

### **9.11 Governing Language**

The Governing Language of the contract is English.

### **9.12 Applicable Law**

The Contract shall be interpreted in accordance with the Indian Laws for the time being in force and will be subject to the exclusive jurisdiction of a competent court of jurisdiction within the city of Delhi.

### **9.13 Firm Prices**

The prices quoted for the providing services shall be firm throughout the period of contract and shall not be subject to any change except on account of increase or decrease of applicable taxes which shall be passed on to DeitY.

### **9.14 Deduction**

Payments, as envisaged in price schedule, shall be subject to deductions (such as TDS) of any amount, for which the selected Financial Institution/AMC is liable under the agreement against this tender.

### **9.15 Confidentiality**

The selected Financial Institution/AMC must understand and agree that all materials and information marked and identified by DeitY as ‘Confidential’ are valuable assets of DeitY and are to be considered DeitY's proprietary information and property. The selected Financial Institution/AMC will treat all confidential materials and information provided by DeitY with the highest degree of care necessary to ensure that unauthorized disclosure does not occur. The selected Financial Institution/AMC will not use or disclose any materials or information provided by DeitY without DeitY's prior written approval.

The selected Financial Institution/AMC may disclose confidential information in the following circumstances:

- a. With the prior written consent of DeitY;
- b. To a member of selected Financial Institution's/AMC's team (“Authorized person”) if the authorized person needs the confidential information for performance of obligations under the contract; and the authorized person is aware of the confidentiality of such information; and
- c. To government or statutory body or auditors who may not be statutory body for audit or any other purpose as directed by DeitY

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In the event the selected Financial Institution/AMC is required by judicial or administrative process, to disclose any information or material which is deemed to be confidential under the Contract and the resultant Non-Disclosure Agreement, the selected Financial Institution/AMC shall promptly notify DeitY, and if DeitY deems fit co-operate with DeitY to challenge such process before making disclosure.

The selected Financial Institution/AMC shall be liable to fully recompense DeitY for any loss of revenue arising from breach of confidentiality. DeitY reserves the right to adopt legal proceedings, civil or criminal, against the selected Financial Institution/AMC in relation to a dispute arising out of breach of obligation by selected Financial Institution/AMC under this Clause.

The requirements of use and confidentiality set forth herein shall survive the expiration, termination or cancellation of this tender.

Nothing contained in the contract shall limit the selected Financial Institution/AMC from providing similar services to any third parties or reusing the skills, know-how, and experience gained by the employees in providing the services contemplated under the contract ensuring that there is no conflict of interest.

The selected Financial Institution/AMC shall strictly abide by its Confidentiality obligations, and shall sign a separate Non Disclosure Agreement (NDA) as a condition precedent to signing the resultant Contract with DeitY in the format given for such NDA.

The obligations of the selected Financial Institution/AMC with regard to Confidentiality under this engagement shall cease to the extent that the recipient can prove that the disclosed Confidential Information was –

- a. Rightfully communicated to the recipient free of any obligation of confidence subsequent to the time it was communicated to the recipient by DeitY;
- b. As of the time of its disclosure, lawfully part of the public domain;
- c. Subsequently learned from a third party; or it was developed by the recipient independently of and without reference to any information communicated to the recipient by DeitY;

- d. Communicated in response to a valid order by a Court of competent jurisdiction or other governmental body, but only to the extent of and for the purposes of such order; provided however, that the recipient shall first notify DeitY in writing and permit DeitY to seek an appropriate protective order;
- e. Previously known by the recipient without any obligation to hold such information in confidence; and/or
- f. Approved for release by written authorization of the disclosure, but only to the extent of such authorization.

#### **9.16 Documents prepared by the Bidder**

All documents, specifications, reports and other documents prepared by the selected Financial Institution/AMC in the execution of the Contract shall become and remain the property of DeitY and before termination or expiration of the Contract the selected Financial Institution/AMC shall deliver all such documents, prepared under the contract along with a detailed inventory thereof, to DeitY.

#### **9.17 Non-Blacklisting**

The bidder has not been blacklisted by any Central / State Government, Ministry / Department or any other Government organization; or under a declaration of ineligibility for corrupt or fraudulent practices during the last 5 (five) years as on the date of submission of the Bidders response to this RFP; involved in any major litigation that may have an impact of affecting or compromising the delivery of services as required under this assignment. If at any stage of bidding process or during the currency of the contract, any suppression/ falsification of such information is brought to the knowledge of DeitY, DeitY shall have the right to reject the bid or terminate the contract, as the case may be, without any compensation to the Bidder.

### **9.18 Cancellation of the contract**

DeitY reserves the right to terminate the resultant Contract for convenience at any time during its term by giving the selected bidder 30 (thirty) days notice of the same. DeitY's only obligation towards the selected bidder in the event of termination for convenience shall be to pay the selected bidder for services performed prior to the effective date of termination to the satisfaction of DeitY.

### **9.19 Conflict of Interest**

The bidder represents that it, its consortium members or associates are not a party to any agreement which represents a conflict of interest with its role with DeitY or the terms of the resultant Agreement which materially and adversely affects its ability to perform the defined services for DeitY. Further, the Financial Institution/AMC agrees it will not enter into any agreement or business relationship during the term of this Agreement that could place him in a conflict of interest position.

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

The selected Financial Institution/AMC shall not support its own Daughter Fund under the EDF policy.

### **9.20 Organizational Conflict of Interest**

The bidder is required to make full disclosure and it's extent of the conflict of interest.

The selected bidder agrees that it will use all reasonable diligence in protecting information received by it during the bid process and thereafter. The selected bidder further agrees it will not wilfully disclose proprietary data to unauthorized parties without the prior permission of DeitY, and that proprietary data shall not be duplicated, used or disclosed, in whole or part, for any

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purpose other than to accomplish the contracted effort. This restriction does not limit the successful applicant right to use, duplicate or disclose such information if such information was lawfully obtained by the successful applicant from other sources.

The selected bidder agrees to protect the proprietary data and rights of other organizations disclosed to him during performance of the resultant contract with the same caution that a reasonably prudent person would use to safeguard highly valuable property.

The bidder agrees that if after award it discovers a potential organizational conflict of interest, a prompt and full disclosure shall be made in writing to DeitY. This disclosure shall include a description of the actions the applicant has taken or proposes to take, to avoid or mitigate such conflicts.

DeitY may in its sole discretion waive application of this clause when it is determined to be in the best interest of the Government to do so.

DeitY shall not be liable to reimburse any expenses incurred in preparation of this Bid by an applicant in case a bid is rejected for breach of this provision. DeitY's right to reject a bid under this provision shall not bar it from seeking any other equitable remedy available to it under applicable law.

## **9.21 Termination**

The Authority may, by not less than 30 (thirty) days' written notice of termination to the selected Financial Institution/AMC, such notice to be given after the occurrence of any of the events specified in this clause, terminate this Agreement if:

- a. the selected Financial Institution/AMC fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension, within 30 days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing;
- b. the selected Financial Institution/AMC becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- c. the selected Financial Institution/AMC fails to comply with any final decision reached as a result of arbitration proceedings;

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- d. the selected Financial Institution/AMC submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the selected Financial Institution/AMC knows to be false;
- e. any document, information, data or statement submitted by the selected Financial Institution/AMC in its Proposals, based on which the selected Financial Institution/AMC was considered eligible or successful, is found to be false, incorrect or misleading;
- f. as the result of Force Majeure, the selected Financial Institution/AMC is unable to perform a material portion of the Services for a period of not 90 days; or
- g. the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

### **9.22 Cessation of Services**

Upon termination of this Agreement by notice of, the selected Financial Institution/AMC shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the services to a close in a prompt and orderly manner.

### **9.23 Limitation of liability**

The selected Financial Institution's/AMC's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof

The selected Financial Institution/AMC shall, subject to the limitation specified in the subsequent clause be liable to DeitY for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.

The Parties hereto agree that in case of negligence or wilful misconduct on the part of the selected Financial Institution/AMC or on the part of any person or firm acting on behalf of the selected Financial Institution/AMC in carrying out the Services, the selected Financial Institution/AMC, with respect to damage caused to the DeitY's property, shall not be liable to the DeitY:

- I. for any indirect or consequential loss or damage; and
- II. for any direct loss or damage that exceeds the contract value

The limitation of liability specified in this provision clause shall not affect the selected Financial Institution's/AMC's liability, if any, for damage to Third Parties caused by the sole action of the

selected Financial Institution/AMC to the extent of the selected Financial Institution's/AMC's or any person or firm acting on behalf of the selected Financial Institution/AMC in carrying out the Services subject, however, to a limit equal to 3 (three) times the Agreement Value.

### **9.24 Conciliation**

In the event of any Dispute between the Parties with regard this agreement, either Party may call upon [Secretary, DeitY] and the Managing Partner/ Chairman of the Board of Directors of the bidder for amicable settlement, and upon such reference, the said persons or their representatives shall meet not later than 15 (fifteen) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If the dispute is not amicably settled within 45 (forty fives) days from the reference, the recourse would be taken to arbitration.

### **9.25 Arbitration**

- I. Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.24 shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with para as given below:
- II. Such arbitration shall be held in accordance with the rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be New Delhi and the language of arbitration proceedings shall be English.
- III. There shall be an Arbitral Tribunal of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected, and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Arbitration and Conciliation Act,1996.
- IV. The arbitrators shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Clause shall be final and binding on the Parties as from the date it is made, and the bidder and the DeitY agree and undertake to carry out/ implement such Award without delay.



## 10 Annexure

### 10.1 Cover Letter (Technical)

Date

To,

**Subject:** Selection of Financial Institution/AMC to house Electronics Development Fund(EDF)

**Reference:**

Dear Sir,

With reference to your RFP Document dated ....., I/we, having examined all relevant documents and understood their contents, hereby submit our Proposal for selection of Financial Institution/AMC to house Electronics Development Fund(EDF). The proposal is unconditional and unqualified.

1. All information provided in the Proposal and in the Appendices is true and correct and all documents accompanying such Proposal are true copies of their respective originals.
2. This statement is made for the express purpose of appointment as the Financial Institution/AMC for the aforesaid Project.
3. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
4. I/We acknowledge the right of the Authority to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
5. I/We certify that in the last three years, we or any of our Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
6. I/We declare that:
  - a. I/We have examined and have no reservations to the RFP Documents, including any Addendum issued by the Authority;
  - b. I/We do not have any conflict of interest in accordance with Clause on Conflict of Interest of the RFP Document;

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7. I/We certify that in regard to matters other than security and integrity of the country, we or any of our Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
8. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
9. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors/Managers/ employees which are directly/indirectly employed as manpower for EDF policy.
10. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority [and/ or the Government of India] in connection with the selection of Financial Institution or in connection with the Selection Process itself in respect of the above mentioned Project.
11. The Bid Security of INR ...../- (Indian Rupees ..... only) in the form of a Demand Draft is attached, in accordance with the RFP document.
12. I/We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall I/we have any claim or right of whatsoever nature if the Project is not awarded to me/us or our proposal is not opened or rejected.
13. I/We agree to keep this offer valid for 180 days from the bid submission date specified in the RFP.
14. A Power of Attorney in favour of the authorised signatory to sign and submit this Proposal and documents is attached herewith.
15. In the event of my/our firm being selected as the successful bidder, I/we agree to enter into an Agreement in accordance with the form in the RFP. We agree not to seek any changes in the aforesaid form and agree to abide by the same.
16. The Financial Proposal is being submitted in a separate cover. This Technical Proposal read with the Financial Proposal shall constitute the Application which shall be binding on us.
17. I/We agree and undertake to abide by all the terms and conditions of the RFP Document.

In witness thereof, I/we submit this Proposal under and in accordance with the terms of the RFP Document.

Yours faithfully,

**RFP for Selection of Financial Institution to house Electronics Development Fund (EDF)**

Name:  
Designation:  
**(Company Seal)**

## **10.2 Cover Letter (Financial)**

(On Applicant's letter head)

Date

To,

Dear Sir,

**Subject:** Selection of Financial Institution/AMC to house Electronics Development Fund (EDF).

I/We, \_\_\_\_\_ (Applicant's name) herewith enclose the Financial Proposal for selection of my/our firm for above.

I/We agree that this offer shall remain valid for a period of 180 days from the Proposal Due Date or such further period as may be mutually agreed upon.

Yours faithfully,

Name:

Designation:

**(Company Seal)**

**Note:** The Financial Proposal is to be submitted strictly as per forms given in the RFP.

### 10.3 No Deviation Certificate

(To be submitted in the Bidder's letter head)

To,

**Subject : No Deviation Certificate**

**Reference :**

Dear Sir,

With reference to above, this is to confirm that as per tender conditions, we have understood the requirements before submission of our offer. We also confirm that we have not changed / modified the tender documents as appeared in the website/ issued by you and in case of such observance at any stage, it shall be treated as null and void.

We hereby confirm that we have not taken any deviation from tender Clauses together with other references as enumerated in the above referred Tender. We hereby confirm our unqualified acceptance to all terms & conditions, unqualified compliance to all the terms and conditions in the above referred tender.

Yours Sincerely

Name:

Designation:

**(Company Seal)**

## 10.4 Draft Contract

The Agreement is made on this \_\_\_\_ day of month \_\_\_\_\_, 2015.

BETWEEN

xxxxxxx, having its registered office at xxxxxxx (hereinafter referred to as the “selected Financial Institution/AMC” which term shall unless repugnant to the context include representatives and assigns of the selected Financial Institution/AMC).

AND

**The President of India**, acting through the (Insert Designation), **Department of Electronics and Information Technology**, having its office at **6, Electronics Niketan, C.G.O. Complex** (hereinafter referred to as the “Client”)

The selected Financial Institution/AMC may be called as Party where the context so requires.

**NOW THEREFORE**, in consideration of mutual premises, representations, covenants and other good and valuable consideration, the receipt of which is hereby acknowledged, the Party agree with the following terms and conditions and to be bound thereby:

### 1. Scope of Work

The selected Financial Institution/AMC agrees to provide services to house Electronics Development Fund (EDF).

### 2. Priority of Documents

The documents forming the Agreement are to be taken as mutually explanatory of one another. In the event of conflict between the documents constituting the Agreement, they shall have priority in the following order:

- a) the Agreement;
- b) the Request for Proposal document
- c) the Financial Institutions’s/AMC’s “Technical Proposal” and “Financial Proposal” submitted in response to the RFP

### 3. Payment

The total fees payable to the Financial Institution/AMC under the Agreement is \_\_\_\_\_ % of the committed capital inclusive of applicable taxes. Along with this, Program Implementation Fees (which will be adjusted in the management fees) amounting to Rs. 25 Lakhs is also payable to the selected Financial Institution/AMC.

**4. Indemnity**

The selected Financial Institution/AMC agrees to indemnify and hold harmless DeitY, Officers, employees and agents(each a “Indemnified Party”) promptly upon demand at any time and from time to time, from and against any and all losses , claims, damages, liabilities, costs (including reasonable attorneys fees and disbursements) and expenses (collectively, “Losses”) to which the Indemnified Party may become subject, in so far as such losses directly arise out of, in any way relate to, or result from (i) any mis-statement or any breach of any representation or warranty made by the selected Financial Institution/AMC or (ii) the failure by the selected Financial Institution/AMC to fulfill any agreement, covenant or condition contained in the Agreement, including without limitation the breach of any terms and conditions of the Agreement by any employee or agent of the selected Financial Institution/AMC or (iii) any claim or proceeding by any third party against DeitY arising out of any act, deed or omission by the selected Financial Institution/AMC. For the avoidance of doubt, indemnification of Losses pursuant to this section shall be made in an amount or amounts sufficient to restore each of the Indemnified Party to the financial position it would have been in had the losses not occurred.

Any payment made under the Agreement to an indemnity or claim for breach of any provision of the Agreement shall be net of applicable taxes.

**5. Severability**

If any section or paragraph, or part thereof, of the Agreement or any agreement or document appended hereto or made a part hereof is rendered invalid, ruled illegal by any court of competent jurisdiction, or unenforceable under present or future laws effective during the term of the Agreement, then it is the intention of the Parties that the remainder of the Agreement, or any agreement or document appended hereto or made a part hereof, shall not be affected thereby unless the deletion of such provision shall cause the Agreement to become materially adverse to any Party in which case the Parties shall negotiate in good faith such changes to the Agreement, or enter into suitable amendatory or supplementary agreements, as will best preserve for the Parties the benefits and obligations under such provision.

**6. Adherence**

IN WITNESS WHEREOF, the Parties have signed the Agreement by their duly authorized representatives in Two (2) original copies.

**DeitY**

Authorized representative:

Name:

Title:

(Signature):

Date of signing:

**xxxxx**

Authorized representative:

Name:

Title:

(Signature):

Date of signing

**RFP for Selection of Financial Institution to house Electronics Development Fund (EDF)**

**Witness:**

Name:

Signature:

Date of signing:

**Witness:**

Name:

Signature:

Date of signing:



## 10.5 Draft NDA

This Non Disclosure Agreement (“Agreement”) is made effective from this day of [month year] between [selected Financial Institution’s/AMC’s name] having office at [address of selected Financial Institution/AMC] and DeitY, having office at Electronics Niketan, 6 CGO Complex, Lodhi Road, New Delhi - 110003 (“**Client**”).

(Client and [selected Financial Institution/AMC] shall be individually referred to hereinafter as a “Party” and collectively as the “Parties”)

**WHEREAS**, the Client has appointed [selected Financial Institution/AMC] for rendering services at < DeitY, Electronics Niketan, 6 CGO Complex, Lodhi Road, NewDelhi – 110003> during the period commencing from <ddmmyy> to < ddmmyy>

**WHEREAS**, the parties hereto are willing to execute this Agreement in order to protect certain information to be disclosed to each other for the aforesaid purposes.

**NOW, THEREFORE**, in consideration of the recitals set forth above and the covenants set forth herein, the Parties agree that:

1. It is hereby agreed that the discretion applied at the time of disclosure would provide the best protection of Confidential Information of either Party. Accordingly, a Disclosing Party shall ensure that only those Confidential Information which serve the engagement objectives shall be disclosed as per an agreed procedure to the identified individuals at the recipient’s end.

2. Recipient agrees to protect Confidential Information received from the Disclosing Party with at least the same degree of care as it normally exercises to protect its own proprietary information of a similar nature. Recipient agrees to promptly inform the Disclosing Party of any unauthorised disclosure of the Disclosing Party’s Confidential Information.

3. In the case of Confidential Information that is disclosed only orally, Disclosing Party shall, within seven days after such disclosure, deliver to the Receiving Party a brief written description of such Confidential Information; identifying the place and date of such oral disclosure and the names of the representatives of the Receiving Party to whom such disclosure was made. It is expected that such information will bear a legend or label of “Confidential” or other similar designation manifesting intent that the information is confidential (“Confidential Information”).

4. The restrictions set forth in this Agreement on the use or disclosure of Confidential Information shall not apply to any information which:

- a. is independently developed by the Recipient ; or
- b. is rightfully received free of restriction from another source having the right to so furnish such information; or
- c. has become generally available to the public; or

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

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

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For and on behalf of

Sig.:  
Name:  
Title:  
Place:

**Witness :**  
Signature:  
Name:  
Title:

For and on behalf of

Sig.:  
Name:  
Title:  
Place:

## 10.6 Performa for Bank Guarantee towards Performance Security (From Any commercial bank)

This Deed of Guarantee executed on this \_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_ by \_\_\_\_\_ (from any commercial bank), having its Head Office/Registered Office at \_\_\_\_\_ and inter-alia a Branch Office at \_\_\_\_\_ (hereinafter referred to as the Bank. or 'the Guarantor', which expression shall unless it be repugnant to the subject or context hereof be deemed to include its successors and assigns)

### In favor of

The Department of Electronics and Information Technology, Ministry of Communications & Information Technology, Government of India, Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi-110003 (hereinafter referred to as "DeitY")

### WHEREAS

A. [.....], a company within the meaning of the Companies Act, 1956 and having its Registered

Office at [\_\_\_\_\_] (herein after referred to as "the selected Financial Institution/AMC", which expression unless repugnant to the subject or context includes its successors, legal representatives and permitted assigns) has been awarded the contract **for Selection of Financial Institution/AMC to house Electronics Development Fund (EDF)** vide Agreement dated \_\_\_\_\_;

B. In terms of clause \_\_\_\_ of the said Agreement, the selected Financial Institution/AMC has to provide a Performance Guarantee for an amount equivalent to ----- of the Bid Price in the format specified;

C. At the request of the Financial Institution/AMC, the Guarantor has agreed to provide this guarantee, being these presents, guaranteeing the due and punctual performance/discharge by the Vendor of its obligations under the said contract during the implementation period.

### NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS

A. The Guarantor hereby irrevocably guarantees the due and punctual performance by the selected Financial Institution/AMC of all its obligation under the said Agreement during the implementation period;

B. The Guarantor shall, without demur, pay to DeitY sums not exceeding in aggregate Rs.

\_\_\_\_\_ (Rupees \_\_\_\_\_) within five (5) calendar days of receipt of a written demand therefo from DeitY stating that the Financial Institution/AMC has failed to meet its performance obligations under the said contract during the implementation period. The Guarantor shall have not to go into the veracity of any breach or failure on the part of the selected Financial Institution/AMC or validity of the demand so made by DeitY and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Vendor or any other person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof;

C. In the event of delay on the part of the Guarantor to pay on demand, the Guarantor shall be liable to pay interest at the rate of fifteen (15) per cent, compounding quarterly, to DeitY. There shall not be any delay in payment of the guaranteed amount and payment of interest shall not be an excuse for delaying the payment of guarantee amount. Time is the essence of this Performance Guarantee;

D. The Guarantor shall also indemnify and keep DeitY indemnified against all losses, damages, costs, charges claims and expenses whatsoever which DeitY may suffer, pay or incur by reason of or in connection with any default on the part of the Vendor, including legal proceedings taken against the said Financial Institution/AMC and/or the Guarantor for the recovery of the monies referred to above;

E. The Guarantor hereby agrees that without the concurrence of the Guarantor, DeitY and the selected Financial Institution/AMC shall be at liberty to vary, alter or modify the terms and conditions of the contract executed by the DeitY with the selected Financial Institution/AMC, and in particular to defer, postpone or revise the payment schedule under the contract, modify the work at site and payment of interest or other monies under the contract on such terms and conditions as maybe considered necessary by DeitY;

F. The Guarantor agrees that its liability under this guarantee shall in no manner be affected by any such variation, alteration, modification, waiver dispensation with or release of security and that no further consent of the Guarantor is required for giving effect to any such variation, alteration, modification, waiver dispensation with or release of security;

G. This Guarantee shall be enforceable against the Guarantor notwithstanding that any security or securities comprised in any instrument executed or to be executed by the selected Financial Institution/AMC in favour of DeitY may at the time when the proceedings are taken against the Guarantor of this guarantee be outstanding or unrealized or lost. In order to give effect to this Guarantee, DeitY shall be entitled to treat the Guarantor as the principal debtor;

H. This Guarantee shall be irrevocable and shall remain in full force and effect until \_\_\_\_\_ unless discharged/released earlier by DeitY in accordance with the provisions of the said contract. The Guarantor's liability in aggregate shall be limited to a sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only);

I. This Guarantee shall not be affected by any change in the constitution or winding up of the selected Financial Institution(or AMC) /the Guarantor or any absorption, merger or amalgamation of the selected Financial Institution(or AMC) /the Guarantor with any other person;

J. The Guarantor has power to issue this Guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under

\_\_\_\_\_.

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

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

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

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