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Director (Infrastructure)
Secretariat for Committee on Infrastructure
Planning Commission
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February 10, 2006

Sub: One Year Consultancy Assignment in Regulatory Laws/ Legal Reforms.

Sir,

The Planning Commission invites qualified candidates to apply for a One Year Consultancy in Regulatory Laws/ Legal Reform. The assignment will require the candidate to work in the Secretariat for Committee on Infrastructure at the Planning Commission to support the proposals for legal, institutional, financial reforms in the infrastructure sector.

Detailed note on scope of work, terms of reference, educational qualifications and experience etc. is attached.

Thanking you,

Yours sincerely,

B.S. Bhandari

One Year Consultancy in Regulatory Law and Legal Reform

The Planning Commission invites qualified candidates to apply for a One Year Consultancy in Regulatory Law/Legal Reform. The assignment will require the candidate to work in the Secretariat for Committee on Infrastructure at the Planning Commission to support the proposals for legal, institutional, financial reforms in the infrastructure sector.

1. Background:

1.1 Government has constituted a Committee on Infrastructure, under the chairmanship of the Honourable Prime Minister, with the objective of

- (i) initiating policies for time bound creation of world class infrastructure;
- (ii) developing structures that maximize the role of public private partnership in the field of infrastructure; and
- (iii) monitoring progress of key infrastructure projects to ensure realization of established targets.

The terms of reference of the Committee include, inter alia, to suggest institutional, regulatory and procedural reforms, initiate policy directives that are required to create world class infrastructures within a set time frame, identify measures to refine project planning, project formulation and project management processes in line with international best practices and develop suitable revenue models that would make public private partnership feasible. To begin with, the Committee has been mandated to take up projects/areas in railways, highways, ports, airports, telecommunication, petroleum and power sectors.

1.2 A private-public partnership requires a fundamental change in the way project preparation, appraisal, financing & implementation have been viewed in the past. The key issue is the appropriate allocation of risk among the different stakeholders. The successful design of an infrastructure project implies an appropriate demarcation and allocation of risks so that no stakeholder has the tendency to shift the risk to others and in the process jeopardise the project. The newly emerging role of the government, whether as an equity participant or a guarantor to private lenders, needs to be carefully evaluated so that the fiscal impacts of these commitments are quite clear. Similarly, the regulatory environment has to be critically examined, suitably amended and made more transparent. This new approach cannot be expected to succeed if any required clearance from a government agency delays the project or creates uncertainty in the minds of investors. Also, for the projects to be financially viable and for the maintenance of the quality of services, user charges have to be set in place that directly correspond to the specific benefits that the facility provides to the beneficiaries.

1.3 The infrastructure sectors of critical importance to the economy today are energy, surface transport, port and municipal facilities. In all these sectors, there is a considerable gap between the present levels and quality of investment on the one hand and their optimal levels for the economy on the other. Large-scale fresh investments are, therefore, a *sine qua non* of development in the country. These capital resources are sought to be mobilised from both within the country and outside. Project financing would therefore mandate not only that robust projects are formulated and posed to the domestic and foreign lenders but also that these are implemented efficiently. It follows that non-viable or risky projects, with low chances of success, have to be jettisoned in favour of a shelf of financially and economically sound projects. A new framework of project, appraisal, financing & evaluation and management is, therefore, the urgent need of the hour.

2. Educational Qualifications & Experience:

2.1 The minimum educational qualifications and experience for the Legal consultant are as under:

Candidates must have a postgraduate degree in Law from leading law schools in India, or abroad, with at least three years research and teaching experience in Constitutional, Infrastructure and/ or Administrative Law. Alternatively, the candidate may have a law degree from a leading law school in India with at least five years experience in litigation/ arbitration/ advisory services relating to Constitutional/ Infrastructure and/ or Administrative Law. The candidate must have an exposure to regulatory reform in India and foreign countries and should possess the ability to write well research policy briefs and academic papers on such issues. Some prior experience in policy making and advice with the Government of India would be preferred.

3. Scope of Work:

To prepare papers on policy reforms that are required to create world class infrastructures and suggest institutional, regulatory and procedural reforms for its realization; to assist in project planning, project formulation, project appraisal, project management and project evaluation in line with international best practices and develop suitable revenue models that would make public private partnership feasible. The experts would review and provide advice on legal, institutional, regulatory, financial, commercial and contractual (e.g. concession agreements etc.) issues that are critical to facilitate reforms and PPPs in the infrastructure sector. With this broad framework, the following tasks/activities will be taken up with the assistance of the experts:

- (i) Review of the existing policies, procedures, legal, regulatory, institutional, financial and commercial framework for efficient risk allocation/mitigation.
- (ii) Advice on promoting competition in key infrastructure sectors.
- (iii) Review/ advice on enabling regulatory framework for implementation of infrastructure projects under PPP mode.
- (iv) Review/ advice on guidelines/ framework to monitor and evaluate PPP projects in the identified sectors - transport/power/telecommunication.
- (v) Review/ advice on sector reform strategy and restructuring plans, based on best practices across the world.
- (vi) Incorporating and adapting learning from international good practices for policies and regulatory frameworks for the key sectors.

4. Terms of Reference:

- (i) Provide expert legal advice on the model concession agreements and transaction documents.
- (ii) Render expertise in a range of regulatory issues, including those related to regulatory legislation, tariff setting and institutional design which are essential for attracting and sustaining the required levels of investment in Indian infrastructure and ensuring adequate consumer protection.
- (iii) Preparation, analysis and review of contractual/concession agreements used for privatization of public infrastructure.
- (iv) Review various draft model concession agreements prepared by the line

Ministries in consultation with Planning Commission for enabling public private partnerships in infrastructure, particularly in the transport, power and telecom sectors to ensure that the prepared model concession agreements are in line with global best practices, and that such agreements when operationalized shall attract the required amount and quality of private investments at reasonable cost and risk levels.

5. Time-frame:

5.1 The period of consultancy will be initially for One year, which can be reviewed after one year based on the quantum of work involved.

6. Remuneration/Consultation Fee:

6.1 Interested candidates are requested to quote the minimum lump sum monthly remuneration that they expect.

7. End result/Outcome:

7.1 The experts will render legal advice and prepare legislative papers in the allocated sectors/areas as may be required from time to time.

8. Reporting Mechanism:

8.1 The experts will report to Adviser to Deputy Chairman, Planning Commission.

9. Where to apply:

9.1 Candidates may apply with full particulars in prescribed format (Annex) on or before 20th February, 2006 by e-mail and by mail to the following address.

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**FORMAT OF RESUME FOR PROPOSED CONSULTANCY in Regulatory Law and
Legal Reform**

Name of Candidate:

Current Title:

Date of Birth:

Nationality:

Education/Qualifications: (Summarize college/university and other specialized education of faculty member, giving names of graduate schools, years attended and degrees-professional qualifications obtained.

Employment Record/Experience

(Starting with present position, list in reverse order, every employment held, giving dates, names of employing organization, title of positions held and location of employment. For experience in last five years, detail the types of activities performed, degree of responsibilities, location of assignments and any other information or professional experience considered pertinent for this assignment.

The minimum lumpsum monthly remuneration that they expect.

I, the undersigned, certify that the information given above is correct.

Date (Day/Month/Year)

Signature of the candidate