

Addendum 01

Dated: Tuesday, October 12, 2021

This addendum is issued with respect to the RFP No.: IRADe/SARI/2021-22/02- Request for proposal for developing a strategy paper towards creating a platform - “South Asia Forum on Energy Investments (SAFEI)” issued on 1st October 2021. This addendum has been issued to inform the following:

a. The following changes have been incorporated in the RFP

SN	Reference Clause	Original text	Revised text
1	4.2. Bid Assessment 4.2.1. Bid Assessment Process Point no.4 (c) (ii)	Strategy towards preparation of framework of Institutional Mechanism for Forum SAFEI and Model Investments Templates for two regional investment opportunities - Para 4.1 4.1.2.3.3 (i)	Strategy towards preparation of framework of Institutional Mechanism for Forum SAFEI and Model Investments Templates for two regional investment opportunities - Para 4.1.2.3 (c)
2	4.2. Bid Assessment 4.2.1. Bid Assessment Process Point no.4 (c) (iii)	Strategy towards interaction with stakeholders through Questionnaire, Roundtables and Regional Conference - Para 4.1.2.3.3 (ii)	Strategy towards interaction with stakeholders through Questionnaire, Roundtables and Regional Conference - Para 4.1.2.3 (d)

b. The responses to the pre-bid queries received for the above mentioned RFP is listed below:

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1.	Section – 3.4	Scope of Work	Point No. 8	Also, analyze and examine any linkage of the concerned forum(s) with the existing regional institutions in South Asia, such as SAARC, BIMSTEC, SAFIR, SASEC, etc. and the study should also look at the possibility of linking the proposed forum	We understand that this mentions the possibility of working of the proposed forum in close coordination with the regional institutions and not the forum to be a part of any of the institutions. Please confirm.	Basically two specific requirements have been stated: i) It is presumed that already some forums/institutional mechanism are operating in the South Asia (SA) region associated with the subject of Energy Investment. In addition to review and analyzing those forums, it is also to be found out that whether those forums have any linkages with the existing regional institutions in SA, such as SAARC,

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				SAFEI with an existing institution in this region		SAFIR, SASEC etc.. ii) The other requirement is to find out the possibility of linking/ association of the proposed forum with an existing regional institutions. , Under this the bidder can explore all the options, including it to be a part of the existing regional institution.
2.	Section – 3.4	Scope of Work	Point no. 13	Two roundtable discussions, to be followed by a regional conference towards the end of the exercise. The roundtable discussions and regional conference shall preferably be held in the different countries in the BBIN sub region, in order to cover a wide range of participants	We understand that roundtable meetings and stakeholder consultations are critical to capture the views of stakeholders for developing and shaping up the strategy paper. However, due to the pandemic situation, there may be travel restrictions in different BBIN nations which will hinder the in person meetings. Please confirm if the round table discussions and stakeholder consultations can be held virtually	At this stage it would not be proper to rule out the physical meetings altogether. May be if the situation improves, the physical meetings may also be held. This would depend on the situation and SARI/EI shall take a decision in this regard at the appropriate time and that should be acceptable to all concerned.
3.	Section 3.6	Timeline		Six months from the date of signing of the contract	The study requires the consultants to conduct an assessment of the existing policy, legal, regulatory, technical, operational and	The request to enhance the total timeline of the project is not accepted

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					monetary frameworks that are strategically relevant towards the energy investment, review international experiences, and the existing forums in South Asia, propose a suitable intuitional structure of SAFEI, develop model templates for 2 regional investment opportunities and conduct stakeholder consultations/round table conferences. Considering the exhaustive scope, we believe that the total time allocated for the study is limited and we would request extending the total timeline for the study to 9 months	
4.	Section – 4.1.2.1.	Management / Organization Experience	Point no 4 (iv) and (v)	Planning, Development and operation of thermal and hydro generating stations; Planning, Development and operation of transmission projects and power system operation and control	We understand that SAFEI has been envisaged to be established as a regional body to support the whole value chain towards - identification of the project; mobilizing of the funds; addressing the policy, legal and regulatory gaps	The experience in the planning, development and operation of thermal, hydro and transmission etc. is only a small part of the total criteria and this technical knowhow is important, particularly when the organization would be responsible for developing the model templates for two regional investment opportunities, one in

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					(wherever they persist). Hence, as per our understanding of the roles and responsibilities of SAFEI, the bidder/organization has to exhibit experience in the finance, regulatory, legal, demand supply projections, energy investments, financial aspects, creation of forums, commercial aspects of generation and transmission etc. However, with respect to the nature of SAFEI, the experience of bidders in "operations of thermal, hydro and transmission etc." might be less relevant in case of "Forum of Energy Investments". Hence, we would request these criteria for evaluation to be waived off	the field of generation and other in the field of transmission.
5.	Section4 .1.2.2.	Resource Plan			Given the uncertainty related to the pandemic, if there are any circumstances that reasonably restricts travel or physical presence of our personnel at your	We understand the situation due to the Pandemic. The timelines have been forecasted taking into account the current situation. Please also refer to ARTICLE IV: Duration of the Contract in point no.2

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					office / location, then without prejudice to your payment obligations, you shall allow such personnel to work from home or other remote location till the time such reasonable restrictions exist. Any delay / default in performing our obligations arising from such restrictions, shall not be attributable to us and shall not be considered a breach of contract on our part and no consequent damages / penalties etc. arising therefrom would be imposed on us under the Contract	“Notwithstanding the above, the period of due performance of the obligation of the consultant may be extended by IRADe without deduction of any amount for the Consultant, if the delay is caused due to the lack of finances, delay in instructions, act of God or Force Majeure.”
6.	Section – 5.7	Annex VII: General Terms and Conditions of the Consultancy Agreement	Article IV (point no. 1&2)	Any delay in the completion of the obligation on the part of the consultant shall entitle IRADe to terminate the agreement and deduct the amount of the consultant proportionate to the work remaining incomplete. The decision of IRADe in quantifying the amount of	You understand that the completion of some of the deliverables e.g., payment milestone 5 and 6 requires presentation to the stakeholders on which the consultants have minimum control. Hence, we request you not to consider delays not attributable to the acts	If the delay is due to the stakeholder's consultations, for such delay, suitable extensions shall be issued to address the same.

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				such deduction shall be final and binding	of the consultant in this particular regard.	
7.	Section – 5.6.	Annex VI: Draft Contract	Point no. 4 and 10	This contract will be governed by IRADe General Terms & Condition for Consultancy Contract as laid down in Appendix 2 and by Standard Provisions of USAID for Non-US Non-Governmental organizations.; This contract will be governed by IRADe General Terms & Contracts for Consultancy Contract as laid down in Appendix 1 and by Standard Provisions of USAID for Non-US Non-Governmental organizations	There are multiple references to USAID binding T&Cs to be made applicable to this Contract. Kindly clarify as to which specific T&Cs will be made applicable to this RFP	IRADe is the implementing partner for the SARI-EI Project initiated by USAID. For USAID Guidelines please refer to https://www.usaid.gov/sites/default/files/documents/1868/305maa.pdf
8.	Section – 5.7.	Annex VII: General Terms and Conditions of the Consultancy Agreement	Article XII	Funders Terms and Conditions Pt. 3: USAID Standard Provisions: As the Program of SARI/EI is being funded by USAID, the Standard Provisions of USAID will be applicable and binding for this contract.	In line with the previous point this is also a reference to USAID binding T&Cs to be made applicable to this Contract. Kindly clarify as to which specific T&Cs will be made applicable to this RFP.	This has been covered in point No.7
9.	General		Confidentiality Obligations		Client is requested to allow standard exceptions to confidential information,	No Change in tender document. The confidentiality clause in point no. of 10 ARTICLE II: General Conditions of

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					<p>which is industry standard and reasonable. Not all information can be regarded as confidential. E.g., if the information is in public domain, we cannot be expected to keep it confidential at our end. Similarly, if any information is liable to be disclosed under the RTI, giving it a confidential status and obliging us to keep such information confidential is not correct. We request inclusion of following clause: Confidential information does not include any information which (i) is rightfully known to the recipient prior to its disclosure; (ii) is independently developed by the recipient without use of or reliance on confidential information; or (iii) is or later becomes publicly available without violation of this agreement or may be</p>	<p>Agreement, point no. 10 reads: <i>"The consultant shall not, during or after the termination of the contract, disclose to any third party any information arising from the contract, other than in the proper performance of their duties, except with the prior written permission of IRADe."</i></p>

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					lawfully obtained from a third party; or (iv) which would be required to be disclosed under the (Indian) Right to Information Act.	
10.	General			Confidentiality Obligations	We request client to allow us to retain our working papers and a copy of confidential information for our records and any future reference or audit requirements, subject to confidentiality obligations under this Agreement.	<p>You can retain a copy of the working papers, but all information gathered in course of the assignment should be shared with IRADe.</p> <p>ARTICLE II: General Conditions of Agreement, Pointno.8 states "IRADe shall retain copyright of all documents prepared by the Consultant in relation to the services rendered."</p> <p>ARTICLE II: General Conditions of Agreement, Point 10 also mentions the following:</p> <p>"The consultant shall not, during or after the termination of the contract, disclose to any third party any information arising from the contract, other than in the proper performance of their duties, except with the prior written permission of IRADe"</p>
11.	Section – 5.6	Annex VI: Draft Contract	Point - 16	Survival: All representations, warranties, disclaimers, indemnifications and	We request that any obligation arising under the agreement shall survive for a	No Change in the Tender specification.

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				reporting obligations contained in this Agreement shall survive the Contract Completion Date.	period of 12 months, post termination/ expiry of the Contract	
12.	Section – 5.7	Article XII: Funders Terms and Conditions	Point - 1	Books, Records, and Accounts: The consultant shall maintain books, records and accounts sufficient to demonstrate the incurrence, expenditure, and allowability of all costs charged to the agreement. USAID, or any of their duly authorized representatives shall have access to such books, records and accounts as are directly pertinent to the activities funded by the agreement. Consultant agrees that IRADe or USAID, shall have access to any books, documents, papers, and records of the Consultant that are directly pertinent to the services provided hereunder, for the purpose of making audits, examinations, excerpts, and transcriptions. These records	We wish to clarify that we will retain our records as per our records retention policies. Upon reasonable notice, we will allow Client to inspect our invoicing records under this engagement; such inspection shall be done in a pre-agreed manner and during normal business hours. For avoidance of doubt, such inspection should not cause us to be in breach of our organizational confidentiality requirements. Please acknowledge that our audit related obligations will be subject to foregoing statement. We also request IRADe to reduce the survival period of obligations to one year post expiry or termination	No Change in the Tender specification. It is mentioned “pertinent to the services provided hereunder, for the purpose of making audits, examinations, excerpts, and transcriptions.” However, audits/ inspections will be conducted in a pre-agreed manner and during normal business hours. The period of 3(years) remains unchanged.

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				shall be maintained for 3(three) years unless written approval is requested by the consultant and approval by IRADe is given in writing.		
13.	Section – 5.7.	Article: General Conditions of Agreement	Point no. 8	IRADe shall retain copyright of all documents prepared by the Consultant in relation to the services rendered.	There are innumerable IPRs that exist with us which we would like to use to your benefit while delivering our services to you. These are our pre-existing IPRs and we use it for all clients. We will not be able to give ownership in such IPRs to you just because we are using them for providing services to you, like we use these for other clients. We request to retain ownership of our pre-existing IPRs, else we might be not be able to use these in providing services to you in order to protect our ownership in them. We request you to kindly include the below clause. This is also the	It is already mentioned that “all documents prepared by the Consultant <i>in relation to the services rendered</i> ”. No Change in the Tender specification. Please issue a disclaimer wherever pre-existing copyrights are used

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					<p>standard mentioned by MeitY in its guidelines. Notwithstanding anything to the contrary in this agreement, Consultant will retain the ownership of its pre-existing intellectual property rights (including any enhancement or modification thereto) even if such IPRs are used for creating deliverables, are incorporated in the deliverables, etc. To the extent such pre-existing IPRs are included/incorporated in the deliverables, upon receipt of all due and payable payment in full, the Consultant shall grant a non-exclusive, perpetual and fully paid up license to the Purchaser/Client to use such pre-existing IPRs for use of deliverables for the purpose for which such deliverables are meant for client's internal business operations</p>	

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14.	Section – 5.7.	Article: General Conditions of Agreement	Point no. 9	The Consultant shall not engage in any activity which might conflict with the interest of IRADe under this agreement or the agreement of IRADe with Client.	Client is requested to consider that we may have to disclose information for successful accomplishment of work and for regulatory and internal compliance purposes. However, to the extent legally permissible, we will ensure that even if the information is disclosed to any third party, such parties maintain confidentiality of such information. Client is therefore requested to kindly include the following clause:	Cannot be defined, as the definition could cover wide ranging areas. Therefore, no change in the Tender Specifications.
15.	Section –5.7.	Article: General Conditions of Agreement	Point no.9	The Consultant shall not engage in any activity which might conflict with the interest of IRADe under this agreement or the agreement of IRADe with Client.	We wish to highlight that we are a large organization providing various services to various state and central government departments, PSUs, international organizations and private clients. We wish you to note that while we have a mechanism in place to identify patent and direct conflict of interests, it may	Cannot be defined, as the definition could cover wide ranging areas. Therefore, no change in the Tender Specifications.

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					not always be possible to identify any or all indirect or remote conflict of interests. Kindly appreciate that our no conflict confirmations will be subject to the foregoing	
16.	Section – 5.7.	Article: General Conditions of Agreement	Point no. 10	The consultant shall not, during or after the termination of the contract, disclose to any third party any information arising from the contract, other than in the proper performance of their duties, except with the prior written permission of IRADe.	Client is requested to consider that we may have to disclose information for successful accomplishment of work and for regulatory and internal compliance purposes. However, to the extent legally permissible, we will ensure that even if the information is disclosed to any third party, such parties maintain confidentiality of such information. Client is therefore requested to kindly include the following clause:	No Change in the Tender specification. The clause mentions only of “Third Party” and “any information arising from the contract.”
17.	Section – 5.7.9	Article IX: Indemnificati on		Each party shall mutually indemnify and hold one another harmless against losses, claims, liabilities, or damages (including costs, reasonable attorney’s fees,	There are several remedies available under law and contract to you for such breach of obligations. For example, there are penalties and LDs that may be	No Change in the Tender Specification

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				and amounts actually paid in reasonable settlement thereof) that are sustained as a result of the negligent acts, errors, or omissions of the other party, its employees and agents, or for the improper performance or nonperformance relating to activities hereunder. Indemnification under this paragraph shall be limited to the maximum amount payable under this agreement, except for losses, claims, liabilities or damages sustained in connection with an actual or alleged violation of law applicable to this agreement.	<p>imposed for some of these breaches. Seeking indemnities for such breaches frustrates the entire purpose of such remedies available to you. We understand that remedies other than indemnity will be sufficient for such breaches. We request you to kindly delete this section.</p> <p>If you still insist on retaining this section, then we request you to at least make them subject to overall cumulative liability cap of total contract value and subject to final determination of court/arbitrator. The indemnities set out in this agreement shall be subject to the following conditions:</p> <p>(i) the Indemnified Party as promptly as practicable informs the Indemnifying Party in writing of the claim or proceedings and provides</p>	

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					<p>all relevant evidence, documentary or otherwise;</p> <p>(ii) the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the Defense of such claim including reasonable access to all relevant information, documentation and personnel provided that the Indemnified Party may, at its sole cost and expense, reasonably participate, through its attorneys or otherwise, in such Defense;</p> <p>(iii) if the Indemnifying Party does not assume full control over the Defense of a claim as provided in this clause, the Indemnified Party may participate in such defense at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of</p>	

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					<p>the Indemnified Party will be included in losses; (iv) the Indemnified Party shall not prejudice, pay or accept any proceedings or claim, or compromise any proceedings or claim, without the written consent of the Indemnifying Party; (v) all settlements of claims subject to indemnification under this Clause will: a) be entered into only with the consent of the Indemnified Party, which consent will not be unreasonably withheld and include an unconditional release to the Indemnified Party from the claimant or plaintiff for all liability in respect of such claim; and b) include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement; (vi) the Indemnified Party shall account to the Indemnifying Party for all awards, settlements,</p>	

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					<p>damages and costs (if any) finally awarded in favour of the Indemnified Party which are to be paid to it in connection with any such claim or proceedings; (vii) the Indemnified Party shall take steps that the Indemnifying Party may reasonably require to mitigate or reduce its loss as a result of such a claim or proceedings; (viii) in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this clause, the Indemnifying Party will, upon payment of such indemnity in full, be subrogated to all rights and defenses of the Indemnified Party with respect to the claims to which such indemnification relates; and (ix) if a Party makes a claim under the indemnity set out under Clause above in respect of any particular loss</p>	

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					or losses, then that Party shall not be entitled to make any further claim in respect of that loss or losses (including any claim for damages).	
18.	General			Limitation of Liability	Client is requested to limit consultant's liability to 1X of the total contract value without exceptions. This is as per GFR and the guidelines issued by The Ministry of Electronics and Information Technology (MeitY). It is also the normal industry practice. Client may consider including the following language: Purchaser/Client agrees that Consultants total liability for all claims connected with the services or this agreement (including but not limited to negligence), whether in contract, tort, statute, indemnities or otherwise, is limited to one time the professional fees paid / payable for the services.	Limitation of liability included in ARTICLE IX: Indemnification. The following has been added to the clause: "...Consultant's liability in aggregate under this Agreement and for all claims connected to it shall be limited the amount of fee paid to consultant for Services. Nothing in this Agreement limits Consultant's liability for direct losses or damages arising from consultant's fraud, gross negligence, deliberate breach of duty, breach/violation of applicable law or any other liability which cannot be limited by law." Since the consultant will not be using the systems of IRADe, the corruption of data in the IRADe systems is non-existent.

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					Purchaser/Client agrees that Consultant will not be liable for (i) loss or corruption of data from your systems, (ii) loss of profit, goodwill, business opportunity, anticipated savings or benefits or (iii) indirect or consequential loss	
19.	General			Deliverable Acceptance	If the project is to be completed on time, it would require binding both parties with timelines to fulfil their respective part of obligations. We request you that you incorporate a deliverable acceptance procedure, perhaps the one provided by The Ministry of Electronics and Information Technology (MeitY) in their guidelines, or the one suggested below, to ensure that acceptance of deliverables is not denied or delayed and comments, if any, are received by us well in time. You may consider	No Change in Tender Specification

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					including the below simple clause:	
20.	General			No third-party disclaimer	We will be providing services and deliverables to you under the contract. We accept no liability to anyone, other than you, in connection with our services, unless otherwise agreed by us in writing. You agree to reimburse us for any liability (including legal costs) that we incur in connection with any claim by anyone else in relation to the services. Please confirm our understanding is correct	Not applicable. Therefore, no change in the tender specification
21.	General			Bid submission timeline	Given the proposal requirements and approvals to be taken from the management based on above clarifications, we request you to extend the bid submission date by at least 14 days from the date of issue of amendment/corrigendum.	The last date of submission of proposals cannot be extended.