

**REQUEST FOR EMPANELMENT (RFE)  
OF ADVISORS FOR ACQUISITIONS ABROAD**



**PROPOSAL REF. NO. NBC/BD/**

**Issued by Business Development Department,  
NATIONAL ALUMINIUM COMPANY LIMITED  
(A Government of India Enterprise)  
NALCO Bhawan, P/1 Nayapalli, Bhubaneswar-751013 India  
[www.nalcoindia.com](http://www.nalcoindia.com)**

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## IMPORTANT TIMELINES

S. No	PARTICULARS	Important Timelines	
		DATE	TIME
1	ISSUE OF NOTICE INVITING TENDER FOR RFE	2 <sup>nd</sup> July 2010	14:00 Hrs
2	LAST DATE FOR SENDING QUERIES TO NALCO	15 <sup>th</sup> July 2010	14:00 Hrs
3	LAST DATE FOR SUBMISSION OF PROPOSALS	14 <sup>th</sup> August 2010	14:00 Hrs
4	OPENING OF PROPOSALS	14 <sup>th</sup> August 2010	16:00 Hrs

## SECTION I: INVITATION FOR PROPOSALS (IFP)

National Aluminium Company Ltd(NALCO) invites Proposals for empanelment of advisors for Acquisitions abroad for the scope detailed at Section IV “Scope of Work (SOW)” of this RFE Document. There will be three separate panels one each for Financial Advisors, Accounting & Tax Due Diligence Advisors and Legal Due Diligence Advisors. Advisors will be appointed by NALCO as and when required for a particular opportunity. Responsibility of co-ordination and rendering a comprehensive service/solution for a target acquisition will be with the Financial Advisor. The advisors will be empanelled initially for a period of two years.

The RFE includes the following documents:

- Section I: Invitation for Proposals (IFP)
- Section II: Instructions to Bidders (ITB)
- Section III: Terms & Conditions of Contract (T&C)
- Section IV : Scope of Work (SOW)
- Section V: Formats A to F

1. The "Request for Empanelment" document is available on the website <http://www.NALCOINDIA.COM> for free download.

2. Chief Manager Business Development NALCO Corporate Office, Bhubaneswar reserves the right to accept or reject any or all the proposals in whole or part without assigning any reasons.

3. Address for Communication:

Chief Manager (Business Development)  
Nalco Bhawan  
P/1, Nayapalli  
Bhubaneswar-751061  
INDIA.  
Telephone: +91674-2300789  
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## SECTION II: INSTRUCTIONS TO BIDDERS (ITB)

### 1. Definitions

Unless the context otherwise requires, the following terms whenever used in this RFE and Contract have the following meanings:

- a) “Applicable Law” shall mean the Indian Law both substantive and procedural.
- b) “Seller” means the company/owners divesting the Target.
- c) “Target” means the company being divested by the Seller.
- d) “Process” shall mean the Seller’s disinvestment of the Target and NALCO’s participation in the same. The “Process” shall include all activities as detailed out in ‘Scope of work’ in Section IV.
- e) “Party” means NALCO or the advisors, as the case may be, and “Parties” means both of them.
- f) “Personnel” means persons employed by the advisors as employees and assigned to the performance of the Services or any part thereof.
- g) “Services” means the work to be performed by the advisors pursuant to empanelment and appointment, as described in the detailed Scope of work (Section IV).
- h) “Interested third party (ies)” means other firms and all others interested in the Process.

### 2. Introduction

National Aluminium Company (NALCO) was incorporated in 1981 as a Public Sector Company under Ministry of Mines, Govt. of India. NALCO is Asia’s largest integrated Aluminium complex having Bauxite Mines, Alumina Refinery, Aluminium Smelter and Captive Power Plant situated in the state of Orissa along with Port Facilities at Vishakhapatnam, all in India.

The initial capacity of Bauxite Mines was 2.4 million MT/year, Alumina Refinery of 0.8 million MT/year, Aluminium Smelter of 0.23 million MT/year and Captive Power Plant of 720 MW. The commencement of aluminium sale took off in May, 1987 and Export of Alumina started in January, 1988.

NALCO took up 1<sup>st</sup> Phase of Expansion Project of Rs3600 crore in 1996 funded mainly through internal resources. In the 1<sup>st</sup> Phase of Expansion, Bauxite Mines capacity was enhanced to 4.8 million MT, Alumina Refinery to 1.575 million MT, Aluminium Smelter to 0.345 million MT and Captive Power Plant to 960 MW.

Further, NALCO has taken up 2nd Phase of Expansion in year 2004 at estimated cost of Rs 4402 crores .This expansion enhanced the capacity of mining up to 6.3 million

MT/year, Alumina Refinery to 2.1 million ton/year, Smelter to 0.46 million MT/year and Captive Power Plant to 1200 MW. The project is in the final stages of completion.

Alumina produced by NALCO is partly used for Aluminium production and partly exported to various countries because of its world class quality and competitive price. Similarly, Aluminium produced by NALCO has different end products like wire rod, ingots, sow ingots, Rolled products etc. which are sold both in domestic as well as international markets. Price and quality wise NALCO products are internationally acclaimed and competitive.

NALCO is engaged in its own R&D activities as well and has the pride to have few patents also. In recognition of the interest of the society, NALCO assigns high importance to protection, maintenance and promotion of environment. NALCO has the rare privilege of getting award from Govt of India for export for consecutive 20 years.

NALCO's vision is to become a global leader in metal and energy sector. The company is striving to give shape to its aspirations and fulfill the expectations of the country to become a global player. In line with above, NALCO is actively pursuing Acquisitions route for inorganic growth of the company. In this context, NALCO intends to select consulting firm/organizations/advisors through issue of Request for Empanelment. The Bidder shall be invited to submit a Proposal. The Proposal will be the basis for empanelment of Advisors. The advisors will be empanelled initially for a period of two years.

### **3. Conflict of Interest**

NALCO requires that the Advisors should provide professional, objective, and impartial advice and at all times hold the NALCO'S interests paramount, strictly avoid conflicts with other assignments/jobs or their own corporate interests and act without any consideration for future work.

### **4. Right to accept Proposal**

NALCO reserves the right to accept or reject any Proposal, and to annul the Empanelment process and reject all Proposals at any time prior to empanelment of advisers, without thereby incurring any liability to the affected Bidder(s) or NALCO or any obligation to inform the affected Bidder(s) of the grounds for such decision.

### **5. Amendments In RFE**

At any time prior to deadline for submission of proposal, NALCO may for any reason, modify the RFE. The modifications will be notified on NALCO's website and such amendments shall be binding on bidder(s).

## 6. Pre-Proposal Queries

The prospective bidder, requiring any clarification on RFE may notify the same in the form of query to NALCO latest by 5:00 PM of 21<sup>st</sup> July 2010. Queries can be sent to [ssmishra@nalcoindia.co.in](mailto:ssmishra@nalcoindia.co.in). NALCO would respond to the queries at the earliest.

## 7. Fraud and Corruption

NALCO requires that the Advisors empanelled through this RFE must observe the highest standards of ethics during the performance and execution of such contract. In pursuance of this policy, NALCO:

a. Defines, for the purpose of this provision, the terms set forth as follows:

(i) "Corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of NALCO or any personnel of Consultant(s) in contract executions.

(ii) "Fraudulent practice" means a mis-presentation of facts, in order to influence a procurement process or the execution of a contract, to NALCO, and includes collusive practice among Bidders (prior to or after Proposal submission) designed to establish Proposal prices at artificially high or noncompetitive levels and to deprive NALCO of the benefits of free and open competition;

(iii) "Unfair trade practices" means supply of services different from what is ordered on, or change in the Scope of Work which was given by the NALCO in Section IV.

(iv) "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the execution of contract.

b. will reject a proposal for empanelment, if it determines that the Bidder recommended for empanelment, has been determined by NALCO to having been engaged in corrupt, fraudulent, unfair trade practices or coercive practices.

c. will declare an advisor ineligible, either indefinitely or for a stated period of time, for awarding the contract, if it at any time determines that the Advisor has engaged in corrupt, fraudulent and unfair trade practice in competing for, or in executing, the contract.

## 8. Clarifications of RFE Document

During pre qualification and evaluation of the Proposals, NALCO may, at its discretion, ask Bidders for clarifications on their proposal. The Bidders are required to respond within the time frame prescribed by NALCO.

## 9. Process for Empanelment & Awarding Subsequent project specific work

NALCO intends to empanel Advisors for Acquisitions abroad. The scope of engagement is explained in Section IV (SOW).

This enquiry is in the nature of Request for Empanelment (RFE) intended to result in the selection of three panels of Advisors (one each for Financial Advisors, Accounting & Tax Due Diligence Advisors and Legal Due Diligence Advisors.) The responses received pursuant to this RFE will be evaluated as per the criteria specified in this document. The selected empanelled Advisors (based on expertise as furnished in the data along with RFE) will be invited to bid through a limited tender at sole discretion of NALCO as and when projects arise, through a request for proposal (RFP) on a project-to-project basis. The

Advisors will be accepted after an evaluation of their proposals received pursuant to the RFP issued on a project specific basis.

The Detailed Scope of work for specific projects will be stated in RFP specific to the project. RFP may contain a specific Qualification Criteria depending upon the size of the deal (eg. annual turnover etc). Technical bids may also be called along with the financial bids after the empanelment.

## **10. Qualification Criteria:**

Bidders to satisfy following qualification criteria as per the service they intend to provide, to apply for empanelment.

### **1. Financial Advisor**

- a) The company should have minimum experience of advising corporate in India as Financial Advisor on acquisition abroad.
- b) The Indian arm of the company should have successfully completed at least three cross border acquisition deals ( one deal in last year) as financial advisor
- c) The Company should have an independent presence in India, Asia, Europe, Africa and South America.

Depending upon the target, a minimum annual turnover may be specified in RFP for a project.

### **2. Acct & Tax Due Diligence Advisor**

- a) The company should have minimum experience of advising corporate in India as Acctg. & Taxation Due Diligence Advisor on acquisition abroad
- b) The Indian arm of the company should have successfully completed at least three cross border acquisition deals ( one deal in last year) as Acctg. & Tax Due Diligence Advisor
- c) The Company should have an independent presence in India, Asia, Europe, Africa and South America.

### **3. Legal Due Diligence Advisor**

- a) The firm should have minimum experience of advising corporate in India as Legal Advisor on acquisition abroad
- b) The Indian arm of the company should have successfully completed at least three cross border acquisition deals ( one deal in last year) as legal advisor and
- c) The firm should have a presence in India either independently or through associates
- d) The legal advisor may have to perform the due diligence themselves for which adequate familiarity of local laws will be required in the target country or through a suitable tie up with legal firm in the target country.

**Documentary evidence is to be submitted by all above bidders to substantiate the experience as specified above.**

All the advisors will be empanelled initially for a period of two years.

## 11. Request for Empanelment

The Bidder is expected to examine all the instructions, guidelines, terms and condition and formats in the RFE. Proposals with incomplete formats will be treated as non responsive and are liable for rejection. The entire document of RFE is available for a free download at: <http://www.NALCOINDIA.COM>

## 12. Preparation of Proposal

The Bidders shall comply with the following during preparation of the Proposal:

- a. The Proposal and all associated correspondence shall be written in English and shall conform to prescribed formats. Any interlineations, erasures or over writings shall be valid only if they are initialed by the authorized person signing the Proposal.
- b. The Proposal shall be typed or written in indelible ink (if required) and shall be signed by the Bidder or duly authorized person(s) to bind the Bidder to empanelment when required.
- c. In addition to the identification, the covering letter shall indicate the name and address of the Bidder to enable the proposal to be returned in the case it is declared late pursuant, and for matching purposes.
- d. Proposals received by facsimile shall be treated as defective, invalid and rejected. Only detailed complete proposals received in hard copy shall be taken as valid. However in extreme cases, facsimile and email may be accepted after due approval from the competent authority.
- e. Bidders are not permitted to modify, substitute, or withdraw Proposals after its submission.

## 13. Submission of Proposal

The complete proposal is to be submitted latest by 11:00 AM on 14<sup>th</sup> August 2010 in two (2) signed sets with company seal (one original & one copy). The proposal would be received in a sealed cover super-scribing thereon “Empanelment of Advisors for Acquisition Abroad - Panel Name” , “Panel Name” can be substituted by a. Financial Advisory b. Accounting and Taxation Due Diligence Advisory c. Legal Due Diligence Advisory depending upon the services intending to offer. Advisors intending to apply for multiple panels have to submit separate applications in separate envelopes. The submitted proposals will be opened on 14<sup>th</sup> August 2010 at 2.00 PM in Corporate Office, NALCO, Bhubaneswar in presence of parties who choose to be present during the RFE Opening. No details will be read out during the opening. However, during the course of evaluation of Proposal, as well as during the period of empanelment, NALCO has the right to carry out a due diligence in a manner relevant to understand the facts.

## **14. Evaluation Criteria and Evaluation of Proposals**

NALCO will evaluate the proposals submitted by Bidders for a detailed scrutiny. During evaluation of Proposals, NALCO, may, at its discretion, ask the Bidders for clarification of their Proposals.

## **15. Qualified Bidders**

The final list of advisors chosen for empanelment will be made after due verification of submittals to the satisfaction of NALCO. The decisions in this regard by NALCO will be final. On acceptance of Proposal for empanelment, NALCO will notify the successful Bidders in writing that their proposals have been accepted. Any bidder not accepting empanelment after having submitted proposal against RFE may not be considered for any advisory subsequently.

## **16. Confidentiality**

Information relating to the examination, clarification and comparison of the Proposals shall not be disclosed to any Bidders or any other persons not concerned with such process. (Until the empanelment process is over) The undue use by any Bidder of confidential information related to the process may result in rejection of its Proposal. During the execution of a specific project except with the prior written consent of NALCO, the Advisor and its personnel shall not at any time communicate to any person or entity any information acquired or made available in the course of the said project. Notwithstanding anything contained in this contract, the provisions of this clause shall survive for a period of five (5) years from the date of termination of this contract.

## **SECTION III:**

### **TERMS & CONDITIONS OF CONTRACT (T&C)**

#### **1. Application for interpretation**

Application for interpretation of any clause in the RFE, the interpretation of NALCO shall be final and binding on the Advisors.

#### **2. Relationship between the Parties**

Nothing mentioned herein shall be construed as relationship of master and servant or of principal and agent as between the 'NALCO' and 'the Advisor' for any purpose nor shall the advisor have the right or authority to assume, create or incur any liability or any objection of any kind or nature, expressed or implied against or in the name of or on behalf of NALCO. This contract shall not constitute the advisor as the legal representative of NALCO for any purpose whatsoever. The Advisor subject to this empanelment has complete charge of its personnel in performing the services under the Project executed with NALCO from time to time. The Advisors shall be fully responsible for the services performed by them or on their behalf hereunder.

#### **3. Standards of Performance**

The Advisor shall perform the services and carry out their obligations under the Contract with due diligence, efficiency and economy in accordance with generally accepted professional standards and practices. The Advisor shall always act in respect of any matter relating to this contract as faithful advisor to NALCO. The Advisor shall always support and safeguard the legitimate interests of NALCO, in any dealings with the third party.

#### **4. Applicable Law**

The Contract shall be interpreted and governed in accordance with the laws of India.

#### **5. Intellectual Property Rights**

No services covered under the Contract shall be sold or disposed by the Consultant in violation of any right whatsoever of third party, and in particular, but without prejudice to the generality of the foregoing, of any patent right, trademark or similar right, or any charge mortgage or lien. The Advisor shall indemnify the NALCO from all actions, costs, claims, demands, expenses (including attorneys fees and disbursements) and liabilities, whatsoever, resulting from any actual or alleged infringement as aforesaid and at the expenses of the Advisor, NALCO shall be defended in the defense of any proceedings which may be brought in that connection.

## **6. Governing Language:**

The Contract shall be written in English Language. English version of the Contract shall govern its interpretation. All correspondences and other documents pertaining to the empanelment, which are exchanged between the parties, shall be written in the English Language.

## **7. Termination of association with NALCO**

The empanelled Advisor(s)'s association with NALCO will terminate in following two ways:

- i. Automatically, on expiry of the term of empanelment
- ii. Termination of empanelment by NALCO at its sole discretion, due to nonperformance during the execution of specific projects/cases as mentioned below but not limited to:
  - a. Performance is below expected level or
  - b. Non adherence to the timelines of the Project or
  - c. Quality of work is not satisfactory

The decisions of NALCO in above regard shall be final and binding. Upon the termination or expiration of empanelled advisor(s)'s association with NALCO for any reason whatsoever, the Advisor shall forthwith hand over to NALCO the possession of all documents, data, statements and any other property belonging to NALCO that may be in possession of the advisor or any of its employees or individuals assigned to perform the services under this contract. The advisor would be subject to Confidentiality Terms as per clause 16 of Section II of this RFE document.

## **8. Resolution of Disputes:**

In the event of any dispute and differences between the parties, in relation to construction, meaning, scope, operation or effect of this contract or the validity or breach thereof shall be settled through arbitration by a sole arbitrator to be nominated by Chairman & Managing Director (CMD) of NALCO.

The Arbitration & Conciliation Act, 1996 shall apply to such arbitration proceedings. The award of the arbitrator shall be final and binding on both the parties. The venue of arbitration shall be at New Delhi.

## **9. Legal Jurisdiction:**

All legal disputes between the parties shall be subject to the exclusive jurisdiction of the Courts situated in Bhubaneswar, India.

## **10. Obligations of the advisors**

### **10.1 General**

The advisor shall perform the services and carry out their obligations with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advance technology and safe methods. The advisor shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisors to NALCO and shall at all times support and safeguard NALCO's legitimate interests in any

dealings with third parties. The advisor would be the sole coordinating agency with other advisors whom the advisor or NALCO may appoint. Further, Advisor has to advise comprehensively on valuation, bidding strategy etc and is expected to complete the due diligence exercise within the stipulated time.

## **10.2 Conflict of interest**

### **10.2.1. Advisor not to benefit from commissions, etc**

The remuneration of the advisor shall constitute the advisor's sole remuneration in connection with this Contract or the Services, advisor shall not accept for their own benefit any trade commissions, discount, or similar payment in connection with activities pursuant to this contract or to the Services or in the discharge of their obligations under the Contract, except as permitted by NALCO.

### **10.2.2 Advisor and Subsidiaries not to be otherwise interested.**

The successful bidder is required to give an undertaking to NALCO to the effect that they shall under no circumstances whatsoever, represent any other party(ies) in the current process. Advisor and their subsidiaries shall not render the same or related services to other interested third party(ies) or the Seller or the Target & their Representatives.

### **10.2.3 Confidentiality**

The advisor shall execute a 'Deed of confidentiality Undertaking', as per the format & contents specified by the Seller/Target, if any.

### **10.2.4 Indemnity**

The advisor shall indemnify and hold harmless NALCO and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, damages, costs and expenses, of whatever nature, including attorney's fees and expenses, which NALCO may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights or any breach of terms & conditions of contract, etc arising out of the actions of the advisor, its employees and officers at any time during the term of this Contract.

### **10.2.5 Deployment of personnel**

The advisor shall employ suitable qualified personnel. The professional qualifications of key personnel proposed to be deployed on various assignments are to be furnished to NALCO, and no changes shall be made, except with prior approval of NALCO.

### **10.2.6 Removal and/or replacement of personnel**

(a) If NALCO finds that any of the Personnel have

(i) Committed serious misconduct or have been charged with having committed a criminal action; or

(ii) Been removed as an advisor or consultant or counsel involving any issue arising out of either moral probity or incompetence; or

(iii) Any criminal investigation or enquiry in any form is pending against him; Or if NALCO has reasonable cause to be dissatisfied with the performance of any of the Personnel then the advisor shall, at NALCO's written request specifying the grounds thereof, promptly within a period of two working days provide as a replacement a person with qualifications and experience acceptable to NALCO.

(b) The advisor shall have no claim in any manner whatsoever for additional Costs arising out of or incidental to any removal and/or replacement of Personnel.

## **11. Assignment**

The advisor/consultant shall not make any assignment of its rights or obligations to a third party without prior written approval of NALCO.

## **12. Notice**

Any urgent notice, request, or any document to be given under this contract shall be delivered to the address first above written. Such notice, request or other document may be given either by hand or through registered mail.

## **SECTION IV: SCOPE OF WORK (SOW)**

**1.0** The empanelled Advisors will be invited, as and when projects arise, to submit their proposals based on Request for proposal (RFP) issued selectively at sole discretion of NALCO to empanelled advisors on a project-to-project basis. RFP may contain a specific Qualification Criteria depending upon the size of the deal (eg. annual turnover etc). Technical bids may be called along with the financial bids after the empanelment. Response time for Request for Proposal (RFP) will be on a case to case basis for specific project depending on the exigencies of work. Minimum response time may be as less as one day. Empanelled advisors, not responding to the RFP despite repeated requests may invite de empanelment with immediate effect.

The broad project specific scope of the Advisor is to assist NALCO in acquiring the Target proposed to be disinvested by the Seller. The activities of the Advisor shall encompass, but not be restricted to, the activities listed in 2.0 below. The intent of the scope of work is indicative only and the advisor is expected to provide complete services as generally prevalent in the industry.

**2.0** There will be three separate panels one each for Financial Advisors, Accounting & Tax Due Diligence Advisors and Legal Due Diligence Advisors.

Advisors will be appointed by NALCO as and when required for a particular opportunity. Responsibility of overall co-ordination and rendering a comprehensive service/solution for a target acquisition will be with the Financial Advisor.

The detailed Scope of Work for the three advisors is provided below:

### **1. Financial Advisory**

- Undertake preliminary due diligence of the Target & its subsidiaries on behalf of NALCO, through access to information, site visits, discussions etc. with the Seller, the Target and their representatives / advisors, etc.
- Provide translation services for all data / information provided in the local language.
- Analyze the various risks associated with the deal, including but not limited to economic risk, political risk, country risk, acquisition risks, HR risks and suggest risk mitigation mechanisms.
- Develop a detailed financial model to determine the transaction value & preliminary indicative non-binding bid. The model shall generate various projected cash flows for the projects (standalone & integrated) including financial & operative sensitivities to various parameters such as revenues, operating costs, cost of capital, and estimated liabilities, etc. This model should be able to generate such cash flow scenarios to determine returns to NALCO. This model may form the basis for the valuation except in case of a pure asset purchase deal.

- Range of valuations arrived at, with a brief write-up on the models on which the valuations are based and any assumptions made. The cautions / lacunae / limitations attached with each model would form an essential part.
- Based on the analysis, a fair market value of the target would be determined keeping in mind the various risk factors and terms and conditions of acquisition. The Advisor shall suggest the fair transaction value including financial / sensitivity analysis along with comparable companies' analysis, premium paid in precedent transactions if any, etc.
- Explore and suggest all options available for the financial structuring and financing of the deal inter-alia security requirements, regulatory guidelines, etc.
- Analyze merger consequences of the deal including accretion / dilution and pro-forma analysis and impact on NALCO's credit ratings.
- The percentage of shareholding to be acquired would be decided based on the conclusions from the analysis and recommendations of the Deal Advisor and internal guidelines of NALCO.

### **Negotiations**

The Financial Advisor shall act as an inter-face between other advisors for discussions between NALCO and the target company's management and advisors (if any) and shall provide necessary assistance during negotiations including but not limited to:

- Advising NALCO in respect of bid strategies and tactics.
- The Advisor shall prepare all offers, complete in all respects, to be submitted by NALCO, including price, commercial terms, protective clauses like representations / warranties, caveats etc.
- Discussions / negotiations with the seller post bid submission.
- Revision of key bid assumptions and parameters, if required, and preparation of revised bid.

### **Deal Structure and Closure**

- The Financial Advisor shall structure the acquisition transaction.
- The Financial Advisor shall advise NALCO in any proceedings relating to regulatory and shareholder approvals and in managing the tender offer process (if any).
- The Financial Advisor shall assist in closing the transaction upon successful negotiations including transfer of shareholding in NALCO's favour.
- The Financial Advisor shall assist in negotiation and finalization of the definitive agreements.
- The Financial Advisor may, from time to time, be asked to make presentations to the Indian Government Authorities/NALCO Board. The Advisor shall also assist NALCO in preparation of documentation for obtaining various approvals from Government and other agencies including Reserve Bank of India.
- The Financial Advisor shall prepare and submit various reports and make presentations to the NALCO Management as required by NALCO.

### **2. Accounting & Tax Advisory**

- Establishing the appropriateness and reasonableness of accounting policies.
- Establishing the authenticity of disclosed/audited financial figures.

- Identification of off-balance-sheet items eg. exposure in derivatives, guarantees etc.
- Determination of compliance with the necessary statutes and other contracts together with an assessment of the possible liabilities in the event of noncompliance.
- Review of Direct/Indirect Tax assessment orders and related documents.
- Review/assessment of internal organization including internal control system and quality of MIS.
- Analysis of working capital requirement in order to identify the structural level of working capital.
- Examination & review of financial position of the Target for last 3 years.
- Review of the forecast information (assumptions) based on result analysis of last 3 years.
- Review of audit file of internal auditors, statutory financial/cost auditors report and any other audit conducted for 3 to 4 years.
- Review of Capital expenditure incurred during last three years identifying maintenance, growth and compliance capabilities
- Review of consolidated cash flows, long term liabilities including banks and leasing agreements.
- Review of sources and utilization of funds during the year.
- Ratio analysis for three years to know the financial health of the target.
- Review of company's policy on code of corporate governance and auditor's certificate on the subject.
- Assessment of the quality of earnings (EBIT/EBITDA) for the last three years and upto the latest available quarter for the current financial year.
- Analysis of sales, margins, utilization and operating and overhead costs.
- Review of personnel related issues such as management contracts, pensions and wage/bonus arrangements.
- Comparison of budget versus actual performance on a consolidated level for the last three years and up to the latest available quarter for the current financial year focusing on restructuring and cost saving measures.
- Identifying & estimating contingent liabilities.
- Review of MIS in place and brief comment on the forecasting systems and cash flow monitoring systems.
- Analysis of capital expenditure budgeting system.
- Review of high level risks related to corporate direct and indirect taxation.

### **3. Legal Advisory**

- Examination & review of Memorandum & Articles of Association, as well as track record of the Target.
- Enquire about the back ground of the promoters/owners of the target.
- Legal documentation underlying the corporate structure of the Target.
- Statutory and regulatory clearances from the relevant authorities for the existing business.
- Examination & review of all statutory registers maintained by the company.

- Legal aspects of all material contracts entered/ proposed to be entered & documents pertaining to the Target including minutes of meeting of shareholders, directors, committees of directors, annual reports, loan agreements, guarantee(s), any material contract entered into with the directors, employees, suppliers, contractors, consultants, bankers, financiers, creditors, etc.
- Review all litigation pertaining to cases before judicial as well as quasijudicial
- proceedings including arbitration, conciliation proceedings, etc by and against the company and report on the legal and financial implications thereof.
- Details of share capital: equity, preference shares, options/rights/conversion and any special clauses on these instruments.
- Title investigation of land and other fixed assets, charges created against them, non-encumbrance certificates, statutory approvals / permissions, etc.
- Contracts / agreements, licenses, patents and other intellectual rights, payment of royalties, etc, entered into/proposed to be entered into by the Company.
- Outcome of contingent liabilities and their monetary implication.
- The effect of the extant business contracts i.e. benefits and liabilities arising from such contract, post disinvestment, on NALCO & the Target.
- HR policies of the company, agreements with trade unions and others bodies of officers and employees, representations of trade unions, etc.
- Assessment of the extent of management control proposed to be transferred to the bidder.
- Analysis of legal risks and liabilities which NALCO may assume pursuant to NALCO emerging as the acquirer and suggest risk mitigation strategies for minimizing the impact of such risks.
- Analysis / review of Joint venture, MOUs, technology licensing agreements (both past and current), and other agreements entered into by the Company.
- Review of current contracts under process as well as committed.
- Compliance with statutory & environmental requirements and estimating the liability in case of non-compliance thereof.
- Assistance in preparation of necessary documents as required by the Seller like Bank Guarantee, Power of Attorney for the financial bid, board resolutions and any other activity associated with the bidding process, including compilation and submission of the bid.

## **Public Announcements**

Any of the advisors or his representative or any of his employees shall not directly or indirectly issue or make any public announcement or statement regarding the engagement and/or transaction without NALCO's explicit written consent.

## SECTION V: FORMATS (A to F)

### **FORMAT: A (PROPOSAL FORM: COVERING LETTER ON BIDDERS LETTER HEAD)**

The bidders are required to submit the covering letter in Format A. This Form should be in the letter head of the bidders, who are submitting the proposal.

Date: \_\_\_\_\_ Proposal Ref. No. NBC/BD/

To,

Cheif Manager (Business Development)  
Nalco Bhawan  
P/1, Nayapalli  
Bhubaneswar-751 061  
INDIA.

Dear Sir,

**Sub: Proposal for Empanelment of Advisors for Acquisitions abroad**

With reference to RFE document of NALCO and having examined it, we, the undersigned, offer to propose our services as **<Financial/Accounting & Tax Due Diligence/Legal Due Diligence> (Select one)** Advisor for the Empanelment of Advisors with NALCO, in full conformity with the said RFE.

We have read the provisions of RFE and confirm that these are acceptable to us.

We further declare that additional conditions, variations, deviations, if any, found in our proposal shall not be given effect to.

We agree to abide by this Proposal, consisting of this letter and the Formats A to F.

We hereby declare that all the information and statements made in this proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

We understand you are not bound to accept any proposal you receive.

Signature.....  
In the capacity of.....  
Duly authorized to sign Proposal for  
And on behalf of.....  
Date.....  
Place.....

**FORMAT: B**

**Bidders to indicate option chosen for  
providing advisory services**

<b>Financial Advisory</b>	<b>Acctg. &amp; Taxation Due Diligence</b>	<b>Legal Due Diligence</b>

Put a tick mark (√)

(Separate applications required if applying for multiple panels)

Signature.....

In the capacity of.....

Duly authorised to sign Proposal for

And on behalf of.....

Date.....

Place.....

**FORMAT: C**

**List of successful cross border M&A transactions by Indian arm  
of the bidder in last 3 Financial Years**

S. No.	Name of Co.	Deal Size (in USD Mn)	Time taken for completing the transaction	Role of the bidder (FA/ ACCTG. & TAX DD /LEGAL DD)	Date of Completion of successful transaction

Signature.....

In the capacity of.....

Duly authorised to sign Proposal for

And on behalf of.....

Date.....

Place.....

**FORMAT: D**

**Presence in India**

**Present in India since:**

**Details of Offices in India :-**

- a. Complete Address
- b. Phone No.
- c. Fax No.
- d. Email
- e. Contact Person

**Experience of advising corporates in India on M&A in the preceding 3 Financial years:-**

S. No.	Name of Co.	Deal Size (in USD Mn)	Role of the bidder (FA/ ACCTG. & TAX DD/ LEGAL DD)	Date of Completion of transaction

Signature.....

In the capacity of.....

Duly authorised to sign Proposal for

And on behalf of.....

Date.....

Place.....

**FORMAT: E**

**Revenue Details (Audited)**

<b>Year</b>	<b>Revenue earned in Rs Cr from Indian Arm</b>
<b>2007</b>	
<b>2008</b>	
<b>2009</b>	
<b>2010</b>	

(Audited accounts to be submitted for preceding three financial years)

Signature.....

In the capacity of.....

Duly authorised to sign Proposal for

And on behalf of.....

Date.....

Place.....

**FORMAT: F**

**Global Presence**

	List the Countries	No. of Offices
<b>AFRICA</b>	1. X Country 2. Y Country 3.	1. In X 2. In Y 3.
<b>SOUTH AMERICA</b>	1. X Country 2. Y Country 3.	1. In X 2. In Y 3.
<b>ASIA</b>	1. X Country 2. Y Country 3.	1. In X 2. In Y 3.
<b>EUROPE</b>	1. X Country 2. Y Country 3.	1. In X 2. In Y 3.

Signature.....

In the capacity of.....

Duly authorised to sign Proposal for

And on behalf of.....

Date.....

Place.....