

**भारतीय दिवाला और शोधन अक्षमता बोर्ड**  
**Insolvency and Bankruptcy Board of India**  
7<sup>th</sup> Floor, Mayur Bhawan, Shankar Market, Connaught Circus, New Delhi -110001

**Clarifications regarding Invitation of Application for Empanelment of Platform for Distressed Assets (PDA) invited vide notice dated 31<sup>st</sup> August 2020.**

The Insolvency and Bankruptcy Board of India (IBBI) vide its notice dated **31<sup>st</sup> August 2020** invited Applications for Empanelment of Platform for Distressed Assets (PDA). In this regard, a pre-application meeting was held online on 15<sup>th</sup> September, 2020. Certain queries were raised during the meeting as also were forwarded through email. In accordance with clause 8B and 8C (Page 14 and 15) of the said notice, clarification in respect of the following queries are given below:

**1. Whether service providers are allowed to use the services of a MeitY approved cloud service provider also e.g. AWS.**

The clauses 6.1 and 6.5 (page 9 and page 11) may be read in the document as "The PDA shall host the service from a cloud service empanelled by Ministry of Electronics and Information Technology under the GI cloud for use of Govt. departments or MeitY empanelled Cloud service provider or shall host them at its own data centre audited by STQC." The condition that no data/information shall be stored outside India shall be retained.

**2. Considering the present COVID situation it would be very difficult to provide a Bank Guarantee during these Covid restrictions. Whether compliance of the clause by submission of EMD by NEFT, RTGS or Bank DD be accepted?**

Yes. If the applicant wants to fulfil the condition by way of funds transfer, the same shall be acceptable, however no interest on the EMD amount shall be payable. Also, applicants need to provide undertakings w.r.t. clauses mentioned in the Bank Guarantee format.

**3. If an participant has two out of three accreditation mentioned in the pre-qualification criterion, Whether IBBI considered application if the accreditation is applied now.**

No. The same shall not be accepted.

**4. If a participant has two out of three accreditations mentioned in the pre-qualification criterion, and the third accreditation has been applied since some time. Shall they be considered if the accreditation is obtained post application but before the launch of the PDA services?**

Yes. The participants which are having two out of three accreditations mentioned in the pre-qualification criteria can apply for the empanelment given that the application for the third accreditation needs to be prior to Aug 31, 2020. But if the applicant fails to provide third accreditation within 180 days of issuance of letter of empanelment then the same shall be construed as non-performance on the part of the applicant and their performance guarantee shall be invoked.

**5. How does the contract value is being computed i.e. is it the fees out of a particular**

**contract or full contract value irrespective of the fee income generated out of the contract?**

The contract value of Rs 1 crore is defined as the fees charged by the applicant i.e. income of the applicant from a single client or cumulative income from multiple clients. In case the contract value of Rs 1 crore is with a single client as a single contract then the copy of the contract needs to be provided and if the fee is accumulated from multiple clients then the applicant may provide a single CA certificate confirming the compliance of the clause regarding fee charged from the service.

**6. Whether the audit can be done from CERT-IN empanelled agencies.**

The empanelled PDA needs to maintain the compliance requirement as per the Invitation of Application Documents dated Aug 31, 2020.

**7. Can the services of Virtual Data Room be outsourced?**

No. As mentioned in the section 6.2 of the invitation of application document, PDA cannot outsource core activities.

**8. Whether will IBBI acts as arbitrator for Disputes between PDA and IPs/RPs.**

IBBI, in ordinary course, shall not intervene between disputes arising between PDAs and IP/RPs.

**9. PDA shall provide a market service where willing and interested parties place demand and supply proposals. Please clarify whether it is limited to inviting competitive bids thru IT enabled Platforms for Interim Finance? What happens in case of Interim Finance Providers asking for collaterals in lieu of finance?**

The marketplace provides an electronic platform where willing and interested parties place demand and supply proposals. There can be two options for the transaction:

- a. The Finance Provider presents his service with associated terms and the RP selects the service from the list of available options.
- b. The RP seeks proposals with requisite details and the Finance Providers respond to the proposal.

**10. IBBI is requested to Provide workflow document explaining on Invitation and Evaluation of Resolution Plans**

The process is Governed by the Insolvency and Bankruptcy Code, 2016 and Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 as amended from time-to-time. The applicant may find the [brochure on CIRP](#) available on website useful.

**11. Do applicants need to submit a Technical Solution document, in addition to the Annexures attached?**

Applicants can submit additional documents supporting their applications if they feel that the same may be helpful to the technical evaluation committee.

**12. If the timelines mentioned in the Invitation of application document for launch of PDA within 180 days is inclusive of STQC certification. Based on our experience, it takes minimum 3-6 months to complete STQC certification once customization is completed**

**which would take 2-3 months.**

As mentioned in the section 8(A) of the invitation of application document, launch of portal post security audit is envisaged within 180 days of the issuance of letter of empanelment. Applicant will have an option to get the certification from STQC/IBBI authorised agency, which will be identified in due course.

- 13. Is it required to build separate portal setup for each RP (Resolution Professional) or single portal can serve all RPs?**

The PDA may host a single portal complying with the conditions and data confidentiality requirements mentioned in the Invitation of Application document

- 14. In case the IPs can select any individual/organization to provide these services beyond the empaneled providers, it will put empaneled providers at a substantial disadvantage, as they will submit the application, deposit EMD/Security Deposit etc. and comply with all benchmarks of Insolvency and Bankruptcy Code, 2016, yet IP may select any individual/company which does not comply and would not have merited empanelment.**

As mentioned in the section 2 of the invitation of application document, Usage of this platform shall not be mandatory for any IP.

- 15. It is understood that various platforms, Govt, Public and or Private, may be empaneled in this process. Will the rates of each platform viz-a-viz its service offerings be displayed on IBBI website, post empanelment? Will an organization be allowed to quote different rates to different IPs for the same service?**

The link to the PDA's website shall be placed on IBBI's website and from there PDA's website may display the pricing of different services. IBBI does not prescribe the commercial terms.

- 16. Will the IPs be required to sign any agreement or MoU for taking the services from a PDA?**

PDAs can decide on the requirement of MoUs with IPs.

- 17. Will the IPs, subsequent to this empanelment, request for proposals/RFPs/Tenders/Bids from prospective PDA for taking their service?**

The Invitation of Application document does not prohibit IPs to search for better service/price.

- 18. Is there any circumstance or situation where the PDA may be required to hand over source code/applications/any other digital content relating to their platform beyond articles/videos for helpdesk?**

As mentioned in the section 6.10(iii) of the invitation of application document, the ownership of the data/information and any other type of document pertaining to the PDA is of IBBI and the respective IP and the ownership of the code remains with the PDA.

19. **As the empanelment specifically allows for the PDA to host the entire application and its data in PDAs Data centres, it is not clear that during exit, why would the PDA be required to install the application, since the application will be web based, the users will not require any significant installation , which may need installation/reinstallation.**

As mentioned in the section 6.10(ii) of the invitation of application document, All the steps including installation/reinstallation of the system software, if any, shall be done by PDA. This is to ensure the business continuity of the process and IPs availing the services of exiting PDA should not suffer.

20. **Will IBBI bear the cost of annual audit by STQC/IBBI authorized agency or the PDA is expected to bear it?**

As clarified in the section 8(D) of the invitation of application document, the cost needs to be borne by the PDA.

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