

Invitation for Bids

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Section I. Instructions to Bidders

A. General

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| 1. Scope of Bid | <p>1.1 In connection with the Invitation for Bids specified in the Qualification and Bid Data Sheet (QBDS), the Employer, as specified in the QBDS, issues these Bidding Documents ("Bidding Documents") to Bidders ("Bidders") interested in submitting bids ("Bids") for the Works described in Section VII, Works Requirements. In case the Works are to be bid as individual contracts (i.e. the slice and package procedure), these are listed in the QBDS. The International Competitive Bidding ("ICB") number corresponding to this bidding process is also provided in the QBDS.</p> <p>1.2 Throughout these Bidding Documents:</p> <ul style="list-style-type: none"> (a) The term "in writing" means communicated in written form and delivered against receipt; (b) Except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and (c) "Day" means calendar day. |
| 2. Source of Funds | <p>2.1 The Employer as indicated in the QBDS has applied or received financing (hereinafter called "funds") from KfW Development Bank (hereinafter called "KfW") towards the cost of the project named in the QBDS. The Employer intends to apply a portion of the funds to eligible payments under the contract(s) resulting from this bidding process.</p> |
| 3. Corrupt and Fraudulent Practices | <p>3.1 KfW requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Section VI.</p> <p>3.2 In further pursuance of this policy, Bidders shall permit and shall cause its agents to provide information and permit KfW or an agent appointed by KfW to inspect on site all accounts, records and other documents relating to bid submission and contract performance (in the case of award), and to have them audited by auditors or agents appointed by KfW.</p> |
| 4. Eligible Bidders | <p>4.1 A Bidder may be a firm that is a private entity, a government-owned entity — subject to ITB 4.3 — or a combination of such entities in the form of a joint venture ("JV") under an existing JV Agreement or with the intent to enter into such an agreement supported by a Letter of Intent to execute a JV Agreement, in accordance with ITB 11.2. In the case of a JV, all members shall be jointly and severally liable for the execution of the Contract</p> |

in accordance with the Contract terms. The Bidder shall nominate an authorized representative who shall have the authority to conduct all business for and on behalf of the Bidder and any and all its members, if the Bidder is a JV, during bidding and contract execution (in the event the Bidder is awarded the Contract). Unless specified in the **QBDS**, there is no limit on the number of members in a JV.

4.2 A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this procurement process, if the Bidder:

- (a) Directly or indirectly controls, is controlled by or is under common control with another Bidder; or
- (b) Receives or has received any direct or indirect subsidy from another Bidder; or
- (c) Has the same legal representative as another Bidder; or
- (d) Has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the bid of another Bidder, or influence the decisions of the Employer regarding this bidding process; or
- (e) Participates in more than one bid in this bidding process, both as an individual firm and as a JV member. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which such Bidder is involved. However, this does not limit the inclusion of the same subcontractor in more than one Bid; or
- (f) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the Bid; or
- (g) Any of its affiliates has been hired (or is proposed to be hired) by the Employer as Engineer for the Contract implementation; or
- (h) Has a close business or family relationship with a professional staff of the Employer (or of the project implementing agency, or of a recipient of a part of the funds) who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a

manner acceptable to the KfW throughout the procurement process and execution of the contract.

- 4.3 The KfW's eligibility criteria to bid are described in Section V, Eligibility Criteria.
- 4.4 A Bidder shall not be under suspension from bidding by the Employer as the result of the execution of a Bid-Securing Declaration.
- 4.5 This bidding is open only to eligible Bidders, who will be subject to qualification.
- 4.6 A Bidder shall provide such evidence of eligibility satisfactory to the Employer, as specified in ITB 17.1 or as the Employer shall reasonably request.
5. Eligible Materials, Equipment, and Services
- 5.1 The materials, equipment and services to be supplied under the Contract and financed by the KfW may have their origin in any country subject to the restrictions specified in Section V, Eligibility Criteria, and all expenditures under the Contract will not contravene such restrictions. At the Employer's request, Bidders may be required to provide evidence of the origin of materials, equipment and services.

B. Contents of Qualification and Bidding Documents

6. Sections of Qualification and Bidding Documents
- 6.1 The Qualification and Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITB 8.

PART 1 Qualification and Bidding Procedures

- (a) Section I. Instructions to Bidders (ITB);
- (b) Section II. Qualification and Bid Data Sheet (QBDS);
- (c) Section III. Qualification and Evaluation Criteria;
- (d) Section IV. Qualification and Bidding Forms;
- (e) Section V. Eligibility Criteria;
- (f) Section VI. KfW Policy - Corrupt and Fraudulent Practices - Social and Environmental Responsibility;

PART 2 Works Requirements

- (g) Section VII. Works Requirements;

PART 3 Conditions of Contract and Contract Forms

- (h) Section VIII. General Conditions (GC);
- (i) Section IX. Particular Conditions (PC);

(j) Section X. Contract Forms.

- 6.2 The Invitation for Bids issued by the Employer is not part of the Qualification and Bidding Documents.
- 6.3 Unless obtained directly from the Employer, the Employer is not responsible for the completeness of the Qualification and Bidding Documents, responses to requests for clarification, minutes of the pre-Bid meeting (if any), or Addenda in accordance with ITB 8. In case of any contradiction, documents obtained directly from the Employer shall prevail.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Qualification and Bidding Documents and to furnish with its Bid all information and documentation as is required by the Qualification and Bidding Documents.

7. Clarification of
Qualification and Bidding
Documents, Site Visit, Pre-
Bid Meeting

- 7.1 A Bidder requiring any clarification of the Qualification and Bidding Documents shall contact the Employer in writing at the Employer's address specified in the **QBDS** or raise its enquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to any request for clarification, provided that such request is received no later than fourteen (14) days prior to the deadline for submission of Qualification Documents and Bids. The Employer shall forward copies of its response to all Bidders who have acquired the Qualification and Bidding Documents in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. If so indicated in the **QBDS**, the Employer shall also promptly publish its response at the web page identified in the **QBDS**. Should the Employer deem it necessary to amend the Qualification and Bidding Documents as a result of a clarification, it shall do so following the procedure under ITB 8 and ITB 22.2.
- 7.2 The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Qualification Document and Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.
- 7.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to

property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.

- 7.4 If so specified in the **QBDS**, the Bidder's designated representative is invited to attend a pre-bid meeting. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.5 Minutes of the pre-bid meeting, if applicable, including the text of the questions asked by Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Qualification and Bidding Documents in accordance with ITB 6.3. Any modification to the Qualification and Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting. Unless otherwise specified in the **QBDS** nonattendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

8. Amendment of Qualification and Bidding Documents

- 8.1 At any time prior to the deadline for submission of Bids, the Employer may amend the Qualification and Bidding Documents by issuing an Addendum.
- 8.2 Any Addendum issued shall be part of the Qualification and Bidding Documents and shall be communicated in writing to all who have obtained the Qualification and Bidding Documents from the Employer in accordance with ITB 6.3. The Employer shall also promptly publish the Addendum on the Employer's web page in accordance with ITB 7.1.
- 8.3 To give Bidders reasonable time in which to take an Addendum into account in preparing their Qualification Documents and Bids, the Employer may, at its discretion, extend the deadline for the submission of Qualification Documents and Bids in accordance with ITB 22.2

C. Preparation of Qualification Documents and Bids

9. Cost of Bidding

- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Qualification Document and Bid, and the Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

10. Language of
Qualification Document and
Bid

10.1 The Qualification Document and the Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in the language **specified in the QBDS**. Supporting documents and printed literature that are part of the Qualification Document and the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language **specified in the QBDS**, in which case, for purposes of interpretation of the Qualification Document and the Bid, such translation shall govern.

11. Documents Comprising
the Qualification Document
and the Bid

11.1 The Qualification Document and the Bid shall comprise the following:

(a) QUALIFICATION DOCUMENT

- (i) Letter of Qualification, indicating the Bidder's name, address, telephone, fax and email. If the Bidder is an association, the Letter of Qualification shall also describe the form of association and list the association members;
- (ii) Written confirmation authorizing the signatory of the Qualification Document and the Bid to commit the Bidder, in accordance with ITB 20.2 and authorizing the representative of the Bidder, designated in accordance with ITB 4.1 to submit the Qualification Document and Bid on behalf of the Bidder. If the Bidder is a JV, the authorization shall be provided by the Lead Member nominated in the JV Agreement or in the Declarations of Association, submitted in accordance with ITB 4.1. If the representative of the Bidder is the owner, member or director of the Bidder or the Bidder's Lead Member, if so nominated in accordance with ITB 4.1, an authorization shall not be necessary.
- (iii) Presentation of the Bidder (maximum 10 pages, no brochures). If the Bidder is a single entity, the Presentation shall describe the Bidder's type of entity, ownership structure and organization chart, as well as its main business areas as they apply to the project. If the Bidder is a JV, the Presentation shall provide this information about each JV member as well as a description of the intended form of collaboration of the members within the JV. Where the Bidder's qualifications to carry out the assignment have been acquired as a result of a merger or acquisition, the presentation must include a detailed business history of the Bidder.
- (iv) Statements and Declarations: False information provided in the following Statements and Declarations by the Bidder or in the case of a JV by any of the JV members shall lead to the exclusion of the Bidder from the tender process:
 - i. If the Bidder is an existing JV, the Bidder shall submit a proof of the existing Association Agreement, indicating the Lead Member. If the Bidder is a JV, which the members intend to form for the purpose of executing the contract, each member of the association shall submit a Declaration of Association, indicating the Lead Member, in the format provided in Section IV, Qualification and Bidding Forms.

- ii. Declaration of Undertaking in the format provided in Section IV, Qualification and Bidding Forms.
- iii. Financial Capacity Statement in the format provided in Section IV, Qualification and Bidding Forms and supported by the Bidder's Balance Sheets and Profit and Loss Statements. If the Bidder is a JV, separate statements, including the supporting Balance Sheets and Profit and Loss Statements, shall be provided by each member of the JV. All Balance Sheets and Profit and Loss Statements shall be certified by a reputable auditor.
- iv. List of project references in the format provided in Section IV, Qualification and Bidding Forms. Unless otherwise stated in the **QBDS** the references shall be limited to a maximum of 10 projects carried out during the 5 years preceding the publication of these Bidding Documents. The Employer reserves the right to contact the clients indicated in the references to ascertain the information provided by the Bidder.
- v. List of Available Expertise and Human Resource Capacity in the format provided in Section IV, Qualification and Bidding Forms.
- vi. All Qualification forms and required attachments, provided in Section IV, Qualification Forms. If the Bidder is a single entity, in accordance with ITB 4.1, it should not include form ELI 1.2 in its Application.
- vii. Any other document required in the **QBDS**.

(b) BID

- (i) Letter of Bid and the Bidding Forms in accordance with ITB 12;
- (ii) Completed schedules as required, including Price Schedules, in accordance with ITB 12 and ITB 14 and as indicated in the **QBDS**;
- (iii) Bid Security, in accordance with ITB 19.1;
- (iv) Alternative Bids, if permissible in accordance with ITB 13;
- (v) Technical Proposal in accordance with ITB 16;
- (vi) Any other document required in the **QBDS**.

- 11.2 In addition to the requirements under ITB 11.1(a), Bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Bid shall be signed by all members and submitted with the Bid, together with a copy of the proposed Agreement.
- 11.3 The Bidder shall furnish information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid
12. Letter of Qualification, Declaration of Undertaking, Qualification Forms, Letter of Bid, Bidding Forms and Schedules
- 12.1 The Letter of Qualification, the Declaration of Undertaking and the Qualification Forms shall be prepared using the relevant forms furnished in Section IV, Qualification and Bidding Forms. The Letter of Qualification and the Declaration of Undertaking must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.4. All blank spaces shall be filled in with the information requested.
- 12.2 The Letter of Bid, the Bidding Forms and Schedules, including the Bill of Quantities for unit price contracts or the Schedule of Prices in case of lump sum contracts, shall be prepared using the relevant forms furnished in Section IV, Qualification and Bidding Forms. The Letter of Bid must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.4. All blank spaces shall be filled in with the information requested.
13. Alternative Bids
- 13.1 **Unless otherwise specified in the QBDS**, alternative Bids shall not be considered.
- 13.2 When alternative times for completion are explicitly invited, a statement to that effect **will be included in the QBDS**, and the method of evaluation shall be included in Section III, Qualification and Evaluation Criteria.
- 13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Qualification and Bidding Documents must first price the Employer's design as described in the Bidding Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the Employer's design of the Bidding Documents shall be considered by the Employer.
- 13.4 **When specified in the QBDS**, Bidders are permitted to submit alternative technical solutions for specified parts of the Works,

and such parts **will be identified in** Section VII, Works Requirements. The methods for their evaluation shall be described in Section III, Qualification and Evaluation Criteria.

14. Bid Prices and Discounts

- 14.1 The prices and discounts quoted by the Bidder in the Letter of Bid and in the Schedules shall conform to the requirements specified below.
- 14.2 The Bidder shall submit a Bid for the whole of the Works described in ITB 1.1, by filling in price(s) for all items of the Works, as identified in Section IV, Bidding Forms. The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Bidder shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by the Employer. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Bid, and provided that the Bid is determined substantially responsive notwithstanding this omission, the highest price of the item quoted by substantially responsive Bidders will be added to the Bid price and the equivalent total cost of the Bid so determined will be used for price comparison.
- 14.3 The price to be quoted in the Letter of Bid shall be the total price of the Bid, excluding any discounts offered.
- 14.4 The Bidder shall quote any discounts and the methodology for their application in the Letter of Bid.
- 14.5 **Unless otherwise specified in the QBDS** and the Contract, the rate(s) and price(s) quoted by the Bidder are not subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract. In such a case, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the Employer may require the Bidder to justify its proposed indices and weightings.
- 14.6 If so specified in ITB 1.1, Bids are being invited for individual lots (contracts) or for any combination of lots (packages). Bidders wishing to offer discounts for the award of more than one Contract shall specify in their Bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITB 14.4, provided the Bids for all lots (contracts) are opened at the same time.
- 14.7 Unless otherwise specified in the **QBDS**, the Bid price shall estimate, as separate amounts, (a) import duties and (b) taxes, fees, levies and other charges, which shall apply, in terms of the Applicable Law, to the Contractor and its sub-Contractors, including their personnel, other than nationals or permanent

residents in the Employer's country as of the date 28 days prior to the deadline for submission of Bids. Unless otherwise stated in the **QBDS**, the Contractor and its sub-Contractors are responsible for meeting all tax liabilities arising out of the Contract.

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| 15. Currencies of Bid and Payment | <p>15.1 The currency(ies) of the Bid and the currency(ies) of payments shall be as specified in the QBDS.</p> <p>15.2 Bidders may be required by the Employer to justify, to the Employer's satisfaction, their local and foreign currency requirements, and to substantiate that the amounts included in the prices shown in the Schedule of Adjustment Data in the Appendix to Bid are reasonable, in which case a detailed breakdown of the foreign currency requirements shall be provided by Bidders.</p> |
| 16. Documents Establishing the Qualifications of the Bidder | <p>16.1 In accordance with Section III, Qualification and Evaluation Criteria, qualification applies as specified in ITB 4.5 and the Bidder shall provide the information requested in the corresponding information sheets included in Section IV, Qualification and Bidding Forms.</p> |
| 17. Documents Comprising the Technical Proposal | <p>17.1 The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, Schedules and any other information as stipulated in Section IV, Qualification and Bidding Forms, in sufficient detail to demonstrate the adequacy of the Bidder's proposal to meet the Work requirements and the completion time.</p> |
| 18. Period of Validity of Bids | <p>18.1 Bids shall remain valid for the period specified in the QBDS after the Bid submission deadline date prescribed by the Employer in accordance with ITB 22.1. A Bid valid for a shorter period shall be rejected by the Employer as non-responsive.</p> <p>18.2 In exceptional circumstances, prior to the expiration of the Bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB 19, it shall also be extended for forty-two (42) days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.</p> |
| 19. Bid Security | <p>19.1 The Bidder shall furnish as part of its Bid a Bid Security as specified in the QBDS, in original form and in the amount and currency specified in the QBDS.</p> <p>19.2 Reserved.</p> |

- 19.3 The Bid Security shall be a demand guarantee in the form of an unconditional guarantee issued by a bank or financial institution (such as an insurance, bonding or surety company) from a reputable source from an eligible country as specified in Section V, Eligibility Criteria. If the unconditional guarantee is issued by a financial institution located outside the Employer's Country, the issuing financial institution shall have a correspondent financial institution located in the Employer's Country to make it enforceable. The Bid Security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the Employer prior to bid submission. The Bid Security shall be valid for forty-two (42) days beyond the original validity period of the Bid, or beyond any period of extension if requested under ITB 18.2.
- 19.4 Any Bid not accompanied by a substantially responsive Bid Security shall be rejected by the Employer as non-responsive.
- 19.5 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the Contract and furnishing the Performance Security pursuant to ITB 42.
- 19.6 The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required Performance Security.
- 19.7 The Bid Security may be forfeited:
- (a) If a Bidder withdraws its Bid during the period of bid validity specified by the Bidder on the Letter of Bid, or any extension thereto provided by the Bidder; or
 - (b) If the successful Bidder fails to:
 - (i) Sign the Contract in accordance with ITB 41; or
 - (ii) Furnish a Performance Security in accordance with ITB 42.
- 19.8 The Bid Security of a JV shall be in the name of the JV that submits the Bid. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, the Bid Security shall be in the names of all future members as named in the letter of intent referred to in ITB 4.1 and ITB 11.2.
20. Format and Signing of Bid
- 20.1 The Bidder shall prepare one original each of the Qualification Document and the Bid comprising the documents as described in ITB 11 and clearly mark them "Original." Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked "Alternative." In addition, the Bidder shall submit copies of the Qualification Document and the Bid, in the number **specified in the QBDS** and clearly mark them "Copy." In the event of any

discrepancy between the original and the copies, the original shall prevail.

- 20.2 The original and all copies of the Qualification Document and the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation **as specified in the QBDS** and shall be attached to the Qualification Document. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Qualification Document and the Bid where entries or amendments have been made shall be signed or initialed by the person signing the Qualification Document and the Bid. If the person signing on behalf of the Bidder is the owner, member, or director of the Bidder, if the Bidder is a single entity, or of the Bidder's Lead Member, if the Bidder is a JV, as demonstrated in the Bidder's Application, then no authorization shall be required.
- 20.3 In case the Bidder is a JV, the Qualification Document and Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, then the Qualification Document and Bid shall be signed by every member of the proposed JV.
- 20.4 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Qualification Document and the Bid.

D. Submission and Opening of Qualification Documents and Bids

21. Sealing and Marking of Qualification Documents and Bids

- 21.1 The Qualification Document and the actual Bid are to be submitted simultaneously in two separate envelopes (two-envelope procedure).

(a) **QUALIFICATION**

The Bidder shall enclose the original and all copies of the Qualification Document in separate sealed envelopes, duly marking the envelopes as "Qualification - Original" and "Qualification - Copy."

These envelopes containing the original and the copies shall then be enclosed in one single envelope marked "Qualification".

(b) **BID**

The Bidder shall enclose the original and all copies of the Bid, including alternative Bids, if permitted in accordance

with ITB 13, in separate sealed envelopes, duly marking the envelopes as "Bid - Original", "Bid - Alternative" and "Bid - Copy."

These envelopes containing the original and the copies shall then be enclosed in one single envelope marked "Bid".

21.2 The inner and outer envelopes shall:

- (a) Bear the name and address of the Bidder;
- (b) Be addressed to the Employer in accordance with ITB 22.1;
- (c) Bear the specific identification of this bidding process specified in the **QBDS 1.1**; and
- (d) Bear a warning not to open before the time and date for Qualification Document and Bid opening.

21.3 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the Qualification Document and Bid.

22. Deadline for
Submission of Qualification
Documents and Bids

22.1 Qualification Documents and Bids must be received by the Employer in accordance with the instructions, including the address and deadline, **specified in the QBDS**.

22.2 The Employer may, at its discretion, extend the deadline for the submission of Qualification Documents and Bids by amending the Qualification and Bidding Documents in accordance with ITB 8, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

23. Late Submissions

23.1 The Employer shall not consider any Qualification Document and Bid that arrives after the deadline for submission of Qualification Documents and Bids, in accordance with ITB 22. Any Qualification Document and Bid received by the Employer after the deadline for submission of Qualification Documents and Bids shall be declared late, rejected, and returned unopened to the Bidder.

24. Withdrawal,
Substitution, and
Modification of Bids

24.1 A Bidder may withdraw, substitute, or modify its Qualification Document and Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.2. The corresponding substitution or modification of the Qualification Document and Bid must accompany the respective written notice. All notices must be:

- (a) Prepared and submitted in accordance with ITB 20 and ITB 21 (except that withdrawals notices do not require

copies), and in addition, the respective envelopes shall be clearly marked "Withdrawal", "Substitution", "Modification"; and

- (b) Received by the Employer prior to the deadline prescribed for submission of Bids, in accordance with ITB 22.

24.2 Qualification Documents and Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.

24.3 No Qualification Document and Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of Bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.

25. Opening of Qualification Documents and Bids

25.1 First Public Session

In the first public session, only the Bidders' Qualification Documents will be opened. Bids of qualified Bidders will be opened at the second public session as specified in ITB 25.7. Except in the cases specified in ITB 23 and 24, the Employer shall publicly open and read out in accordance with ITB 25 all Qualification Documents received by the deadline (regardless of the number of Bids received), at the date, time and place specified in the **QBDS**, in public and in the presence of Bidders' designated representatives.

25.2 First, envelopes marked "Withdrawal" shall be opened and read out and the envelope with the corresponding Qualification Documents and envelope with the corresponding Bid shall not be opened, but returned to the Bidder. No Qualification document and/or Bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at the Qualification Document opening. Next, envelopes marked "Substitution" shall be opened and read out and exchanged with the corresponding Qualification Documents and/or Bid being substituted, and the substituted Qualification Document and/or Bid shall not be opened but returned to the Bidder. No Qualification Document and/or Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at the Qualification Document opening. Envelopes marked "Modification" shall be opened and read out with the corresponding Qualification Document and/or Bid. No Qualification Document and/or Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at the Qualification Document opening. Only

Qualification Documents that are opened and read out at Qualification Document opening shall be considered further.

25.3 In the first public session only the Qualification Documents will be opened and examined for completeness and fulfilment of the responsiveness criteria specified in ITB 26.1. The qualification will be evaluated according to the criteria specified under ITB 26.

25.4 The Employer shall prepare a record of the qualification opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; Power of Attorney, nominating the Bidder's authorized representative, and Declaration of Undertaking. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

25.5 The Employer shall notify all Bidders in writing of the names of those Bidders who have been qualified. In addition, those Bidders who have been disqualified will be informed separately.

25.6 Those Bidders who have been qualified will be informed by the Employer of the date, time and place of the second public session for the opening of the qualified Bids.

25.7 Second Public Session

Only the Bids of those Bidders who have fulfilled the qualification criteria will be opened in the second public session. The envelopes of the qualified Bidders shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the total Bid Price, per lot (contract) if applicable, including any discounts and alternative Bids; the presence or absence of a signed Letter of Bid and any other details as the Employer may consider appropriate. Only discounts and alternative Bids read out at Bid opening shall be considered for evaluation. The Letter of Bid and the Schedules are to be initialled by a minimum of three representatives of the Employer attending bid opening. At Bid opening, the Employer shall neither discuss the merits of any Bid nor reject any Bid (except for late Bids, in accordance with ITB 23.1).

25.8 The Employer shall prepare a record of the Bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot (contract) if applicable, including any discounts and alternative Bids; the presence or absence of a Bid Security, signed Letter of Bid, Power of Attorney, nominating the Bidder's authorized representative, and

Declaration of Undertaking. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

E. Evaluation of Qualification Documents

26. Qualification Responsiveness, Evaluation of Qualification

26.1 Qualification Responsiveness

The Employer shall reject a Bidder's qualification document that is not substantially responsive to the requirements of this bidding document. A Bidder's qualification document shall be considered as responsive if the following documents are submitted:

<i>Responsiveness Criteria</i>
1. <i>Declaration of Undertaking (ITB 11.1 (a) (ii))</i>
2. <i>Financial Capability Statements and supporting documentation (ITB 11.1 (a) (iii); Section IV, Form FIN-3.1)</i>
3. <i>Letter of Qualification (ITB 11.1 (a)(i))</i>
4. <i>Power(s) of Attorney authorizing the representative of the Bidder (ITB 11.1 (a)(i))</i>
5. <i>If the Bidder is an association, either proof of the existing Association Agreement or a Declaration of Association (ITB 11.1 (a) (iii))</i>

26.2 Evaluation of Qualification

The Employer shall evaluate the qualifications of the responsive Bidders using the factors, methods, criteria, and requirements defined in Section III, Qualification and Evaluation Criteria, to evaluate the qualifications of the Bidders, and no other methods, criteria, or requirements shall be used.

26.3 *Only the qualifications of the Bidder shall be considered. In particular, the qualifications of a parent or other affiliated company that is not party to the Bidder under a JV in accordance with ITB 4.1 shall not be considered.*

26.4 *In case of multiple contracts, Bidders should indicate in their Qualification Document the individual contracts in which they are interested. The Employer shall qualify each Bidder for the maximum combination of contracts for which the Bidder has thereby indicated its interest and for which the Bidder meets the appropriate aggregate requirements. The Qualification and Evaluation Criteria are mentioned in Section III.*

26.5 *The Employer shall assess the qualifications of the responsive Bidders in terms of the Eligibility and Qualification Criteria and methods set out in Section III, Qualification and Evaluation Criteria.*

26.6 *The Employer shall determine the fulfilment of minimum requirements on a pass/fail basis as per Section III, Qualification and Evaluation Criteria.*

26.7 *The Employer shall assign a numeric score to each of the sub-criteria, for which a maximum score is provided in accordance with ITB 26.5. All Sub-criteria Scores shall be summed to determine the Bidder's Qualification Score.*

26.8 For the purposes of scoring individual Qualification Criteria in accordance with 26.6 the Employer shall apply the following qualitative approach:

- (a) 100% of the max. score: Outstanding, if the Qualification substantially exceeds the requirement in accordance with the respective sub-criterion. No errors or omissions are noted.
- (b) 70% of the max. score: Above average, if the Qualification meets or marginally exceeds the requirement in accordance with the respective sub-criterion. Minor errors or omissions noted;
- (c) 50% of the max. score: Average, if the Qualification marginally falls short of the requirement in accordance with the respective sub-criterion. Major errors or omissions noted;
- (d) 30% of the max. score: Below average, if the Qualification substantially deviates from or indicates misunderstanding of the requirement in accordance with the respective sub-criterion. Major errors or omissions are noted comprising the fulfilment of the sub-criterion;

- (e) 0 % of the max. score: Insufficient / Fail, if the Qualification does not meet the requirement at all in accordance with the respective sub-criterion, or does not provide any information regarding the requirement

26.9 A Bidder shall be considered qualified if:

- (a) its Qualification is considered responsive in accordance with ITB 26.1 and;
- (b) its Qualification has met the pass/fail requirements in accordance with ITB 26.6 and;
- (c) the Qualification scored at least 70 points out of 100 points in accordance with ITB 26.7.

F. Evaluation and Comparison of Bids

27. Confidentiality

- 27.1 Information relating to the examination, evaluation, and comparison of the Bids, and recommendation of contract award shall not be disclosed to Bidders or any other persons not officially concerned with the bidding process until information on Contract award is communicated to all Bidders in accordance with ITB 40.
- 27.2 Any attempt by a Bidder to influence the Employer in the examination, evaluation, and comparison of the Bids, and qualification of the Bidders, or Contract award decisions may result in the rejection of its Bid.
- 27.3 Notwithstanding ITB 27.2, from the time of Bid opening to the time of Contract award, if a Bidder wishes to contact the Employer on any matter related to the bidding process, it shall do so in writing.

28. Clarification of Bids

- 28.1 To assist in the examination, evaluation, and comparison of the Bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid, given a reasonable time for a response. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids, in accordance with ITB 32.

- 28.2 If a Bidder does not provide clarifications of its Bid by the date and time set in the Employer's request for clarification, its Bid may be rejected.
29. Deviations, Reservations, and Omissions
- 29.1 During the evaluation of Bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified in the Bidding Documents;
 - (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and
 - (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Documents.
30. Determination of Responsiveness
- 30.1 The Employer's determination of a Bid's responsiveness is to be based on the contents of the Bid itself, as defined in ITB11.
- 30.2 A substantially responsive Bid is one that meets the requirements of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) If accepted, would:
 - (i) Affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
 - (ii) Limit in any substantial way, inconsistent with the Bidding Documents, the Employer's rights or the Bidder's obligations under the proposed Contract; or
 - (b) If rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.
- 30.3 The Employer shall examine the technical aspects of the Bid submitted in accordance with ITB 17, in particular, to confirm that all requirements of Section VII, Works Requirements have been met without any material deviation, reservation or omission.
- 30.4 If a Bid is not substantially responsive to the requirements of the Bidding Documents, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
31. Nonmaterial Nonconformities
- 31.1 Provided that a Bid is substantially responsive, the Employer may waive any nonmaterial nonconformities in the Bid.

- 31.2 Provided that a Bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
- 31.3 Provided that a Bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component.
32. Correction of
Arithmetical Errors
- 32.1 Provided that the Bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:
- (a) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
 - (b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
 - (c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless, only for admeasurement contracts, the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 32.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 32.1 shall result in the rejection of the Bid.
33. Conversion to Single
Currency
- 33.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency as specified in the **QBDS**.
34. Margin of Preference
- 34.1 Unless otherwise specified in the **QBDS**, a margin of preference for domestic Bidders shall not apply.

35. Subcontractors
- 35.1 Unless otherwise stated in the **QBDS**, the Employer does not intend to execute any specific elements of the Works by sub-contractors selected in advance by the Employer (nominated sub-contractors).
36. Evaluation of Bids
- 36.1 The Employer shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.
- 36.2 To evaluate a Bid, the Employer shall consider the following:
- (a) The Bid price, excluding Provisional Sums unless priced competitively and the provision, if any, for contingencies in the Schedules, but including Daywork items, where priced competitively.
 - (b) Price adjustment for correction of arithmetic errors in accordance with ITB 32.1;
 - (c) Price adjustment due to missing items, missing rates, or discounts offered in accordance with ITB 14.2 and 14.4;
 - (d) Price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 31.3;
 - (e) Converting the amount resulting from applying (a) to (d) above, if relevant, to a single currency in accordance with ITB 33;
 - (f) The additional evaluation factors as specified in Section III, Qualification and Evaluation Criteria.
- 36.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in Bid evaluation.
- 36.4 If these Bidding Documents allow Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Bid, is specified in Section III, Qualification and Evaluation Criteria.
- 36.5 If the Bid, which results in the lowest Evaluated Bid Price, is significantly lower than the Employer's estimate, the Employer shall require the Bidder to produce detailed price analyses for any or all items of the Schedules, to demonstrate the internal consistency of those prices with the construction methods, resources and schedule proposed. Notwithstanding the provisions of ITB 14.2 which shall not be applicable, if one or several inconsistencies are evidenced, the Bid shall be declared non-compliant and rejected. If the Bid is seriously

unbalanced or front loaded in the opinion of the Employer and after evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the Employer may require that the amount of the performance security be increased at the expense of the Bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract.

37. Comparison of Bids 37.1 The Employer shall compare the evaluated prices of all substantially responsive Bids established in accordance with ITB 36.2 to determine the lowest evaluated Bid.
38. Employer's Right to Reject All Bids 38.1 The Employer reserves the right to annul the bidding process and reject all Bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.

G. Award of Contract

39. Award Criteria 39.1 Subject to ITB 38.1, the Employer shall award the Contract to the Bidder whose Bid has been determined to be the lowest evaluated Bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be eligible and qualified to perform the Contract satisfactorily.
40. Notification of Award 40.1 Prior to the expiration of the period of Bid validity, the Employer shall notify the successful Bidder, in writing, that its Bid has been accepted. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the "Letter of Acceptance") shall specify the sum that the Employer will pay the Contractor in consideration of the execution and completion of the Works and the requirement for the Contractor to remedy any defects therein (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price"). Subsequently, the Employer shall also notify all other Bidders of the results of the bidding.
- 40.2 Until a formal contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.
- 40.3 The Employer shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with ITB 40.1, requests in writing the grounds on which its Bid was not selected.
- 40.4 In exceptional circumstances, the Employer may need to communicate with the successful Bidder, established in terms of ITB 39.1, certain aspects of Contract performance prior to sending the Letter of Acceptance. Should such a need arise,

this communication shall be limited to the following topics, as identified in the evaluation report,

- (a) coordination of mobilization timing;
- (b) coordination of actions or inputs involving the Employer and the Engineer;
- (c) technical alternatives offered by the successful Bidder.

Any such discussions and agreements as there shall occur between the Employer and the successful Bidder, (1) may not be interpreted as having the same legal effect as the Letter of Acceptance, (2) shall be summarized in Minutes, which shall be attached to the Letter of Acceptance.

- 41. Signing of Contract
 - 41.1 Promptly upon notification, the Employer shall send the successful Bidder the Contract Agreement.
 - 41.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer.
- 42. Performance Security
 - 42.1 Within twenty-eight (28) days of the receipt of the Letter of Acceptance from the Employer, the successful Bidder shall furnish the performance security in accordance with the General Conditions of Contract, subject to ITB 36.5, using for that purpose the Performance Security Form included in Section X, Contract Forms, or another form acceptable to the Employer. If the performance security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the Employer. A foreign institution providing a bond shall have a correspondent financial institution located in the Employer's Country.
 - 42.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Employer may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily.