

**Lao People’s Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

**STANDARD OPEN BIDDING DOCUMENT**

**THE PROCUREMENT OF WORKS**

**​HARMONIZED VERSION**

**Prepared by: Ministry of Finance**

**Supported by: Public Finance Management Reform Project**

**(Funded by the European Union and implemented by the World Bank)**

**​ August, 2021**

**Abbreviations**

ADB…………. Asian Development Bank

BDF…………... Bidding Forms

BDS…………... Bid Data Sheet

COF…………. Contract Forms

ELC…………... Eligible Countries

ELI…………… Eligibility Form

EQC…………. Evaluation and Qualification Criteria

EQU…………. Equipment Form

ERQ…………. Procuring Entity’s Requirements

EXP…………. Experienced Form

FIN…………... Financial Data Form

GCC………… General Conditions of Contract

HBD………… Harmonized Bidding Documents

IFB…………. Invitation for Bid

ITB…………. Instructions to bidders

JV…………… Joint Venture

LIT…………. Pending Litigation Form

OB…………. Open Bidding

PCC………… Particular Conditions of Contract

PER………… Personnel Form

SBD………… Standard Bidding Document

TS…………... Technical Specifications

WB…………. World Bank

**Introduction**

1 The Harmonized open bidding for the Procurement of Works *(Harmonized OB-SBD works)* has been modified and edited From National Competitive bidding document for procurement of works 2015 edition jointly by Ministry of Finance (MoF) of the Lao PDR, World Bank (WB), Asian Development Bank (ADB) intent to use for Procurement of Works by open bidding procedure. This Harmonized open bidding for the Procurement of Works *(Harmonized OB-SBD works)* is based on National Competitive Bidding (OB) Master Document for Procurement of Works, prepared by the Multilateral Development Banks and international Financing Institution. It reflects the structure and the provisions of the Master Document, except where specific considerations within the WB, ADB and the MoF have required a change.

2 The *Harmonized OB-SBD works-* requires Bidders to submit the information pertaining to their qualifications together with their bids. In this event, it will be necessary to ensure that a Bidder’s risk of having its bid rejected on grounds of qualification is remote if due diligence is exercised by the Bidder during bid preparation. For that purpose, fail-pass qualification criteria need to be specified by the Procuring Entity in both the Invitation for Bids as well as the Bidding Document in order to enable Bidders to make an informed decision whether to pursue a specific contract and, if so, either as a single entity or in joint venture. Qualification criteria, requirements and relevant forms for submission are covered in Section III (Evaluation and Qualification Criteria) and Section IV (Bidding Forms).

3 The *Harmonized* *OB-SBD Works* can also be used for the case where prequalification has been undertaken, with relatively minor modifications. However, the *Harmonized OB-SBD works* does not address the bidder prequalification process.

4 The *Harmonized* *OB-SBD Works* is intended, as a default, for lump sum (activity schedule) types of contracts, which are the most common in civil works contracting. Lump sum contracts are used in particular for building construction and other forms of construction when the works are well defined and are unlikely to change in quantity or specification, and where it is unlikely to encounter difficult or unforeseen site conditions (for example, hidden foundation problems).

5 The *Harmonized* *OB-SBD Works* can also be used for admeasurement (unit prices in a bill of quantities) contracts. The main text is applicable to both types of contracts (lump sum and admeasurement). In admeasurement contracts, fixed prices are provided as a default, unless price adjustment is allowed and indicated in Section II.

*6* The provisions in **Section I, Instructions to Bidders** and **Section VIII, General Conditions of Contract, must be used with their text unchanged.** Any data and provisions that these sections require for a specific procurement andcontract shall be included respectively in **Section II, Bid Data Sheet and Section IX, Special Conditions of Contract**.

Therefore, hopefullyThis Harmonized OB-SBD for Procurement of Works *(Harmonized RFQ-SBD works)* will help the Procuring Entity or Project owner have the facility in the preparation and make the corrected bidding documents inline with the law and its regulation.

Minister of Finance



**Lao People's Democratic Republic**

Peace Independence Democracy Unity Prosperity

**Project Name:**

**Funded/Financed by:**

|  |
| --- |
| *[enter here the name and address of the Procuring Entity]* |

**BIDDING DOCUMENT**

**FOR PROCUREMENT OF WORKS**

**(HARMONIZED VERSION-2021)**

|  |
| --- |
| *[enter here the name of contract]* |

**Invitation for Bid No:**

**Issued on:**

**Contract /Lot No:**

**(Month, Year)**

Section I - Instructions to Bidders

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Section I - Instructions to Bidders

|  |  |
| --- | --- |
| 1. General | |
| 1. Scope of Bid | * 1. In connection with the Invitation for Bids specified in the Bid Data Sheet (BDS), the Procuring Entity, as **specified in the BDS**, issues these Bidding Documents for the procurement of the Works as specified in Section VI, Works Requirements. The name, identification, and number of lots (contracts) of this bidding are **specified in the BDS – ITB 1.1**. |
|  | * 1. Throughout this Bidding Document:  the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt  * + 1. except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular;     2. “day” means calendar day; and     3. “ESHS” means environmental, social (including sexual exploitation and abuse (SEA) and gender-based violence (GBV)), health and safety. |
| 2. Source of Funds | If the contract is financed by the state budget, wording in ITB2.1 and ITB2.2 shall be used   1. The Procuring Entity has been allocated state budget as indicated in the BDS and intends to apply a portion of the funds to eligible payments under the Contract for which this Bidding Document is issued. 2. For the purpose of this provision, “state budget” means domestic funds from the Lao Government   If the contract is financed by The World Bank (WB) or Asian Development Bank (ADB), the following wording of ITB2.3and ITB2.4 shall be used   * 1. The Lao People’s Democratic Republic (Lao PDR, hereinafter called “Borrower”) has received or has applied for financing (hereinafter called “funds”) from the International Bank for Reconstruction and Development or the International Development Association, or the Asian Development Bank (hereinafter called “the Bank[[1]](#footnote-2)”)” in an amount **specified in the BDS – ITB 2.1**, toward the project named **in the BDS – ITB 2.1**. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which these Bidding Documents are issued. | |
|  | * 1. Payment by the Bank will be made only at the request of the Borrower and upon approval by the Bank, and will be subject, in all respects, to the terms and conditions of the Loan (or other financing) Agreement. The Loan (or other financing) Agreement prohibits a withdrawal from the Loan (or other financing) account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Borrower shall derive any rights from the Loan (or other financing) Agreement or have any claim to the proceeds of the Loan (or other financing). |
| 1. Corrupt and Fraudulent Practices | * 1. The Government or the Bank requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Section VI.   2. In further pursuance of this policy, Bidders shall permit and shall cause its agents (whether declared or not), sub-contractors, sub-consultants, service providers, or suppliers and any personnel thereof, the Government or the Bank to inspect all accounts, records and other documents relating to any prequalification process, bid submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Government and/or the Bank. |
| 1. Eligible Bidders | * 1. This Invitation for Bids is open to eligible Bidders from Lao PDR. Bidders from other eligible countries as specified in Section V can also participate.   2. A Bidder may be a firm that is a private entity, or a government-owned entity - subject to ITB 4.5 or any combination of such entities in the form of a joint venture (JV), under an existing agreement, or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution. Unless **specified in the BDS – ITB 4.2**, there is no limit on the number of members in a JV. |
|  | * 1. A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. Bidders may be considered to be in a conflict of interest with one or more parties in this bidding process, if including but not limited to:      1. they have controlling shareholders in common; or      2. they receive or have received any direct or indirect subsidy from any of them; or      3. they have the same legal representative as another Bidder for the purpose of this bidding; or      4. they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to material information about or improperly influence the bid of another Bidder, or influence the decisions of the Procuring Entity regarding this bidding process; or      5. a bidder participates in more than one bid in this bidding process either individually or as a partner in a joint venture, except for alternative offers permitted under ITB Clause 13. 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; However, subject to any finding of a conflict of interest in terms of ITB 4.3 (a) - (d) above, this does not limit the inclusion of the same subcontractor in another bid or of a firm as a subcontractor in more than one bid or      6. a bidder or 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      7. a bidder or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Engineer for the Contract implementation; or      8. they would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that they provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or      9. they have a close business or family relationship with a professional staff of the Procuring Entity (or, in the case of Bank financing, of the project implementing agency, or of a recipient of a part of the loan) 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 Government throughout the procurement process and execution of the contract. |
|  | * 1. A Bidder that has been sanctioned by the MoF or WB/ADB (depending of financing) in accordance with the above ITB 3.1 shall be ineligible to be prequalified for bid, or be awarded a government or Bank-financed contract or benefit from such contract, financially or otherwise, during such period of time as the Bank, ADB or Government shall have determined. The lists of debarred firms and individuals by the Bank are available at the electronic addresses **specified in the BDS – ITB 4.2**. |
|  | * 1. Bidders that are Government-owned enterprises or institutions in Lao PDR may participate only if they can establish that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not dependent agencies of the Procuring Entity. To be eligible, a government-owned enterprise or institution shall establish to the Procuring Entity or Bank’s satisfaction, through all relevant documents, including its Charter and other information the Procuring Entity or Bank may request, that it: (i) is a legal entity separate from the government (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to the government, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt; and (iv) is not bidding for a contract to be awarded by the department or agency of the government which under their applicable laws or regulations is the reporting or supervisory authority of the enterprise or has the ability to exercise influence or control over the enterprise or institution. |
|  | * 1. A Bidder shall not be under suspension from bidding by the Procuring Entity as the result of the operation of a Bid–Securing Declaration. |
|  | * 1. The Bidder shall have fulfilled its obligations to pay taxes and security contributions under the relevant national laws and regulation.   2. A Bidder shall provide such evidence of eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request. |
| 1. Eligible Materials, Equipment and Services | * 1. The materials, equipment and services to be supplied under the Contract and financed by the WB and ADB may have their eligible origin in any country subject to the restrictions specified in Section V, Eligible Countries and **BDS – ITB 5.1**, and all expenditures under the Contract will not contravene such restrictions. At the Procuring Entity’s request, Bidders may be required to provide evidence of the origin of materials, equipment and services. |
| 1. Contents of Bidding Document | |
| 1. Sections of Bidding Document | * 1. The Bidding Document 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.   Chapter 1: Procedure of bidding  Section I Instruction to Bidders (ITB)  Section II Bidder Data Sheet (BDS)  Section III Evaluation and Qualification Criteria  Section IV Bidding form  Section V Eligible Countries  Section VI-1 Corrupt and Fraudulent Practices (WB)  Section VI-2 Corrupt and Fraudulent Practices (ADB)  Section VI- 3 Corrupt and Fraudulent Practices  (Lao Government)  Chapter 2: Work’s requirement  Section VII: Work’s requirement  Chapter 3: Contract Condition and Contract forms  Section VIII General Contract Condition (GCC)  Section IX Particular Contract Condition (PCC)  Section X Bidding form |
|  | * 1. The Invitation for Bids issued by the Procuring Entity is not part of the Bidding Document. |
|  | * 1. Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the Bidding Documents, responses to requests for clarification, the minutes of the pre-Bid meeting (if any), or Addenda to the Bidding Documents in accordance with ITB 8. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail. |
|  | * 1. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents and to furnish with its bid all information and documentation as is required by the Bidding Documents. |
| 1. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting | * 1. A Bidder requiring any clarification of the Bidding Document shall contact the Procuring Entity in writing at the Procuring Entity’s address **specified in the BDS** **– ITB 7.1** or raise its inquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received prior to the deadline for submission of bids within a period **specified in the BDS – ITB 7.4**. The Procuring Entity shall forward copies of its response to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. If so, **specified in the BDS – ITB 7.4**, the Procuring Entity shall also promptly publish its response at the web page identified in the BDS. Should the clarification result in changes to the essential elements of the Bidding Documents, the Procuring Entity shall amend the Bidding Documents following the procedure under ITB 8 and ITB 22.3. |
|  | * 1. 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 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. |
|  | * 1. The Bidder and any of its personnel or agents will be granted permission by the Procuring Entity 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 Procuring Entity 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. |
|  | * 1. If so, **specified in the BDS – ITB 7.4**, 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. |
|  | * 1. The Bidder is requested, to submit any questions in writing, to reach the Procuring Entity not later than one week before the meeting. |
|  | * 1. 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 Bidding Documents in accordance with ITB 6.3.   2. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the Procuring Entity exclusively through the issue of an addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting. |
| 1. Amendment of Bidding Document | * 1. At any time prior to the deadline for submission of bids, the Procuring Entity for any reason, on its own initiative or in response to a clarification request in writing from a bidder having purchased the Bidding Document, may amend the Bidding Documents by issuing addenda. |
|  | * 1. Any amendment issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Document from the Procuring Entity in accordance with ITB 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity’s web page in accordance with ITB 7.1. |
|  | * 1. To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Procuring Entity may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB 22.3. |
| 1. Preparation of Bids | |
| 1. Cost of Bidding | * 1. The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Procuring Entity shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. |
| 1. Language of Bid | * 1. The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Procuring Entity, shall be written in the **Laotian** Language. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the Laotian Language, in which case, for purposes of interpretation of the Bid, such translation shall govern.   2. The Bidder shall bear all costs of translation to the Laotian Language and all risks of the accuracy of such translation if any document is submitted, as part of the Bid in a language other than Laotian. |
| 1. Documents Comprising the Bid | * 1. The Bid shall comprise the following:  1. Letter of Bid in accordance with ITB 12; 2. completed Schedules in accordance with ITB 12 and 14 as specified in **BDS – ITB 11.1**; 3. Bid Securing Declaration, in accordance with ITB 19.1; 4. alternative bids, if permissible, in accordance with ITB 13; 5. written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2; 6. documentary evidence in accordance with ITB 17 establishing the Bidder’s qualifications to perform the contract if its Bid is accepted. 7. Technical Proposal in accordance with ITB 16; and 8. any other document **required in the BDS – ITB 11.1 (h)**.    1. In addition to the requirements under ITB 11.1, 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.    2. The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid. |
| 1. Letter of Bid and Schedules | * 1. The Letter of Bid and Schedules shall be prepared using the relevant forms furnished in Section IV, Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.2. All blank spaces shall be filled in with the information requested. |
| 1. Alternative Bids | * 1. Unless otherwise **specified in the BDS – ITB 13.1**, alternative bids shall not be considered |
|  | * 1. When alternative times for completion are explicitly invited, a statement to that effect will be **included in the BDS – ITB 13.2**, as will the method of evaluating different times for completion. |
|  | * 1. Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding Document must first price the Procuring Entity’s design as described in the Bidding Document and shall further provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, 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 basic technical requirements shall be considered by the Procuring Entity. |
|  | * 1. When **specified in the BDS – ITB 13.4**, Bidders are permitted to submit alternative technical solutions for specified parts of the Works. Such parts will be **identified in the BDS – ITB 13.4** and described in Section VII. Works Requirements. The method for their evaluation will be stipulated in Section III. Evaluation and Qualification Criteria. |
| 1. Bid Prices and Discounts | * 1. The prices and discounts (including any price reduction) quoted by the Bidder in the Letter of Bid and in the Price Schedules shall conform to the requirements specified below. |
|  | * 1. The Bidder shall submit a bid for the whole of the works described in ITB 1.1 by filling in prices for all items of the Works, as identified in Section IV Bidding Forms. In case of admeasurement contracts, 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 will not be paid for by the Procuring Entity when executed and shall be deemed covered by the rates for other items and prices in the Bill of Quantities. |
|  | * 1. The price to be quoted in the Letter of Bid, in accordance with ITB 12.1, shall be the total price of the bid, excluding any discounts offered. |
|  | * 1. The Bidder shall quote any discounts and the methodology for their application in the Letter of Bid, in accordance with ITB 12.1 or through “modification” or “substitution” in accordance with ITB 24. |
|  | * 1. Prices quoted by the Bidder shall be fixed Unless otherwise **provided in the BDS – ITB 14.5** and in the Conditions of Contract. If the prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data in Section IV- Bidding Forms and the Procuring Entity may require the Bidder to justify its proposed indices and weightings.   2. If so, specified in ITB 1.1, bids are 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. |
|  | * 1. All duties, taxes including profit tax, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the rates and prices[[2]](#footnote-3) and the total bid price submitted by the Bidder. |
| 1. Currencies of Bid and Payment | * 1. The currency of the bid and the currency of payments shall be Lao Kip**.** |
| 1. Documents Comprising the Technical Proposal | * 1. The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV, Bidding Forms, in sufficient detail to demonstrate the adequacy of the Bidders’ proposal to meet the work requirements and the completion time. |
| 1. Documents Establishing the Qualifications of the Bidder | * 1. In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract, the Bidder shall provide the information requested in the corresponding information sheets included in Section IV, Bidding Forms. |
| 1. Period of Validity of Bids | * 1. Bids shall remain valid for the period **specified in the BDS – ITB 18.1** after the bid submission deadline date prescribed by the Procuring Entity in accordance with ITB 22.2 A bid valid for a shorter period shall be rejected by the Procuring Entity as nonresponsive.   2. In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB 18.2. |
|  | * 1. If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the Contract price shall be determined as follows:      1. In the case of adjustable price contracts finaced by the ADB or the WB, the Contract price shall be the bid price adjusted by the formula **specified in the BDS – ITB 18.3**.      2. In the case of fixed price contracts, no adjustment shall be made.      3. In any case, bid evaluation shall be based on the bid price without taking into consideration the applicable correction from those indicated above. |
| 1. Bid Security | * 1. The Bidder shall furnish as part of its bid a Bid-Securing Declaration in original formor cash or Bank Guarantee for Bid Security provided in Section IV   2. A Bid Securing Declaration or Bank Guarantee for Bid Security shall use the form included in Section IV   3. Any Bid not accompanied by a substantially responsive Bid Securing Declaration or Bank Guarantee in accordance with ITB 19.1 shall be rejected by the Purchaser as non-responsive   4. The Bid Securing Declaration or Bank Guarantee may be executed, and the Procuring Entity shall collaborate with Ministry of Finance to declare **the Bidder ineligible to be awarded a** **contract at least for two years for all Projects around the** **Country (as provided in BSD-ITB 19.4):**      1. 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  if the successful Bidder fails to:sign the Contract in accordance with ITB 41; orfurnish a performance security and if required in the BDS, the Environmental and Social (ES) Performance Security in accordance with ITB 42.  * 1. The Bid- Securing Declaration or Bank Guarantee of a JV must 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-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITB 20.3 and ITB 11.2 |
| 1. Format and Signing of Bid | * 1. The Bidder shall prepare one (1) original of the documents comprising the bid as described in ITB 11 and clearly mark it “Original”. Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked “Alternative”. In addition, the Bidder shall submit copies of the bid in the number **specified in the BDS – ITB 20.1,** and clearly mark each of them “Copy.” In the event of any discrepancy between the original and the copies, the original shall prevail. |
|  | * 1. The original and all copies of 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 BDS – ITB 20.2** and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid where entries or amendments have been made shall be signed or initialed by the person signing the bid. |
|  | * 1. In case the Bidder is a JV, the 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.   2. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid. |
| 1. Submission and Opening of Bids | |
| 1. Sealing and Marking of Bids | * 1. 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 “Original”, “Alternative” and “Copy.” These envelopes containing the original and the copies shall then be enclosed in one single envelope. |
|  | * 1. The inner and outer envelopes shall:   (a) bear the name and address of the Bidder;  (b) be addressed to the Procuring Entity at the address specified in ITB 22.1 of the BDS;  (c) bear the specific identification of this bidding process specified in accordance with BDS 1.1; and  (d) bear a warning “not to open” before the time and date for bid opening. |
|  | * 1. If all envelopes are not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the bid. |
| 1. Deadline for Submission of Bids | * 1. Bids must be received by the Procuring Entity at the address and no later than the date and time **specified in BDS - ITB 22.1**.   2. Bids may be hand delivered, posted by registered mail or sent by courier under the responsibility of Bidders. The Procuring Entity shall, on request, provide the Bidder with a receipt showing the date and time when its Bid was received. |
|  | * 1. The Procuring Entity may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with ITB 8, in which case all rights and obligations of the Procuring Entity and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended. |
| 1. Late Bids | * 1. The Procuring Entity shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22. Any bid received by the Procuring Entity after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder. |
| 1. Withdrawal, Substitution, and Modification of Bids | * 1. A Bidder may withdraw, substitute, or modify its 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, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the 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 withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” “Substitution,” “Modification;” and  (b) received by the Procuring Entity prior to the deadline prescribed for submission of bids, in accordance with ITB 22. |
|  | * 1. Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders. |
|  | * 1. No 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. |
| 1. Bid Opening | * 1. Except in the cases specified in ITB 23 and 24, the Procuring Entity shall publicly open and read out in accordance with ITB 25.3 all bids received by the deadline, at the date, time and place **specified in the BDS – ITB 25.1**, in the presence of Bidders` designated representatives and anyone who choose to attend. |
|  | First, envelopes marked “Withdrawal” shall be opened and read out and the envelope with the corresponding bid shall not be opened but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked “Substitution” shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked “Modification” shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further. |
|  | * 1. All other envelopes 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 Bid Securing Declaration; and any other details as the Procuring Entity may consider appropriate. Only discounts and alternative bids read out at bid opening shall be considered for evaluation. The Letter of Bid and the Bill of Quantities are to be initialed by representatives of the Procuring Entity attending bid opening in the manner **specified in BDS- ITB 25.3**. The Procuring Entity shall neither discuss the merits of any bid nor reject any bid (except for late bids, in accordance with ITB 23.1). |
|  | * 1. The Procuring Entity 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; and the presence or absence of a bid security, if one was required. 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. |
| 1. Evaluation and Comparison of Bids | |
| 1. Confidentiality | Information relating to the evaluation of 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. |
|  | * 1. Any attempt by a Bidder to influence the Procuring Entity in the evaluation of the bids or contract award decisions may result in the rejection of its bid. |
|  | * 1. Notwithstanding ITB 26.2, from the time of bid opening to the time of Contract award, if a Bidder wishes to contact the Procuring Entity on any matter related to the bidding process, it shall do so in writing. |
| 1. Clarification of Bids | * 1. To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Procuring Entity may, at its discretion, ask any Bidder for a clarification of its bid given a reasonable time[[3]](#footnote-4) for a response. Any clarification submitted by a Bidder that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity’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 Procuring Entity in the evaluation of the bids, in accordance with ITB 31. |
|  | * 1. If a Bidder does not provide clarifications of its bid by the date and time set in the Procuring Entity’s request for clarification, its bid may be rejected. |
| 1. Deviations, Reservations, and Omissions | * 1. During the evaluation of bids, the following definitions apply:   (a) “Deviation” is a departure from the requirements specified in the Bidding Document;  (b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and  (c) “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Document. |
| 1. Determination of Responsiveness | * 1. The Procuring Entity’s determination of a bid’s responsiveness is to be based on the contents of the bid itself, as defined in ITB11. |
|  | * 1. A substantially responsive bid is one that meets the requirements of the Bidding Document 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 Document, the Procuring Entity’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. |
|  | * 1. The Procuring Entity shall examine the technical aspects of the bid submitted in accordance with ITB 16, Technical Proposal, in particular, to confirm that all requirements of Section VII, Works Requirements have been met without any material deviation, reservation or omission. |
|  | * 1. If a bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission. |
| 1. Nonconformities, Errors, and Omissions | Provided that a bid is substantially responsive, even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set forth in the Bidding Document or if it contains errors or oversights that are capable of being corrected without affecting the substance of the Bid. |
|  | 1. Provided that a bid is substantially responsive, the Procuring Entity 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. |
|  | 1. Provided that a bid is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price may be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the methods specified in Section III (Evaluation and Qualification Criteria). |
| 1. Correction of Arithmetical Errors | * 1. Provided that the bid is substantially responsive, the Procuring Entity shall correct arithmetical errors on the following basis:   (a) only for unit price contracts, 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 Procuring Entity 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 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. |
|  | * 1. Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 31.1 shall result in the rejection of the Bid. |
| 1. Subcontractors | * 1. Unless otherwise stated in the BDS, the Procuring Entity does not intend to execute any specific elements of the Works by sub-contractors selected in advance by the Procuring Entity.   2. The Procuring Entity may permit subcontracting for certain specialized works as indicated in Section III. When subcontracting is permitted by the Procuring Entity, the specialized sub-contractor’s experience shall be considered for evaluation. Section III describes the qualification criteria for sub-contractors.   3. In addition to the specialized works mentioned in ITB 32.2 above, bidders may propose subcontracting up to the percentage of total value of contracts or the volume of works as **specified in the BDS - ITB 32.3.** |
| 1. Evaluation of Bids | * 1. In the case of Government financed contract, the evaluation of Bids will be applied only to Bidders meeting the qualifying criteria specified in Section III, Evaluation and Qualification Criteria in accordance with ITB 36   2. The Procuring Entity shall use the criteria and methodologies listed ITB 36. No other evaluation criteria or methodologies shall be permitted. |
|  | To evaluate a bid, the Procuring Entity shall consider the following:  (a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities[[4]](#footnote-5) for admeasurement contracts or Schedule of Prices for lump sum contracts, but including Daywork[[5]](#footnote-6) items, where priced competitively;  (b) price adjustment for correction of arithmetic errors in accordance with ITB 31.5;  (c) price adjustment due to discounts offered in accordance with ITB 14.4;  (d) price adjustment for nonconformities in accordance with ITB 30.3;  (e) the additional evaluation factors are specified in Section III - Evaluation and Qualification Criteria; |
|  | * 1. 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. |
|  | * 1. If the Bidding Document allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated price of the contract combinations, including any discounts offered in the Letter of Bid, is specified in Section III - Evaluation and Qualification Criteria. |
|  | * 1. If the bid for an admeasurement contract, which results in the lowest Evaluated Bid Price, is seriously unbalanced, front loaded or substantially below updated estimates in the opinion of the Procuring Entity, the Procuring Entity may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the Procuring Entity may require that the amount of the performance security be increased at the expense of the Bidder to a level sufficient to protect the Procuring Entity against financial loss in the event of default of the successful Bidder under the Contract*.* |
| 1. Comparison of Bids | 1. The Procuring Entity shall compare the evaluated prices of all substantially responsive bids established in accordance with ITB 33.2 to determine the lowest evaluated bid   (b) accept the bid, but include as a condition of contract an obligation on the Bidder to bear any additional cost resulting from the abnormally low bid; in the case of Bank-financed contract, the Procuring Entity may require that the amount of the performance security be increased at the expense of the bidder to a level sufficient to protect the Procuring Entity against financial loss. The amount of the performance security shall generally be not more than 20% of the contract price; or  (c) reject the bid if the evidence provided does not satisfactorily account for the low bid price and make a similar determination for the next ranked bid, if required. (ADB). |
| 1. Abnormally Low Bids | * 1. An abnormally low bid is one where the bid price, in combination with other elements of the bid, appears to be so low that it raises concerns as to the capability of the Bidder to perform the contract for the offered bid price.   2. When the offered bid price appears to be abnormally low, the Procuring Entity shall undertake a three-step review process as follows:   (a) identify abnormally low costs and unit rates by comparing them with the engineer’s estimates, other substantially responsive bids, or recently awarded similar contracts;  (b) clarify and analyze the bidder’s resource inputs and pricing, including overheads, contingencies and profit margins; and  (c) decide whether to accept or reject the bid.   * 1. With regard to ITB 35.2 (b) above, the Procuring Entity will seek a written explanation from the bidder of the reasons for the offered bid price, including a detailed analysis of costs and unit prices, by reference to the scope, proposed methodology, schedule, and allocation of risks and responsibilities. This may also include information regarding the economy of the manufacturing process; the services to be provided, or the construction method to be used; the technical solutions to be adopted; and any exceptionally favorable conditions available to the bidder for the works, equipment or services proposed.   2. After examining the explanation given and the detailed price analyses presented by the bidder, the Procuring Entity may:   (a) accept the bid, if the evidence provided satisfactorily accounts for the low bid price and costs, in which case the bid is not considered abnormally low;  (b) accept the bid, but include as a condition of contract an obligation on the Bidder to bear any additional cost resulting from the abnormally low bid; in the case of Bank-financed contract, the Procuring Entity may require that the amount of the performance security be increased at the expense of the bidder to a level sufficient to protect the Procuring Entity against financial loss. The amount of the performance security shall generally be not more than 20% of the contract price; or  (c) reject the bid if the evidence provided does not satisfactorily account for the low bid price and make a similar determination for the next ranked bid, if required. (ADB). |
| 1. Qualification of the Bidder | * 1. For Government financed contracts, the Procuring Entity shall, before evaluating the Bids, determine to its satisfaction whether the Bidders submitting Bids meet the qualifying criteria specified in Section III, Evaluation and Qualification Criteria. Bids by any Bidder which fails to meet those qualifying criteria shall be rejected and their Bids shall not be considered further.   2. For contracts financed by the WB or the ADB, **following** the evaluation of all Bids, the Procuring Entity shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid meets the qualifying criteria specified in Section III (Evaluation and Qualification Criteria). |
|  | * 1. The determination shall be based upon an examination of the documentary evidence of the Bidder’s qualifications submitted by the Bidder, pursuant to ITB 17 |
|  | * 1. An affirmative determination of qualification shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Procuring Entity shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder’s qualifications to perform satisfactorily. |
| 1. Procuring Entity’s Right to Accept Any Bid, and to Reject Any or All Bids | * 1. The Procuring Entity reserves the right to accept or reject any bid, and 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 shall be promptly returned the Bidders to. |
| 1. Notice of Intention for Award of Contract | * 1. The Procuring Entity shall send to each Bidder the Notification of Intention to Award the Contract to the successful Bidder and also unsuccessful bidders. The Notification of Intention to Award and standstill period shall be 28 days (before making the actual contract award) within which any unsuccessful bidder can challenge the proposed award.   For the contract financed by the WB and the ADB shall use attachement Form 1.  the contract financed by State Budget shall use attachement Form 2. **As specified in** **BDS – ITB 38.1.** |
| 1. Award of Contract | | | |
| 1. Award Criteria | * 1. Subject to ITB 37.1*,* the Procuring Entity 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 Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.   2. A Bidder shall not be required, as a condition for award, to undertake responsibilities not stipulated in the bidding documents, to change its price or otherwise to modify its Bid. | | |
| 1. Notification of Award | * 1. Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Bidder, in writing, via the Letter of Acceptance included in the Contract Forms, that its bid has been accepted. At the same time, the Procuring Entity shall also notify all other Bidders of the results of the bidding, identifying the bid and lot (contract) numbers and the following information:   (i) name of each Bidder who submitted a Bid;  (ii) bid prices as read out at Bid Opening;  (iii) name and evaluated prices of each Bid that was evaluated;  (iv) name of bidders whose bids were rejected and the reasons for their rejection; and  (v) name of the winning Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded. | | |
|  | * 1. Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract. | | |
|  | * 1. The Procuring Entity shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with ITB 41.1, requests in writing the grounds on which its bid was not selected. | | |
| 1. Signing of Contract | * 1. Promptly upon notification of intention to award, the Procuring Entity shall send the successful Bidder the Contract Agreement. | | |
|  | * 1. Not less than fourteen (14) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Procuring Entity or sign the contract at a Signing Ceremony if instructed by the Procuring Entity. | | |
|  | * 1. The signed Contract Agreement should be registered by the contractor, in accordance with the Decree on contract registration. | | |
| 1. Performance Security | * 1. Within twenty-eight (28) days of the receipt of notification of award from the Procuring Entity, the successful Bidder shall furnish the performance security and, if required in the **BDS –ITB 42.1 and ITB 42.2**, the Environmental and Social (ES) Performance Security in accordance with the conditions of contract, subject to ITB 33.5, using for that purpose the Performance Security and ESHS Performance Security Form included in Section IX*.* | | |
|  | 1. Failure of the successful Bidder to submit the above-mentioned Performance Security and, if required in the BDS, the Environmental and Social (ES) Performance Security or to sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and execution of the bid securing declaration. In that event the Procuring Entity may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Procuring Entity to be qualified to perform the Contract satisfactorily. | | |
| 1. **Adjudicator** | * 1. **[If the contract is financed by WB and ADB]** The Procuring Entity proposes the person **named in the BDS – ITB 43.1** to be appointed as Adjudicator under the Contract, at the hourly fee **specified in the BDS – ITB 43.1**, plus reimbursable expenses. If the Bidder disagrees with this proposal, the Bidder should so state in his Bid. Additionally, The Procuring Entity and Bidder are able to agree on the same implementation of the contract financed by the State Budget that the adjudicator will be instituted by Ministry of Finance pursuant to the Law on Public Procurement No. 30/NA, Part IX, Section 1, Article 73, by clearly specified in the **BDS – ITB43.2.** If, in the Letter of Acceptance, the Procuring Entity does not agree on the appointment of the Adjudicator, the Procuring Entity will request the Appointing Authority designated in the Particular Conditions of Contract (PCC) pursuant to Clause 23.1 of the General Conditions of Contract (GCC), to appoint the Adjudicator   2. **[If the contract is financed by State Budget]** The adjudicator will be instituted by Ministry of Finance pursuant to the Law on Public Procurement No. 30/NA, Part IX, Section 1, Article 73. | | |
| 1. Right to Complain of Bidder. | * 1. Any Bidder has the right to complain if it has suffered or may suffer loss or damage due to a breach of a duty imposed on the Procuring Entity pursuant to the Law and Instruction.   2. The complaint shall firstly be made to the Procuring Entity following the procedures set out in the instruction on implementation of law.   3. If not satisfied with the outcome, the Bidder may complain to Ministry of Finance – Public Procurement Division (PPD) which will conduct and administrative review. The place and address for the first step in the submission of complaints is provided in the **BDS - ITB 44**. At the same time, the bidder could send the complaints to the WB and the ADB office in Lao PDR.   4. The Bidder may subsequently file a complaint with the court if it is not satisfied with the resolution of ITB 44.3, pursuant to the Procurement Law and its Instruction.   5. If the contract is to be financed by the WB or the ADB, all the complaints should be processed in accordance with the Regulations of the ADB or WB. The Regulations can be found at: [Procurement Regulations for IPF Borrowers](https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=4005) (Procurement Regulations) or [https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=4005] (Annex III) for the World Bank and [https://www.adb.org/documents/bidding-related-complaints](https://nam03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.adb.org%2Fdocuments%2Fbidding-related-complaints&data=04%7C01%7Cbmesfin%40worldbank.org%7C9b842f50bb1d4ffe5c1b08d886f1f7c4%7C31a2fec0266b4c67b56e2796d8f59c36%7C0%7C0%7C637407721096835695%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=tnM30eugK787Fo3mWcoLzBxbV8aSmpZqfhS0XN4DP%2F0%3D&reserved=0) for ADB. | | |

Section II - Bid Data Sheet (BDS)

The following specific data for the works to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in ITB.

***[Instructions for completing the Bid Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant ITB Clauses.]***

|  |  |
| --- | --- |
| **ITB Clause Reference** | **A. General** |
| **ITB 1.1** | The reference number of the Invitation for Bids is: ***[insert number of the Invitation for Bids]***  The Procuring Entity is: ***[insert complete name]***  The name of the contract is: ***[insert complete name]***  The identification number of the bidding process is: [***insert identification number]***  The number and identification of lots (contracts) comprising this RFB is: [***insert number of lots and identification number of each lot, if applicable]*** |
| **ITB 2.1** | The financing institution is ***[insert the World Bank, Asian Development Bank or Lao Government, as appropriate]***  Loan or Financing Agreement amount: ***[insert US$ equivalent for WB/ADB and in KIP in State Budget]***  The name of the Project is: [***insert name of the Project]*** |
| **ITB 4.2** | Maximum number of members in the JV shall be: ***[insert number]***. |
| **ITB 4.4** | Lists of debarred firms and individuals is available at the Bank’s external websites:  The World Bank: [www.worldbank.org/debarr](http://www.worldbank.org/debarr)  For ADB: Please coordinate with ADB's Office of Anticorruption and Integrity ([integrity@adb.org](mailto:integrity@adb.org) or [anticorruption@adb.org)](mailto:anticorruption@adb.org) for complete access to the list. |
| **ITB 5.1** | [If the contract is financed by WB and ADB] The section is revised as:  For purposes of ITB5.1, origin means the place where the materials and equipment are mined, grown, produced or manufactured, and from which the services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components. |

B. Contents of Bidding Documents



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| --- | --- |
| ITB 7.1 | For **clarification purposes** only, the Procuring Entity’s address is:  Attention: ***[insert full name of person, if applicable]***  Street Address: ***[insert street address and number]***  Floor/Room number: ***[insert floor and room number, if applicable]***  City: ***[insert name of city or town]***  Country: **Lao PDR**  Telephone: ***[insert telephone number, including country and city codes]***  Electronic mail address: ***[insert email address, if applicable]***  Requests for clarification should be received by the Procuring Entity no later than: ***[insert no. of days].***  Web page: **[insert web page address*]*** |
| **ITB 7.4** | A Pre-Bid meeting ***[insert “shall” or “shall not”]*** take place. If a Pre-Bid meeting will take place, it will be at the following date, time and place: ***[insert date, time & place below, if applicable]***  Time: ***[insert time]***  Place: ***[insert date]***  A site visit conducted by the Procuring Entity ***[insert “shall be” or “shall not be”]*** organized. |

C. Preparation of Bids

|  |  |
| --- | --- |
| **ITB 11.1 (b)** | The following schedules shall be submitted with the bid: ***[insert schedules that must be submitted with the Bid, including the priced Bill of Quantities for admeasurement contracts and Schedule of Prices for lump sum contracts]*** |
| **ITB 11.1 (h)** | ***(For WB and ADB)***  The Bidder shall submit with its bid the following additional documents: *[insert type of any additional documents not already listed in ITB 11.1 that must be submitted with the Bid*. *The list of additional documents should include the*  Code of Conduct for Contractor’s Personnel (ES)  The Bidder shall submit its Code of Conduct that will apply to Contractor’s Personnel (as defined in Sub-Clause 1.1.17 of the General Conditions of Contract), to ensure compliance with the Contractor’s Environmental and Social (ES) obligations under the Contract. The Bidder shall use for this purpose the Code of Conduct form provided in Section IV. No substantial modifications shall be made to this form, except that the Bidder may introduce additional requirements, including as necessary to take into account specific Contract issues/risks.  **Management Strategies and Implementation Plans (MSIP) to manage the (ES) risks**  The Bidder shall submitManagement Strategies and Implementation Plans (MSIPs) to manage the following key Environmental and Social (ES) risks:  *[Note: insert name of any additional plan and specific risk/s informed by the relevant environmental and social assessment];*   * *[e.g.* Sexual Exploitation and Abuse (SEA) *prevention and response action plan]* * [*e.g. Traffic Management Plan to ensure safety of local communities from construction traffic*];   *following:]*  Code of Conduct for Environmental and Social (ES)  The Bidder shall submit its Code of Conduct that will apply to Contractor’s Personnel (as defined in Sub-clause 1.1.2.7 of the GC), to ensure compliance with its Environmental and Social (ES) obligations under the contract. *[Note: Complete and include the risks to be addressed by the Code in accordance with Section VII-Works’ Requirements, e.g. risks associated with: labor influx, spread of communicable diseases, sexual harassment, gender based violence, sexual exploitation and abuse, illicit behavior and crime, and* maintaining *a safe environment etc.]*  In addition, the Bidder shall detail how this Code of Conduct will be implemented. This will include how it will be introduced into conditions of employment/engagement, what training will be provided, how it will be monitored and how the Contractor proposes to deal with any breaches.  The Contractor shall be required to implement the agreed Code of Conduct.  **Management Strategies and Implementation Plans (MSIP) to manage the ES risks**  The Bidder shall submit Management Strategies and Implementation Plans (MSIP) to manage the following key Environmental and Social (ES) risks.  ***[Note:*** *insert name of plan and specific risk/s];*   * [*e.g. Traffic Management Plan to ensure safety of local communities from construction traffic*]; * [*e.g. Water Resource Protection Plan to prevent contamination of drinking water*]; * [*e.g. Boundary Marking and Protection Strategy for mobilization and construction to prevent offsite adverse impacts*]; * [*e.g. Strategy for obtaining Consents/Permits prior to the start of relevant works such as opening a quarry or borrow pit];* * *[e.g. Gender based violence and sexual exploitation and abuse (GBV/SEA) prevention and response action plan].*   The Contractor shall be required to submit for approval, and subsequently implement, the Contractor’s Environment and Social Management Plan (C-ESMP), in accordance with the Particular Conditions of Contract Sub-Clause 4.1, that includes the agreed Management Strategies and Implementation Plans described here.  *[Note: The extent and scope of these requirements should reflect the significant ESHS risks or requirements set out in Section VII as advised by Environmental/Social specialist/s. The key risks to be addressed by the Bidder should be identified by Environmental/Social specialist/s, for example, from the Environmental and Social Impact Assessment (ESIA), Environmental and Social Management Plan (ESMP), Resettlement Action Plan (RAP), and/or Consent Conditions (regulatory authority conditions attached to any permits or approvals for the project), up to a maximum of four. The risks may arise during mobilization or construction phases, and may include construction traffic impacts on the community, pollution of drinking water, depositing on private land and impacts on rare species etc. The management strategies and/or implementation plans to address these could include, as appropriate: mobilization strategy, strategy for obtaining consents/permits, traffic management plan, water resource protection plan, bio-diversity protection plan and a strategy for marking and respecting work site boundaries etc.]* |
| **ITB 13.1** | Alternative bids ***[insert “shall be” or “shall not be”]*** permitted.  ***[If alternatives shall be considered, the methodology shall be defined in Section III – Evaluation and Qualification Criteria. See Section III for further details ]:*** |
| **ITB 13.2** | Alternative times for completion ***[insert “shall be” or “shall not be”]*** permitted.  If alternative times for completion are permitted, the evaluation method will be as specified in Section III (Evaluation and Qualification Criteria). |
| **ITB 13.4** | Alternative technical solutions shall be permitted for the following parts of the Works: ***[insert parts of the Works]***  If alternative technical solutions are permitted, the evaluation method will be as specified in Section III (Evaluation and Qualification Criteria). |
| **ITB 14.5** | The prices quoted by the Bidder *[insert “shall be” or “shall not be”]* subject to adjustment during the performance of the Contract. |
| **ITB 18.1** | The bid validity period shall be: ***[insert the number of days that is a multiple of seven counting as of the deadline for bid submission]*** days. |
| **ITB 18.3 (a)** | In the case of fixed price contracts financed by ADB or the WB the bid price shall be adjusted by the following formula: P=P0\*(1+0.07\*(V-56)/365)  P: Price after adjustment  P0: Original bid price  V: period of extension beyond the original bid validity period (in days). |
| **ITB 19.4** | The Bank Guarantee may be executed, or  In the case of use of Bid Declaration, Procuring Entity shall collaborate with Ministry of Finance to declare the Bidder ineligible to be awarded a contract for at least two years for all Projects around the Country, the started date will be issued by Ministry of Finance. |
| **ITB 20.1** | In addition to the original of the bid, the number of copies is: ***[insert number of copies required]***. |
| **ITB 20.2** | The written confirmation of authorization to sign on behalf of the Bidder shall consist of: ***[insert the name and description of the documentation required to demonstrate the authority of the signatory to sign the bid].*** |

D. Submission and Opening of Bids

|  |  |
| --- | --- |
| **ITB 22.1** | For **bid submission purposes** only, the Procuring Entity’s address is: ***[insert all required and applicable information]***  Attention: ***[insert full name of person, if applicable]***  Street Address: ***[insert street address and number]***  Floor/Room number: ***[insert floor and room number, if applicable]***  City: ***[insert name of city or town]***  Country: **Lao PDR**  **The deadline for bid submission is:**  Date: ***[insert day, month, and year, i.e. 15 June 2020]***  Time: [***insert time, and identify if a.m. or p.m., i.e. 10:30 a.m.****]*  ***[The date and time should be the same as those provided in the Invitation for Bids, unless subsequently amended pursuant to Clause 22.3*.]**  Bidders ***[insert “shall” or “shall not”]*** have the option of submitting their bids electronically.  If bidders have the option of submitting their bids electronically, the electronic bidding submission procedures shall be: ***[insert a description of the electronic bidding submission procedures]*** |
| **ITB 25.1** | The bid opening shall take place at: ***[insert all required and applicable information]***  Street Address: ***[insert street address and number]***  Floor/Room number: ***[insert floor and room number, if applicable]***  City: ***[insert name of city or town]***  Country**: Lao PDR**  Date: ***[insert day, month, and year, i.e. 15 June 2020]***  Time: [***insert time and identify if a.m. or p.m. i.e. 10:30 a.m.****]* ***[Date and time should be the same as those given for the deadline for submission of bids (Clause 22).]*** |
| **ITB 25.3** | The Letter of Bid and Priced Bill of Quantities shall be initialed by committee ***[insert number of initials]*** representatives of the Procuring Entity conducting Bid opening. |

E. Evaluation and Comparison of Bids

|  |  |
| --- | --- |
| **ITB 32.1** | At this time the Procuring Entity ***[ insert (is) or (is no)]*** to execute certain specific parts of the Works by sub-contractors selected in advance. |
| **ITB 32.3** | Contractor’s proposed subcontracting: Maximum percentage of subcontracting permitted is: ***[insert number %]*** *of the total contract amount or* ***[insert number %]*** *of the volume of work* ***[insert the nature of work to be sub-contracted]****.*  For specialized works to be subcontracted, ITB 32.2 should be followed.  Additionally,  b) Bidders planning to subcontract more than 10% of total volume of work shall specify, in the Letter of Bid, the activity (ies) or parts of the works to be subcontracted along with complete details of the sub-contractors and their qualification and experience. The qualification and experience of the sub-contractors must meet the minimum criteria for the relevant work to be sub-contracted failing which such sub-contractors will not be permitted to participate.  c) Sub-contractors’ qualification and experience will not be considered for evaluation of the Bidder. The Bidder on its own (without taking into account the qualification and experience of the sub-contractor) should meet the qualification criteria. |
| **ITB 38.1** | The Notification of Intention to Award [Inseert form1 for the Projects supported by ADB or WB, or form2 for the Project supported by Government. shall be 14 days within which any unsuccessful bidder can challenge the proposed award. The details of sending Complaint application form is mentioned in the form. |

F. Award of Contract

|  |  |
| --- | --- |
| **ITB 42.1 and 42.2** | ***(For WB and ADB)***  **[Delete the following if not applicable]**  *[Note: The ESHS Performance Security shall normally be required where ESHS risks are significant.]* |
| **ITB 43.1** | **[The Procuring Entity is able to choose one of practices below, and delete the one that is not selected]**  The Adjudicator proposed by the Procuring Entity is[[6]](#footnote-7)***: …. [insert name and address of proposed Adjudicator]***. The hourly fee for this proposed Adjudicator shall be: …… ***[insert amount and currency].*** The biographical data of the proposed Adjudicator is as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***[provide relevant information, such as education, experience, age, nationality, and present position; attach additional pages as necessary]***  **Or**  The Adjudicator proposed by the Procuring Entity and Bidder is the person/team who had been instituted by the Ministry of Finance pursuant to the Law on Public Procurement No. 30/NA, Part IX, Section 1, Article 73. |
| **ITB 44** | The name and address of the office where complaints to the Procuring Entity are to be submitted is: **[Insert].** |

Section III - Evaluation and Qualification Criteria

This section contains all the criteria that the Procuring Entity shall use to evaluate bids and qualify Bidders if the bidding was not preceded by a prequalification exercise and, in the case of Bank financing, post qualification is applied. In accordance with ITB 32 and ITB 35, no other methods, criteria and factors shall be used. The Bidder shall provide all the information requested in the forms included in Section 4 (Bidding Forms).

Wherever a Bidder is required to state a monetary amount, Bidders should indicate the Kip equivalent using the rate of exchange determined as follows:

* For construction turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
* Value of single contract - Exchange rate prevailing on the date of the contract.

Exchange rates shall be taken from the website of the Bank of Lao at http://www.bol.gov.la/english/index1.php (selling rates). If the exchange rates on the dates above are not available, the rates on the date of bid opening should be used. Any error in determining the exchange rates in the Bid may be corrected by the Procuring Entity

1. Evaluation (ITB 33)

In addition to the criteria listed in ITB 33.2 (a) – (e) the following criteria shall apply:

1.1 Adequacy of Technical Proposal

# Evaluation of the Bidder's Technical Proposal will include an assessment of the Bidder's technical capacity to mobilize key equipment and personnel for the contract consistent with its proposal regarding work methods, scheduling, and material sourcing in sufficient detail and fully in accordance with the requirements stipulated in Section VI (Works Requirements).

1.2 Multiple Contracts

# Pursuant to Sub-Clause 33.4 of the Instructions to Bidders, if Works are grouped in multiple contracts, evaluation will be as follows:

**Award Criteria for Multiple Contracts [ITB 33.4]:**

**Lots**

Bidders have the option to Bid for any one or more lots. Bids will be evaluated lot-wise, taking into account discounts offered, if any, for combined lots. The contract(s) will be awarded to the Bidder or Bidders offering the lowest evaluated cost to the Procuring Entity for combined lots, subject to the selected Bidder(s) meeting the required qualification criteria for lot or combination of lots as the case may be.

**Packages**

Bidders have the option to Bid for any one or more packages and for any one or more lots within a package. Bids will be evaluated package-wise, taking into account discounts offered, if any, for combined packages and/or lots within a package. The contract(s) will be awarded to the Bidder or Bidders offering the lowest evaluated cost to the Procuring Entity for combined packages, subject to the selected Bidder(s) meeting the required qualification criteria for combination of packages and or lots as the case may be.

**Qualification Criteria for Multiple Contracts:**

Section III describes criteria for qualification for each lot (contract) for multiple lots (contracts). The criteria for qualification is aggregate minimum requirement for respective lots as specified under Section III (2) – Qualifications table 3.1, 3.2, 4.2(a) and 4.2(b). However, with respect to the specific experience under item 4.2 (a), the Procuring Entity will select any one or more of the options as identified below:

N is the minimum number of contracts

V is the minimum value of a single contract

**(a) For one Contract**:

**Option 1:**

(i) N contracts, each of minimum value V;

Or

**Option 2:**

(i) N contracts, each of minimum value V; or

(ii) Less than or equal to N contracts, each of minimum value V, but with total value of all contracts equal or more than N x V.

**(b) For multiple Contracts**

**Option 1:**

(i) Minimum requirements for combined contract(s) shall be the aggregate requirements for each contract for which the bidder has submitted bids as follows, and N1, N2, N3, etc. shall be different contracts:

Lot 1: N1 contracts, each of minimum value V1;

Lot 2: N2 contracts, each of minimum value V2;

Lot 3: N3 contracts, each of minimum value V3;

---- etc.

or

**Option 2:**

(i) Minimum requirements for combined contract(s) shall be the aggregate requirements for each contract for which the bidder has submitted bids as follows, and N1, N2, N3, etc. shall be different contracts:

Lot 1: N1 contracts, each of minimum value V1;

Lot 2: N2 contracts, each of minimum value V2;

Lot 3: N3 contracts, each of minimum value V3;

----etc.,

or

(ii) Lot 1: N1 contracts, each of minimum value V1; or number of contracts less than or equal to N1, each of minimum value V1, but with total value of all contracts equal or more than N1 x V1.

Lot 2: N2 contracts, each of minimum value V2; or number of contracts less than or equal to N2, each of minimum value V2, but with total value of all contracts equal or more than N2 x V2.

Lot 3: N3 contracts, each of minimum value V3; or number of contracts less than or equal to N3, each of minimum value V3, but with total value of all contracts equal or more than N3 x V3.

Or

**Option 3:**

(i) Minimum requirements for combined contract(s) shall be the aggregate requirements for each contract for which the applicant has applied for as follows, and N1, N2, N3, etc. shall be different contracts:

Lot 1: N1 contracts, each of minimum value V1;

Lot 2: N2 contracts, each of minimum value V2;

Lot 3: N3 contracts, each of minimum value V3;

----etc., **or**

(ii) Lot 1: N1 contracts, each of minimum value V1; or number of contracts less than or equal to N1, each of minimum value V1, but with total value of all contracts equal or more than N1 x V1.

Lot 2: N2 contracts, each of minimum value V2; or number of contracts less than or equal to N2, each of minimum value V2, but with total value of all contracts equal or more than N2 x V2.

Lot 3: N3 contracts, each of minimum value V3; or number of contracts less than or equal to N3, each of minimum value V3, but with total value of all contracts equal or more than N3 x V3.

----etc., or

(iii) Subject to compliance as per (ii) above with respect to minimum value of single contract for each lot, total number of contracts is equal or less than N1 + N2 + N3 +--but the total value of all such contracts is equal or more than N1 x V1 + N2 x V2 + N3 x V3 +---.

1.3 Alternative Completion Times

# An alternative Completion Time, if permitted under ITB 13.2, will be evaluated as follows:

1.4 Technical Alternatives

# Technical alternatives, if permitted under ITB 13.4, will be evaluated as follows:

1.5 Specialized Subcontractors

Only the specific experience of sub-contractors for specialized works permitted by the Procuring Entity will be considered. The general experience and financial resources of the specialized sub-contractors shall not be added to those of the Bidder for purposes of qualification of the Bidder.

1. Eligibility and Qualifications Criteria

| **Eligibility and Qualification Criteria** | | | **Compliance Requirements** | | | | **Documentation** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Subject** | **Requirement** | **Single Entity** | **Joint Venture (existing or intended)** | | | **Submission Requirements** |
| **All Parties Combined** | **Each Member** | **One Member** |
| **1. Eligibility** | | | | | | | |
| 1.1 | Nationality  [for Bank-financed contracts only] | Nationality in accordance with ITB 4.3 | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Forms ELI – 1.1 and 1.2, with attachments |
| 1.2 | Conflict of Interest | No conflicts of interest in accordance with ITB 4.3 | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Letter of Bid |
| 1.3 | Bank Eligibility | Not having been declared ineligible by the Bank, as described in ITB 4.4, 4.5, 4.6,4.7 and 4.8 | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Letter of Bid |
| 1.4 | Government Owned Entity | Meets conditions of ITB 4.5 | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Forms ELI – 1.1 and 1.2, with attachments |
| 1.5 | United Nations resolution or law of Lao PDR | Not having been excluded as a result of prohibition in the laws or official regulations of Lao PDR against commercial relations with the Bidder’s country [not applicable if the contract is financed by ADB], or by an act of compliance with UN Security Council resolution, both in accordance with ITB 2.4 and Section V. | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Forms ELI – 1.1 and 1.2, with attachments |
| **2. Historical Contract Non-Performance** | | | | | | | |
| 2.1 | History of Non-Performing Contracts | Non-performance of a contract[[7]](#footnote-8) did not occur as a result of contractor default since 1st January [*Insert year]*. | Must meet requirement12 | Must meet requirements | Must meet requirement[[8]](#footnote-9) | N/A | Form CON-2 |
| 2.2 | Suspension Based on Execution of Bid Securing Declaration by the Procuring Entity or withdrawal of the Bid within Bid validity | Not under suspension based on execution of a Bid Securing Declaration pursuant to ITB 4.6 or withdrawal of the Bid pursuant ITB 19.4. | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Bid Submission Form |
| 2.3 | Pending Litigation | Bidder’s financial position and prospective long-term profitability sound according to criteria established in 3.1 below and assuming that all pending litigation will be resolved against the Bidder | Must meet requirement | N/A | Must meet requirement | N/A | Form CON – 2 |
| 2.4 | Litigation History | No consistent history of court/arbitral award decisions against the Bidder[[9]](#footnote-10) since 1st January *[insert year]* | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Form CON – 2 |
| 2.5 | **Declaration: Environmental and Social (ES) past performance**  **[only for contracts financed by the WB/ADB]** | Declare any civil work contracts that have been suspended or terminated and/or performance security called by an Procuring Entity for reasons related to the non-compliance of any environmental, or social, (including sexual exploitation and abuse (SEA) and gender based violence (GBV)), or health or safety requirements or safeguard in the past five years[[10]](#footnote-11). | Must make the declaration. Where there are Specialized Sub-contractor/s, the Specialized Sub-contractor/s must also make the declaration. | N/A | Each must make the declaration. Where there are Specialized Sub-contractor/s, the Specialized Sub-contractor/s must also make the declaration. | N/A | Form CON-3 ESHS Performance Declaration |
| **3. Financial Situation and Performance** | | | | | | | |
| 3.1 | Financial Capabilities | (i) The Bidder shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as Kip[[11]](#footnote-12)*\_\_\_\_\_\_\_\_\_\_\_\_\_\_*for the subject contract(s) net of the Bidders other commitments  (ii) The Bidders shall also demonstrate, to the satisfaction of the Procuring Entity, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.  (iii) The audited balance sheets or, if not required by the laws of the Bidder’s country, other financial statements acceptable to the Procuring Entity, for the last [[12]](#footnote-13)*\_\_\_\_\_\_\_\_\_*years shall be submitted and must demonstrate the current soundness of the Bidder’s financial position and indicate its prospective long-term profitability. | Must meet requirement | Must meet Requirement | N/A | N/A | Form FIN – 3.1, with attachments |
| 3.2 | Average Annual Construction Turnover | Minimum average annual construction turnover[[13]](#footnote-14) of Kip*\_\_\_\_\_\_\_\_\_\_\_\_\_\_*, calculated as total certified payments received for contracts in progress and/or completed within[[14]](#footnote-15) the last *\_\_\_\_\_\_\_\_*years, divided by *\_\_\_\_\_\_\_\_\_\_*years | Must meet requirement | Must meet requirement | Must meet *\_\_\_\_\_\_\_\_*%, of the requirement | Must meet *\_\_\_*%, of the requirement | Form FIN – 3.2 |
| **4. Experience** | | | | | | | |
| 4.1 (a) | General Construction Experience | Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least[[15]](#footnote-16) the last *\_\_\_\_\_\_\_\_*years, starting 1st January \_\_\_\_\_. | Must meet requirement | N/A | Must meet requirement | N/A | Form EXP – 4.1 |
| 4.2 (a) | Specific Construction & Contract Management Experience | (i) A minimum number of similar[[16]](#footnote-17) contracts specified below that have been satisfactorily and substantially[[17]](#footnote-18) completed as a prime contractor, joint venture member[[18]](#footnote-19), management contractor or sub-contractor between 1st January [*insert year*] and application submission deadline: (i) N contracts, each of minimum value V;  Or  (ii) Less than or equal to N contracts, each of minimum value V, but with total value of all contracts equal or more than N x V; *[insert values of N & V, delete (ii) above if not applicable]*.  *[In case the Works are to be bid as individual contracts under a slice and package (multiple contract) procedure, the minimum number of contracts required for purposes of evaluating qualification shall be selected from the options specified in ITB 33.4]* | Must meet requirement | Must meet requirement[[19]](#footnote-20) | N/A | N/A | Form EXP 4.2(a) |
| *[Add the following if specialized sub-contractor is permitted and describe nature and characteristics of specialized works:]*  *“(ii) For the following specialized works, the Procuring Entity permits specialized sub-contractors as per ITB 32.3”[[20]](#footnote-21)* | *“Must meet requirement for one contract* *(Requirement can be met through a Specialized Sub-contractor)”* | *Must meet requirement* | *N/A* | *“Must meet requirement (Requirement can be met through a Specialized Sub-contractor)”* |  |
| 4.2 (b) |  | For the above and any other contracts completed and under implementation as prime contractor, joint venture member, management contractor or sub-contractor[[21]](#footnote-22) on or after the first day of the calendar year during the period stipulated in 4.2 (a) above, a minimum construction experience in the following key activities successfully completed[[22]](#footnote-23): *[list activities indicating volume, number or rate of production as applicable][[23]](#footnote-24)* | Must meet requirements | Must meet requirements | N/A | Must meet the following requirements for the key activities listed below *[list key activities and the corresponding minimum requirements]* | Form EXP – 4.2 (b) |

1. **Personnel [not applicable if the contract is financed by ADB]**

The Bidder must demonstrate that it will have the personnel for the key positions that meet the following requirements:

*[Specify requirements for each lot as applicable]*

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Position** | **Total Work Similar**  **Experience (years)** | **In Similar Works Experience**  **(years)** |
| 1 |  |  |  |
| 2 |  |  |  |
| 3 |  |  |  |
| 4 |  |  |  |
| 5 |  |  |  |
|  |  |  |  |

The Bidder shall provide details of the proposed personnel and their experience records in the relevant Forms included in Section IV, Bidding Forms.

1. **Equipment [not applicable if the contract is financed by ADB]**

The Bidder must demonstrate that it will have access to the key Contractor’s equipment listed hereafter:

*[Specify requirements for each lot as applicable. Only the equipment critical for construction should be listed]*

|  |  |  |
| --- | --- | --- |
| **No.** | **Equipment Type and Characteristics** | **Minimum Number required** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| 4 |  |  |
| 5 |  |  |
|  |  |  |
|  |  |  |

The Bidder shall provide further details of proposed items of equipment using the relevant Form in Section IV.

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Letter of Bid

|  |
| --- |
| *The Bidder must prepare the Letter of Bid on stationery with its letterhead clearly showing the Bidder’s complete name and address.*  ***Note: All italicized text is for use in preparing these forms and shall be deleted from the final products.*** |

Date: ***[insert date (as day, month and year) of Bid Submission]***

OB No.: **[*insert number of bidding process*]**

Invitation for Bid No.: ***[insert identification]***

Alternative No.: ***[insert identification No if this is a Bid for an alternative]***

To: [***insert complete name of Procuring Entity*]**

1. We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB 8);
2. We meet the eligibility requirements and have no conflict of interest in accordance with ITB 4.3;
3. We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Bid Securing Declaration in the Procuring EntityLao PDR in accordance with ITB 4.6
4. We offer to execute in conformity with the Bidding Documents the following Works: **[*insert a brief description of the Works*]**;
5. The total price of our Bid, excluding any discounts offered in item (f) below is:

In case of only one lot, total price of the Bid ***[insert the total price of the bid in words and figures,]*;**

In case of multiple lots, total price of each *lot* ***[insert the total price of each lot in words and figures,]*;**

In case of multiple lots, total price of all lots (sum of all lots) ***[insert the total price of all lots in words and figures,]***;

1. The discounts offered and the methodology for their application are:

(i) The discounts offered are: ***[Specify in detail each discount offered.****]*

(ii) The exact method of calculations to determine the net price after application of discounts is shown below*: [****Specify in detail the method that shall be used to apply the discounts****];*

1. Our bid shall be valid for a period in accordance with ITB 18 of the Instructions to Bidders of the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
2. If our bid is accepted, we commit to obtain a performance security [*and an Environmental and Social (ES) Performance Security,* ***Delete if not applicable***] in accordance with the Bidding Documents;
3. We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 4.2(e), other than alternative bids submitted in accordance with ITB 13;
4. Our firm, its affiliates or subsidiaries, including any of our subcontractors or suppliers for any part of the contract have not been declared ineligible by the Bank or by an act of compliance with a decision of the United Nations Security Council *(if the contract is to be financed by the Lao Government, replace “by the Bank” with “*under the Lao laws or official regulations” and delete “or by an act of compliance with a decision of the United Nations Security Council”.);
5. We are not a government owned entity/ We are a government owned entity but meet the requirements of ITB 4.5[[24]](#footnote-25);
6. We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract: ***[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]***

|  |  |  |  |
| --- | --- | --- | --- |
| Name of Recipient | Address | Reason | Amount |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

(If none has been paid or is to be paid, indicate “none.”)

1. We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and
2. We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
3. We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any type of fraud and corruption.
4. We agree to permit the Bank or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank.

Name of the Bidder**\*** ***[insert complete name of person signing the Bid]***

Name of the person duly authorized to sign the Bid on behalf of the Bidder***\*\* [insert complete name of person duly authorized to sign the Bid]***

Title of the person signing the Bid ***[insert complete title of the person signing the Bid]***

Signature of the person named above  *[****insert signature of person whose name and capacity are shown above****]*

Date signed *\_* ***[insert date of signing] day*** of ***[insert month]***, ***[insert year]***

**\***: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder

\*\*: Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid Schedules.

Schedules

Bill of Quantities

**Objectives**

The objectives of the Bill of Quantities are:

(a) to provide sufficient information on the quantities of Works to be performed to enable bids to be prepared efficiently and accurately; and

(b) when a Contract has been entered into, to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and contents of the Bill of Quantities should be as simple and brief as possible.

**Daywork Schedule**

A Daywork Schedule should be included only if the probability of unforeseen work, outside the items included in the Bill of Quantities, is high. To facilitate checking by the Procuring Entity of the realism of rates quoted by the bidders, the Daywork Schedule should normally comprise the following:

(a) A list of the various classes of labor, materials, and Constructional Plant for which basic daywork rates or prices are to be inserted by the Bidder, together with a statement of the conditions under which the Contractor shall be paid for work executed on a daywork basis.

(b) Nominal quantities for each item of daywork, to be priced by each Bidder at daywork rates as Bid. The rate to be entered by the Bidder against each basic daywork item should include the Contractor’s profit, overheads, supervision, and other charges.

**Provisional Sums**

A general provision for physical contingencies (quantity overruns) may be made by including a provisional sum in the Summary Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a provisional sum in the Summary priced Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises. Where such provisional sums or contingency allowances are used, the Special Conditions of Contract should state the manner in which they shall be used, and under whose authority (usually the Project Manager’s).

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other contractors should be indicated in the relevant part of the Bill of Quantities as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Procuring Entity to select such specialized contractors. To provide an element of competition among the bidders in respect of any facilities, amenities, attendance, etc., to be provided by the successful Bidder as prime Contractor for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Bill of Quantities inviting the Bidder to quote a sum for such amenities, facilities, attendance, etc.

These Notes for Preparing a Bill of Quantities are intended only as information for the Procuring Entity or the person drafting the Bidding Documents. They should not be included in the final documents.

1. Sample Bill of Quantities

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Item no.*** | ***Description*** | ***Unit*** | ***Quantity*** | ***Rate*** | ***Amount*** |
|  |  |  |  |  |  |
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|  |  |  |  |  |  |
|  | [*To be entered by the Procuring Entity; Delete if not applicable:]*  provisional sums for additional ES outcomes.  (Not applicable for contract financed by State Budget) |  |  |  |  |
|  | [*To be entered by the Procuring Entity; Delete if not applicable:]*  Provisional sum for sexual exploitation and abuse (SEA) / gender-based violence (GBV) awareness and sensitization training.  (Not applicable for contract financed by State Budget) |  |  |  |  |
| I | Total cost |  |  |  |  |
| II | VAT 10% (Include total cost) |  |  |  |  |
| III | Contract Registration Fee[[25]](#footnote-26) |  |  |  |  |
| Grand total | | | | |  |

Notes: If the bidder dose not indicate the value of item II, III, it is considered that those cost including profit tax which will be under contractor’s responsibility, are included in the total of the contract.

**Sample Activity Schedule[[26]](#footnote-27)**

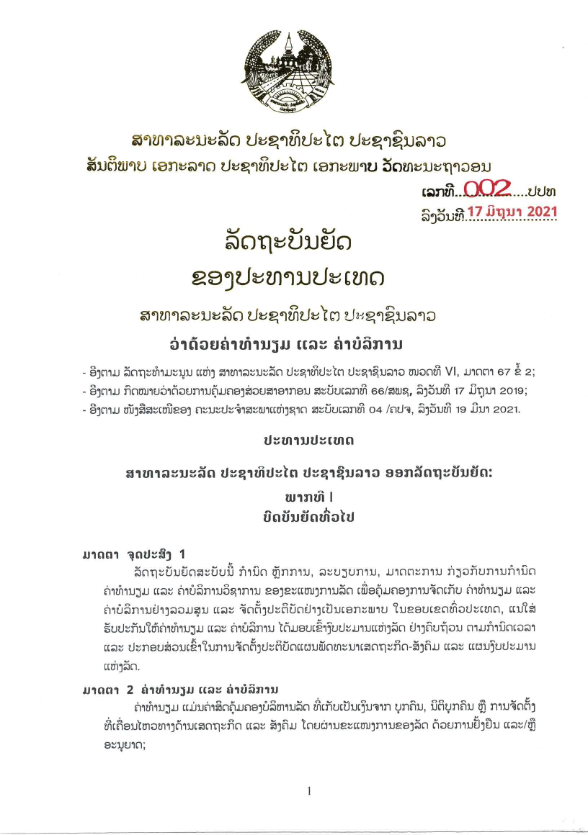
|  |  |  |  |
| --- | --- | --- | --- |
| ***Item no.*** | ***Description*** | ***Unit*** | ***Amount*** |
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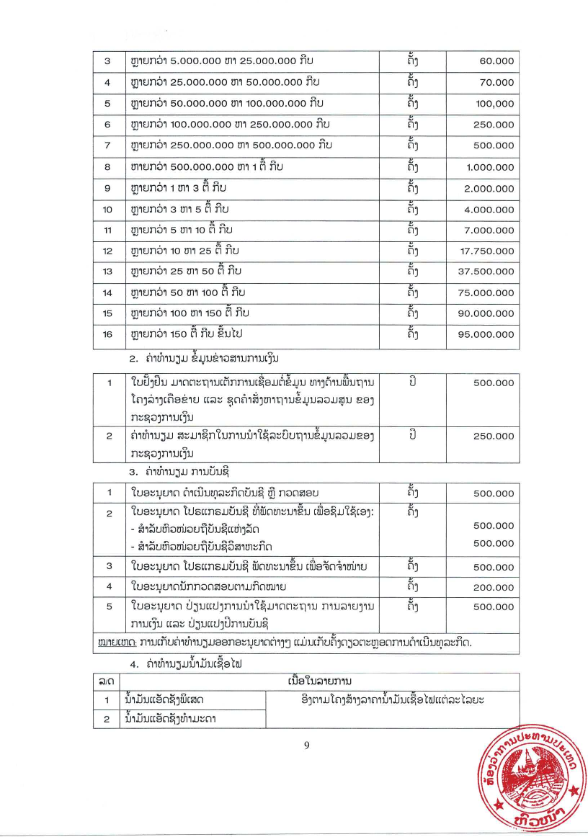
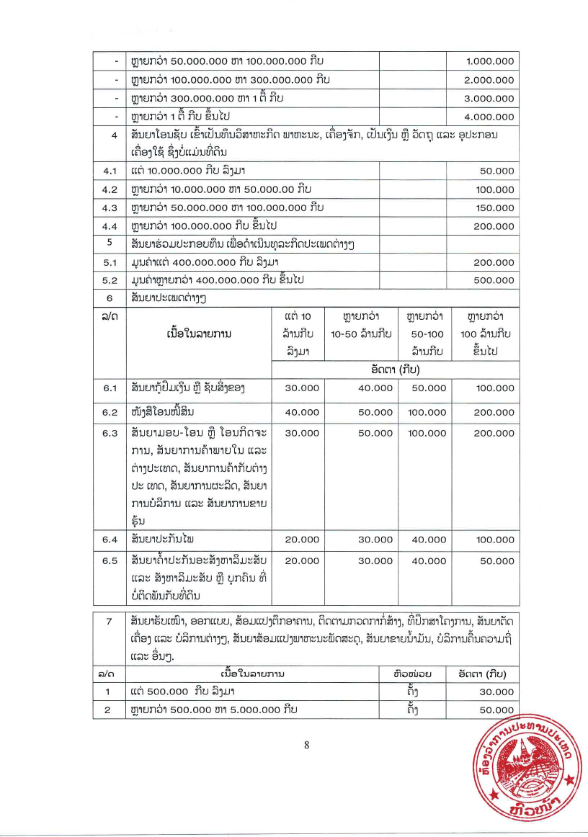
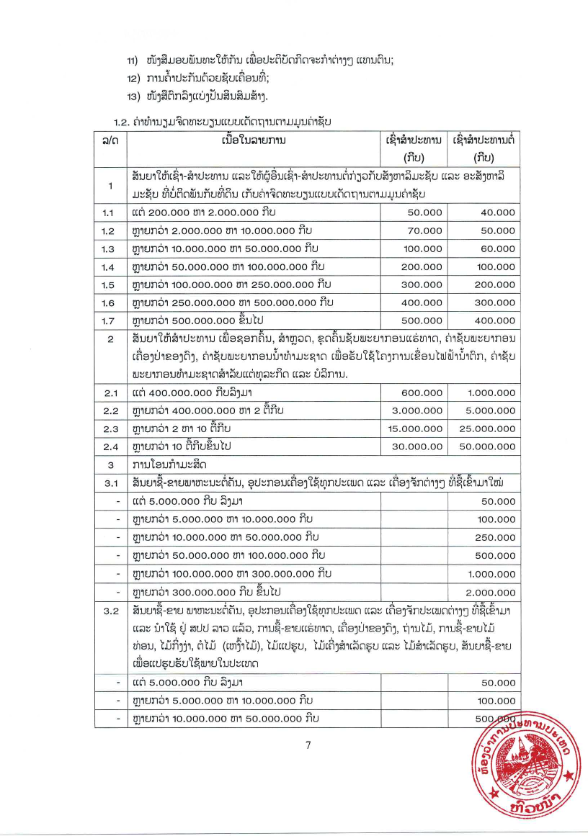
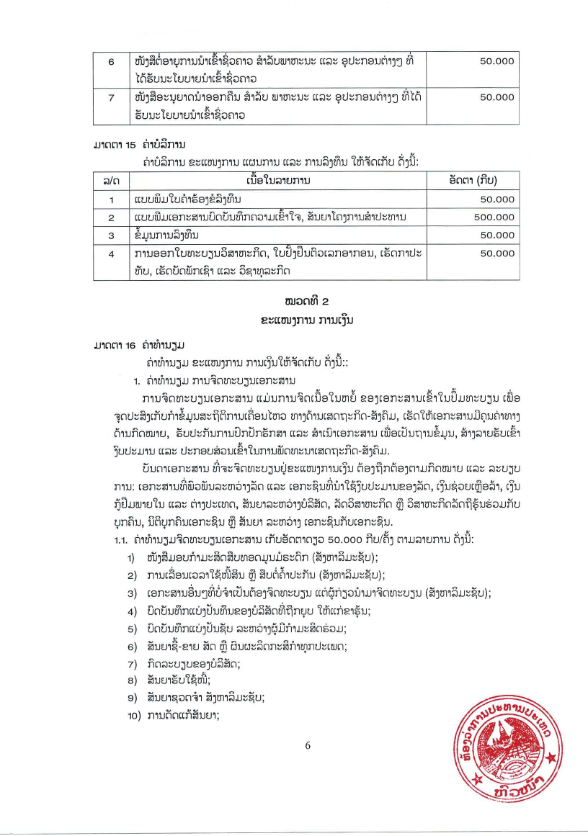
**Schedule(s) of Adjustment Data**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Index**  **Code** | **Index Description** | **Source of Index** | **Base Value**  **and Date** | **Bidder’s**  **Local Currency Amount** | **Bidder’s**  **Proposed**  **Weighting** |
|  | Nonadjustable | — | — | — | A: \*  B: \*  C: \*  D: \*  E: \* |
|  |  |  | **Total** |  | **1.00** |

[\* To be entered by the Procuring Entity. Whereas “A” should a fixed percentage, B, C, D and E should specify a range of values and the Bidder will be required to specify a value within the range such that the total weighting = 1.00]

The Attachment: Ordinances of the President N o. 002 on the Fee and Services





Form of Bid Securing Declaration

Date: ***[insert date (as day, month and year)]***

Bid No.: ***[insert number of bidding process]***

Alternative No.: ***[insert identification No if this is a Bid for an alternative]***

To: ***[insert complete name of Procuring Entity]***

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding in any contract around the Country, financed by World Bank, ADB and Government of Lao PDR for the period of time of at least **two years**, the started date will be issued by the Ministry of Finance**,** if we are in breach of our obligation(s) under the bid conditions, because we:

(a) have withdrawn our Bid during the period of bid validity specified in the Letter of Bid or extended in accordance with ITB18; or

(b) having been notified of the acceptance of our Bid by the Procuring Entity during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security and, if required, the Environmental and Social (ES) Performance Security, in accordance with the ITB.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Name of the Bidder**\*** ***[insert complete name of person signing the Bid]***

Name of the person duly authorized to sign the Bid on behalf of the Bidder**\*\* *[insert complete name of person duly authorized to sign the Bid]***

Title of the person signing the Bid ***[insert complete title of the person signing the Bid]***

Signature of the person named above  *[****insert signature of person whose name and capacity are shown above****]*

Date signed *\_****[insert date of signing]***day of **[*insert month]****,* ***[insert year]***

**\***: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder

\*\*: Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid*[Note: In case of a Joint Venture, the Bid-Securing Declaration must be in the name of all members to the Joint Venture that submits the bid.]*

## Form Bank Guarantee for Bid Security

Logo of the Commericial Bank

Bank’s Name and Address of issuing branch or office

Date:

**Bid Guarantee No.**

Beneficiary: Name and Address of the Procuring Entity,

We have been informed that *[name of Bidder]* (hereinafter called “the Bidder”) intend to submit to you its Bid dated *[date of Bid]* (hereinafter called “the Bid”) for the supply of *[description of Works and related Services]* under the above Invitation for Bids (hereinafter called “the IFB”).

Furthermore, we understand that, according to your conditions Bids must be supported by a Bid Guarantee.

At the request of the Bidder, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Kip *[insert amount in figures and words]* upon receipt by us of your first written demand in writing accompanied by a written statement that the Bidder is in breach of its obligation(s) under the Bid conditions, because the Bidder:

1. has withdrawn its Bid during the period of Bid validity specified by the Bidder in the Form of Bid; or
2. does not accept the correction of errors in accordance with the Instructions to Bidders (ITB) of the IFB; or
3. having been notified of the acceptance of the Bid by the Procuring Entity during the period of Bid validity, (i) fails or refuses to furnish the Performance Security in accordance with the ITB, or (ii) fails or refuses to execute the Contract Form,

This guarantee will expire if:

1. the Bidder is the successful Bidder, upon our receipt of a copy of the Performance Security and a copy of the Contract signed by the Bidder as issued by you; or
2. if the Bidder is not the successful Bidder: twenty-eight days after the expiration of the Bidder’s Bid validity period, being *[date of expiration of the Bid].*

Consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

This guarantee is subject to the Amended Secured Transactions Law, dated May 20, 2005.

|  |  |
| --- | --- |
|  | Signature(s) of authorized representative(s) |

Technical Proposal

Technical Proposal Forms

[Forms For Personnel 65](#_Toc58913791)

[Forms For Equipment 67](#_Toc58913792)

[Site Organization 68](#_Toc58913793)

[Method Statement 69](#_Toc58913794)

[Mobilization Schedule 70](#_Toc58913795)

[Construction Schedule 71](#_Toc58913796)

[Es Management Strategies And Implementation Plans 72](#_Toc58913797)

[Code Of Conduct: Environmental and Social (ES) 73](#_Toc58913798)

[Others 76](#_Toc58913799)

Forms for Personnel

**Form PER – 1: Proposed Personnel**

Bidders should provide the names of suitably qualified personnel to meet the specified requirements for each of the positions listed in Section III (Evaluation and Qualification Criteria). The data on their experience should be supplied using the Form below for each candidate.

|  |  |
| --- | --- |
| 1. | Title of position: |
|  | Name: |
| 2. | Title of position: |
|  | Name: |
| 3. | Title of position: |
|  | Name: |
| 4. | Title of position: |
|  | Name: |
| 5. | Title of position: |
|  | Name: |
| 6. | Title of position: |
|  | Name: |
| etc. | Title of position: |
|  | Name: |

**Form PER – 2: Resume of Proposed Personnel**

The Bidder shall provide all the information requested below. Fields with asterisk (\*) shall be used for evaluation.

|  |  |  |
| --- | --- | --- |
| **Position\*** | | |
| **Personnel information** | **Name \*** | **Date of birth** |
|  | **Professional qualifications** | |
| **Present employment** | **Name of Procuring Entity** | |
|  | **Address of Procuring Entity** | |
|  | **Telephone** | **Contact (manager / personnel officer)** |
|  | **Fax** | **E-mail** |
|  | **Job title** | **Years with present** Procuring Entity |

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

|  |  |  |
| --- | --- | --- |
| From\* | To\* | Company, Project, Position, and Relevant Technical and Management Experience\* |
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Forms for Equipment

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III (Evaluation and Qualification Criteria). A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder. The Bidder shall provide all the information requested below, to the extent possible. Fields with asterisk (\*) shall be used for evaluation.

|  |  |  |
| --- | --- | --- |
| Type of Equipment\* | | |
| Equipment Information | Name of manufacturer, | Model and power rating |
|  | Capacity\* | Year of manufacture\* |
| Current Status | Current location | |
|  | Details of current commitments | |
|  |  | |
| Source | Indicate source of the equipment  o Owned o Rented o Leased o Specially manufactured | |

The following information shall be provided only for equipment not owned by the Bidder.

|  |  |  |
| --- | --- | --- |
| Owner | Name of owner | |
|  | Address of owner | |
|  |  | |
|  | Telephone | Contact name and title |
|  | Fax | Telex |
| Agreements | Details of rental / lease / manufacture agreements specific to the project | |
|  |  | |
|  |  | |

Site Organization

*(Insert Field Organization Chart)*

Method Statement

*(Insert Method Statement)*

Mobilization Schedule

*(Insert Mobilization Schedule)*

Construction Schedule

*(Insert Construction Schedule)*

[For Bank financed contracts only]

ES Management Strategies and Implementation Plans

#### (ES-MSIP)

#### The Bidder shall submit comprehensive and concise Environmental and Social Management Strategies and Implementation Plans (ES-MSIP) as required by ITB 11.1 (h) of the Bid Data Sheet. These strategies and plans shall describe in detail the actions, materials, equipment, management processes etc. that will be implemented by the Contractor, and its subcontractors.

#### In developing these strategies and plans, the Bidder shall have regard to the ESHS provisions of the contract including those as may be more fully described in the Works Requirements described in Section VII.

Code of Conduct: Environmental and Social (ES)

(not for contracts financed by State Budget)

#### The Bidder shall submit the Code of Conduct that will apply to the Contractor’s employees and subcontractors as required by ITB 11.1 (h) of the Bid Data Sheet. The Code of Conduct shall ensure compliance with the ESHS provisions of the contract, including those as may be more fully described in the Works Requirements described in Section VII.

In addition, the Bidder shall submit an outline of how this Code of Conduct will be implemented. This will include how it will be introduced into conditions of employment/engagement, what training will be provided, how it will be monitored and how the Contractor proposes to deal with any breaches.

[For Bank financed contracts only]

Environmental and Social

Performance Declaration

*[The following table shall be filled in for the Bidder, each member of a Joint Venture and each Specialized Subcontractors]*

Bidder’s Name: *[insert full name]*Date: *[insert day, month, year]*Joint Venture Member’s or Specialized Subcontractor’s Name: *[insert* *full name]*OB No. and title: *[insert OB number and title]*Page *[insert page number]* of *[insert total number]* pages

|  |  |  |  |
| --- | --- | --- | --- |
| Environmental and Social Performance Declaration  in accordance with Section III, Qualification Criteria, and Requirements of the Prequalification document | | | |
| ¨ **No suspension or termination of contract**: An employer has not suspended or terminated a contract and/or called the performance security for a contract for reasons related to Environmental and Social (ES) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5.  ¨ **Declaration of suspension or termination of contract**: The following contract(s) has/have been suspended or terminated and/or Performance Security called by an employer(s) for reasons related to Environmental and Social (ES) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5. Details are described below: | | | |
| **Year** | **Suspended or terminated portion of contract** | **Contract Identification** | **Total Contract Amount (current value, currency, exchange rate and US$ equivalent)** |
| *[insert year]* | *[insert amount and percentage]* | Contract Identification: *[indicate complete contract name/ number, and any other identification]*  Name of Employer: *[insert full name]*  Address of Employer: *[insert street/city/country]*  Reason(s) for suspension or termination: *[indicate main reason(s) e.g. for GBV/ SEA breaches]* | *[insert amount]* |
| *[insert year]* | *[insert amount and percentage]* | Contract Identification: *[indicate complete contract name/ number, and any other identification]*  Name of Employer: *[insert full name]*  Address of Employer: *[insert street/city/country]*  Reason(s) for suspension or termination: *[indicate main reason(s)]* | *[insert amount]* |
| *…* | *…* | *[list all applicable contracts]* | *…* |
| **Performance Security called by an employer(s) for reasons related to ES performance** | | | |
| Year | Contract Identification | | Total Contract Amount (current value, currency, exchange rate and US$ equivalent) |
| *[insert year]* | Contract Identification: *[indicate complete contract name/ number, and any other identification]*  Name of Employer: *[insert full name]*  Address of Employer: *[insert street/city/country]*  Reason(s) for calling of performance security: *[indicate main reason(s) e.g. for GBV/ SEA breaches]* | | *[insert amount]* |
|  |  | |  |

Others

Bidder’s Qualification

To establish its qualifications to perform the contract in accordance with Section III (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder

Form ELI -1.1: Bidder Information Form

Date: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  
OB No. and title: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  
Page*\_\_\_\_\_\_\_\_\_\_*of *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*pages

|  |
| --- |
| Bidder's name |
| In case of Joint Venture (JV), name of each member: |
| Bidder's actual or intended country of registration: |
| Bidder's actual or intended year of incorporation: |
| Bidder's legal address [in country of registration]: |
| Bidder's authorized representative information  Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Address: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Telephone/Fax numbers: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  E-mail address: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |
| 1. Attached are copies of original documents of  ¨ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITB 4.3.  ¨ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1.  ¨ In case of Government-owned enterprise or institution, in accordance with ITB 4.5 documents establishing:   * Legal and financial autonomy * Operation under commercial law * Establishing that the Bidder is not dependent agency of the Procuring Entity   2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. |

Form ELI -1.2: Information Form for JV Bidders

(to be completed for each member of Joint Venture)

Date: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*OB No. and title: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Page *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* of *\_\_\_\_\_\_\_\_\_\_\_\_* pages

|  |
| --- |
| Bidder’s Joint Venture name: |
| JV member’s name: |
| JV member’s country of registration: |
| JV member’s year of incorporation: |
| JV member’s legal address in country of registration: |
| JV member’s authorized representative information  Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Telephone/Fax numbers: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  E-mail address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| 1. Attached are copies of original documents of  ¨ Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 4.3.  ¨ In case of a Government-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and absence of dependent status, in accordance with ITB 4.5.  2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. |

Form CON – 2: Historical Contract Non-Performance, Pending Litigation and Litigation History

Bidder’s Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Date: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Joint Venture Member’s Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_OB No. and title: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Page *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*of *\_\_\_\_\_\_\_\_\_\_\_\_\_\_*pages

|  |  |  |  |
| --- | --- | --- | --- |
| Non-Performed Contracts in accordance with Section III, Evaluation Criteria and Qualifications | | | |
| ¨ Contract non-performance did not occur since 1st January *[insert year]* specified in Section III, Evaluation Criteria and Qualifications, Sub-Factor 2.1.  ¨ Contract(s) not performed since 1st January *[insert year]* specified in Section III, Evaluation Criteria and Qualifications, requirement 2.1 | | | |
| **Year** | **Non- performed portion of contract** | **Contract Identification** | **Total Contract Amount (current value, currency, exchange rate and Kip equivalent)** |
|  |  | Contract Identification:  Name of Procuring Entity:  Address of Procuring Entity:  Reason(s) for nonperformance: |  |
| Pending Litigation, in accordance with Section III, Evaluation Criteria and Qualifications | | | |
| ¨ No pending litigation in accordance with Section III, Evaluation Criteria and Qualifications, Sub-Factor 2.3. | | | |
| ¨ Pending litigation in accordance with Section III, Evaluation Criteria and Qualifications, Sub-Factor 2.3 as indicated below. | | | |

Form CCC: Current Contract Commitments / Works in Progress

Bidders and each partner to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name of contract | Procuring Entity, contact address/tel./fax | Value of outstanding work (current Kip-equivalent) | Estimated completion date | Average monthly invoicing over last six months (Kip/month) |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |
| 4. |  |  |  |  |
| 5. |  |  |  |  |
| etc. |  |  |  |  |

Form FIN – 3.1: Financial Situation and Performance

Bidder’s Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Date: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Joint Venture Member’s Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_OB No. and title: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Page *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*of *\_\_\_\_\_\_\_\_\_\_\_\_\_\_*pages

**1. Financial data**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Type of Financial information in**  **(currency)** | **Historic information for previous** *\_\_\_\_\_\_\_\_\_years,*  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  **(amount in currency, currency, exchange rate, Kip equivalent)** | | | | |
|  | Year 1 | Year 2 | Year 3 | Year4 | Year 5 |
| Statement of Financial Position (Information from Balance Sheet) | | | | | |
| Total Assets (TA) |  |  |  |  |  |
| Total Liabilities (TL) |  |  |  |  |  |
| Total Equity/Net Worth (NW) |  |  |  |  |  |
| Current Assets (CA) |  |  |  |  |  |
| Current Liabilities (CL) |  |  |  |  |  |
| Working Capital (WC) |  |  |  |  |  |
| Information from Income Statement | | | | | |
| Total Revenue (TR) |  |  |  |  |  |
| Profits Before Taxes (PBT) |  |  |  |  |  |
| Cash Flow Information | | | | | |
| Cash Flow from Operating Activities |  |  |  |  |  |

**2. Sources of Finance**

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

|  |  |  |
| --- | --- | --- |
| **No.** | **Source of finance** | **Amount (Kip equivalent)** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
|  |  |  |

**Financial documents**

The Bidder and its parties shall provide copies of financial statements for *\_\_\_\_\_\_\_\_\_\_\_*years pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor 3.2. The financial statements shall:

(a) reflect the financial situation of the Bidder or in case of JV member, and not an affiliated entity (such as parent company or group member).

(b) be independently audited or certified in accordance with local legislation.

(c) be complete, including all notes to the financial statements.

(d) correspond to accounting periods already completed and audited.

¨ Attached are copies of financial statements[[27]](#footnote-28) for the *\_\_\_\_\_\_\_\_\_\_\_\_*years required above; and complying with the requirements

Form FIN - 3.2: Average Annual Construction Turnover

Bidder’s Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Date: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Joint Venture Member’s Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_OB No. and title: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Page *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*of *\_\_\_\_\_\_\_\_\_\_\_\_\_\_*pages

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | | **Annual turnover data (construction only)** | | |
| **Year** | **Amount**  **Currency** | | **Exchange rate** | **Kip equivalent** |
| ***[indicate year]*** | ***[insert amount and indicate currency]*** | |  |  |
|  |  | |  |  |
|  |  | |  |  |
|  |  | |  |  |
|  |  | |  |  |
| Average Annual Construction Turnover \* |  | |  |  |

\* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

Form FIN - 3.3: Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as specified in Section III (Evaluation and Qualification Criteria)

|  |  |
| --- | --- |
| Source of financing | Amount (Kip equivalent) |
| 1. |  |
| 2. |  |
| 3. |  |
| 4. |  |

Form EXP - 4.1: General Construction Experience

Bidder’s Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Date: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Joint Venture Member’s Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_OB No. and title: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Page *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*of *\_\_\_\_\_\_\_\_\_\_\_\_\_\_*pages

|  |  |  |  |
| --- | --- | --- | --- |
| Starting  Year | Ending  Year | Contract Identification | Role of  Bidder |
|  |  | Contract name: *­­­­­­­­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Brief Description of the Works performed by the  Bidder: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Amount of contract: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Name of Procuring Entity: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Address: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |  |
|  |  | Contract name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Brief Description of the Works performed by the  Bidder: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Amount of contract: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Name of Procuring Entity: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Address: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |  |
|  |  | Contract name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Brief Description of the Works performed by the  Bidder: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Amount of contract: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Name of Procuring Entity: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Address: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |  |

Form EXP - 4.2(a): Specific Construction and Contract Management Experience

Bidder’s Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Date: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Joint Venture Member’s Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_OB No. and title: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Page *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*of *\_\_\_\_\_\_\_\_\_\_\_\_\_\_*pages

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Similar Contract No.** | **Information** | | | | |
| Contract Identification |  | | | | |
| Award date |  | | | | |
| Completion date |  | | | | |
| Role in Contract | Prime Contractor ¨ | | Member in  JV  ¨ | Management Contractor  ¨ | Sub-contractor ¨ |
| Total Contract Amount |  | | | Kip *\** | |
| If member in a JV or sub-contractor, specify participation in total Contract amount |  |  | |  | |
| Procuring Entity's Name: |  | | | | |
| Address:  Telephone/fax number  E-mail: |  | | | | |

**Form EXP - 4.2(a) (cont.)**

**Specific Construction and Contract Management Experience (cont.)**

|  |  |
| --- | --- |
| **Similar Contract No.** | **Information** |
| Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III: |  |
| 1. Amount |  |
| 2. Physical size of required works items |  |
| 3. Complexity |  |
| 4. Methods/Technology |  |
| 5. Construction rate for key activities |  |
| 6. Other Characteristics |  |

Form EXP - 4.2(b): Construction Experience in Key Activities

Bidder’s Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Date: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Joint Venture Member’s Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sub-contractor's Name[[28]](#footnote-29) (as per ITB 32.2 and 34.3): *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

OB No. and title: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*Page *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*of *\_\_\_\_\_\_\_\_\_\_\_\_\_\_*pages

Sub-contractor's Name (as per ITB 32.2 and 34.3): *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

All Sub-contractors for key activities must complete the information in this form as per ITB 32.2 and 34.3 and Section III, Qualification Criteria and Requirements, Sub-Factor 4.2.

**1. Key Activity No One:** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Information** | | | | |
| Contract Identification |  | | | | |
| Award date |  | | | | |
| Completion date |  | | | | |
| Role in Contract | Prime Contractor  ¨ | Member in  JV  ¨ | | Management Contractor  ¨ | Sub-contractor  ¨ |
| Total Contract Amount |  | | | Kip | |
| Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year | Total quantity in the contract  (i) | | Percentage  participation  (ii) | | Actual Quantity Performed  (i) x (ii) |
| Year 1 |  | |  | |  |
| Year 2 |  | |  | |  |
| Year 3 |  | |  | |  |
| Year 4 |  | |  | |  |
| Procuring Entity’s Name: |  | | | | | |
| Address:  Telephone/fax number  E-mail: |  | | | | | |

|  |  |
| --- | --- |
|  | **Information** |
| Procuring Entity’s Name: |  |
| Address:  Telephone/fax number  E-mail: |  |

2. **Activity No. Two**

3. …………………

|  |  |
| --- | --- |
|  | **Information** |
| Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III: |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

Section V - Eligible Countries

[For the World Bank financed contract]

**Eligibility for the Provision of Goods, Works and Services in Bank-Financed Procurement**

1. In reference to ITB 4.4, and 5.1, for the information of the Bidders, at the present time firms, goods and services from the following countries are excluded from this bidding process:

Under ITB 4.4 and 5.1  *[insert a list of the countries following approval by the Bank to apply the restriction or state “none”]*

Under ITB 4.4 and 5.1  *[insert a list of the countries following approval by the Bank to apply the restriction or state “none”]*

[For the ADB financed contract]

**For Contracts to be financed by loans/grants from:**

**A. the ADB’s ordinary capital resources, with or without co-financing resources:** Unless a waiver of ADB member country procurement eligibility restrictions was approved by ADB’s Board of Directors, please insert the most recent list of ADB member countries obtainable from the ADB Business Opportunities or the ADB’s webpage at

www.adb.org/about/members.

**B. Asian Development Fund (ADF) resources, without co-financing resources:** Unless a waiver of ADB member country procurement eligibility restrictions was approved by ADB’s Board of Directors, please insert the most recent list of ADB developed member countries that have contributed to the ADB resources, and all developing member countries.

**C. Asian Development Fund (ADF) resources AND co-financing resources from anyone of the Asian Clean Energy Fund, Japan Fund for Poverty Reduction, Japan Fund for Public Policy Training, Japan Fund for Information and Communication Technology, the Investment Climate Facilitation Fund and the e-Asia and Knowledge Partnership Fund:** Unless a waiver of ADB member country procurement eligibility restrictions was

approved by ADB’s Board of Directors, please insert the most recent list of ADB developed member countries that have contributed to the ADF resources, and all developing member countries.

Section VI - Corrupt and Fraudulent Practices

**[In case of State Budget Funding]**

Law on Anti-Corruption No. 03/NA – 19 May 2005

**Article 2. Corruption**

Corruption is the act of an official who opportunistically uses his position, powers, and duties to embezzle, swindle [or] receive bribes or any other act provided for in Article 10 of this law, [which act is committed] to benefit himself or his family, relatives, friends, clan, or group and causes damage to the interests of the State and society or to the rights and interests of citizens.

The official stipulated in this law means leaders at all levels, administrative staff, technical staff, the staff of State enterprises, civil servants, soldiers, [and] police officers, including chiefs of villages and persons who are officially authorised and assigned to exercise any right or duty.

**Article 10. Acts that Constitute Corruption**

Acts that constitute corruption can take the following forms:

•      Embezzlement of State property or collective property;

•      Swindling of State property or collective property;

•      Taking bribes;

•      Abuse of position, power, and duty to take State property, collective property or individual property;

•      Abuse of State property or collective property;

•      Excessive use of position, power, and duty to take State property, collective property or individual property;

•      Cheating or falsification relating to technical construction standards, designs, calculations, and others;

·      Deception in bidding or concessions;

•      Forging documents or using forged documents;

•      Disclosure of State secrets for personal benefit;

•      Holding back or delaying documents.

## 

**[In case of WB Financing]**

**Fraud and Corruption**

1. **Purpose**
   1. The Bank’s Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.
2. **Requirements**
3. The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.
4. To this end, the Bank:
5. Defines, for the purposes of this provision, the terms set forth below as follows:
6. “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
7. “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
8. “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
9. “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
10. “obstructive practice” is:
11. deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
12. acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under paragraph 2.2 e. below.
13. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
14. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
15. Pursuant to the Banks Anti-Corruption Guidelines and in accordance with the Bank’s prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner[[29]](#footnote-30); (ii) to be a nominated[[30]](#footnote-31) sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
16. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers), consultants, contractors, and suppliers: and their sub-contractors, sub-consultants, service providers, suppliers, agents, personnel, permit the Bank to inspect[[31]](#footnote-32) all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

**[In case of ADB Financing]**

Procurement Guidelines, dated March 2013, as amended from time to time.

**“Fraud and Corruption”**

1.14 ADB’s anticorruption policy requires borrowers (including beneficiaries of ADB financed activity), as well as bidders, suppliers, and contractors under ADB-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy,12 in the context of these Guidelines, ADB:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

(i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

(ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

(iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

(v) “integrity violation” means any act, as defined under ADB’s Integrity Principles and Guidelines, which violates ADB’s Anticorruption Policy including corrupt, fraudulent, coercive, or collusive practice, abuse, and obstructive practice.

(vi) “obstructive practice” means (a) deliberately destroying, falsifying, altering or concealing of evidence material to an ADB investigation; (b) making false statements to investigators in order to materially impede an ADB investigation; (c) failing to comply with requests to provide information, documents or records in connection with an OAI investigation; (d) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (e) materially impeding ADB’s contractual rights of audit or access to information.

(b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged incorrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the contract in question;

(c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or of a beneficiary of ADB-financing engaged in corrupt, fraudulent, collusive, coercive or obstructive practices or other integrity violations during the procurement or the execution of that contract, without the borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation;

(d) will impose remedial actions on a firm or an individual, at any time, in accordance with ADB’s Anticorruption Policy and Integrity Principles and Guidelines(both as amended from time to time), including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB financed, administered or supported activities or to benefit from an ADB financed, administered or supported contract, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive or other prohibited practices;

and

(e) will have the right to require that a provision be included in bidding documents and in contracts financed by ADB, requiring bidders, suppliers and contractors to permit ADB or its representative to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by ADB.

Section VII – Works Requirements

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Specifications

A set of precise and clear Specifications is a prerequisite for bidders to respond realistically and competitively to the requirements of the Procuring Entity without qualifying or conditioning their bids. In the context of national competitive bidding, the Specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. Only if this is done shall the objectives of economy, efficiency, and fairness in procurement be realized, responsiveness of bids be ensured, and the subsequent task of Bid evaluation facilitated. The Specifications should require that all goods and materials to be incorporated in the Works be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.

Samples of Specifications from previous similar projects in the same sector are useful in to prepare Specifications. The use of metric units is encouraged by the Lao government. Most Specifications are normally written specially by the Procuring Entity or Project Manager to suit the Contract Works in hand. There is no standard set of Specifications for universal application in all sectors in all countries, but there are established principles and practices, which are reflected in these documents.

There are considerable advantages in standardizing General Specifications for repetitive Works in recognized public sectors, such as highways, ports, railways, urban housing, irrigation, and water supply, in the same country or region where similar conditions prevail. The General Specifications should cover all classes of workmanship, materials, and equipment commonly involved in construction, although not necessarily to be used in a particular Works Contract. Deletions or addendums should then adapt the General Specifications to apply them to the particular Works.

Care must be taken in drafting Specifications to ensure that they are not restrictive to specific product (brand name, serial number, and actual dimentions of the specific product). In the Specifications of standards for goods, materials, and workmanship, recognized national standards should be used. If there are no national standards available for the works or any part, international standards should be used as much as possible. Where other particular standards are used, whether national standards of Lao PDR or other standards, the Specifications should state that goods, materials, and workmanship that meet other authoritative standards, and which ensure substantially equal or higher quality than the standards mentioned, shall also be acceptable. To that effect, the following sample clause may be inserted in the Special Conditions or Specifications.

**“Equivalency of Standards and Codes**

Wherever reference is made in the Contract to specific standards and codes to be met by the goods and materials to be furnished, and work performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly stated in the Contract. Where such standards and codes are national, or relate to a particular country or region, other authoritative standards that ensure a substantially equal or higher quality than the standards and codes specified shall be accepted subject to the Project Manager’s prior review and written consent. Differences between the standards specified and the proposed alternative standards shall be fully described in writing by the Contractor and submitted to the Project Manager at least 28 days prior to the date when the Contractor desires the Project Manager’s consent. In the event the Project Manager determines that such proposed deviations do not ensure substantially equal or higher quality, the Contractor shall comply with the standards specified in the documents.”

These Notes for Preparing Specifications are intended only as information for the Procuring Entity or the person drafting the bidding documents. They should not be included in the final documents.

**[FOR THE ADB AND WORLD BANK FINANCED CONTRACTS ONLY]**

Environmental and Social Requirements

[The Employer’s team preparing the ES requirements should include a suitably qualified Environmental and Social specialist/s].

In preparing detailed specifications for ES requirements the Borrower should refer to and consider the applicable environmental and social standards in the ESF including the specific requirements set out in the Environmental and Social Commitment Plan (ESCP), ESIA/ESA/ESMP, EHSGs and other GIIP as well as SEA and SH prevention and management obligations.

The ES requirements should be prepared in manner that does not conflict with the relevant General Conditions of Contract (and the corresponding Particular Conditions of Contract if any), and other parts of the Specification.

The following is a non-exhaustive list of Sub-Clauses of the Conditions of Contract that make reference to ES matters stated in the Specification.]

| **Sub-Clause/Clause No.** | **Sub-Clause/Clause** | **Remarks** |
| --- | --- | --- |
| 8.2 | Other Contractors | Indicate specific aspects (if any) that require contractor’s cooperation such as to conduct environmental and social assessment. |
| 9.4.1, 9.4.2, 9.4.7, 9.4.8 | labor | State applicable requirements in accordance with the labor management procedure. |
| 9.4.6 | Facilities for Staff and Labor | -Indicate if access to or provision of services that accommodate physical, social and cultural needs of Contractor’s Personnel is required. |
| 9.4.20 | Training of Contractor’s Personnel | As set out in the ESCP, specify, , details of any training to relevant Contractor’s Personnel to be provided by the Employer’s Personnel on environmental and social aspects. (whom, what, when, where, how long etc.) |
| 15.2 | Contractor to Construct the Works | If the Contract specifies that the Contractor shall design any part of the Permanent Works, state any applicable technical standards and requirements including to address:   * climate change considerations, * universal access, * risks of the public’s potential exposure to operational accidents or natural hazards, including extreme weather events, applicable certification or approval requriements   [ Refer to ESS4 on requirements for design] |
| 18.2 | Health and Safety Obligations | Indicate any additional requirements for the health and safety manual |
| 18.3 | Protection of the Environment | Specify any values for emissions, surface discharges, effluent and any other pollutants from the Contractor’s activities that shall not be exceeded. |
| 19.1 | Archeological and Geological Findings | Specify other requirements if any in accordance with the ESF – ESS8 |
| 29.1 | Security of the Site | State any additional requirements for the security arrangements (ESS4 of the ESF states the principles of proportionality, GIIP and applicable laws.) Include any other requirement set out in the ESCP. |

In addition to provisions in the above table, the Employer shall specify the following as applicable.

**Management and Safety of Hazardous Materials**

As applicable, specify requirements for the management and safety of hazardous materials (see ESF - ESS4 para. 17 and 18 and relevant guidance notes).

**Resource Efficiency and Pollution Prevention and Management**

As applicable specify Resource Efficiency and Pollution Prevention and Management measures (see ESF -ESS3 and relevant guidance notes).

* **Resource efficiency**

The Employer shall specify, as applicable, measures for improving efficient consumption of energy, water and raw materials, as well as other resources.

* **Energy:** When the Works have been assessed to involve a potentially significant use of energy, specify any applicable measures to optimize energy usage.
* **Water:** When the Works have been assessed to involve a potentially significant use of water or will have potentially significant impacts on water quality, specify any applicable measures that avoid or minimize water usage so that the Works’ water use does not have significant adverse impacts on communities, other users and the environment.
* **Raw material:** When the Works have been assessed to involve a potentially significant use of raw materials, specify any applicable measures to support efficient use of raw materials.
* **Pollution prevention and management**
* **Management of air pollution:** specify any measure to avoid or minimize Works related air pollution. See also GCC Sub-Clause 18.3 and the table above on Conditions of Contract that make reference to ES matters in the Specification.
* **Management of hazardous and nonhazardous wastes:** specify any applicable measures to minimize the generation of waste, and reuse, recycle and recover waste in a manner that is safe for human health and the environment including storage, transportation and disposal of hazardous wastes. See also GCC Sub-Clauses 18.2 and 18.3 and the table above on Conditions of Contract that make reference to ES matters in the Specification.
* **Management of chemicals and hazardous materials:** specify any applicable measures tominimize and control the release and use of hazardous materials for Works activities including the production, transportation, handling, and storage of the materials. See also GCC Sub-Clauses 18.2 and 18.3 and the table above on Conditions of Contract that make reference to ES matters in the Specification.
* **Biodiversity Conservation and Sustainable Management of Living Natural Resources**

The Employer shall specify, as applicable, Biodiversity Conservation and Sustainable Management of Living Natural Resources (see ESF - ESS6 and relevant guidance notes). This includes, as applicable:

* invasive alien species: managing the risk of invasive alien species during the execution of the Works;
* sustainable management of living natural resources; and
* certification and verification requirements for the supply of natural resource materials where there is a risk of significant conversion or significant degradation of natural or critical habitats.

See also GCC Sub-Clause 18.3 and the table above on Conditions of Contract that make reference to ES matters in the Specification.

* **Road Safety**
* State any specific traffic and road safety requirement, as applicable. See also Sub-Clause 9.3 of the General Conditions of Contract. For details, refer to the Guidance Note on Road safety.

**Payment for ES Requirements**

The Employer’s ES and procurement specialists should consider how the Contractor will cost the delivery of the ES requirements. In the majority of cases, the payment for the delivery of ES requirements shall be a subsidiary obligation of the Contractor covered under the prices quoted for other Bill of Quantity items or activities. For example, normally the cost of implementing workplace safe systems of work, including the measures necessary for ensuring traffic safety, shall be covered by the Bidder’s rates for the relevant works. Alternatively, provisional sums could be set aside for discrete activities for example for HIV counselling service, and, GBV/SEA awareness and sensitization or to encourage the contractor to deliver additional ES outcomes beyond the requirement of the Contract.

Drawings

Insert here a list of Drawings. The actual Drawings, including site plans, should be attached to this section or annexed in a separate folder.

Supplementary Information

[Applicable if the contract is financed by ADB]

**Personnel Requirements**

Using Form PER-1 and PER-2 in Section IV (Bidding Forms), the Bidder must demonstrate it has personnel that meet the following requirements:

|  |  |  |
| --- | --- | --- |
| No. | **Position Total Work**  **Experience [years** | **Experience In**  **Similar Work**  **[years]** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| 4 |  |  |
| 5 |  |  |
|  |  |  |

[Applicable if the contract is financed by ADB]

**Equipment Requirements**

Using Form for Equipment in Section IV (Bidding Forms), the Bidder must demonstrate it has the key equipment listed below:

|  |  |  |
| --- | --- | --- |
| No. | **Equipment Type and Characteristics** | **Min. Number Required** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| 4 |  |  |
| 5 |  |  |

Conditions of Contract and Contract Forms

Section VIII – General Condition of Contract (GCC)

Section IX – Particular Conditions of Contract (PCC)

Section X – Contract Forms

Section VIII - General Conditions of Contract

These General Conditions of Contract (GCC), read in conjunction with the Particular Conditions of Contract (PCC) and other documents listed therein, should be a complete document expressing fairly the rights and obligations of both parties.

These General Conditions of Contract have been developed on the basis of considerable international experience in the drafting and management of contracts, bearing in mind a trend in the construction industry towards simpler, more straightforward language.

The GCC can be used for both smaller admeasurement contracts and lump sum contracts.

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**General Conditions of Contract**

1. General

|  |  |
| --- | --- |
| 1. Definitions | * 1. Boldface type is used to identify defined terms.  1. The Accepted Contract Amount means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects. 2. The Activity Schedule is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events. 3. [In the case of Bank financing] Bank means the financing institution **named in the PCC – GCC 1.1(d)** 4. Bill of Quantities means the priced and completed Bill of Quantities forming part of the Bid. 5. Compensation Events are those defined in GCC Clause 42 hereunder. 6. The Completion Date is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 53.1. 7. The Contract is the Contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC Sub-Clause 2.3 below. 8. The Contractor is the party whose Bid to carry out the Works has been accepted by the Procuring Entity. 9. The Contractor’s Bid is the completed bidding document submitted by the Contractor to the Procuring Entity. 10. The Contract Price is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract. 11. Days are calendar days; months are calendar months. 12. Day works are varied work inputs subject to payment on a time basis for the Contractor’s employees and Equipment, in addition to payments for associated Materials and Plant. 13. A Defect is any part of the Works not completed in accordance with the Contract. 14. The Defects Liability Certificate is the certificate issued by Project Manager upon correction of defects by the Contractor. 15. The Defects Liability Period is the period **named in the PCC – GCC 34.1** pursuant to Sub-Clause 34.1 and calculated from the Completion Date. 16. Drawings means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Procuring Entity in accordance with the Contract, include calculations and other information provided or approved by the Project Manager for the execution of the Contract. 17. The Procuring Entity is the party who employs the Contractor to carry out the Works, **as specified in the PCC – GCC 1.1 (r)**. 18. Equipment is the Contractor’s machinery and vehicles brought temporarily to the Site to construct the Works. 19. “In writing” or “written” means hand-written, type-written, printed or electronically made, and resulting in a permanent record; 20. The Initial Contract Price is the Contract Price listed in the Procuring Entity’s Letter of Acceptance. 21. The Intended Completion Date is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is **specified in the PCC – GCC 1.1 (v)**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order. 22. Materials are all supplies, including consumables, used by the Contractor for incorporation in the Works. 23. Plant is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function. 24. The Project Manager is the person **named in the PCC – GCC 1.1 (y)** (or any other competent person appointed by the Procuring Entity and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract. 25. PCC means Particular Conditions of Contract. 26. The Site is the area **defined as such in the PCC – GCC 1.1 (a)**. 27. Site Investigation Reports are those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site. 28. Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager. 29. The Start Date is **given in the PCC – GCC 1.1 (v)**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates. 30. A Subcontractor is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site. 31. Temporary Works are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works. 32. A Variation is an instruction given by the Project Manager which varies the Works. 33. The Works are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, **as defined in the PCC – GCC 1.1 (h)**. |
| 2. Interpretation | * 1. In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.   2. If sectional completion is **specified in the PCC – GCC 2.2**, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).   3. The documents forming the Contract shall be interpreted in the following order of priority:   (a) Agreement,   1. Letter of Acceptance, 2. Contractor’s Completed Letter of Bid, 3. the addenda (if any), 4. Particular Conditions of Contract, 5. General Conditions of Contract, including Appendix, 6. Specifications, 7. Drawings, 8. Bill of Quantities,[[32]](#footnote-33) and 9. any other document listed in the **PCC – GCC 2.3 (i)** as forming part of the Contract. |
| 3. Language and Law | * 1. The language of the Contract shall be Laotian Language and the law governing the Contract shall be the current laws of Lao PDR, except in case specified in PCC – GCC 3.1   2. Throughout the execution of the Contract, the Contractor shall comply with the import of goods and services prohibitions in Lao PDR when   (a) as a matter of law or official regulations, Lao PDR prohibits commercial relations with that country; or  (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Lao PDR prohibits any import of goods from that country or any payments to any country, person, or entity in that country. |
| 4. Project Manager’s Decisions | * 1. Except where otherwise specifically stated, the Project Manager shall decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity. |
| 5. Delegation | * 1. Otherwise **specified in the PCC – GCC 5.1,** the Project Manager may delegate any of his duties and responsibilities to other people, after notifying the Contractor, and may revoke any delegation after notifying the Contractor. |
| 6. Communica­tions | * 1. Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered. |
| 7. Subcontracting | * 1. The Contractor may subcontract with the approval of the Project Manager but may not assign the Contract without the approval of the Procuring Entity in writing. Subcontracting shall not alter the Contractor’s obligations. |
| 8. Other Contractors | * 1. The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given in the Schedule of Other Contractors, as **referred to in the PCC – GCC 8.1.** The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of Other Contractors and shall notify the Contractor of any such modification. |
| 9. Personnel and Equipment | * 1. The Contractor shall employ the key personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.   2. If the Project Manager asks the Contractor to remove a person who is a member of the Contractor’s staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.   3. If the Procuring Entity, Project Manager or Contractor determines, that any employee of the Contractor be determined to have engaged in or obstructive practice during the execution of the Works, then that employee shall be removed in accordance with Clause 9.2 above. |
| 10. Procuring Entity’s and Contractor’s Risks | * 1. The Procuring Entity carries the risks which this Contract states are Procuring Entity’s risks, and the Contractor carries the risks which this Contract states are Contractor’s risks. |
| 11. Procuring Entity’s Risks | * 1. From the Start Date until the Defects Liability Certificate has been issued, the following are Procuring Entity’s risks:  1. The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to    1. use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or    2. negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or contracted to him except the Contractor. 2. The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity’s design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.    1. From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is a Procuring Entity’s risk except loss or damage due to 3. a Defect which existed on the Completion Date, 4. an event occurring before the Completion Date, which was not itself a Procuring Entity’s risk, or 5. the activities of the Contractor on the Site after the Completion Date. |
| 12. Contractor’s Risks | * 1. From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Procuring Entity’s risks are Contractor’s risks. |
| 13. Insurance | * 1. The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles **stated in the PCC – GCC 13.1** for the following events which are due to the Contractor’s risks:  1. loss of or damage to the Works, Plant, and Materials; 2. loss of or damage to Equipment; 3. loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and 4. personal injury or death.    1. Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager’s approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.    2. If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may affect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.    3. Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.    4. Both parties shall comply with any conditions of the insurance policies. |
| 14. Site Data | * 1. The Contractor shall be deemed to have examined any Site Data **referred to in the PCC – GCC 14.1**, supplemented by any information available to the Contractor. |
| 15. Contractor to Construct the Works | * 1. The Contractor shall construct and install the Works in accordance with the Specifications and Drawings. |
| 16. The Works to Be Completed by the Intended Completion Date | * 1. The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date. |
| 17. Approval by the Project Manager | * 1. The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval.   2. The Contractor shall be responsible for design of Temporary Works.   3. The Project Manager’s approval shall not alter the Contractor’s responsibility for design of the Temporary Works.   4. The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.   5. All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before this use. |
| 18. Safety | * 1. The Contractor shall be responsible for the safety of all activities on the Site. |
| 19. Discoveries | * 1. Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Procuring Entity. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager’s instructions for dealing with them. |
| 20. Possession of the Site | * 1. The Procuring Entity shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date **stated in the PCC – GCC 20.1,** the Procuring Entity shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event. |
| 21. Access to the Site | * 1. The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out. |
| 22. Instructions, Inspections and Audits | * 1. The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.   2. The Contractor shall keep and shall make all reasonable efforts to cause its Subcontractors and sub-consultants to keep, accurate and systematic accounts and records in respect of the Works in such form and details as will clearly identify relevant time changes and costs.   3. The Contractor shall permit and shall cause its Subcontractors and sub-consultants to permit, the Lao Government or the Bank and/or persons appointed by the Lao Giovernment or the Bank to inspect the Site and/or the accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the Lao Government or Bank if requested by the Lao Government or Bank. The Contractor’s and its Subcontractors’ and sub-consultants’ attention is drawn to Sub-Clause 25.1 which provides, inter alia, that acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under Sub-Clause 22.2 constitute an obstructive practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank’s or government prevailing sanctions procedures or government). |
| 23. Appointment of the Adjudicator | * 1. **[If the contract is financed by WB and ADB]** The Adjudicator shall be appointed jointly by the Procuring Entity and the Contractor, at the time of the Procuring Entity’s issuance of the Letter of Acceptance. If, in the Letter of Acceptance, the Procuring Entity does not agree on the appointment of the Adjudicator, the Procuring Entity will request the Appointing Authority **designated in the PCC – GCC 23.1 & GCC 23.2**, to appoint the Adjudicator within 14 days of receipt of such request. Additionally, The Procuring Entity and Bidder are able to agree on the same implementation of the contract financed by the State Budget that the adjudicator will be instituted by Ministry of Finance pursuant to the Law on Public Procurement No. 30/NA, Part IX, Section 1, Article 73.   2. **[If the contract is financed by State Budget]** The adjudicator will be instituted by Ministry of Finance pursuant to the Law on Public Procurement No. 30/NA, Part IX, Section 1, Article 73.   3. Should the Adjudicator resign or die or should the Procuring Entity and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Procuring Entity and the Contractor. In case of disagreement between the Procuring Entity and the Contractor, within 14 days, the Adjudicator shall be designated by the Appointing Authority **designated in the PCC – GCC 23.1 & GCC 23.2** at the request of either party, within 14 days of receipt of such request. |
| 24. Procedure for Disputes | * 1. If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, **[In the case of the WB/ADB financing]** the decision shall be referred to the Adjudicator within 14 days of the notification of the Project Manager’s decision.   2. The Adjudicator shall give a decision in writing within 14 days of receipt of a notification of a dispute.   3. The Adjudicator shall be paid by the hour at the **rate specified in the PCC – GCC 24.3,** together with reimbursable expenses of the types **specified in the PCC – GCC 24.3**, and the cost shall be divided equally between the Procuring Entity and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 14 days of the Adjudicator’s written decision. If neither party refers the dispute to arbitration within the above 14 days, the Adjudicator’s decision shall be final and binding.   4. The arbitration shall be conducted in accordance with the arbitration procedures published by the institution named and, in the place, **specified in the PCC – GCC 24.4.** |
| 25. Corrupt and Fraudulent Practices | * 1. The Lao Government and the Bank requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Appendix to the GCC.   2. The Procuring Entity requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. |

B. Time Control

|  |  |
| --- | --- |
| 26. Program | * 1. Within the time **stated in the PCC – GCC 26.1**, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.   2. An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.   3. The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period **stated in the PCC – GCC 26.3.** If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount **stated in the PCC – 26.3** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated Activity Schedule within 14 days of being instructed to by the Project Manager.   4. The Project Manager’s approval of the Program shall not alter the Contractor’s obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events. |
| 27. Extension of the Intended Completion Date | * 1. The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.   2. The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date. |
| 28. Acceleration | * 1. When the Procuring Entity wants the Contractor to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Procuring Entity and the Contractor.   2. If the Contractor’s priced proposals for an acceleration are accepted by the Procuring Entity, they are incorporated in the Contract Price and treated as a Variation. |
| 29. Delays Ordered by the Project Manager | * 1. The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works. |
| 30. Management Meetings | * 1. Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.   2. The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting. |
| 31. Early Warning | * 1. The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.   2. The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager. |

C. Quality Control

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| --- | --- |
| 32. Identifying Defects | * 1. The Project Manager shall check the Contractor’s work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor’s responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect. |
| 33. Tests | * 1. If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event. |
| 34. Correction of Defects | * 1. The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is **defined in the PCC – GCC 34.1.** The Defects Liability Period shall be extended for as long as Defects remain to be corrected.   2. Every time notice of a Defect is given; the Contractor shall correct the notified Defect within the length of time specified by the Project Manager’s notice. |
| 35. Uncorrected Defects | * 1. If the Contractor has not corrected a Defect within the time specified in the Project Manager’s notice, the Project Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount. |

D. Cost Control

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| --- | --- |
| 36. Contract Price[[33]](#footnote-34) | * 1. The Bill of Quantities shall contain priced items for the Works to be performed by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item. |
| 37. Changes in the Contract Price[[34]](#footnote-35) | * 1. If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager may adjust the rate to allow for the change. The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Procuring Entity.   2. If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities. |
| 38. Variations | * 1. All Variations shall be included in updated Programs produced by the Contractor.   2. The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.   3. If the Contractor’s quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager’s own forecast of the effects of the Variation on the Contractor’s costs.   4. If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given, and the Variation shall be treated as a Compensation Event.   5. The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.   6. If the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 37.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work. [[35]](#footnote-36) |
| 39. Cash Flow Forecasts | * 1. When the Program,[[36]](#footnote-37) is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. |
| 40. Payment Certificates | * 1. The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.   2. The Project Manager shall check the Contractor’s monthly statement and certify the amount to be paid to the Contractor.   3. The value of work executed shall be determined by the Project Manager.   4. The value of work executed shall comprise the value of the quantities of work in the Bill of Quantities that have been completed.[[37]](#footnote-38)   5. The value of work executed shall include the valuation of Variations and Compensation Events.   6. The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information. |
| 41. Payments | * 1. Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within 28 days of the date of each certificate. If the Procuring Entity makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.   2. If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.   3. Unless otherwise stated, all payments and deductions shall be paid or charged in the proportions of currencies comprising the Contract Price.   4. Items of the Works for which no rate or price has been entered in shall not be paid for by the Procuring Entity and shall be deemed covered by other rates and prices in the Contract. |
| 42. Compensation Events | * 1. The following shall be Compensation Events:  1. The Procuring Entity does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.1. 2. The Procuring Entity modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract. 3. The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time. 4. The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects. 5. The Project Manager unreasonably does not approve a subcontract to be let. 6. Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site. 7. The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, or additional work required for safety or other reasons. 8. Other contractors, public authorities, utilities, or the Procuring Entity does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor. 9. The advance payment is delayed. 10. The effects on the Contractor of any of the Procuring Entity’s Risks. 11. The Project Manager unreasonably delays issuing a Certificate of Completion.     1. If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased, and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.     2. As soon as information demonstrating the effect of each Compensation Event upon the Contractor’s forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor’s forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager’s own forecast. The Project Manager shall assume that the Contractor shall react competently and promptly to the event.     3. The Contractor shall not be entitled to compensation to the extent that the Procuring Entity’s interests are adversely affected by the Contractor’s not having given early warning or not having cooperated with the Project Manager. |
| 43. Tax | * 1. The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of GCC Clause 44. |
| 44. Currencies | * 1. Where payments are made in currencies other than the currency Procuring Entity **specified in the PCC-GCC 44.1,** the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor’s Bid. |
| 45. Price Adjustment | * 1. Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the PCC – GCC 45.1.** If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the price adjustment factor to the payment amounts due.:   **P = A + B Im/Io**  where:  P is the adjustment factor;  A and B are coefficients **specified in the PCC – GCC 45.1,** representing the nonadjustable and adjustable portions, respectively, of the Contract Price; and  Im is the index prevailing at the end of the month being invoiced and Io is the index prevailing 28 days before Bid opening for inputs payable.   * 1. If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected, and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs. |
| 46. Retention | * 1. The Procuring Entity shall retain from each payment due to the Contractor the proportion **stated in the PCC – GCC 46.1** until Completion of the whole of the Works.   2. Upon the issue of a Certificate of Completion of the Works by the Project Manager, in accordance with GCC 51.1, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected. The Contractor may substitute retention money with an “on demand” Bank guarantee. |
| 47. Liquidated Damages | * 1. The Contractor shall pay liquidated damages to the Procuring Entity at the rate per day **stated in the PCC - GCC 47.1** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the PCC - GCC 47.1.** The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities.   2. If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in GCC Sub-Clause 41.1. |
| 48. Bonus | * 1. The Contractor shall be paid a Bonus calculated at the rate per calendar day **stated in the PCC - GCC 48.1** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete. |
| 49. Advance Payment | * 1. The Procuring Entity shall make advance payment to the Contractor of the amounts **stated in the PCC-GCC 49.1** by the date **stated in the PCC 49.1,** against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Procuring Entity in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest shall not be charged on the advance payment.   2. The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.   3. The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages. |
| 50. Securities | * 1. The Performance Security shall be provided to the Procuring Entity no later than the date specified in the Letter of Acceptance and shall be issued in an amount **specified in the PCC – GCC 50.1,** by a bank or surety acceptable to the Procuring Entity, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond. |
| 51. Warranty for works and/or maintenance or services | * 1. Warranty security for works and/or maintenance or services shoud not less than 10% of contract amount and the Warranty period (defect liability period) shoud not less than 12 months. |
| 52. Day works | * 1. If applicable, the Dayworks rates in the Contractor’s Bid shall be used only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.   2. All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.   3. The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms. |
| 53. Cost of Repairs | * 1. Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor’s cost if the loss or damage arises from the Contractor’s acts or omissions. |

E. Finishing the Contract

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| 54. Completion | * 1. The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the whole of the Works is completed. |
| 55. Taking Over | * 1. The Procuring Entity shall take over the Site and the Works within seven days of the Project Manager’s issuing a certificate of Completion. |
| 56. Final Account | * 1. The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor’s account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate. |
| 57. Operating and Maintenance Manuals | * 1. If “as built” Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates **stated in the PCC - GCC 57.1.**   2. If the Contractor does not supply the Drawings and/or manuals by the dates **stated in the PCC - GCC 57.1** pursuant to GCC Sub-Clause 57.1**,** or they do not receive the Project Manager’s approval, the Project Manager shall withhold the amount **stated in the PCC - GCC 57.2** from payments due to the Contractor. |
| 58. Termination | * 1. The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.   2. Fundamental breaches of Contract shall include, but shall not be limited to, the following:  1. the Contractor stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager; 2. the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days; 3. the Procuring Entity or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation; 4. a payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within 84 days of the date of the Project Manager’s certificate; 5. the Project Manager gives Notice that failure to correct a particular Defect or catch up the progress in accordance with the approved program is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager; 6. the Contractor does not maintain a Security, which is required; 7. the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as **defined in the PCC- GCC 58.2 (g)**; or 8. if the Contractor, in the judgment of the Procuring Entity, has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving written notice to the Contractor, terminate the Contract and expel him from the Site.    1. When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under GCC Sub-Clause 56.2 above, the Project Manager shall decide whether the breach is fundamental or not.    2. Notwithstanding the above, the Procuring Entity may terminate the Contract for convenience.    3. If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible. |
| 59. Payment upon Termination | * 1. If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as **specified in the PCC-GCC 59.1.** Additional Liquidated Damages shall not apply. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.   2. If the Contract is terminated for the Procuring Entity’s convenience or because of a fundamental breach of Contract by the Procuring Entity, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor’s personnel employed solely on the Works, and the Contractor’s costs of protecting and securing the Works, and less advance payments received up to the date of the certificate. |
| 60. Property | * 1. All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Procuring Entity if the Contract is terminated because of the Contractor’s default. |
| 61. Release from Performance | * 1. If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Procuring Entity or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made. |
| 62. Suspension of Bank Loan or Credit | * 1. In the case fo Bank financing, in the event that the Bank suspends the Loan or Credit to the Procuring Entity, from which part of the payments to the Contractor are being made:  1. The Procuring Entity is obligated to notify the Contractor of such suspension within 7 days of having received the Bank’s suspension notice. 2. If the Contractor has not received sums due it within the 28 days for payment provided for in Sub-Clause 40.1, the Contractor may immediately issue a 14-day termination notice. |

Appendix to General Conditions of Contract

**Appendix A**

**[In case of State Budget Funding]**

**Law on Anti-Corruption No. 03/NA – 19 May 2005**

**Article 2. Corruption**

Corruption is the act of an official who opportunistically uses his position, powers, and duties to embezzle, swindle [or] receive bribes or any other act provided for in Article 10 of this law, [which act is committed] to benefit himself or his family, relatives, friends, clan, or group and causes damage to the interests of the State and society or to the rights and interests of citizens.

The official stipulated in this law means leaders at all levels, administrative staff, technical staff, the staff of State enterprises, civil servants, soldiers, [and] police officers, including chiefs of villages and persons who are officially authorised and assigned to exercise any right or duty.

**Article 10. Acts that Constitute Corruption**

Acts that constitute corruption can take the following forms:

•      Embezzlement of State property or collective property;

•      Swindling of State property or collective property;

•      Taking bribes;

•      Abuse of position, power, and duty to take State property, collective property or individual property;

•      Abuse of State property or collective property;

•      Excessive use of position, power, and duty to take State property, collective property or individual property;

•      Cheating or falsification relating to technical construction standards, designs, calculations, and others;

·      Deception in bidding or concessions;

•      Forging documents or using forged documents;

•      Disclosure of State secrets for personal benefit;

•      Holding back or delaying documents.

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**[In case of WB Financing]**

**Fraud and Corruption**

1. **Purpose**
   1. The Bank’s Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.
2. **Requirements**
3. The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.
4. To this end, the Bank:
5. Defines, for the purposes of this provision, the terms set forth below as follows:
6. “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
7. “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
8. “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
9. “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
10. “obstructive practice” is:
11. deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
12. acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under paragraph 2.2 e. below.
13. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
14. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
15. Pursuant to the Banks Anti-Corruption Guidelines and in accordance with the Bank’s prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;[[38]](#footnote-39) (ii) to be a nominated[[39]](#footnote-40) sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
16. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers), consultants, contractors, and suppliers: and their sub-contractors, sub-consultants, service providers, suppliers, agents, personnel, permit the Bank to inspect[[40]](#footnote-41) all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

**[In case of ADB Financing]**

Procurement Guidelines, dated March 2013, as amended from time to time.

**“Fraud and Corruption”**

1.14 ADB’s anticorruption policy requires borrowers (including beneficiaries of ADB financed activity), as well as bidders, suppliers, and contractors under ADB-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy,12 in the context of these Guidelines, ADB:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

(i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

(ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

(iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

(v) “integrity violation” means any act, as defined under ADB’s Integrity Principles and Guidelines, which violates ADB’s Anticorruption Policy including corrupt, fraudulent, coercive, or collusive practice, abuse, and obstructive practice.

(vi) “obstructive practice” means (a) deliberately destroying, falsifying, altering or concealing of evidence material to an ADB investigation; (b) making false statements to investigators in order to materially impede an ADB investigation; (c) failing to comply with requests to provide information, documents or records in connection with an OAI investigation; (d) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (e) materially impeding ADB’s contractual rights of audit or access to information.

(b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged incorrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the contract in question;

(c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or of a beneficiary of ADB-financing engaged in corrupt, fraudulent, collusive, coercive or obstructive practices or other integrity violations during the procurement or the execution of that contract, without the borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation;

(d) will impose remedial actions on a firm or an individual, at any time, in accordance with ADB’s Anticorruption Policy and Integrity Principles and Guidelines(both as amended from time to time), including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB financed, administered or supported activities or to benefit from an ADB financed, administered or supported contract, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive or other prohibited practices;

and

(e) will have the right to require that a provision be included in bidding documents and in contracts financed by ADB, requiring bidders, suppliers and contractors to permit ADB or its representative to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by ADB.

[For the ADB and World Bank financed contracts only]

**APPENDIX B**

**Environmental and Social (ES)**

Metrics for Progress Reports

*[Note to Procuring Entity: the following metrics may be amended to reflect the Procuring Entity’s environmental, social, health and safety policies and/or the ESHS requirements of the project. The metrics that are required should be determined by the ESHS risks of the Works and not necessarily by the scale of the Works]*

*Metrics for regular reporting:*

1. *environmental incidents or non-compliances with contract requirements, including contamination, pollution or damage to ground or water supplies;*
2. *health and safety incidents, accidents, injuries and all fatalities that require treatment;*
3. *interactions with regulators: identify agency, dates, subjects, outcomes (report the negative if none);*
4. *status of all permits and agreements:*

work permits: number required, number received, actions taken for those not received;

status of permits and consents:

* *list areas/facilities with permits required (quarries, asphalt & batch plants), dates of application, dates issued (actions to follow up if not issued), dates submitted to resident engineer (or equivalent), status of area (waiting for permits, working, abandoned without reclamation, decommissioning plan being implemented, etc.);*
* *list areas with landowner agreements required (borrow and spoil areas, camp sites), dates of agreements, dates submitted to resident engineer (or equivalent);*
* *identify major activities undertaken in each area in the reporting period and highlights of environmental and social protection (land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation);*
* *for quarries: status of relocation and compensation (completed, or details of activities and current status in the reporting period).*

1. *health and safety supervision:*

safety officer: number days worked, number of full inspections & partial inspections, reports to construction/project management;

number of workers, work hours, metric of PPE use (percentage of workers with full personal protection equipment (PPE), partial, etc.), worker violations observed (by type of violation, PPE or otherwise), warnings given, repeat warnings given, follow-up actions taken (if any);

1. *worker accommodations:*

number of expats housed in accommodations, number of locals;

date of last inspection, and highlights of inspection including status of accommodations’ compliance with national and local law and good practice, including sanitation, space, etc.;

actions taken to recommend/require improved conditions, or to improve conditions.

1. *Health services: provider of health services, information and/or training, location of clinic, number of non-safety disease or illness treatments and diagnoses (no names to be provided);*
2. *gender (for expats and locals separately): number of female workers, percentage of workforce, gender issues raised and dealt with (cross-reference grievances or other sections as needed);*
3. *training:*

number of new workers, number receiving induction training, dates of induction training;

number and dates of toolbox talks, number of workers receiving Occupational Health and Safety (OHS), environmental and social training;

number and dates of HIV/AIDS sensitization and/or training, no. workers receiving training (in the reporting period and in the past); same questions for gender sensitization, flag person training.

number and date of GBV /SEA sensitization and/or training, number of workers receiving training on code of conduct (in the reporting period and in the past), etc.

1. *environmental and social supervision:*

environmentalist: days worked, areas inspected and numbers of inspections of each (road section, work camp, accommodations, quarries, borrow areas, spoil areas, swamps, forest crossings, etc.), highlights of activities/findings (including violations of environmental and/or social best practices, actions taken), reports to environmental and/or social specialist/construction/site management;

sociologist: days worked, number of partial and full site inspections (by area: road section, work camp, accommodations, quarries, borrow areas, spoil areas, clinic, HIV/AIDS center, community centers, etc.), highlights of activities (including violations of environmental and/or social requirements observed, actions taken), reports to environmental and/or social specialist/construction/site management; and

community liaison person(s): days worked (hours community center open), number of people met, highlights of activities (issues raised, etc.), reports to environmental and/or social specialist /construction/site management.

1. *Grievances: list new grievances (e.g. allegations of GBV / SEA) received in the reporting period and unresolved past grievances by date received, complainant, how received, to whom referred to for action, resolution and date (if completed), data resolution reported to complainant, any required follow-up (Cross-reference other sections as needed):*

Worker grievances;

Community grievances

1. *Traffic and vehicles/equipment:*

traffic accidents involving project vehicles & equipment: provide date, location, damage, cause, follow-up;

accidents involving non-project vehicles or property (also reported under immediate metrics): provide date, location, damage, cause, follow-up;

overall condition of vehicles/equipment (subjective judgment by environmentalist); non-routine repairs and maintenance needed to improve safety and/or environmental performance (to control smoke, etc.).

1. *Environmental mitigations and issues (what has been done):*

dust: number of working bowsers, number of waterings/day, number of complaints, warnings given by environmentalist, actions taken to resolve; highlights of quarry dust control (covers, sprays, operational status); % of rock/spoil lorries with covers, actions taken for uncovered vehicles;

erosion control: controls implemented by location, status of water crossings, environmentalist inspections and results, actions taken to resolve issues, emergency repairs needed to control erosion/sedimentation;

quarries, borrow areas, spoil areas, asphalt plants, batch plants: identify major activities undertaken in the reporting period at each, and highlights of environmental and social protection: land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation;

blasting: number of blasts (and locations), status of implementation of blasting plan (including notices, evacuations, etc.), incidents of off-site damage or complaints (cross-reference other sections as needed);

spill cleanups, if any: material spilled, location, amount, actions taken, material disposal (report all spills that result in water or soil contamination;

waste management: types and quantities generated and managed, including amount taken offsite (and by whom) or reused/recycled/disposed on-site;

details of tree plantings and other mitigations required undertaken in the reporting period;

details of water and swamp protection mitigations required undertaken in the reporting period.

1. *compliance:*

compliance status for conditions of all relevant consents/permits, for the Work, including quarries, etc.): statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance;

compliance status of C-ESMP/ESIP requirements: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance

compliance status of GBV/SEA prevention and response action plan: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance

compliance status of Health and Safety Management Plan re: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance

other unresolved issues from previous reporting periods related to environmental and social: continued violations, continued failure of equipment, continued lack of vehicle covers, spills not dealt with, continued compensation or blasting issues, etc. Cross-reference other sections as needed

Section IX -Particular Conditions of Contract

*Except where otherwise specified, all* PCC *should be filled in by the* Procuring Entity *prior to issuance of the Bidding Documents. Schedules and reports to be provided by the* Procuring Entity *should be annexed.*

|  |  |
| --- | --- |
| **A. General** | |
| **GCC 1.1 (d)** | In the case of Bank financing, the financing institution is: ***... [insert the name of financing institution]*** *….* |
| **GCC 1.1 (s)** | The Procuring Entity is**: ... *[insert name, address, and name of authorized representative]***. |
| **GCC 1.1 (v)** | The Intended Completion Date for the whole of the Works shall be ***[insert date]***  *[If different dates are specified for completion of the Works by section (“sectional completion” or milestones), these dates should be listed here]* |
| **GCC 1.1 (y)** | The Project Manager is ***[insert name, address, and name of authorized representative]*.** |
| **GCC 1.1 (a)** | The Site is located at ***[insert address of Site ]***and is defined in drawings No. ***[insert numbers]*** |
| **GCC 1.1 (d)** | The Start Date shall be ***[insert date]*.** |
| **GCC 1.1 (h)** | The Works consist of ***[insert brief summary, including relationship to other contracts under the Project]*.** |
| **GCC 2.2** | Sectional Completions are: ***[insert nature and dates, if appropriate]*** |
| **GCC 2.3(i)** | The following documents also form part of the Contract: ***[list documents]*** |
| **GCC 3.1** | If the contract is financed by ADB, the language of contract is English. |
| **GCC 5.1** | The Project manager ***[may or may not]*** delegate any of his duties and responsibilities. |
| **GCC 8.1** | Schedule of other contractors: ***[insert Schedule of Other Contractors, if appropriate]*** |
| **GCC 13.1** | The minimum insurance amounts and deductibles shall be:  (a) for loss or damage to the Works, Plant and Materials: [***insert amounts]***.  (b) For loss or damage to Equipment: [***insert amounts]***.  (c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract ***[insert amounts]***.  (d) for personal injury or death:   * + - 1. of the Contractor’s employees: ***[amount]*.**       2. of other people: ***[amount]***. |
| **GCC 14.1** | Site Data are: ***[list Site Data]*** |
| **GCC 20.1** | The Site Possession Date(s) shall be: ***[insert location(s) and date(s)]*** |
| **GCC 23.1 &**  **GCC 23.2** | **[The Procuring Entity is able to choose one of practices below, and delete the one that is not selected]**  [In the case of the WB/ADB financing] Appointing Authority for the Adjudicator: ***[insert name of Authority].***  **Or**  The Adjudicator proposed by the Procuring Entity and Bidder is the person/team who had been instituted by the Ministry of Finance pursuant to the Law on Public Procurement No. 30/NA, Part IX, Section 1, Article 73. |
| **GCC 24.3** | Hourly rate and types of reimbursable expenses to be paid to the Adjudicator: ***[insert hourly fees and reimbursable expenses]*.** |
| **GCC 24.4** | Institution whose arbitration procedures shall be used: …………………  The dispute shall be referred to arbitration in accordance with the laws of Lao PDR**. {*Law on Resolution of Economic Disputes No. 02/NA (19 May 2005))***  The place of arbitration shall be: ***[Insert city and country]*** |
| **B. Time Control** | |
| **GCC 26.1** | The Contractor shall submit for approval a Program for the Works within ***[number]*** days from the date of the Letter of Acceptance. |
| **GCC 26.3** | The period between Program updates is ***[insert number]*** days.  The amount to be withheld for late submission of an updated Program is ***[insert amount]*.** |
| **C. Quality Control** | |
| **GCC 34.1** | The Defects Liability Period is: ***[insert number]*** days.  ***[The Defects Liability Period is usually limited to 12 months, but could be less in very simple cases]*** |
| **D. Cost Control** | |
| **GCC 44.1** | The currency of the Procuring Entity’s country is: **Lao Kip**. |
| **GCC 45.1** | The Contract ***[insert “is” or “is not”]*** subject to price adjustment in accordance with GCC Clause 45, and the following information regarding coefficients ***[specify “does” or “does not”]*** a.  ***[Price adjustment is mandatory for contracts which provide for time of completion exceeding 18 months]***  pply  The coefficients for adjustment of prices are:  (i) ***[insert percentage]*** percent non ajustable element (coefficient A).  (ii) ***[insert percentage]*** percent ajustable element (coefficient B).  The Index I for KIP shall be ***[insert index]***.  ***[The proxy index shall be proposed by the Contractor, subject to acceptance by*** *the* Procuring Entity*]*  The Index I for currencies other than the local currency and the specified international currency shall be ***[insert index]***. |
| **GCC 46.1** | The proportion of payments retained is: ***[insert percentage]***  ***[The retention amount is usually close to 5 percent and in no case exceeds 10 percent.]*** |
| **GCC 47.1** | The liquidated damages for the whole of the Works are ***[insert percentage of the final Contract Price]*** per day. The maximum amount of liquidated damages for the whole of the Works is ***[insert percentage]*** of the final Contract Price.  ***[Usually liquidated damages are set between 0.05 percent and 0.10 percent per day, and the total amount is not to exceed between 5 percent and 10 percent of the Contract Price. If Sectional Completion and Damages per Section have been agreed, the latter should be specified here]*** |
| **GCC 48.1** | The Bonus for the whole of the Works is ***[insert percentage of final Contract Price]*** per day. The maximum amount of Bonus for the whole of the Works is ***[insert percentage]*** of the final Contract Price.  ***[If early completion would provide benefits to the* Procuring Entity*, this clause should remain; otherwise delete. The Bonus is usually numerically equal to the liquidated damages.]*** |
| **GCC 49.1** | The Advance Payments shall be: ***[insert amount(s)]*** and shall be paid to the Contractor no later than ***[insert date(s)]*.** |
| **GCC 50.1** | The Performance Security amount is ***[insert amount(s) denominated in the types and proportions of the currencies in which the Contract Price is payable, or in a freely convertible currency acceptable to the* Procuring Entity*]***  (a) Bank Guarantee: ***[insert percentage and amount(s)]***.  (b) Environmental, Social, Safety and Health (ESHS) Performance Security - Bank Guarantee: ***[insert percentage and amount(s)]* (WB/ADB)**  *[A* ***Bank Guarantee*** *shall be unconditional (on demand) (see Section X, Contract Forms). An amount of 5 to 10 percent of the Contract Price is commonly specified for Performance Bank Guarantees.* |
| **GCC 51.1** | Warranty security for works and/or maintenance or services *shoud not less than 10% of contract amount and the Warranty period (defect liability period) shoud not less than 12 months.* |
| **E. Finishing the Contract** | |
| **GCC 57.1** | The date by which operating, and maintenance manuals are required is ***[insert date]*.**  The date by which “as built” drawings are required is ***[insert date]*.** |
| **GCC 57.2** | The amount to be withheld for failing to produce “as built” drawings and/or operating and maintenance manuals by the date required in GCC 58.1 is [insert amount in local currency]. |
| **GCC 58.2 (g)** | The maximum number of days is: ***[insert number; consistent with Clause 47.1 on liquidated damages].*** |
| **GCC 59.1** | The percentage to apply to the value of the work not completed, representing the Procuring Entity’s additional cost for completing the Works, is ***[insert percentage]***. |

Section X - Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

**Table of Forms**

##### Form 1 - Notification of Intention to Award (WB/ADB)

Form 1 (a) Notification to Award (State Budget)

Form 2 – Beneficial Ownership Disclosure Form

##### Form 3 - Letter of Acceptance

Form 4 - Contract Agreement

Form 5 - Performance Security

Form 6 Environmental and Social (ES) Performance Security (For WB and ADB)

Form 7: Advance Payment Security

Form 8 - Bank Guarantee for supply of Works and/or maintenance or services

Form 9: Advertisement form

## 

## *[Proposal to use for WB and ADB finianced project]*

## Form 1 - Notification of Intention to Award

**[*This Notification of Intention to Award shall be sent to each Bidder that submitted a Bid.*]**

**[*Send this Notification to the Bidder’s Authorized Representative named in the Bidder Information Form*]**

For the attention of Bidder’s Authorized Representative

Name: *[insert Authorized Representative’s name]*

Address: *[insert Authorized Representative’s Address]*

Telephone/Fax numbers: *[insert Authorized Representative’s telephone/fax numbers]*

Email Address: *[insert Authorized Representative’s email address]*

***[IMPORTANT: insert the date that this Notification is transmitted to Bidders. The Notification must be sent to all Bidders simultaneously. This means on the same date and as close to the same time as possible.]***

**DATE OF TRANSMISSION**: This Notification is sent by: [*email/fax*] on [*date*] (local time)

**Notification of Intention to Award**

**Purchaser:** *[insert the name of the Purchaser]*

**Project:***[insert name of project]*

**Contract title:** *[insert the name of the contract]*

**Country:** *[insert country where RFB is issued]*

**Loan No. /Credit No. / Grant No.:** *[insert reference number for loan/credit/grant]*

**RFB No:** *[insert RFB reference number from Procurement Plan]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period you may:

1. request a debriefing in relation to the evaluation of your Bid, and/or
2. submit a Procurement-related Complaint in relation to the decision to award the contract.
3. **The successful Bidder**

|  |  |
| --- | --- |
| **Name:** | [*insert name* *of successful Bidder*] |
| **Address:** | [*insert address* *of the successful Bidder*] |
| **Contract price:** | [*insert contract price* *of the successful Bid*] |

1. **Other Bidders *[INSTRUCTIONS: insert names of all Bidders that submitted a Bid. If the Bid’s price was evaluated include the evaluated price as well as the Bid price as read out.]***

|  |  |  |
| --- | --- | --- |
| **Name of Bidder** | **Bid price** | **Evaluated Bid price**  **(if applicable)** |
| [*insert name*] | [*insert Bid price*] | [*insert evaluated price*] |
| [*insert name*] | [*insert Bid price*] | [*insert evaluated price*] |
| [*insert name*] | [*insert Bid price*] | [*insert evaluated price*] |
| [*insert name*] | [*insert Bid price*] | [*insert evaluated price*] |
| [*insert name*] | [*insert Bid price*] | [*insert evaluated price*] |

1. **Reason/s why your Bid was unsuccessful**

|  |
| --- |
| ***[INSTRUCTIONS: State the reason/s why this Bidder’s Bid was unsuccessful. Do NOT include: (a) a point by point comparison with another Bidder’s Bid or (b) information that is marked confidential by the Bidder in its Bid.]*** |

1. **How to request a debriefing**

|  |
| --- |
| **DEADLINE: The deadline to request a debriefing expires at midnight on [*insert date*] (local time).**  You may request a debriefing in relation to the results of the evaluation of your Bid. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.  Provide the contract name, reference number, name of the Bidder, contact details; and address the request for debriefing as follows:  **Attention**: [*insert full name of person, if applicable*]  **Title/position**: [*insert title/position*]  **Agency**: [*insert name of Purchaser*]  **Email address**: [*insert email address*]  **Fax number**: [*insert fax number*] ***delete if not used***  If your request for a debriefing is received within the 3 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.  The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.  If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice. |

1. **How to make a complaint**

|  |
| --- |
| **Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [*insert date*] (local time).**  Provide the contract name, reference number, name of the Bidder, contact details; and address the Procurement-related Complaint as follows:  **Attention**: [*insert full name of person, if applicable*]  **Title/position**: [*insert title/position*]  **Agency**: [*insert name of Purchaser*]  **Email address**: [*insert email address*]  **Fax number**: [*insert fax number*] ***delete if not used***  At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.  Further information:  For more information see the [Procurement Regulations for IPF Borrowers](https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=4005) (Procurement Regulations)[https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=4005] (Annex III). You should read these provisions before preparing and submitting your complaint. In addition, the World Bank’s Guidance “[How to make a Procurement-related Complaint](http://www.worldbank.org/en/projects-operations/products-and-services/brief/procurement-new-framework#framework)” [http://www.worldbank.org/en/projects-operations/products-and-services/brief/procurement-new-framework#framework] provides a useful explanation of the process, as well as a sample letter of complaint.  In summary, there are four essential requirements:   1. You must be an ‘interested party’. In this case, that means a Bidder who submitted a Bid in this bidding process and is the recipient of a Notification of Intention to Award. 2. The complaint can only challenge the decision to award the contract. 3. You must submit the complaint within the period stated above. 4. You must include, in your complaint, all of the information required by the Procurement Regulations (as described in Annex III). |

1. **Standstill Period**

|  |
| --- |
| **DEADLINE: The Standstill Period is due to end at midnight on [*insert date*] (local time).**  The Standstill Period lasts fourteen (14) Business Days after the date of transmission of this Notification of Intention to Award.  The Standstill Period may be extended as stated in Section 4 above. |

If you have any questions regarding this Notification, please do not hesitate to contact us.

On behalf of the Purchaser:

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title/position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Lao National logo 1

## Form1(a)

Lao People's Democratic Republic

Peace, independence, democracy, unity, lasting culture

Ministry .........................

Department .............................................

Name ofProcuring Entity No. / ......

Vientiane Capital, Date

**Notification of Intention to Award**

- According to the evaluation report No. *[enter report number]*

- According to the minutes of the meeting to approve the results of the bidding.

- Pursuant to the agreement to approve the winning and failing Bidders, No. *[ ].*

The Ministry or Department or the name of the Procuring Entity would like to inform you about the results of the Procurement of *[entre procurement name],* where the Bid was opened on *[bid opening date].,* Details are as follows:

Item: (Add the name of Construction)

**Successful Bidder**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Items | Name of Company/Bidders | Oepning Bid Prices | Evaluation Prices | The Result |
|  |  |  |  |  |

**Other Bidders**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Items | ​Name of Company/Bidders | ​Opening Bid Prices | ​Evaluation Prices | ​The Result | ​The reason of Failure |
| 1 |  |  |  |  |  |
| 2 |  |  |  |  |  |
| 3 |  |  |  |  |  |
| 4 |  |  |  |  |  |

The Procurement Committee of the Ministry or the Department or the name of the project owner (Procurement Agency) would like to thank all the companies that are interested in participating in this Procurement and hope that you will be interested in participating in the future.

The successful bidder must sign a contract within [14 days].

If you or any company has any concerns or do not think that the results of the above assessment and decision are not fair, you can file a formal letter to the Procurement Committee of the Ministry or Department or the name of the project owner (Procurement) within 14 days, the complaints are made pursuant to the instruction on im plementation of Law on Public Procurement No 0447/MOF, dated 13 Feb 2019, if the overdue complaint is deemed ineffective or not considered.

The complaints can be submitted to the Procurement Committee of the Ministry or Department or the name of the project owner. (Procurement Agency) Directly to Address: *[enter address]*  
Name of person in charge: Email: *[Enter the email address]*

Phone: *[Enter the email of the person in charge]*

Chairman of the Procurement Committee

##### 

##### Form 2 - Beneficial Ownership Disclosure Form

*INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM*

*This Beneficial Ownership Disclosure Form (“Form”) is to be completed by the successful Bidder. In case of joint venture, the Bidder must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.*

*For the purposes of this Form, a Beneficial Owner of a Bidder is any natural person who ultimately owns or controls the Bidder by meeting one or more of the following conditions:*

* *directly or indirectly holding 25% or more of the shares*
* *directly or indirectly holding 25% or more of the voting rights*
* *directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder*

**OB No.:** [*insert number of OB process*]

**Request for Bid No**.: [*insert identification*]

To: **[*insert complete name of Enployer*]**

In response to your request in the Letter of Acceptance *dated [insert date of letter of Acceptance]* to furnish additional information on beneficial ownership: *[select one option as applicable and delete the options that are not applicable]*

(i) we hereby provide the following beneficial ownership information.

**Details of beneficial ownership**

|  |  |  |  |
| --- | --- | --- | --- |
| Identity of Beneficial Owner | Directly or indirectly holding 25% or more of the shares  (Yes / No) | Directly or indirectly holding 25 % or more of the Voting Rights  (Yes / No) | Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Bidder  (Yes / No) |
| *[include full name (last, middle, first), nationality, country of residence]* |  |  |  |

***OR***

(ii) *We declare that there is no Beneficial Owner meeting one or more of the following conditions:*

* directly or indirectly holding 25% or more of the shares
* directly or indirectly holding 25% or more of the voting rights
* directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder

**OR**

*(iii) We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Bidder shall provide explanation on why it is unable to identify any Beneficial Owner]*

* directly or indirectly holding 25% or more of the shares
* directly or indirectly holding 25% or more of the voting rights
* directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder]”

**Name of the Bidder**: \*[*insert complete name of the Bidder*]

**Name of the person duly authorized to sign the Bid on behalf of the Bidder**: \*\*[*insert complete name of person duly authorized to sign the Bid*]

**Title of the person signing the Bid**: [*insert complete title of the person signing the Bid*]

**Signature of the person named above**: [*insert signature of person whose name and capacity are shown above*]

**Date signed** [*insert date of signing*] **day of** [*insert month*], [*insert year*]

\* In the case of the Bid submitted by a Joint Venture specify the name of the Joint Venture as Bidder. In the event that the Bidder is a joint venture, each reference to “Bidder” in the Beneficial Ownership Disclosure Form (including this Introduction thereto) shall be read to refer to the joint venture member.

\*\* Person signing the Bid shall have the power of attorney given by the Bidder. The power of attorney shall be attached with the Bid Schedules.

## Form 3 - Letter of Acceptance

***[ on letterhead paper of the* Procuring Entity*]***

***[date]****.*

To: ***[name and address of the Contractor]***

Subject: ***[Notification of Award Contract No]***

This is to notify you that your Bid dated ***[insert date]*** for execution of the ***[insert name of the contract and identification number, as given in the Appendix to Bid]*** for the Accepted Contract Amount of ***[insert amount in numbers and words and name of currency]***, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are requested to furnish the Performance Security and an Environmental, Social, Health and Safety Performance Security ***[Delete ESHS Performance Security if it is not required under the contract]*** within 28 days in accordance with the Conditions of Contract, using for that purpose the of the Performance Security Form and the ESHS Performance Security Form, ***[Delete reference to the ESHS Performance Security Form if it is not required under the contract]*** included in Section IX (Contract Forms) of the Bidding Document. [WB/ADB]

***[Choose one of the following statements:]***

We accept that **[*insert the name of Adjudicator proposed by the Bidder] be*** appointed as the Adjudicator.

***[or]***

We do not accept that ***[insert the name of the Adjudicator proposed by the Bidder]*** be appointed as the Adjudicator, and by sending a copy of this Letter of Acceptance to ***[insert name of the Appointing Authority]***, the Appointing Authority, we are hereby requesting such Authority to appoint the Adjudicator in accordance with ITB 41.1 and GCC 23.1.

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

## Form 4 - Contract Agreement

THIS AGREEMENT made **the [ ], day of [ ]**, between **[name of the Procuring Entity]** (hereinafter “the Procuring Entity”), of the one part, and **[name of the Contractor]** {for unincorporated joint ventures, add ”a joint venture formed pursuant to **[name of JV founding agreement]** dated **[date of JV agreement],** represented by **[name of authorized representative of JV]}** hereinafter “the Contractor”, of the other part:

WHEREAS the Procuring Entity desires that the Works known as ***[name of the Contract]***should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein, in total amount of ***[Currency] [Contract Price in figures and in words]*** (hereinafter called “the Contract Price”).

The Procuring Entity and the Contractor agree as follows:

Article1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.

Article2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.

1. the Letter of Acceptance
2. the Letter of Bid
3. the addenda Nos \_\_\_\_\_\_\_\_ (if any)
4. the Particular Conditions
5. the General Conditions of Contract, including appendix;
6. the Specification
7. the Drawings
8. Bill of Quantities;[[41]](#footnote-42)and

any other document listed in the PCC as forming part of the Contract,

1. ***[in the case fo Bank financing only] Article including, but not limited to:***
   * 1. ***the ES Management Strategies and Implementation Plans; and***
     2. ***Code of Conduct (ES).***

Article3. In consideration of the payments to be made by the Procuring Entity to the Contractor as specified in this Agreement, the Contractor hereby covenants with the Procuring Entity to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

Article4. The Procuring Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Lao PDR [on the day, month and year] specified above.

|  |  |  |  |
| --- | --- | --- | --- |
| Signed by: |  | Signed by: |  |
| ------------------------------------------------------  for and on behalf of the Procuring Entity | | ----------------------------------------------------  for and on behalf the Contractor | |
| In the presence of: | | In the presence of: | |
| ------------------------------------------------------  Witness, Name, Signature, Address, Date | | ------------------------------------------------------  Witness, Name, Signature, Address, Date | |

## 

## Form 5 - Performance Security (Bank Guarantee)

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:** *[insert name and Address of* Procuring Entity*]*

**Date:**  *[Insert date of issue]*

**PERFORMANCE GUARANTEE No.:** *[Insert guarantee reference number]*

**Guarantor: [***Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that ***[insert name of Contractor-*** *which in the case of a joint venture shall be the name of the joint venture]* hereinafter called "the Applicant" has entered into Contract No**. *[insert reference number of the contract]***dated ***[insert date]*** with the Beneficiary, for the execution of ***[insert name of contract and brief description of* Works*]*** hereinafter called "the Contract".

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of ***[insert amount in figures]******[insert amount in words]*,[[42]](#footnote-43)** such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the **[…. Day of ……, 2…][[43]](#footnote-44)**, and any demand for payment under it must be received by us at this office indicated above on or before that date.

This guarantee is subject to the Amended Secured Transactions Law, dated May 20, 2005.

Name and signature of authorized person

***Note:*** *All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.*

|  |
| --- |
| Form 6  [For WB and ADB Contracts]  Environmental and Social (ES) Performance Security |

**ES Demand Guarantee**

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:** *[insert name and Address of* Procuring Entity*]*

**Date:** *[Insert date of issue]*

**ES PERFORMANCE GUARANTEE No.:** *[Insert guarantee reference number]*

**Guarantor: [***Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that hereinafter called "the Applicant" has entered into Contract **[No.]** **[dated]** with the Beneficiary, for the execution of **[insert name of contractor]** hereinafter called "the Contract".

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of ***[insert amount in figures]******[insert amount in words][[44]](#footnote-45)*** such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its Environmental and/or Social (ES) obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the **[…. Day of ……, 2…][[45]](#footnote-46)**, and any demand for payment under it must be received by us at this office indicated above on or before that date.

This guarantee is subject to the Amended Secured Transactions Law, dated May 20, 2005.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
*[signature(s)]*

***Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.***

## Form 7 - Advance Payment Security

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:**[Insert name and Address of Procuring Entity]

**Date:** *[Insert date of issue]*

**ADVANCE PAYMENT GUARANTEE No.:** *[Insert guarantee reference number]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that ***[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]*** (hereinafter called “the Applicant” has entered into Contract No. ***[insert reference number of the contract]***dated ***[insert date****]* with the Beneficiary, for the execution of ***[insert name of contract and brief description of* Works*]*** (hereinafter called "the Contract".

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum ***[insert amount in figures]******[insert amount in words]*** is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of ***[insert amount in figures]******[insert amount in words][[46]](#footnote-47)*** upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

* + 1. has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
    2. has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary’s bank stating that the advance payment referred to above has been credited to the Applicant on its account number ***[insert number]*** at [***insert name and address of Applicant’s bank]*.**

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the *[insert day]* day of *[insert month]*, 2 *[insert year]*,[[47]](#footnote-48) whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Amended Secured Transactions Law, dated May 20, 2005..

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
*[signature(s)]*

***Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.***

## Form 8 - Bank Guarantee for supply

## auto0of Works and/or maintenance or services

**Lao People's Democratic Republic**

Peace Independence Democracy Unity Prosperity

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Proposal to use for Lao State budget only]**

Logo of the Bank

Bank’s Name and Address of issuing branch or office Date:

No:

Beneficiary: Name and Address of the Project Owner,

We have been informed that *[name of Constructor]* (hereinafter called “the Constructor”) intend to submit to you its Bid dated *[date of Bid]* (hereinafter called “the Bid”) for the supply of *[Work and related Services]* under the above Invitation for Bids (hereinafter called “the IFB”).

Furthermore, we understand that, according to your conditions Bids must be supported by a Guarantee for supply of Works and/or maintenance or services.

At the request of the Constructor, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Kip *[insert amount in figures and words]* upon receipt by us of your first written demand in writing accompanied by a written statement that the Constructor is in breach of its obligation(s) under the Bid conditions, because the Constructorr:

1 Did not correct the Defects before the end of the Performance Guarantee for supply of Works and/or maintenance or services.

2 Did not follow the Project Manager’s notice the correction of the Defects before the expiration of Performance Guarantee for supply of Works and/or maintenance or services

## We keep a copy of the Performance Guarantee for supply for supply of Works and/or maintenance or services and a copy of the Contract signed by the Bidder as issued by you.

Consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

|  |  |
| --- | --- |
|  | Signature(s) of authorized representative(s) |

Form 9: Invitation for Bids

**[For ADB, WB and Development Partners]**

**Lao People's Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

**Invitation for Bids**

**[*NAME OF PROJECT*]**

Loan No./Credit No./ Grant No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Contract Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Reference No**. (as per Procurement Plan): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. The Lao People’s Democratic Republic***[has received/has applied for/intends to apply for]***financing from **[the World Bank or Asian Development Bank]** toward the cost of the **[*insert name of project or grant*]**, and intends to apply part of the proceeds toward payments under the contract [[48]](#footnote-49)for [*insert title of contract*][[49]](#footnote-50).

2. The ***[insert name of implementing agency]*** now invites sealed bids from eligible bidders for ***[insert brief description of Works required, including quantities, location, construction period, margin of preference if applicable, etc.]****[[50]](#footnote-51)*.

3. Bidding will be conducted through the Open Bidding procedures as specified in the World Bank’s [*Guidelines: Procurement of Goods, Works and Non-Consulting Services under IBRD Loans and IDA Credits & Grants by World Bank Borrowers*](http://www.worldbank.org/html/opr/procure/guidelin.html)***[insert correct title and date of applicable Guidelines edition as per legal agreement, or “the Procurement Guidelines of the Asian Development Bank” if the contract is financed by the Asian Development Bank ]*** (“Procurement Guidelines”), and is open to all eligible bidders as defined in the Procurement Guidelines. In addition, please refer to ITB 4.3 setting forth the World Bank’s policy on conflict of interest.

4. Interested eligible bidders may obtain further information from ***[insert name of implementing agency, insert name and e-mail of officer in charge]*** and inspect the bidding documents during office hours ***[insert office hours if applicable i.e. 0900 to 1700 hours]***at the address given below ***[state address at the end of this invitation]*[[51]](#footnote-52)*.***

5. A complete set of bidding documents in **[*insert name of language*]** may be purchased by interested eligible bidders upon the submission of a written application to the address below and upon payment of a nonrefundable fee[[52]](#footnote-53) of **[*insert amount in Borrower’s currency or in a convertible currency*]**. The method of payment will be **[*insert method of payment*].[[53]](#footnote-54)** The document will be sent by **[*insert delivery procedure*].[[54]](#footnote-55)**

6. Bids must be delivered to the address below ***[state address at the end of this invitation]*[[55]](#footnote-56)** on or before ***[insert time and date].*** Electronic bidding **[will** ***or will not****]* be permitted. Late bids will be rejected. Bids will be publicly opened in the presence of the bidders’ designated representatives and anyone who choose to attend at the address below ***[state address at the end of this invitation]*** on ***[insert time and date]*.**

7. All bids must be accompanied by a Bid-Securing Declaration.

8. The address(es) referred to above is(are): *[insert detailed address(es)]*

[*insert name of office, room number*]

Attn: [*insert name of officer & title*]

[*insert postal address and/or street address*]

[*insert postal code, city, country*]

Tel: [*include the country and city code*]

Fax: [*include the country and city code*]

E-mail: [*insert electronic address if electronic bidding is permitted*]

Web site:

**[For State Budget]**

**Lao People's Democratic Republic**

Peace Independence Democracy Unity Prosperity

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Insert Name of Ministry/Province/Organizations

Insert Name of Procuring Entity

Insert Name of Project

Insert Contract No. Date:

**Invitation for bids**

1. **[*The Procuring Entities]*** invites sealed bid from eligible bidders to **[Insert brief description of the Works to be procured]**. The Completed Schedule is **[Insert numbers of months, years or date].**

(If contract constitutes in Lot(s) (Package), insert Lot No.)

1. Bidding will be conduced the public bidding procedures specified in the **Public Procurement Law and its implementation instruction.**
2. This Procurement is open to all eligible bidders, who have business license **[Grade]** in the country.
3. Interested eligible bidders may obtain further information from **[insert complete legal name of the Procuring Entity; Name and e-mail of officer in charge]** and inspect tender Documents at the address given below **[State address]** from **[Office Hours].**
4. A complete set of the Bidding Documents in Lao Language may be purchased by the interested bidders on the submission of a writing application to the address below beginning **[date]** and upon payment of non-refundable fee **[insert amount in Kip**] or its equivalent other currency. The method of payment shall be **[in cash or cashier’s check].**
5. Bid must be delivered to the address below at or before **[insert the same time and date as the deadline, place for bid submission]**. Electronic bidding ***[will or will not]*** be permitted. Late bids will be rejected and returned unopened to the bidders. All bids will be opened at **[insert the same time and date as the deadline, place for bid submission]** in the presence of the Bidding Committee and the bidder’s representatives who choose to attend at address below.
6. All bids must be accompanied by a “Bid-Securing Declaration” or Bid security with amount not less than 2% of Bid price.
7. The address(es) referred to above is (are): (Insert detailed address(es) including complete legal name of the procuring entity; office designation **[room number];** name of office; street address, City. **[If addresses for purchase of tendering documents and the bid submission and bid opening are different, insert different address].**

Signature of authorized person and stamp

worldbanklogo.png****

**Ministry of Finance**

**State Assets Management Department**

**Road 23 Singha, Vientiane Capital, Lao PDR**

**Tel/Fax: (856-21) 263252**

**www.ppd.mof.gov.la**

1. Depending on the financing institution as indicated in ITB2.1 of the Bid Data Sheet, “the Bank” refers to either the World Bank or Asian Development Bank. [↑](#footnote-ref-2)
2. In lump sum contracts, delete “rates and prices and the” sum price.” [↑](#footnote-ref-3)
3. Approximately 2 – 3 days [↑](#footnote-ref-4)
4. In lump sum contracts, delete “Bill of Quantities” and replace with “Activity Schedule.” [↑](#footnote-ref-5)
5. Daywork is work carried out following instructions of the Project Manager and paid for on the basis of time spent by workers, and the use of materials and the Contractor’s equipment, at the rates quoted in the Bid. For Daywork to be priced competitively for Bid evaluation purposes, the Employer must list tentative quantities for individual items to be costed against Daywork (e.g., a specific number of tractor driver staff-days, or a specific tonnage of Portland cement), to be multiplied by the bidders’ quoted rates and included in the total Bid price. [↑](#footnote-ref-6)
6. Detail of this clause might be included during the contract negotiation [↑](#footnote-ref-7)
7. [↑](#footnote-ref-8)
8. This requirement also applies to contracts executed by the Bidder as JV member. [↑](#footnote-ref-9)
9. The Bidder shall provide accurate information on the letter of Bid about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of court/arbitral awards against the Bidder or any member of a joint venture may result in disqualifying the Bidder. [↑](#footnote-ref-10)
10. The Employer may use this information to seek further information or clarifications in carrying out its due diligence. [↑](#footnote-ref-11)
11. About 5 to 50 percent of the value of the contract depending on the ammount of the contract

    Note: for the contract financed by the ADB shall be used the formula for Financial Capabilities: 3-4 x V/T, V= Estimated Value & T= Term of contract in monthly. [↑](#footnote-ref-12)
12. At least 3 years [↑](#footnote-ref-13)
13. Approximately 100 – 120 persent of the estimated cost of project implementation in one year.For the contract financed by the ADB shall be used the formular for the Average Construction Turnover: 2V/T, V= estimated cost & T= term of contract in yearly. [↑](#footnote-ref-14)
14. At least 3 years [↑](#footnote-ref-15)
15. At least 3 years [↑](#footnote-ref-16)
16. The similarity shall be based on the physical size, complexity, methods/technology and/or other characteristics described in Section VII, Work’s Requirements. Summation of number of small value contracts (less than the value specified under requirement) to meet the overall requirement will not be accepted. [↑](#footnote-ref-17)
17. Substantial completion shall be based on 80% or more works completed under the contract. [↑](#footnote-ref-18)
18. For contracts under which the Bidder participated as a joint venture member or sub-contractor, only the Bidder’s share, by value, shall be considered to meet this requirement. [↑](#footnote-ref-19)
19. In the case of JV, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. Instead, each contract performed by each member shall satisfy the minimum value of a single contract as required for single entity. In determining whether the JV meets the requirement of total number of contracts, only the number of contracts completed by all members each of value equal or more than the minimum value required shall be aggregated. [↑](#footnote-ref-20)
20. For contract financed by the ADB, clause 4.2(A)(ii). The minimum value of the contract experience must be 80% of estimated value or middle price [↑](#footnote-ref-21)
21. For contracts under which the Bidder participated as a joint venture member or sub-contractor, only the Bidder’s share shall be counted to meet this requirement. [↑](#footnote-ref-22)
22. Volume, number or rate of production of any key activity can be demonstrated in one or more contracts combined if executed during same time period. The rate of production shall be the annual production rate for the key construction activity (or activities). [↑](#footnote-ref-23)
23. The minimum experience requirement for multiple contracts will be the sum of the minimum requirements for respective individual contracts. [↑](#footnote-ref-24)
24. Bidder to use as appropriate [↑](#footnote-ref-25)
25. Contract Registration Fee is accordance with Ordinances of the President No. 00 in the attachment [↑](#footnote-ref-26)
26. the Sample Acitivity Schedule table is eligible for the Lumpsum Contract [↑](#footnote-ref-27)
27. If the lastest financial statement is for the period prior to 12 months from the date of bid submission, such reasons shall be certified [↑](#footnote-ref-28)
28. If applicable. [↑](#footnote-ref-29)
29. For the avoidance of doubt, a sanctioned party’s ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract. [↑](#footnote-ref-30)
30. A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower. [↑](#footnote-ref-31)
31. Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information. [↑](#footnote-ref-32)
32. In lump sum contracts, delete “Bill of Quantities” and replace with “Activity Schedule.” [↑](#footnote-ref-33)
33. In lump sum contracts, replace GCC Sub-Clauses 36.1 as follows:

    36.1 The Contractor shall provide updated Activity Schedules within 14 days of being instructed to by the Project Manager. The Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to monitor and control the performance of activities on which basis the Contractor will be paid. If payment for materials on site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule. [↑](#footnote-ref-34)
34. In lump-sum contracts, replace entire GCC Clause 37 with new GCC Sub-Clause 37.1, as follows:

    37.1 The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor’s own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule. [↑](#footnote-ref-35)
35. In lump sum contracts, add “and Activity Schedule” after “Program”. [↑](#footnote-ref-36)
36. In lump sum contracts, add “and Activity Schedule” after “Program.” [↑](#footnote-ref-37)
37. In lump sum contracts, replace this paragraph with the following: “The value of work executed shall comprise the value of completed activities in the Activity Schedule.” [↑](#footnote-ref-38)
38. For the avoidance of doubt, a sanctioned party’s ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract. [↑](#footnote-ref-39)
39. A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower. [↑](#footnote-ref-40)
40. Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information. [↑](#footnote-ref-41)
41. In lump sum contracts, delete “Bill of Quantities” and replace with “Activity Schedule.” [↑](#footnote-ref-42)
42. The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Beneficiary. [↑](#footnote-ref-43)
43. Insert the date twenty-eight days after the expected completion date as described in GC Clause 53.1. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.” [↑](#footnote-ref-44)
44. *The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency (cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.* [↑](#footnote-ref-45)
45. *Insert the date twenty-eight days after the expected completion date as described in GC Clause 55.1. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”* [↑](#footnote-ref-46)
46. The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer. [↑](#footnote-ref-47)
47. Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.” [↑](#footnote-ref-48)
48. Substitute “contracts” where bids are called concurrently for multiple contracts. Add a new para. 3 and renumber paras 3 - 8 as follows: “Bidders may bid for one or several contracts, as further defined in the bidding document. Bidders wishing to offer discounts in case they are awarded more than one contract will be allowed to do so, provided those discounts are included in the Letter of Bid.” [↑](#footnote-ref-49)
49. Insert if applicable: “This contract will be jointly financed by [insert name of co-financing agency]. Bidding process will be governed by the World Bank’s rules and procedures.” [↑](#footnote-ref-50)
50. A brief description of the type(s) of Works should be provided, including quantities, location of Project, construction period, application of margin of preference and other information necessary to enable potential bidders to decide whether or not to respond to the Invitation. Bidding Documents may require bidders to have specific experience or capabilities; such qualification requirements should also be included in this paragraph. [↑](#footnote-ref-51)
51. The office for inquiry and issuance of bidding documents and that for bid submission may or may not be the same. [↑](#footnote-ref-52)
52. The fee chargeable should only be nominal to defray reproduction and mailing costs. An amount between US$50 and US$100 or equivalent is deemed appropriate. [↑](#footnote-ref-53)
53. For example, cashier’s check, direct deposit to specified account number, etc. [↑](#footnote-ref-54)
54. The delivery procedure is usually surface mail or courier for local delivery. If urgency or security dictates, courier services may be required for overseas delivery. With the agreement of the World Bank, documents may be distributed by e-mail. [↑](#footnote-ref-55)
55. Substitute the address for bid submission if it is different from address for inquiry and issuance of bidding documents. [↑](#footnote-ref-56)