

BIDDING DOCUMENTS

for

Design, Engineering, Procurement, Supply and Construction for

CONSTRUCTION OF FOUR LANE BRIDGE
INCLUDING APPROACHES OVER RIVER
BRAHMAPUTRA BETWEEN DHUBRI ON
NORTH BANK AND PHULBARI ON SOUTH
BANK IN THE STATE OF ASSAM /
MEGHALAYA ON NH-127B (LENGTH: 20km)

Employer: National Highways & Infrastructure
Development Corporation Ltd. (Ministry of Road
Transport & Highways, GOVERNMENT OF INDIA)

Country: India

Loan No.: [ID-P 276]

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Notice Inviting Bid

National Highways & Infrastructure Development Corporation Limited

Notice Inviting Bid – International Competitive Bidding

Bid/ Package no.....** Dated 14th Nov 2019

Bid for Design, Engineering, Procurement, Supply and Construction of Four Lane Bridge including Approaches over River Brahmaputra between Dhubri on the North Bank and Phulbari on the South Bank in the State of Assam/ Meghalaya on NH-127B (Length 20km).

1. The Ministry of Road Transport & Highways through National Highways & Infrastructure Development Corporation Limited (NHIDCL) is engaged in the development of National Highways and as part of this endeavor, it has been decided to undertake Construction of Four Lane Bridge including Approaches over River Brahmaputra between Dhubri on the North Bank and Phulbari on the South Bank in the State of Assam/ Meghalaya on NH-127B (Length 20km) through an Engineering, Procurement and Construction (EPC) Contract through JICA funding.
2. The National Highways & Infrastructure Development Corporation Ltd. (NHIDCL) has received a loan from Japan International Cooperation Agency (JICA) towards the cost of Four Lane Bridge including Approaches over River Brahmaputra between Dhubri on the North Bank and Phulbari on the South Bank in the State of Assam/ Meghalaya on NH-127B. It is intended that part of the proceeds of this loan will be applied to eligible payments for this ICB.
3. The National Highways and Infrastructure Development Corporation Limited (NHIDCL) now invites bids from eligible Bidders for Design, Engineering, Procurement, Supply and Construction of Four Lane Bridge including Approaches over River Brahmaputra between Dhubri on the North Bank and Phulbari on the South Bank in the State of Assam/ Meghalaya on NH-127B (Length 20km) as mentioned below;

State	NH No.	ICB No.	Name of work	Estimated cost	Completion period	DLP/Maintenance period
Assam /Meghalaya	NH-127B	DP bridge/2019/JICA/ID-P276/NHIDCL	Design, Engineering, Supply and Construction of Four Lane Bridge including approaches over River Brahmaputra betw	35485 Million INR	7 years 9 months	4 years

			een Dhubri on North Bank and Phulbari on South Bank in the State of Assam/Meghalay a on NH-127B (Length: 20km)			
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3. The complete set of BID documents can be viewed/ downloaded from the official portal of the CPPP website <http://eprocure.gov.in/eprocure/app> and from BIMS Portal (www.bims.gov.in) from **14th November 2019 to 28th Dec 2019 (upto 11.00 AM IST)**. Bidder must submit Financial Bid on CPP Portal at <http://eprocure.gov.in/eprocure/app> and Technical Bid on CPP & BIMS Portal (both) on or before **30th Dec 2019 (upto 11:00 AM IST)**. Technical Bids received online shall be opened on **30th Dec 2019 (after 11: 00 AM IST)** in the presence of bidder’s representative who choose to attend.

4. Bidding will be conducted through procedures in accordance with the applicable Guidelines for Procurement under Japanese ODA Loans, and is open to all Bidders from eligible source countries, as defined in the Loan Agreement

4. Bid through any other mode shall not be entertained. However, Bid Security Declaration, Biddocument fee, Power of Attorney and Other Bidding Documents/Agreement etc. shall be submitted physically by the Bidder on or before **30th Dec 2019 (up to 11:00 AM IST)**.

5. International competitive bidding will be conducted in accordance with Single-Stage: Two-Envelope JICA bidding procedure and is open to all bidders from eligible countries as described in the Bidding Document.

6. Bidder to note that, as per Government of India policy and Ministry of Road Transport & Highway (MoRT&H) directions, for evaluation of Bids, NOC (No objection certificate) from MEA (Ministry of External Affairs) & MHA (Ministry of Home Affairs) shall be sought for the firm (Bidder) of foreign origin i.e. based outside India, by NHIDCL.

7. Please note that the [Ministry/Authority/ Executing Agency] reserve the right to accept or reject all or any of the BIDs without assigning any reason whatsoever.

Officer In-charge
 NHIDCL

Mr. Manmohan Singh Deol
 GM (T)
 Phone/ Fax.....**
 e-mail.....**

This document and all the information it contain are confidential. It is the property of the National Highways& Infrastructure Development Corporation Limited whose details are shown below. It must not be disclosed to any third party without the written consent of the NHIDCL.

Consolidated Bid Documents for

DESIGN, ENGINEERING, PROCUREMENT, SUPPLY AND CONSTRUCTION OF FOUR LANE BRIDGE INCLUDING APPROACHES OVER RIVER BRAHMAPUTRA BETWEEN DHUBRI ON NORTH BANK AND PHULBARI ON SOUTH BANK IN THE STATE OF ASSAM / MEGHALAYA ON NH-127B (LENGTH: 20km)

PART 1 BIDDING PROCEDURES

Single-Stage Two-Envelope Bidding

- Section I. Instructions to Bidders (ITB)
- Section II. Bid Data Sheet (BDS)
- Section III. Evaluation and Qualification Criteria (Without Prequalification)
- Section IV. Bidding Forms (BF)
- Section V. Eligible Source Countries of Japanese ODA Loans

Employer:

National Highways & Infrastructure Development Corporation Ltd.
(Ministry of Road Transport & Highways, GOVERNMENT OF INDIA)

INDIA

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A. General

- 1. Scope of Bid**
- 1.1 In connection with the Invitation for Bids **specified in the Bid Data Sheet (BDS)**, the Employer, as **specified in the BDS**, issues these Bidding Documents (hereinafter referred to as “Bidding Documents”) for the Design, Engineering, procurement, Supply and Construction of all works related to Four Lane Bridge including Approaches over River Brahmaputra between Dhubri on the North Bank and Phulbari on the South Bank in the State of Assam/ Meghalaya on NH-127B (Length 20km). by the Contractor as specified in Section VI, Employer’s Requirements. The name, identification, and number of the lot(s) (contract(s)) comprising this International Competitive Bidding (ICB) are **specified in the BDS**.
- 1.2 Throughout these Bidding Documents:
- (a) the term “in writing” means communicated in written form and delivered against receipt;
 - (b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and
 - (c) “day” means calendar day.
- 2. Source of Funds**
- 2.1 The Borrower **specified in the BDS** has applied for or received a Japanese ODA Loans from Japan International Cooperation Agency (hereinafter referred to as “JICA/Bank”), vide Loan Agreement No., Amount of Loan and the signed date of the Loan Agreement is as **specified in the BDS**, toward the cost of the project specified in the BDS. The Borrower intends to apply a portion of the proceeds of the Loan to eligible payments under the Contract(s) for which these Bidding Documents are issued.
- 2.2 Disbursement of a Japanese ODA Loan by JICA will be subject, in all respects, to the terms and conditions of the Loan Agreement, including the disbursement procedures and the applicable Guidelines for Procurement under Japanese ODA Loans **as specified in the BDS**. No party other than the Borrower shall derive any rights from the Loan Agreement or have any claim to the Loan proceeds.
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**3. Corrupt and
Fraudulent
Practices**

- 2.3 The above Loan Agreement will cover only part of the project cost. As for the remaining portion, the Borrower will take appropriate measures for finance.
- 3.1 It is JICA's policy to require that Bidders and Contractors, as well as Borrowers, under contracts funded with Japanese ODA Loans, observe the highest standard of ethics during the procurement and execution of such contracts.

In pursuance of this policy, JICA;

- (a) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices, collusive, coercive, or obstructive practices in competing for the contract in question;
- (b) will recognize a Bidder or Contractor as ineligible, for a period determined by JICA, to be awarded a contract funded with Japanese ODA Loans if it, at any time, determines that the Bidder or the Contractor has engaged in corrupt or fraudulent practices, collusive, coercive or obstructive practices in competing for, or in executing, another contract funded with Japanese ODA Loans or other Japanese ODA; and
- (c) will recognize a Contractor as ineligible to be awarded a contract funded with Japanese ODA Loans if the Contractor or a Subcontractor, who has a direct contract with the Contractor, is debarred under the cross-debarment decisions by the Multilateral Development Banks. Such period of ineligibility shall not exceed three (3) years from (and including) the date on which the cross debarment is imposed.

“Cross debarment decisions by the Multilateral development Banks” is a corporate sanction in accordance with the agreement among the African Development Bank Group, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank Group and the World Bank Group signed on 9 April, 2010 (as amended from time to time). JICA will recognize the World Bank Group's debarment of which period exceeds one year, imposed after 19 July, 2010, the date on which the World Bank Group started cross debarment, as “cross debarment decisions by the Multilateral Development Banks.”

The list of debarred firms and individuals is available at the electronic address **specified in the BDS**.

JICA will recognize a Bidder or Contractor as ineligible to be awarded a contract funded with Japanese ODA Loans if the Bidder or Contractor is debarred by the World Bank Group for the period starting from the date of the Invitation for Bid, if prequalification has not been conducted; or the date of Advertisements for Prequalification, if prequalification has been conducted, up to the signing of the contract, unless (i) such debarment period does not exceed one year, or (ii) three (3) years have passed since such debarment decision.

If it is revealed that the Contractor was ineligible to be awarded a contract according to the above, JICA will, in principle, impose sanctions against the Contractor.

If it is revealed that a Subcontractor, who has a direct contract with the Contractor, was debarred by the World Bank Group on the subcontract date, JICA will, in principle, require the Borrower to have the Contractor cancel the subcontract immediately, unless (i) such debarment period does not exceed one year, or (ii) three (3) years have passed since such debarment decision. If the Contractor refuses, JICA will require the Borrower to declare invalidity or cancellation of the contract and demand the refund of the relevant proceeds of the Loan or any other remedies on the grounds of contractual violation.

- 3.2 Furthermore, Bidders shall be aware of the provision stated in Sub-Clause 15.6 [Corrupt and Fraudulent Practice] of General Conditions.

4. Eligible Bidders

- 4.1 A Bidder may be a firm that is a single entity 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 JV:
- (a) all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms, and
 - (b) 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.

- 4.2 A Bidder shall not have a conflict of interest. A Bidder shall not be employed under any of the circumstances set forth below throughout the bidding/selection process and/or the execution of the Contract unless the conflict has been resolved in a manner acceptable to JICA.
- (a) A firm shall be disqualified from providing goods or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of a project that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm. This provision does not apply to the various firms (consultants, contractors, or suppliers) only due to the reason that those firms together are performing the Contractor's obligations under a turnkey or design and build contract.
 - (b) A firm that has a close business relationship with the Borrower's professional personnel, who are directly or indirectly involved in any part of: (i) the preparation of the prequalification and Bidding Documents for the Contract, (ii) the prequalification and Bid evaluation, or (iii) the supervision of such Contract, shall be disqualified.
 - (c) Based on the "One Bid Per Bidder" principle, which is to ensure fair competition, a firm and any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm shall not be allowed to submit more than one Bid, either individually or as a member in a JV. A firm (including its affiliate), if acting in the capacity of a Subcontractor in one Bid, may participate in other Bids, only in that capacity.
 - (d) A firm having any other form of conflict of interest other than (a) through (c) above shall be disqualified.
- 4.3 A Bidder shall be from any of the eligible source countries indicated in Section V, Eligible Source Countries of Japanese ODA Loans.
- 4.4 A Bidder that has been determined to be ineligible by JICA in accordance with ITB 3.1 shall not be eligible to be awarded a

Contract.

4.5 This bidding is open only to prequalified Bidders unless **specified in the BDS.**

4.6 A Bidder shall provide such evidence of its continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.

5. Eligible Plant, Material and Services

5.1 The Plant, Material and Services to be supplied under the Contract shall have their origin in any of the eligible source countries indicated in Section V, Eligible Source Countries of Japanese ODA Loans, and all expenditures under the Contract will be limited to such Plant, Material and Services.

5.2 For purposes of ITB 5.1 above, “origin” means the place where the plant, or component parts thereof are mined, grown, produced or manufactured, and from which the services are provided. Plant components are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that is substantially different in its basic characteristics or in purpose or utility from its components.

B. Contents of Bidding Documents

6. Sections of Bidding Documents

6.1 The Bidding Documents consist of Parts 1, 2, 3, 4, 5 and 6, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8.

PART 1 Bidding Procedures

- **Section I. Instructions to Bidders (ITB)**
- **Section II. Bid Data Sheet (BDS)**
- **Section III. Evaluation and Qualification Criteria (EQC)**
- **Section IV. Bidding Forms**
- **Section V. Eligible Source Countries of Japanese ODA Loans**

PART 2 Employer’s Requirements

- **Section VI. Employer's Requirements**

PART 3 Conditions of Contract and Contract Forms

- **Section VII. General Conditions (GC)**
- **Section VIII. Particular Conditions (PC)**
- **Section IX. Annex to the Particular Conditions - Contract Forms (CF)**

PART 4 Specifications

PART5 Drawings

PART 6 Data Books

6.2 The Invitation for Bids issued by the Employer is not part of the Bidding Documents.

6.3 Unless obtained directly from the Employer, the Employer is not responsible for the completeness of the Bidding Documents, responses to requests for clarification's, 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 Employer shall prevail.

6.4 The Bidder is expected to examine all instructions, forms, terms, and Employer's Requirement in the Bidding Documents, and to furnish with its Bid all information and documentation as is required by the Bidding Documents.

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

7.1 A Bidder requiring any clarification of the Bidding Documents shall contact the Employer in writing at the Employer's address **specified in the BDS** or raise his enquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to request for clarification, provided that such request is received no later than fourteen (14) days prior to the deadline for submission of Bids as stated in Bidding Document. The Employer 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**, the Employer 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 Employer shall amend the Bidding Documents following the procedure under ITB 8 and ITB 24.2.

- 7.2 The Bidder is advised to visit and examine the Site 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.
- 7.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit as stated in Para 7.2 above, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection/visit.
- 7.4 The Bidder's designated representative is invited to attend a pre-bid meeting, if so **specified in the BDS**. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. A site visit will be conducted by the Employer at the time of the pre-bid meeting, if so **specified in the BDS**.
- 7.5 The Bidder is requested to submit questions, if any, in writing, to reach the Employer not later than one (1) week before the pre-bid meeting.
- 7.6 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. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting. Nonattendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.
- 8. Amendment of Bidding Documents**
- 8.1 At any time prior to the deadline for submission of Bids, the Employer may amend the Bidding Documents by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents from the Employer in accordance with

ITB 6.3. If so **specified in the BDS**, the Employer shall also promptly publish the addendum on the Employer's web page in accordance with ITB 7.1.

- 8.3 To give Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Employer may extend the deadline for the submission of Bids at its discretion, pursuant to ITB 24.2.

C. Preparation of Bids

- 9. Cost of Bidding** 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid including the Site visit and attending the pre-bid meeting, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

- 10. Language of Bid** 10.1 The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Employer, shall be written in the language **specified in the BDS**. 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 in the language of Bid, in which case, for purposes of interpretation of the Bid, such translation shall govern.

- 11. Documents Comprising the Bid** 11.1 The Bid shall comprise two envelopes submitted simultaneously, one called the Technical Bid containing the documents listed in ITB 11.2 and the other the Price Bid containing the documents listed in ITB 11.3, both envelopes enclosed together in an outer single envelope.

- 11.2 The Technical Bid submitted by the Bidder shall comprise the following:

- (a) Letter of Technical Bid;
- (b) Bid Security, in accordance with ITB 21;
- (c) Acknowledgment of Compliance with the Guidelines for Procurement under Japanese ODA Loans (Form ACK), which shall be signed and dated by the Bidder's authorized representative;
- (d) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 22.2;
- (e) in the case of a Bid submitted by a JV, a copy of the JV

agreement, or letter of intent, signed by all members, to enter into a JV including a draft agreement, indicating at least the parts of the Plant to be executed by the respective members;

- (f) documentary evidence establishing in accordance with ITB 14 that the Works offered by the Bidder in its Bid or in any alternative Bid, if permitted, are eligible;
- (g) documentary evidence in accordance with ITB 15 establishing the Bidder's eligibility and qualifications to perform the Contract if its Bid is accepted;
- (h) Technical Proposal in accordance with ITB 17;
- (i) documentary evidence establishing in accordance with ITB 16 that the Works offered by the Bidder conform to the Bidding Documents;
- (j) alternative Bids, if permissible, in accordance with ITB 13;
- (k) list of Subcontractors, in accordance with ITB 17.2 and 17.3; and
- (l) any other document **required in the BDS**.

11.3 The Price Bid submitted by the Bidder shall comprise the following:

- (a) Letter of Price Bid;
- (b) completed Price Schedules, in accordance with ITB 12 and 18;
- (c) alternative Price Bids, at the Bidder's option and if permissible, in accordance with ITB 13; and
- (d) any other document **required in the BDS**.

12. Letters of Bid and Schedules

12.1 The Bidder shall complete the Letters of Technical Bid and Price Bid, including the appropriate Technical and Price Schedules, 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 22.2. All blank spaces shall be

filled in with the information requested.

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| 13. Alternative Bids | 13.1 | The BDS indicates whether alternative Bids are allowed. If they are allowed, the BDS will also indicate whether they are permitted in accordance with ITB 13.3, or invited in accordance with ITB 13.2 and/or ITB 13.4. |
| | 13.2 | When alternatives to the Time for Completion of the whole of the Works or the sections are explicitly invited, a statement to that effect will be included in the BDS , and the method of evaluating different time schedules will be described in Section III, Evaluation and Qualification Criteria. |
| | 13.3 | Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the Employer’s requirements as described in the Bidding Documents must also provide: (i) a price at which they are prepared to offer such alternative meeting the Employer’s requirements; and (ii) all information necessary for a complete evaluation of the alternatives by the Employer, including drawings, design calculations, technical information (particulars), breakdown of prices, and proposed installation 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 Employer. |
| | 13.4 | When Bidders are invited in the BDS to submit alternative technical solutions for specified parts of the Works, such parts shall be described in Section VI, Employer’s Requirements. Technical alternatives that comply with the performance and technical criteria specified for the Works shall be considered by the Employer on their own merits, pursuant to ITB 35.2. |
| 14. Documents
Establishing the
Eligibility of
Plant, Materials
and Services | 14.1 | To establish the eligibility of Plant, Materials and Services in accordance with ITB 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms. |
| 15. Documents
Establishing the
Eligibility and
Qualifications of
the Bidder | 15.1 | In accordance with Section III, Evaluation and Qualification Criteria, if the prequalification process was conducted prior to the bidding process, the Bidder shall provide in the corresponding information sheets included in Section IV, Bidding Forms, (i) updated information on any assessed aspect that changed from that time to establish that the Bidder continues to meet the criteria used at the time of prequalification and (ii) the requested information on the additional qualification criteria stated in Section III, |

Evaluation and Qualification Criteria, or if the assessment of qualification criteria was not conducted prior to the bidding process, the Bidder shall provide the information requested in the corresponding information sheets included in Section IV, Bidding Forms.

- 15.2 Any change in the structure or formation of a Bidder after being prequalified and invited to bid (including, in the case of a JV, any change in the structure or formation of any member thereto) shall be subject to the written approval of the Employer prior to the deadline for submission of Bids. Such approval shall be denied if (i) such change has not taken place by the free choice of the firms involved; (ii) as a consequence of the change, the Bidder no longer substantially meets the qualification criteria set forth in the Prequalification Documents; or (iii) in the opinion of the Employer, the change may result in a substantial reduction in competition. Any such change should be submitted to the Employer not later than fourteen (14) days after the date of the Invitation for Bids.

**16. Documents
establishing
conformity of
the Works**

- 16.1 The documentary evidence of the conformity of the Works with the Bidding Documents may be in the form of literature, drawings and data, and shall include:
- (a) a detailed description of the essential technical and performance characteristics of the Plant & Equipment, including the Schedule of Guarantees of the proposed Plant & Equipment, if any, in response to the Employer's Requirement. The Schedule of Guarantees of the proposed Plant & Equipment shall be stated in the applicable form in Section IV, Bidding Forms;
 - (b) a list giving full particulars, including available sources, of all spare parts, special tools, etc., necessary for the proper and continuing functioning of the Plant & Equipment for the period **specified in the BDS**, following completion of the Works in accordance with the provisions of Contract; and
 - (c) adequate evidence demonstrating the substantial responsiveness of the Works to those Employer's Requirements. Bidders shall note that standards for workmanship, materials and equipment designated by the Employer in the Bidding Documents are intended to be descriptive (establishing standards of quality and performance) only and not restrictive. The Bidder may propose alternative standards, brand names and/or

catalogue numbers in its Technical Proposal, provided that it demonstrates to the Employer's satisfaction that the alterations are substantially equivalent or superior to the standards designated in the Employer's Requirement.

17. Technical Proposal, Subcontractors

- 17.1 The Bidder shall furnish a Technical Proposal, including a statement of work methods, equipment, personnel, schedule, safety plan, Environmental & Social plans, and any other information as stipulated in Section IV, Bidding Forms in sufficient detail to demonstrate substantial responsiveness of the Bidder's proposal to the Employer's Requirements and the completion time.
- 17.2 For major items of the Works as listed by the Employer in Section III, Evaluation and Qualification Criteria, which the Bidder intends to purchase or subcontract, the Bidder shall give details of the name and nationality of the proposed Subcontractors, including manufacturers, for each of those items. In addition, the Bidder shall include in its Technical Proposals information establishing compliance with the requirements specified by the Employer for these items. Bidders are free to list more than one Subcontractor against each item of the Works. Quoted rates and prices will be deemed to apply to whichever Subcontractor is appointed, and no adjustment of the rates and prices will be permitted.
- 17.3 The Bidder shall be responsible for ensuring that any Subcontractor proposed complies with the requirements of ITB 4, and that any Works to be provided by the Subcontractor comply with the requirements of ITB 5 and ITB 16.1.
- 17.4 **Unless otherwise stated in the BDS**, the Employer does not intend to execute any specific elements of the Works by subcontractors selected in advance by the Employer (nominated subcontractors).
- 17.5 In case Prequalification was not conducted prior to the bidding process, Bidders planning to subcontract any of the key activities indicated in Section III, Evaluation and Qualification Criteria, shall clearly identify the proposed specialist subcontractor(s) in Forms ELI-2 and EXP-2(b) in Section IV, Bidding Forms. Such proposed specialist subcontractors(s) shall meet the corresponding qualification requirements specified in Section III, Evaluation and Qualification Criteria.

17.6 In case Prequalification was conducted prior to the bidding process, the Bidder's Bid shall name the same specialist subcontractor(s) whose experience in the key activities was evaluated in the Prequalification, unless such change is explicitly approved by the Employer in accordance with ITB 15.2.

18. Bid Prices and Discounts

18.1 **Unless otherwise specified in the BDS,** Bidders shall quote for the Works such that the total Bid Price covers all the Contractor's obligations mentioned in or to be reasonably inferred from the Bidding Documents in respect of the design, manufacture, including procurement and subcontracting (if any), delivery, construction, installation and completion of the Works. This includes all requirements under the Contractor's responsibilities for testing, pre-commissioning and commissioning of the plant and, where so required by the Bidding Documents, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services and such other items and services as may be specified in the Bidding Documents, all in accordance with the requirements of the General Conditions. Items against which no price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed to be covered by the prices for other items.

18.2 Bidders are required to quote the price for the commercial, contractual and technical obligations outlined in the Bidding Documents.

18.3 Bidders shall provide price in each item in the manner and detail called for in the Price Schedules included in Section IV, Bidding Forms. Further, Bidders may add breakdowns of items and provide the prices in each Price Schedule included in Section IV, Bidding Forms.

18.4 The price to be offered in the Letter of Bid, in accordance with ITB 12.1, shall be the total **price of the Bid, excluding any discounts that may be offered.**

18.5 **Unless otherwise specified in the BDS and the Contract,** the prices offered by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract. In such a case, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the Employer may require the Bidder to justify its proposed indices and weightings.

- 18.6 If so specified in BDS 1.1, Bids are being invited for individual lots (contracts) or for any combination of lots (packages). Bidders wishing to offer discounts for the award of more than one Contract shall specify in their Bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITB 18.4, provided the Bids for all lots (contracts) are opened at the same time.
- 18.7 **Unless otherwise provided in the BDS**, all duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date twenty-eight (28) days prior to the deadline for submission of Bids, shall be included in the rates and prices and the total Bid Price submitted by the Bidder.
- 18.8 Bidders wishing to offer any unconditional discount shall specify in their Letter of Price Bid the offered discounts and the manner in which price discounts will apply.
- 19. Currencies of Bid and Payment**
- 19.1 The currency(ies) of the Bid shall be, as **specified in the BDS**. Payment of the Contract Price shall be made in the currency or currencies in which the Bid Price is expressed in the Bid of the successful Bidder.
- 19.2 Bidders may be required by the Employer to justify, to the Employer’s satisfaction, their local and foreign currency requirements.
- 20. Period of Validity of Bids**
- 20.1 Bids shall remain valid for the period **specified in the BDS** after the Bid submission deadline date prescribed by the Employer pursuant to ITB 24.1. A Bid valid for a shorter period against to bid validity period stated in Bid Documents shall be rejected by the Employer as non-responsive.
- 20.2 In exceptional circumstances, prior to the expiration of the Bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. The Bid Security shall also be extended for twenty-eight (28) days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid, except as provided in ITB 20.3.
- 20.3 If the award is delayed by a period exceeding one hundred

and twenty (120) days beyond the expiry of the initial Bid validity, the Contract Price shall be determined as follows:

- (a) In the case of Fixed Price Contracts, the Contract Price shall be the Bid Price adjusted by the factor **specified in the BDS**.
- (b) In the case of Adjustable Price Contracts, to determine the Contract Price, the fixed portion of the Bid Price shall be adjusted by the factor **specified in the BDS**.
- (c) In any case, Bid evaluation shall be based on the Bid Price without taking into consideration the effect of the corrections indicated above.

21. Bid Security

- 21.1 The Bidder shall furnish as part of its Bid a Bid Security in the amount and currency **specified in the BDS**.
- 21.2 The Bid Security shall be a demand guarantee in any of the following forms at the Bidder's option:
 - (a) An unconditional guarantee issued by a bank or financial institution (such as an insurance, bonding or surety company);
 - (b) An irrevocable letter of credit;
 - (c) A cashier's or certified check; or
 - (d) Another security **specified in the BDS**

from a reputable source from an eligible source country. If the unconditional guarantee is issued by an insurance company or a bonding company located outside the Employer's Country, the issuer shall have a correspondent financial institution located in the Employer's Country to make it enforceable. In the case of a bank guarantee, the Bid Security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms or in another substantially similar format approved by the Employer prior to Bid submission. In either case, the form must include the complete name of the Bidder. The Bid Security shall be valid for twenty-eight (28) days beyond the original validity period of the Bid, or beyond

any period of extension if requested under ITB 20.2.

- 21.3 Any Bid not accompanied by a substantially responsive Bid Security shall be rejected by the Employer as non-responsive.
- 21.4 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the Bidder is determined disqualified or in case the Bidder pass the technical evaluation.
- 21.5 The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required Performance Security.
- 21.6 The Bid Security may be forfeited:
- (a) if a Bidder withdraws its Bid during the period of Bid validity specified by the Bidder on the Letters of Technical Bid and Price Bid, or any extension thereto provided by the Bidder; or
 - (b) if the successful Bidder fails to:
 - (i) Sign the Contract in accordance with ITB 43; or
 - (ii) Furnish a Performance Security in accordance with ITB 44.
- 21.7 The Bid Security of a JV shall be in the name of the JV that submits the Bid. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, the Bid Security shall be in the names of all future members as named in the letter of intent referred to in ITB 4.1 and ITB 11.2.

22. Format and Signing of Bid

- 22.1 The Bidder shall prepare one original of the Technical Bid and one original of the Price Bid as described in ITB 11 and clearly mark it "TECHNICAL BID - ORIGINAL" and "PRICE BID - ORIGINAL." Alternative Bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE". In addition, the Bidder shall submit copies of the Technical and Price Bids, in the number **specified in the BDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 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** 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 initialled by the person signing the Bid.

- 22.3 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.
- 22.4 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the Bid.

D. Submission and Opening of Bids

23. Submission, Sealing and Marking of Bids

- 23.1 Bidders may submit their Bids by mail or by hand. Procedures for submission, sealing and marking are as follows:

Bidders shall enclose the original of the Technical Bid, the original of the Price Bid, and each copy of the Technical Bid and of the Price Bid, including alternative Bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as “TECHNICAL BID – ORIGINAL,” “PRICE BID – ORIGINAL,” “TECHNICAL BID – COPY,” “PRICE BID – COPY,” and “ALTERNATIVE,” as appropriate. These envelopes containing the original, the copies and the alternative(s), if any, shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB 23.2 through 23.5.

- 23.2 The inner and outer envelopes shall:
- (a) Bear the name and address of the Bidder;
 - (b) Be addressed to the Employer in accordance with ITB 24.1; and
 - (c) Bear the specific identification of this bidding process specified in BDS 1.1.
- 23.3 The outer envelopes and the inner envelopes containing the Technical Bid shall bear a warning not to open before the time and date for the opening of Technical Bids, in accordance with ITB 27.1.

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- 23.4 The inner envelopes containing the Price Bid shall bear a warning not to open until advised by the Employer in accordance with ITB 27.7.
- 23.5 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.
- 24. Deadline for Submission of Bids**
- 24.1 Bids must be received by the Employer at the address and no later than the date and time **specified in the BDS**.
- 24.2 The Employer may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Documents in accordance with ITB 8, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 25. Late Bids**
- 25.1 The Employer shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB 24. Any Bid received by the Employer after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.
- 26. Withdrawal, Substitution, and Modification of Bids**
- 26.1 A Bidder may withdraw, substitute, or modify its Bid – Technical or Price – 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 22.2, (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 22 and ITB 23 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” “MODIFICATION;” and
 - (b) Received by the Employer prior to the deadline prescribed for submission of Bids, in accordance with ITB 24.
- 26.2 Bids requested to be withdrawn in accordance with ITB 26.1 shall be returned unopened to the Bidders.
- 26.3 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of Bids and the
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expiration of the period of Bid validity specified by the Bidder on the Letter of Technical Bid and on the Letter of Price Bid or any extension thereof.

27. Bid Opening

- 27.1 Except in the cases specified in ITB 25 and ITB 26, the Employer shall publicly open and read out in accordance with ITB 27.5 all Technical Bids received by the deadline, at the date, time and place **specified in the BDS**, in the presence of Bidders' designated representatives and anyone who choose to attend. The Price Bids will remain unopened and will be held in custody of the Employer until the time of their opening to be specified in accordance with ITB 27.7.
- 27.2 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 opening of the Technical Bids.
- 27.3 Second, outer envelopes marked "SUBSTITUTION" shall be opened. The inner envelopes containing the Substitution Technical Bid and/or Substitution Price Bid shall be exchanged for the corresponding envelopes being substituted, which are to be returned to the Bidder unopened. Only the Substitution Technical Bid, if any, shall be opened and read out. Substitution Price Bid will remain unopened in accordance with ITB 27.1. No envelope shall be substituted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at opening of the Technical Bids.
- 27.4 Next, outer envelopes marked "MODIFICATION" shall be opened. No Technical Bid and/or Price Bid shall be modified unless the corresponding modification notice contains a valid authorization to request the modification and is read out at the opening of Technical Bids. Only the Technical Bids, both Original as well as Modification, are to be opened and read out at the opening. Price Bids, both Original as well as Modification, will remain unopened in accordance with ITB 27.1
- 27.5 All other envelopes holding the Technical Bids shall be opened one at a time, reading out:

- (a) The name of the Bidder;
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- (b) Whether there is a modification;
- (c) The presence or absence of the Bid Security; and
- (d) Any other details as the Employer may consider appropriate.

Only Technical Bids and alternative Technical Bids read out at Bid opening shall be considered for evaluation. The Employer shall neither discuss the merits of any Bid nor reject any Bid (except for late Bids, in accordance with ITB 25.1).

- 27.6 The Employer shall prepare a record of the opening of Technical Bids that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; alternative proposals; and the presence or absence of a Bid Security. 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.
- 27.7 At the end of the evaluation of Technical Bids, the Employer will invite Bidders who have submitted substantially responsive Technical Bids and who have been determined as being qualified for award to attend the opening of the Price Bids. The date, time, and location of the opening of Price Bids will be advised in writing by the Employer. The opening date should allow Bidders sufficient time to make arrangements for attending the opening.
- 27.8 The Employer will notify, in writing, Bidders who have been rejected on the grounds of their Technical Bids being substantially non-responsive to the requirements of the Bidding Documents and return their Bid security and Price Bids unopened.
- 27.9 The Employer shall conduct the opening of Price Bids of all Bidders who submitted substantially responsive Technical Bids, in the presence of Bidders' representatives who choose to attend at the address, date and time specified by the Employer. The Bidder's' representatives who are present shall be requested to sign a register evidencing their attendance.

- 27.10 All envelopes containing Price Bids shall be opened one at a time, reading out:
- (a) The name of the Bidder;
 - (b) Whether there is a modification;
 - (c) The Bid Price(s), including any discounts and alternative Bids; and
 - (d) Any other details as the Employer may consider appropriate.

Only Price Bids discounts, and alternative Bids read out and recorded during the opening of Price Bids shall be considered for evaluation. No Bid shall be rejected at the opening of Price Bids.

- 27.11 The Employer shall prepare a record of the opening of Price Bids that shall include, as a minimum: the name of the Bidder, the Bid Price, (per lot if applicable), including any discounts, and alternative Bids. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

E. Evaluation and Comparison of Bids

- 28. Confidentiality**
- 28.1 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 such process until information on Contract award is communicated to all Bidders in accordance with ITB 42.
- 28.2 Any attempt by a Bidder to influence the Employer in the evaluation of the Bids or Contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB 28.2, from the time of Bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the bidding process, it shall do so in writing.
- 29. Clarification of Bids**
- 29.1 To assist in the examination, evaluation, and comparison of the Technical and Price Bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid, giving a reasonable time for a

response. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change in the substance of the Technical Bid or prices in the Price Bid, including any voluntary increase or decrease in the prices, shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids, in accordance with ITB 36.

- 29.2 If a Bidder does not provide clarifications of its Bid by the date and time set in the Employer's request for clarification, its Bid may be rejected.
- 30. Deviations, Reservations, and Omissions**
- 30.1 During the evaluation of Bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified in the Bidding Documents;
 - (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and
 - (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Documents.
- 31. Preliminary Examination of Technical Bids**
- 31.1 The Employer shall examine Technical Bids to confirm that all documents and technical documentation requested in ITB 11.2 have been provided, and to determine the completeness of each document submitted.
- 31.2 The Employer shall confirm that the following documents and information have been provided in the Technical Bid. If any of these documents or information is missing, the Bid shall be rejected.
- (a) Letter of Technical Bid;
 - (b) Written confirmation of authorization to commit the Bidder;
 - (c) Bid Security; and
 - (d) Technical Proposal.
- 32. Qualification of**
- 32.1 The Employer shall determine to its satisfaction whether

the Bidders

Bidders meet the qualification criteria specified in Section III, Evaluation and Qualification Criteria, during the evaluation of Technical Bids. However, if prequalification was carried out prior to the bidding process, the Employer may carry out the assessment of the qualification criteria specified in Section III, Evaluation and Qualification Criteria, for the Bidder who submitted the lowest evaluated and substantially responsive Bid only.

32.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 15.

32.3 An affirmative determination 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 Employer shall return the unopened Price Bid to the Bidder.

If the assessment of the Bidder's qualification is conducted for the lowest evaluated Bidder only, in accordance with ITB 32.1, and the result of such assessment is negative, the Employer shall proceed to the next lowest evaluated Bid to make a similar determination.

32.4 The capabilities of the manufacturers and Subcontractors proposed in its Bid to be used by the Bidder will also be evaluated for acceptability in accordance with Section III, Evaluation and Qualification Criteria. Their participation should be confirmed with a letter of intent between the parties, as needed. Should a manufacturer or Subcontractor be determined to be unacceptable, the Bid will not be rejected, but the Bidder will be required to substitute an acceptable manufacturer or Subcontractor without any change to the Bid Price. Prior to signing the Contract, the corresponding Appendix to the Contract Agreement shall be completed, listing the approved manufacturers or Subcontractors for each item concerned.

33. Determination of Responsiveness of Technical Bids

33.1 The Employer's determination of a Technical Bid's responsiveness is to be based on the contents of the Bid itself, as defined in ITB 11.2.

33.2 A substantially responsive Technical Bid is one that meets the requirements of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,

(a) If accepted, would:

- (i) Affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
- (ii) Limit in any substantial way, inconsistent with the Bidding Documents, the Employer's rights or the Bidder's obligations under the proposed Contract; or

(b) If rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.

33.3 The Employer shall examine the technical aspects of the Technical Bid submitted in accordance with ITB 17, in particular, to confirm that all requirements of Section VI, Employer's Requirements have been met without any material deviation, reservation, or omission.

33.4 If a Technical Bid is not substantially responsive to the requirements of the Bidding Documents, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

**34. Nonmaterial
Nonconformities**

34.1 Provided that a Technical Bid is substantially responsive, the Employer may waive any nonconformity in the Technical Bid that does not constitute a material deviation, reservation or omission.

34.2 Provided that a Technical Bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Technical Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Price Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

34.3 Provided that a Technical Bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the method

indicated in Section III, Evaluation and Qualification Criteria.

**35. Detailed
Evaluation of
Technical Bids**

35.1 The Employer will carry out a detailed technical evaluation of the Bids not previously rejected as being substantially non-responsive, in order to determine whether the technical aspects are in compliance with the Bidding Documents. The Bid that does not meet minimum acceptable standards of completeness, consistency and detail, and the specified minimum (or maximum, as the case may be) requirements for specified Schedule of Guarantees, will be rejected for non-responsiveness. In order to reach such a determination, the Employer will examine and compare the technical aspects of the Bids on the basis of the information supplied by the Bidders, taking into account the following:

- (a) Overall completeness and compliance with the Employer's Requirements; conformity of the Works offered with specified performance criteria, corresponding to each Schedule of Guarantees, as indicated in the Technical Requirements; suitability of the Works offered in relation to the environmental and climatic conditions prevailing at the site; and quality, function and operation of any process control concept included in the Bid;
- (b) Other relevant factors, if any, listed in Section III, Evaluation and Qualification Criteria.

35.2 Where alternative technical solutions have been allowed in accordance with ITB 13.4, and offered by the Bidder, the Employer will make a similar evaluation of the alternatives. Where alternatives have not been allowed but have been offered, they shall be ignored.

**36. Correction of
Arithmetical
Errors**

36.1 During the evaluation of Price Bids, the Employer shall correct arithmetical errors on the following basis:

- (a) Where there are errors between the total of the amounts given under the column for the price breakdown and the amount given under the Total Price, the former shall prevail, and the latter will be corrected accordingly;
- (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.
- 36.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction, in accordance with ITB 36.1, shall result in the rejection of the Bid.
- 37. Conversion to Single Currency**
- 37.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency as **specified in the BDS.**
- 38. Evaluation of Price Bids**
- 38.1 The Employer shall use the criteria and methodologies indicated in this Clause. No other evaluation criteria or methodologies shall be permitted.
- 38.2 To evaluate a Price Bid, the Employer shall consider the following:
- (a) The Bid Price, excluding Provisional Sums in the Price Schedules, but including Daywork items, where priced competitively;
 - (b) Price adjustment for correction of arithmetic errors in accordance with ITB 36.1;
 - (c) Price adjustment due to discounts offered in accordance with ITB 18.7 or ITB18.8;
 - (d) Price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 34.3;
 - (e) Converting the amount resulting from applying (a) to (d) above, if relevant, to a single currency in accordance with ITB 37; and
 - (f) The evaluation factors indicated in Section III, Evaluation and Qualification Criteria.
- 38.3 If price adjustment is allowed in accordance with ITB 18.7, 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.
- 38.4 If these Bidding Documents allow Bidders to quote separate

prices for different lots (contracts), and the award to a single Bidder of multiple lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Price Bid, is specified in Section III, Evaluation and Qualification Criteria.

38.5 If the Bid, which results in the lowest evaluated Bid Price, is seriously unbalanced or front loaded in the opinion of the Employer, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Price Schedules, to demonstrate the internal consistency of those prices with the methods and the Price Schedules proposed. After evaluation of the price analyses, taking into consideration the Schedule of Payment, the Employer may require that the amount of the Performance Security be increased at the expense of the Bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract.

39. Comparison of Bids

39.1 The Employer shall compare the evaluated prices of all substantially responsive Bids in accordance with ITB 38.2 to determine the lowest evaluated Bid.

40. Employer’s Right to Accept Any Bid, and to Reject Any or All Bids

40.1 The Employer 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 and specifically, Bid Securities shall be promptly returned to the Bidders.

F. Award of Contract

41. Award Criteria

41.1 Subject to ITB 40.1, the Employer shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated Bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be eligible and qualified to perform the Contract satisfactorily.

42. Notification of Award

42.1 Prior to the expiration of the period of Bid validity, the Employer shall notify the successful Bidder, in writing, that its Bid has been accepted. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the “Letter of Acceptance”) shall specify the sum that the Employer will pay the Contractor in consideration of the execution and completion of the Works (hereinafter and in the Conditions of Contract and Contract Forms called “the Accepted Contract Amount”).

42.2 At the same time, the Employer shall also notify all other Bidders of the results of the bidding.

42.3 After a Contract has been determined to be eligible for financing under Japanese ODA Loans, the following

information may be made public by JICA:

- (a) Name of each Bidder who has submitted a Bid;
- (b) Bid Prices as read out at Bid opening;
- (c) Name and address of the successful Bidder;
- (d) Name and address of the supplier (if applicable); and
- (e) Award date and amount of the Contract.

42.4
Until a formal Contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.

42.5 After notification of award, unsuccessful Bidders may request, in writing, to the Employer a debriefing seeking explanations on the grounds on which their Bids were not selected. The Employer shall promptly respond, in writing, to any unsuccessful Bidders who, after the notification of award in accordance with ITB 42.1, request a debriefing.

43. Signing of Contract

43.1 Promptly upon notification, the Employer shall send the successful Bidder the Contract Agreement.

43.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer.

44. Performance Security

44.1 Within twenty-eight (28) days of the receipt of the Letter of Acceptance from the Employer, the successful Bidder shall furnish the Performance Security in accordance with the General Conditions of Contract, subject to ITB 38.5, using for that purpose the Performance Security Form included in Section IX Contract Forms, or another form acceptable to the Employer. If the Performance Security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the Employer. A foreign institution providing a bond shall have a correspondent financial institution located in the Employer's Country.

44.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Employer may award the Contract to the next lowest evaluated Bidder whose Bid is substantially responsive and is determined by

the Employer to be qualified to perform the Contract satisfactorily.