

# Section 1 - Instructions to Bidders

## Table of Contents

<b>A. General.....</b>	<b>3</b>
1. Scope of Bid.....	3
2. Source of Funds.....	3
3. Fraud and Corruption .....	3
4. Eligible Bidders .....	4
5. Eligible Materials, Equipment and Services .....	5
<b>B. Contents of Bidding Document .....</b>	<b>5</b>
6. Sections of Bidding Document.....	5
7. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting.....	6
8. Amendment of Bidding Document .....	7
<b>C. Preparation of Bids .....</b>	<b>7</b>
9. Cost of Bidding.....	7
10. Language of Bid .....	7
11. Documents Comprising the Bid .....	7
12. Letters of Bid, and Schedules.....	8
13. Bid Prices and Discounts.....	8
14. Currencies of Bid and Payment .....	9
15. Documents Comprising the Technical Proposal.....	9
16. Documents Establishing the Qualifications of the Bidder.....	9
17. Period of Validity of Bids.....	9
18. Bid Security.....	9
19. Format and Signing of Bid .....	10
<b>D. Submission and Opening of Bids.....</b>	<b>11</b>
20. Submission of Bids.....	11
21. Deadline for Submission of Bids .....	11
22. Late Bids.....	11
23. Withdrawal, Substitution, and Modification of Bids .....	11
24. Bid Opening .....	11
<b>E. Evaluation and Comparison of Bids.....</b>	<b>12</b>
25. Confidentiality .....	12
26. Clarification of Bids.....	12
27. Deviations, Reservations, and Omissions .....	13
28. Preliminary Examination of Technical Bids .....	13
29. Responsiveness of Technical Bid .....	13
30. Nonconformities, Errors, and Omissions .....	14

31. Qualification of the Bidder.....	14
32. Correction of Arithmetical Errors.....	14
33. Evaluation of Price Bids.....	15
34. Comparison of Bids.....	155
35. Employer's Right to Accept Any Bid, and to Reject Any or All Bids.....	16
<b>F. Award of Contract .....</b>	<b>16</b>
36. Award Criteria .....	16
37. Notification of Award .....	16
38. Signing of Contract.....	166
39. Performance Security.....	166

# Section 1 - Instructions to Bidders

## A. General

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|--------------------------------|--|
| <b>1. Scope of Bid</b>         | <p>1.1 The Employer, as indicated in the BDS, issues this Bidding Document for the procurement of the Works as specified in Section 5 (Works Requirements). The name, identification, and number of contracts of this bidding are provided in the BDS.</p> <p>1.2 Throughout this Bidding Document:</p> <ul style="list-style-type: none"><li>(a) the term “in writing” means communicated in written form and delivered against receipt;</li><li>(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</li><li>(c) “day” means calendar day.</li></ul>  |
| <b>2. Source of Funds</b>      | <p>2.1 The funds shall be made available by the Government of Uttarakhand</p>  |
| <b>3. Fraud and Corruption</b> | <p>3.1 Government of Uttarakhand requires its personnel, as well as bidders, suppliers, and contractors to observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, the Government of Uttarakhand:</p> <ul style="list-style-type: none"><li>(a) defines, for the purposes of this provision, the terms set forth below as follows:<ul style="list-style-type: none"><li>(i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;</li><li>(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;</li><li>(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;</li><li>(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;</li></ul></li><li>(b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract;</li><li>(c) will sanction a firm or an individual, at any time, in accordance with Government Policy and Integrity Principles and Guidelines (both as amended from time to time), including declaring</li></ul> |

ineligible, either indefinitely or for a stated period of time, to participate in Government-financed or administered activities or to benefit from an Government-financed or administered 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

- (d) will have the right to require that a provision be included in bidding documents and in contracts financed by Government of Uttarakhand, requiring bidders, suppliers and contractors to permit Government of Uttarakhand 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 Government of Uttarakhand.

3.2 Furthermore, Bidders shall be aware of the provisions of GCC 22.2, and 56.2 (h).

#### **4. Eligible Bidders**

4.1 A Bidder may be a natural person, private entity, government-owned entity – subject to ITB 4.5 – or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture (JV). In the case of a JV:

- (a) all partners shall be jointly and severally liable, 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 parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.

4.2 A Bidder, and all parties constituting the Bidder, shall have the nationality of India.

4.3 Government of Uttarakhand considers a conflict of interest to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations, and that such conflict of interest may contribute to or constitute a prohibited practice. Government of Uttarakhand will take appropriate actions, which include not financing the contract, if it determines that a conflict of interest has flawed the integrity of any procurement process. Consequently all Bidders found to have a conflict of interest shall be disqualified. A Bidder 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:

- (a) they have controlling shareholders in common; or
- (b) they receive or have received any direct or indirect subsidy from any of them; or
- (c) they have the same legal representative for purposes of this bid; or
- (d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Employer regarding this bidding

process; or

- (e) a Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the party is involved. However, this does not limit the inclusion of the same subcontractor, not otherwise participating as a Bidder, in more than one bid; or
- (f) a Bidder participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid; or
- (g) a Bidder was affiliated with a firm or entity that has been hired (or is proposed to be hired) by the Employer as Engineer for the contract.

4.4 A firm shall not be eligible to participate in any procurement activities under a Government-financed project while under sanction imposed by Government of Uttarakhand. A bid from a sanctioned firm will be rejected.

4.5 Government-owned enterprises shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law, and that they are not a dependent agency of the Employer.

4.6 Bidders shall provide such evidence of their continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.

4.7 In case a prequalification process has been conducted prior to the bidding process, this bidding is open only to prequalified Bidders.

## **5. Eligible Materials, Equipment and Services**

5.1 The materials, equipment and services to be supplied under the Contract shall have their origin in eligible source countries as defined in ITB 4.2 above and all expenditures under the Contract will be limited to such materials, equipment, and services. At the Employer's request, Bidders may be required to provide evidence of the origin of materials, equipment and services.

5.2 For purposes of ITB 5.1 above, "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 Document**

### **6. Sections of Bidding Document**

6.1 The Bidding Document consist of Parts I, II, and III, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8.

#### **PART I Bidding Procedures**

Section 1 - Instructions to Bidders (ITB)

Section 2 - Bid Data Sheet (BDS)

Section 3 - Evaluation and Qualification Criteria (EQC)

Section 4 - Bidding Forms (BDF)

**PART II Requirements**

Section 5 – Works Requirements (WRQ)

**PART III Conditions of Contract and Contract Forms**

Section 6 - General Conditions (GCC)

Section 7 - Particular Conditions (PCC)

Section 8 - Contract Forms (COF)

Section 9 – Technical Specifications

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

6.3 The Employer is not responsible for the completeness of the Bidding Document and their Addenda, if they were not obtained directly from the source stated by the Employer in the Invitation for Bids.

6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.

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

7.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Employer in writing at the Employer's address indicated in the BDS or raise his inquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to any request for clarification, provided that such request is received no later than twenty-one (21) days prior to the deadline for submission of bids. The Employer shall forward copies of its response to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. Should the Employer deem it necessary to amend the Bidding Document as a result of a request for clarification, it shall do so following the procedure under ITB 8 and ITB 21.2.

7.2 The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself, on its own risk and 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, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.

7.4 The Bidder's designated representative is invited to attend a pre-bid meeting, if provided for 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.

- 7.5 The Bidder is requested, as far as possible, to submit any questions in writing, to reach the Employer not later than one week before the meeting.
- 7.6 Minutes of the pre-bid meeting, including the text of the questions raised, 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 Document in accordance with ITB 6.3. Any modification to the Bidding Document 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.
- 7.7 Nonattendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

**8. Amendment of Bidding Document**

- 8.1 At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document from the Employer in accordance with ITB 6.3.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB 21.2

### **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, 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 specified in the BDS, 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 online on the e-Government Procurement System (e-GPS) in accordance with ITB 21.1, 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.

11.2 The Technical Bid shall comprise the following:

- (a) Letter of Technical Bid;
- (b) Bid Security, in accordance with ITB 18;
- (c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 19.2;
- (d) documentary evidence in accordance with ITB 16 establishing the Bidder's qualifications to perform the contract;
- (e) Technical Proposal in accordance with ITB 15;
- (f) Any other document required in the BDS.

11.3 The Price Bid shall comprise the following:

- (a) Letter of Price Bid;
- (b) completed Price Schedules, in accordance with ITB 12 and 13, or as stipulated in the BDS;
- (c) Any other document required in the BDS.

11.4 In addition to the requirements under ITB 11.2, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all partners. Alternatively, a Letter of Intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed agreement.

## **12. Letters of Bid and Schedules**

12.1 The Letters of Technical Bid and Price Bid, and the Schedules, and all documents listed under ITB 11, shall be prepared using the relevant forms furnished in Section 4 (Bidding Forms). The forms must be completed without any alterations to the text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.

## **13. Bid Prices and Discounts**

13.1 The prices and discounts quoted by the Bidder in the Letter of Price Bid shall conform to the requirements specified below.

13.2 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 4 (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 Employer when executed and shall be deemed covered by the rates for other items and prices in the Bill of Quantities.

13.3 The price to be quoted in the Letter of Price Bid shall be the total price of the Bid, excluding any discounts offered.

13.4 The Bidder shall quote any discounts and the methodology for their application in the Letter of Price Bid, in accordance with ITB 13.1.



- 13.5 Unless otherwise provided in the BDS and the Conditions of Contract, the prices quoted by the Bidder shall be fixed.
- 13.6 If so indicated in ITB 1.1, bids are being invited for individual contracts or for any combination of contracts. Offers for any price reduction for the award of more than one Contract shall not be considered. Bidders must specify in their bid the price reductions applicable to each contract. Price reductions or discounts shall be submitted in accordance with ITB 13.4.
- 13.7 All duties, taxes, 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 and the total Bid Price submitted by the Bidder.
- 14. Currencies of Bid and Payment**
- 14.1 The currency of the bid and payment shall be as specified in the BDS.
- 15. Documents Comprising the Technical Proposal**
- 15.1 The Bidder shall furnish, as part of the Technical Bid, a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section 4 (Bidding Forms), in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time.
- 16. Documents Establishing the Qualifications of the Bidder**
- 16.1 To establish its qualifications to perform the Contract in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding information sheets included in Section 4 (Bidding Forms).
- 17. Period of Validity of Bids**
- 17.1 Bids shall remain valid for the period specified in the BDS after the bid submission deadline date prescribed by the Employer. A bid valid for a shorter period shall be rejected by the Employer as nonresponsive.
- 17.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 18, it shall also be extended 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.
- 18. Bid Security**
- 18.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its bid, a bid security as specified in the BDS, in original form. The amount and currency of the Bid Security shall be as specified in the BDS.
- 18.2 The bid security shall be, at the Bidder's option, in any of the following forms:
- (a) an unconditional bank guarantee;

- (b) a Fixed Deposit Receipt; or
- (c) an irrevocable letter of credit; or
- (d) a cashier's or certified check;

all from a reputable bank from India. In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section 4 (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 days (28) beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 17.2.

- 18.3 Any bid not accompanied by a substantially compliant bid security in accordance with ITB 18.2, shall be rejected by the Employer as non-responsive.
- 18.4 If a bid security is specified pursuant to ITB 18.1, the bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the performance security pursuant to ITB 42.
- 18.5 If a bid security is specified pursuant to ITB 18.1, 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.
- 18.6 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 Bid, except as provided in ITB 17.2 or
  - (b) if the successful Bidder fails to:
    - (i) sign the Contract in accordance with ITB 38;
    - (ii) furnish a performance security in accordance with ITB 39; or
    - (iii) accept corrections of arithmetic errors pursuant to ITB 32; or
    - (iv) furnish a domestic preference security, if applicable, in accordance with ITB 38.
- 18.7 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 at the time of bidding, the Bid Security shall be in the names of all future partners as named in the letter of intent mentioned in ITB 4.1.

## **19. Format and Signing of Bid**

- 19.1 Bidders shall submit their bids electronically. Procedures for submission, sealing and marking are outlined in the ITB 20.
- 19.2 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.

- 19.3 A bid submitted by a JV shall be signed so as to be legally binding on all partners.

#### **D. Submission and Opening of Bids**

##### **20. Submission of Bids**

- 20.1 The electronic bid submission procedures are specified in the BDS.

##### **21. Deadline for Submission of Bids**

- 21.1 Bids must be received by the Employer through the electronic-Government Procurement System no later than the date and time in accordance with ITB 20.
- 21.2 The Employer 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 Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

##### **22. Late Bids**

- 22.1 The electronic-Government Procurement System does not permit submission of any bid after the deadline for submission of bids.

##### **23. Withdrawal, Substitution, and Modification of Bids**

- 23.1 A Bidder may withdraw, substitute, or modify its Bid – Technical or Price prior to deadline for submission of bids.
- 23.2 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 Technical Bid/Letter of Price Bid or any extension thereof.

##### **24. Bid Opening**

- 24.1 The Employer shall open the Technical Bids at the place and time specified in the BDS in the presence of Bidders' representative who chose to attend. Specific electronic bid opening procedures required shall be as specified in the BDS.
- 24.2 The Employer shall prepare a record of the opening of Technical Bids that shall include, as a minimum: the name of the Bidder; 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.
- 24.3 At the end of the evaluation of the Technical Bids, the Employer will inform the bidders who have submitted substantially responsive Technical Bids and who have been determined as being qualified for award of the date and time of the opening of Price Bids.
- 24.4 The Employer will notify Bidders in writing who have been rejected on the grounds of their Technical Bids being substantially non-responsive

to the requirements of the Bidding Document.

24.5 The Employer shall conduct the online opening of Price Bids of all Bidders who submitted substantially responsive Technical Bids, in the presence of Bidders' representatives who chose 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.

24.6 Price Bids shall be opened one at a time and the following read out and recorded:

- (a) the name of the Bidder;
- (b) the Bid Prices, including any discounts; and
- (c) any other details as the Employer may consider appropriate.

Only Price Bids and discounts, 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.

24.7 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) and any discounts. 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**

### **25. Confidentiality**

25.1 Information relating to the examination, evaluation, comparison, and postqualification 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.

25.2 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.

25.3 Notwithstanding ITB 25.2, 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 may do so in writing.

### **26. Clarification of Bids**

26.1 To assist in the examination, evaluation, and comparison of the Technical and Price Bids, the Employer may, at its discretion, ask any Bidder for a clarification of its bid or submission in original, of any document submitted in the electronic bid. 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 shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Price Bids, in accordance with ITB 32.

26.2 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.

**27. Deviations, Reservations, and Omissions**

27.1 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.

**28. Preliminary Examination of Technical Bids**

28.1 The Employer shall examine the Technical Bid to confirm that all documents and technical documentation requested in ITB Sub-Clause 11.2 have been provided, and to determine the completeness of each document submitted.

28.2 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 offer shall be rejected.

- (a) Letter of Technical Bid;
- (b) written confirmation of authorization to commit the Bidder;
- (c) Bid Security, if applicable; and
- (d) Technical Proposal in accordance with ITB 15.

**29. Responsiveness of Technical Bid**

29.1 The Employer's determination of a Bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB 11.

29.2 A substantially responsive Technical 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 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.

29.3 The Employer shall examine the technical aspects of the Bid submitted in accordance with ITB 15, Technical Proposal, in particular, to confirm that all requirements of Section 5 (Works Requirements) have been

met without any material deviation or reservation.

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

**30. Nonconformities, Errors, and Omissions**

30.1 Provided that a bid is substantially responsive, the Employer may waive any nonconformities in the Bid that do not constitute a material deviation, reservation or omission.

30.2 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 Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

30.3 Provided that a Technical Bid is substantially responsive, the Employer shall rectify 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 3 (Evaluation and Qualification Criteria).

**31. Qualification of the Bidder**

31.1 The Employer shall determine to its satisfaction during the evaluation of Technical Bids whether Bidders meet the qualifying criteria specified in Section 3 (Evaluation and Qualification Criteria).

31.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 16.1.

31.3 An affirmative determination shall be a prerequisite for the opening and evaluation of a Bidder's Price Bid. A negative determination shall result into the disqualification of the Bid, in which event the Employer shall return the unopened Price Bid to the Bidder.

**32. Correction of Arithmetical Errors**

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

- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures

shall prevail subject to (a) and (b) above.

- 32.2 If the Bidder that submitted the lowest evaluated bid does not accept the correction of errors, its Bid shall be disqualified and its bid security may be forfeited.

**33. Evaluation of Price Bids**

- 33.1 The Employer shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.

- 33.2 To evaluate the Price Bid, the Employer shall consider the following:

- (a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities for admeasurement contracts, or Schedule of Prices for lump sum contracts, but including Daywork items, where priced competitively;
- (b) price adjustment for correction of arithmetic errors in accordance with ITB 32.1;
- (c) price adjustment due to discounts offered in accordance with ITB 13.4;
- (d) adjustment for nonconformities in accordance with ITB 30.3;
- (e) application of all the evaluation factors indicated in Section 3 (Evaluation and Qualification Criteria);

- 33.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.

- 33.4 If this Bidding Document allows Bidders to quote separate prices for different contracts, and the award to a single Bidder of multiple contracts, the methodology to determine the lowest evaluated price of the contract combinations, including any discounts offered in the Letter of Price Bid, is specified in Section 3 (Evaluation and Qualification Criteria).

- 33.5 If the Bid in an admeasurement contract, 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 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 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. The increase in performance security shall be evaluated as per procedures specified in BDS.

**34. Comparison of**

- 34.1 The Employer shall compare all substantially responsive Bids to

**Bids**

determine the lowest evaluated bid, in accordance with ITB 33.2.

**35. Employer's Right to Accept Any Bid, and to Reject Any or All Bids**

35.1 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****36. Award Criteria**

36.1 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 Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

**37. Notification of Award**

37.1 Prior to the expiration of the period of bid validity, the Employer shall notify the successful Bidder, in writing, via the Letter of Acceptance included in the Contract Forms, that its bid has been accepted.

37.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

37.3 At the same time, the Employer shall also notify all other Bidders of the results of the bidding, and shall publish in an English language newspaper or well-known and freely accessible website the results identifying the bid and 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. After publication of the award, unsuccessful bidders may request in writing to the Employer for a debriefing seeking explanations on the grounds on which their bids were not selected. The Employer shall promptly respond in writing to any unsuccessful Bidder who, after publication of contract award, requests a debriefing.

**38. Signing of Contract**

38.1 Promptly after notification, the Employer shall send the successful Bidder the Contract Agreement.

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

**39. Performance Security**

39.1 Within twenty-eight (28) days of the receipt of notification of award from the Employer, the successful Bidder shall furnish the performance security in accordance with the conditions of contract, subject to ITB 33.5, using for that purpose the Performance Security Form included in Section 8 (Contract Forms), or another form acceptable to the Employer. If the institution issuing the performance security is located outside the country of the Employer, it shall have a correspondent financial institution located in the country of the Employer to make it enforceable.



- 39.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or to sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security. In that event the Employer may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily.