



ADB

User's Guide

# PROCUREMENT OF WORKS

Standard Bidding Document

SBD WORKS

Asian Development Bank



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Standard Bidding Document

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Asian Development Bank

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[www.adb.org/Procurement/  
prequalification-bid-documents.asp](http://www.adb.org/Procurement/prequalification-bid-documents.asp)

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# Abbreviations

ADB.....	Asian Development Bank
BDF.....	Section 4 - Bidding Forms
BDS.....	Section 2 - Bid Data Sheet
COF.....	Section 9 - Contract Forms
ELC.....	Section 5 - Eligible Countries
ELI.....	Eligibility Form
EQC.....	Section 3 - Evaluation and Qualification Criteria
ERQ.....	Section 6 - Employer's Requirements
EXP.....	Experience Form
FIN.....	Financial Data Form
GCC.....	Section 7 - General Conditions of Contract
ICB.....	International Competitive Bidding
IFB.....	Invitation for Bids
ITB.....	Section 1 - Instructions to Bidders
JV.....	Joint Venture
LIT.....	Pending Litigation Form
PCC.....	Section 8 - Particular Conditions of Contract
PQ.....	Prequalification
SBD.....	Standard Bidding Document

# Introduction

The Standard Bidding Documents for Works (SBD Works) have been prepared by the ADB for use by borrowers in the procurement of admeasurement (unit price or rate) type of works contracts through international competitive bidding. The procedures and practices presented in the SBD Works have been developed through broad international experience and are based on the Master Bidding Document for Procurement of Works, prepared by multilateral development banks and other public international financial institutions, and have the structure and the provisions of the Master Procurement Document, except where ADB specific considerations have required a change.

The SBD Works must be used for the procurement of works contracts financed in whole or in part by ADB unless ADB agrees to the use of other bidding documents acceptable to ADB.

There are two SBD Works both covered by this User's Guide.

## **SBD Works following Prequalification**

This document is to be used when the bidding is preceded by a prequalification exercise. ADB's Procurement Guidelines require prequalification for large or complex works contracts, or in any other circumstances in which the high costs of preparing detailed bids could discourage competition, such as custom-designed equipment, industrial plant, specialized services, some complex information and technology contracts and contracts to be let under turnkey, design and build, or management contracting. Prequalification is followed by a closed competitive bidding procedure in which only those firms meeting specified prequalification criteria are invited to submit a bid. Prequalification should not be used for limiting competition to a predetermined number of potential bidders. All applicants meeting the specified criteria shall be allowed to bid. The process of prequalification shall follow the procedure indicated in ADB's Standard Procurement Document for the Prequalification of Bidders. Prequalification shall be applied for all large and complex works contracts

## **SBD Works without Prequalification**

For the procurement of simple and unsophisticated works contracts the Employer may apply postqualification by requiring bidders to submit the information pertaining to their qualification together with their bids. In this event, it will be necessary to ensure that a bidder's risk of having its bid rejected on grounds of qualification is remote if due diligence is exercised by the bidder during bid preparation. For that purpose, clear-cut, fail-pass qualification criteria need to be specified by the Executing Agency in both the Invitation for Bids as well as the Bidding Document in order to enable bidders to make an informed decision whether to pursue a specific contract and, if so, either as a single entity or in joint venture. Postqualification criteria and procedures are covered in Section 3 (Evaluation and Qualification Criteria) and Section 4 (Bidding Forms).

The SBD Works make use of the Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer, Multilateral Development Bank Harmonized Edition, prepared by the Fédération Internationale des Ingénieurs-Conseil, or FIDIC (MDB Harmonized Construction Contract) available at <http://www1.fidic.org/resources/mdb/>. These Conditions are subject to the variations and additions set out in Section 8 (Particular Conditions of Contract), Part A (Contract Data) and Part B (Special Provisions). The provisions in Section 1 (Instructions to Bidders) and Section 7 (General Conditions of Contract), must be used with their text unchanged. Any data and provisions that these sections require for a specific procurement and contract shall be included respectively in Section 2 (Bid Data Sheet) and Section 8 (Particular Conditions of Contract).

These bidding documents are not suitable for lump sum contracts.

The purpose of this User's Guide is to provide guidance to Employers on how to prepare a bidding document based on ADB's Standard Bidding Documents for the Procurement of Works.

An important feature of the SBD Works is that they can be used with minimum changes, as they do not contain explanations, footnotes or examples that should not form part of the Bidding Document. The SBD Works are only available in electronic format.

This Guide includes two initial sections on

- The Bidding Process, and
- The Invitation for Bids.

ADB welcomes any feedback or experiences from the use of its SBD Works from borrowers and from bidders as well. For information on procurement under ADB-assisted projects, contact

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Asian Development Bank  
P.O. Box 789, 0980 Manila, Philippines  
Email: [procurement@adb.org](mailto:procurement@adb.org)  
Fax: (63-2) 636 2475

# The Bidding Process

The International Competitive Bidding (ICB) process includes six main phases: Advertisement and Notification, Preparation and Issuing of the Bidding Document, Bid Preparation and Submission, Bid Opening, Bid Evaluation, and Contract Award.

## Advertisement and Notification

Invitation for Bids (IFB) shall be advertised in the ADB's "ADB Business Opportunities" as well as in a newspaper of general circulation in the borrower's country (at least one English language newspaper if available). A copy of the IFB shall be submitted to ADB for approval and for publication in the "ADB Business Opportunities" in accordance with the provisions of the Loan Agreement.

For large or specialized contracts, ADB may additionally require that the IFB be advertised in well-known technical magazines or trade publications, or in newspapers of wide international circulation, in sufficient time to enable prospective Bidders to prepare and submit Bids.

## Preparing and Issuing a Bidding Document

The Employer is responsible for preparing and issuing the Bidding Document for a specific contract.

The Bidding Document shall be prepared by the Employer on the basis of the appropriate SBD issued by ADB, as this is a mandatory requirement for contracts to be financed by ADB.

The Employer shall prepare the Bidding Document using the published version of the SBD without suppressing or adding text to the sections of the document that must be used without modification, which are Section 1 (Instructions to Bidders) and Section 7 (General Conditions of Contract). All information and data particular to each individual bidding process must be provided by the Employer in the following sections of the BD:

- Section 2 - Bid Data Sheet
- Section 3 - Evaluation and Qualification Criteria
- Section 4 - Bidding Forms
- Section 5 - Eligible Countries
- Section 6 - Employer's Requirements
- Section 8 - Particular Conditions of Contract
- Section 9 - Contract Forms

The Employer shall allow Bidders sufficient time to study the Bidding Document, prepare complete and responsive Bids, and submit their Bids.

## Bid Preparation and Submission

The Bidder is solely responsible for the preparation and submission of its Bid. During this stage, the Employer shall:

- Promptly respond to requests for clarifications from Bidders and amend the BD as needed.
- Amend the Bidding Document only with prior approval of ADB.



**Bid Opening**

The Employer is responsible for the Bid Opening, which is a critical event in the bidding process. The Employer shall appoint experienced staff to conduct the Bid Opening, as inappropriate procedures at Bid Opening are usually irreversible and may require cancellation of the bidding process with consequent delays and waste of resources.

The Employer, in observance of best practices, shall:

- Conduct the Bid Opening strictly following the procedures as specified in the Instructions to Bidders for all Bids received not later than the date and time of the bid submission deadline. The term “Bid Opening” can be misleading because a Bid for which a Bid Withdrawal or Bid Substitution notice was received on time shall not be opened, but returned unopened to the Bidder. The sequence in which Bids are handled, opened, and recorded is crucial.
- Ensure that all Bids that were received on time are accounted for, before starting the Bid Opening, as Bids that are not opened and read out at Bid Opening shall not be considered further.
- Not reject any Bid at Bid Opening, except for late bids received after the date and time of the bid submission deadline. Technically, late bids should not reach the Bid Opening, but in certain cases a Bidder may attempt to submit its bid at the Bid Opening place after the deadline.
- Examine the Bids at Bid Opening in accordance with the provisions of the Instructions to Bidders. The Employer shall, however, verify at Bid Opening the validity of the documentation such as Power of Attorney or other acceptable equivalent document as specified in the Instructions to Bidders confirming the validity of a bid modification, bid withdrawal, or bid substitution, because a withdrawn or substituted bid shall not be opened and in consequence not read out and, therefore, not be considered by the Employer. Similarly, a bid modification shall be opened, read out, and recorded to modify a bid that was received on time.

**Bid Evaluation and Contract Award**

The Employer is responsible for bid evaluation and Contract award. The Employer shall appoint experienced staff to conduct the evaluation of the Bids. Mistakes committed at bid evaluation may later prompt complaints from Bidders, requiring reevaluation of the Bids, with consequent delays and waste of resources.

The Employer, in observance of best practices, shall:

- Maintain the bid evaluation process strictly confidential.
- Reject any attempts or pressures to distort the outcome of the evaluation, including fraud and corruption.
- Strictly apply only and all of the evaluation and qualification criteria specified in the Bidding Document.

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# Invitation for Bids

The Invitation for Bids provides information that enables potential Bidders to decide whether to participate. Apart from the essential items listed in the Standard Bidding Document, the Invitation for Bids should also indicate any important bid evaluation criteria, such as the application of a margin of preference in bid evaluation, or qualification requirement, if no prequalification took place, such as a requirement for a minimum level of experience in contracts of a similar size and nature for which the Invitation for Bids is issued.

The Invitation for Bids is not a part of the Bidding Document and therefore it shall not be included in the Bidding Document.

The Invitation for Bids shall be advertised in the ADB Business Opportunities as well as in a newspaper of general circulation in the borrower's country. A copy of the Invitation for Bids shall be submitted to ADB for approval and for publication in the ADB Business Opportunities in accordance with the provisions of the Loan Agreement.

For large or specialized contracts, ADB may additionally require that the Invitation for Bids be advertised in well-known technical magazines or trade publications, or in newspapers of wide international circulation, in sufficient time to enable prospective Bidders to prepare and submit Bids.

## Standard Format for Invitation for Bids

Date .....

Loan No. and Title .....

Contract No. and Title .....

Deadline for Submission of Bids .....insert closing date and time

1. The .....insert name of Borrower..... has received<sup>1</sup> a loan from the Asian Development Bank (ADB) towards the cost of .....insert name of name of project..... Part of this loan will be used for payments under the contract<sup>2</sup> named above. Bidding is open to prequalified<sup>3</sup> bidders from eligible source countries of the ADB.<sup>4</sup>
  
2. The .....insert name of Employer..... ("the Employer") invites sealed bids from prequalified<sup>3</sup> eligible bidders for the construction and completion of .....insert brief description of the Works and statement of the principal quantities involved..... ("the Works").
  
3. To obtain further information and inspect the bidding documents, bidders should contact:  
 .....insert Employer's office.....<sup>5</sup>  
 .....postal address or street address, include zip code.....  
 .....telephone number including country code.....  
 .....email address.....  
 .....fax no.....
  
4. To purchase the bidding documents in English, eligible bidders should:
  - write to address above requesting the bidding documents for .....insert number & title of contract.....
  - pay a non-refundable fee<sup>6</sup> of .....insert amount and currency..... by .....insert method of payment.....
  
5. Deliver your bid:
  - to the address above
  - on or before the deadline: .....insert closing date and time.....
  - together with a Bid Security of <sup>7</sup> .....insert amount and currency..... or an equivalent amount in a freely convertible currency.

Bids will be opened immediately after the deadline in the presence of bidders' representatives who choose to attend. For the purpose of determining the equivalent amount of the required Bid Security in a freely convertible currency, the exchange rates published by . . . insert source of exchange rates . . . prevailing on the date 28 days prior to the deadline for bid submission shall be applied.

6. When comparing Bids, ADB's Domestic Preference Scheme will be applied in accordance with the provisions stipulated in the Bidding Document <sup>8</sup>.

### **- Note -**

- <sup>1</sup> Substitute "has applied for" if appropriate.
- <sup>2</sup> Substitute "contracts" where bids are called concurrently for multiple contracts. Add the following as a new para. 2 and renumber paras 2 - 6: " Bidders may bid for one or several contracts, as further defined in the bidding document. Bidders wishing to offer discounts in case they are awarded more than one contract will be allowed to do so provided those discounts are included in the Letter of Bid."
- <sup>3</sup> Delete "prequalified" if the bidding is not preceded by a prequalification exercise. Insert an additional paragraph indicating clear-cut, fail-pass qualification criteria in order to enable bidders to make an informed decision whether to pursue a specific contract and, if so, either as a single entity or in joint venture.
- <sup>4</sup> Add if applicable: "This contract will be jointly financed by . . . . **insert name of cofinancing agency** . . . . The eligibility rules and procedures of the ADB will govern the bidding process."
- <sup>5</sup> The Borrower and the Employer may be the same or different entities. The text of the Invitation for Bids and the texts of the other associated documents must indicate which agency will act as the Employer.
- <sup>6</sup> The fee chargeable should only be nominal to cover reproduction and mailing costs.
- <sup>7</sup> Insert the amount indicated in Clause 19 of Section 1, Instructions to Bidders, Bid Security.
- <sup>8</sup> Include para. 7 only if Domestic Preference has been expressly provided in the Loan Agreement and is included in the Instructions to Bidders.



# Section 1 - Instructions to Bidders

This section specifies the procedures to be followed by Bidders in the preparation and submission of their Bids. Information is also provided on the submission, opening, and evaluation of bids and on the award of contract.

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# Section 1 - Instructions to Bidders

## A. General

1. **Scope of Bid**
  - 1.1 In connection with the Invitation for Bids indicated in the Bid Data Sheet (BDS), the Employer, as indicated in the BDS, issues this Bidding Document for the procurement of Works as specified in Section 6 (Employer's Requirements). The name, identification, and number of contracts of the International Competitive Bidding (ICB) are provided in the BDS.
  - 1.2 Throughout these Bidding Document:
    - (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 or Recipient (hereinafter called "Borrower") indicated in the BDS has applied for or received financing (hereinafter called "funds") from the Asian Development Bank (hereinafter called "ADB") toward the cost of the project named in the BDS. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding Document is issued.
  - 2.2 Payments by the ADB will be made only at the request of the Borrower and upon approval by the ADB in accordance with the terms and conditions of the financing agreement between the Borrower and the ADB (hereinafter called the Loan Agreement), and will be subject in all respects to the terms and conditions of that Loan Agreement. No party other than the Borrower shall derive any rights from the Loan Agreement or have any claim to the funds.
3. **Corrupt Practices**
  - 3.1 ADB's Anticorruption Policy requires borrowers (including beneficiaries of ADB-financed activity), as well as bidders, suppliers, and contractors under ADB-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the ADB:
    - (a) defines, for the purposes of this provision, the terms set forth below as follows:
      - (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
      - (ii) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or



attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

- (iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
- (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;
  - (c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or of a beneficiary of ADB-financing engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation; and
  - (d) will sanction a firm or an individual, at any time, in accordance with ADB’s Anticorruption Policy and Integrity Principles and Guidelines (both as amended from time to time), including declaring ineligible, either indefinitely or for a stated period of time, to participate<sup>1</sup> in ADB-financed or ADB-administered activities or to benefit from an ADB-financed or ADB-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.

3.2 Furthermore, Bidders shall be aware of the provision stated in Sub-Clause 1.15 of the General Conditions of Contract and Sub-Clause 15.6 of the Particular Conditions of Contract.

#### 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 an eligible country, in accordance with Section 5 (Eligible

<sup>1</sup> Whether as a contractor, nominated subcontractor, consultant, manufacturer or supplier, or service provider; or in any other capacity (different names are used depending on the particular bidding document). A nominated subcontractor is one which either has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that are accounted for in the evaluation of the bidder’s pre-qualification application or the bid; or (ii) appointed by the Employer.

Countries). A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.

- 4.3 ADB 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 under ADB's Anticorruption Policy. In pursuance of ADB's Anticorruption Policy's requirement that Borrowers (including beneficiaries of ADB-financed activity), as well as bidders, suppliers, and contractors under ADB-financed contracts, observe the highest standard of ethics. ADB will take appropriate actions, which include not financing of 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 or Borrower as Engineer for the contract.
- 4.4 A firm shall not be eligible to participate in any procurement activities under an ADB-financed or ADB-supported project while under sanction by ADB pursuant to its Anticorruption Policy (see ITB 3), whether such sanction was directly imposed by ADB, or imposed by ADB pursuant to the Agreement for Mutual Enforcement of Debarment Decisions. A bid from a sanctioned or cross-debarred firm will be rejected.
- 4.5 Government-owned enterprises in the Employer's country 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 Firms shall be excluded if by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods or contracting of works or services from that country or any payments to persons or entities in that country.

## 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 1, 2, and 3, 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)  
 Section 5 - Eligible Countries (ELC)

### PART II Requirements

Section 6 - Employer's Requirements (ERQ)

### PART III Conditions of Contract and Contract Forms

Section 7 - General Conditions (GCC)  
 Section 8 - Particular Conditions (PCC)  
 Section 9 - Contract Forms (COF)

- 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 its 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 22.2.
- 7.2 The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the 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 22.2

### **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 the following:

- (a) Letter of Bid;
- (b) completed schedules as required, including priced Bill of Quantities, in accordance with ITB 12 and 14;
- (c) Bid Security, in accordance with ITB 19;
- (d) alternative bids, if permissible, in accordance with ITB 13;
- (e) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2;
- (f) documentary evidence in accordance with ITB 17 establishing the Bidder's qualifications to perform the contract if its Bid is accepted;
- (g) Technical Proposal in accordance with ITB 16;
- (h) any other document required in the BDS.

11.2 In addition to the requirements under ITB 11.1, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all 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. Letter of Bid, and**

12.1 The Letter of Bid and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section 4 (Bidding

**Schedules**

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. Alternative Bids**

13.1 Unless otherwise indicated in the BDS, alternative bids shall not be considered.

13.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the BDS, as will the method of evaluating different times for completion.

13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding Document must first price the Employer's design as described in the Bidding Document and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer.

13.4 When specified in the BDS, Bidders are permitted to submit alternative technical solutions for specified parts of the Works. Such parts will be identified in the BDS and described in Section 6 (Employer's Requirements). The method for their evaluation will be stipulated in Section 3 (Evaluation and Qualification Criteria).

**14. Bid Prices and Discounts**

14.1 The prices and discounts quoted by the Bidder in the Letter of Bid and in the Bill of Quantities shall conform to the requirements specified below.

14.2 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.

14.3 The price to be quoted in the Letter of Bid, in accordance with ITB 12.1, shall be the total price of the Bid, excluding any discounts offered.

14.4 The Bidder shall quote any discounts and the methodology for their application in the Letter of Bid, in accordance with ITB 12.1.

14.5 Unless otherwise provided in the BDS and the Contract, the rates and prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract. In such a case, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Tables of Adjustment Data included in Section 4 (Bidding Forms) and the Employer may require the Bidder to justify its proposed indices and weightings.

14.6 If so indicated in ITB 1.1, bids are being invited for individual contracts or for any combination of contracts (packages). Bidders wishing to

offer any price reduction 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. Price reductions or discounts shall be submitted in accordance with ITB 14.4, provided the bids for all contracts are submitted and opened at the same time.

- 14.7 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.

**15. Currencies of Bid and Payment**

- 15.1 The unit rates and the prices shall be quoted by the bidder entirely in the currency specified in the BDS.
- 15.2 Bidders shall indicate the portion of the bid price that corresponds to expenditures incurred in the currency of the Employer's country in the Schedule of Payment Currencies included in Section 4 (Bidding Forms).
- 15.3 Bidders expecting to incur expenditures in other currencies for inputs to the Works supplied from outside the Employer's country and wishing to be paid accordingly may indicate up to three foreign currencies in the Schedule of Payment Currencies included in Section 4 (Bidding Forms).
- 15.4 The rates of exchange to be used by the bidder for currency conversion during bid preparation shall be the selling rates for similar transactions prevailing on the date 28 days prior to the deadline for submission of bids published by the source specified in the BDS. If exchange rates are not so published for certain currencies, the bidder shall state the rates used and the source. Bidders should note that for the purpose of payments, the exchange rates confirmed by the source specified in the BDS as the selling rates prevailing 28 days prior to the deadline for submission of bids shall apply for the duration of the Contract so that no currency exchange risk is borne by the bidder.
- 15.5 Foreign currency requirements indicated by the bidders in the Schedule of Payment Currencies shall include but not limited to the specific requirements for
- (a) expatriate staff and labor employed directly on the Works;
  - (b) social, insurance, medical and other charges relating to such expatriate staff and labor, and foreign travel expenses;
  - (c) imported materials, both temporary and permanent, including fuels, oil and lubricants required for the Works;
  - (d) depreciation and usage of imported Plant and Contractor's Equipment, including spare parts, required for the Works;
  - (e) foreign insurance and freight charges for imported materials, Plant and Contractor's Equipment, including spare parts; and

- (f) overhead expenses, fees, profit, and financial charges arising outside the Employer's country in connection with the Works.

15.6 Bidders may be required by the Employer to clarify their foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Schedule of Payment Currencies are reasonable and responsive to ITB 15.3 above, in which case a detailed breakdown of its foreign currency requirements shall be provided by the Bidder.

15.7 Bidders should note that during the progress of the Works, the foreign currency requirements of the outstanding balance of the Contract Price may be adjusted by agreement between the Employer and the Contractor in order to reflect any changes in foreign currency requirements for the Contract, in accordance with Sub-Clause 14.15 of the Conditions of Contract. Any such adjustment shall be effected by comparing the percentages quoted in the bid with the amounts already used in the Works and the Contractor's future needs for imported items.

**16. Documents  
Comprising the  
Technical  
Proposal**

16.1 The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section 4 (Bidding Forms), in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time.

**17. Documents  
Establishing the  
Qualifications of  
the Bidder**

17.1 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).

17.2 Domestic Bidders, individually or in joint ventures, applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility as described in ITB 33.

**18. Period of Validity  
of Bids**

18.1 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.

18.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 19, it shall also be extended 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.

**19. Bid Security**

19.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its bid, in original form, either a Bid Securing Declaration or a bid security as specified in the BDS. In the case of a bid security, the amount shall be as specified in the BDS.

19.2 A Bid Securing Declaration shall use the form included in Section 4 (Bidding Forms). The Employer will declare a Bidder ineligible to be



awarded a Contract for a specified period of time if the Bid Securing Declaration is executed.

19.3 The bid security shall be, at the Bidder's option, in any of the following forms:

- (a) an unconditional bank guarantee;
- (b) an irrevocable letter of credit; or
- (c) a cashier's or certified check;

all from a reputable source from an eligible country. 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 another form acceptable to the Employer. 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 18.2.

19.4 Any bid not accompanied by a substantially compliant bid security, if one is required in accordance with ITB 19.1, shall be rejected by the Employer as nonresponsive.

19.5 If a bid security is specified pursuant to ITB 19.1, 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 41.

19.6 If a bid security is specified pursuant to ITB 19.1, 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.

19.7 The bid security may be forfeited or the Bid Securing Declaration executed:

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bids, except as provided in ITB 18.2 or
- (b) if the successful Bidder fails to:
  - (i) sign the Contract in accordance with ITB 40; or
  - (ii) furnish a performance security in accordance with ITB 41;
  - (iii) accept the arithmetical correction of its Bid in accordance with ITB 31; or
  - (iv) furnish a domestic preference security, if so required.

19.8 The Bid Security of a JV shall be in the name of the JV that submits the bid. If the JV has not been legally constituted 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.

## 20. Format and Signing of Bid

20.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB 11 and clearly mark it "ORIGINAL". Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE". In addition, the Bidder shall submit copies of the bid, in the number specified in the BDS and clearly mark them "COPY."

In the event of any discrepancy between the original and the copies, the original shall prevail.

- 20.2 The original and all copies of the 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, except for unamended printed literature, shall be signed or initialed by the person signing the bid.
- 20.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

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

##### **21. Sealing and Marking of Bids**

- 21.1 The Bidder shall enclose the original and all copies of the bid, including alternative bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL", and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 21.2 The inner and outer envelopes shall:
- (a) bear the name and address of the Bidder;
  - (b) be addressed to the Employer in accordance with BDS 22.1;
  - (c) bear the specific identification of this bidding process indicated in the BDS 1.1; and
  - (d) bear a warning not to open before the time and date for bid opening.
- 21.3 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the bid.

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

- 22.1 Bids must be received by the Employer at the address and no later than the date and time indicated in the BDS. When so specified in the BDS, Bidders shall have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures specified in the BDS.
- 22.2 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.

##### **23. Late Bids**

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

**24. Withdrawal, Substitution, and Modification of Bids**

- 24.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.2, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:
- (a) prepared and submitted in accordance with ITB 20 and ITB 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and
  - (b) received by the Employer no later than the deadline prescribed for submission of bids, in accordance with ITB 22.
- 24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.
- 24.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.

**25. Bid Opening**

- 25.1 The Employer shall open the bids in public at the address, date and time specified in the BDS in the presence of Bidders' designated representatives and anyone who choose to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 22.1, shall be as specified in the BDS.
- 25.2 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 bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further.
- 25.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the Bid Price(s), including any discounts and alternative offers; the presence of a bid security or bid securing declaration, if required; and any other details as the Employer may consider appropriate. Only discounts and alternative offers read out at bid opening shall be considered for evaluation. Unless otherwise specified in the BDS, all pages of the Letter of Bid and Bill of Quantities are to be initialed by at least three representatives of the Employer attending bid opening. No bid shall be

rejected at bid opening except for late bids, in accordance with ITB 23.1.

- 25.4 The Employer shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per contract if applicable, including any discounts and alternative offers; and the presence or absence of a bid security or bid securing declaration, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

## **E. Evaluation and Comparison of Bids**

### **26. Confidentiality**

- 26.1 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.
- 26.2 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.
- 26.3 Notwithstanding ITB 26.2, 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.

### **27. Clarification of Bids**

- 27.1 To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its bid. 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 prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids, in accordance with ITB 31.
- 27.2 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.

### **28. Deviations, Reservations, and Omissions**

- 28.1 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.

### **29. Determination of Responsiveness**

- 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 ITB11.
- 29.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,

- (a) if accepted, would:
  - (i) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
  - (ii) limit in any substantial way, inconsistent with the Bidding Document, the 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 16, Technical Proposal, in particular, to confirm that all requirements of Section 6 (Employer's 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. Nonmaterial Nonconformities**

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

30.3 Provided that a 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. Correction of Arithmetical Errors**

31.1 Provided that the bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:

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

- 31.2 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, or its bid securing declaration executed.
- 32. Conversion to Single Currency** 32.1 For evaluation and comparison purposes, the currency(ies) of the bid shall be converted into a single currency as specified in the BDS.
- 33. Margin of Preference** 33.1 Unless otherwise specified in the BDS, a margin of preference shall not apply.
- 34. Evaluation of Bids** 34.1 The Employer shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.
- 34.2 To evaluate a 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, but including Daywork items, where priced competitively;
  - (b) price adjustment for correction of arithmetic errors in accordance with ITB 31.1;
  - (c) price adjustment due to discounts offered in accordance with ITB 14.4;
  - (d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32;
  - (e) adjustment for nonconformities in accordance with ITB 30.3;
  - (f) application of all the evaluation factors indicated in Section 3 (Evaluation and Qualification Criteria);
- 34.3 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.
- 34.4 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 Bid Submission Sheet, is specified in Section 3 (Evaluation and Qualification Criteria).
- 34.5 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 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.

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| <b>35. Comparison of Bids</b>  | 35.1 The Employer shall compare all substantially responsive bids to determine the lowest evaluated bid, in accordance with ITB 34.2.   |
| <b>36. Qualification of the Bidder</b>                                       | <p>36.1 The Employer shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid meets the qualifying criteria specified in Section 3 (Evaluation and Qualification Criteria).</p> <p>36.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17.1.</p> <p>36.3 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 proceed to the next lowest evaluated bid to make a similar determination of that Bidder's qualifications to perform satisfactorily.</p> |
| <b>37. Employer's Right to Accept Any Bid, and to Reject Any or All Bids</b> | 37.1 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

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| <b>38. Award Criteria</b>        | 38.1 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.  |
| <b>39. Notification of Award</b> | <p>39.1 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.</p> <p>39.2 At the same time, the Employer will publish in an English language newspaper or well-known freely accessible website the results identifying the bid and lot 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.</p> <p>39.3 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.</p> |
| <b>40. Signing of Contract</b>   | <p>40.1 Promptly after notification, the Employer shall send the successful Bidder the Contract Agreement.</p> <p>40.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer.</p>  |

**41. Performance Security**

- 41.1 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 34.5, using for that purpose the Performance Security Form included in Section 9 (Contract Forms), or another form acceptable to the Employer.
- 41.2 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 or execution of the bid securing declaration. 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.
- 41.3 The above provision shall also apply to the furnishing of a domestic preference security if so required.





## Section 2 - Bid Data Sheet

This section consists of provisions that are specific to each procurement and supplement the information or requirements included in Section I. Instructions to Bidders.

### A. Introduction

<b>ITB 1.1</b>	The number of the Invitation for Bids is : [ ... insert identification number of the Invitations for Bids ... ]
<b>ITB 1.1</b>	The Employer is: [ ... insert the name of the Employer ... ]
<b>ITB 1.1</b>	<p>The name of the ICB is: [ ... insert the name of ICB ... ]</p> <p>The identification number of the ICB is: [ insert the identification number of the ICB ]</p> <p>The number and identification of lots comprising this ICB is:</p> <p>[ if there are no lots insert " None". If there are lots insert a list lots identifying each lot by number and title ]</p>
<b>ITB 2.1</b>	The Borrower is: [ ... insert the name of the Borrower ... ]
<b>ITB 2.1</b>	The name of the Project is: [ ... insert the name of the Project ... ]

### B. Bidding Documents

<b>ITB 7.1</b>	<p>For <b><u>clarification purposes</u></b> only, the Employer's address is:</p> <p>[ ... insert details below as appropriate ... ]</p> <p>Attention:</p> <p>Street Address:</p> <p>Floor/Room number:</p> <p>City:</p> <p>ZIP Code:</p> <p>Country:</p> <p>Telephone:</p> <p>Facsimile number:</p> <p>Electronic mail address:</p>
<b>ITB 7.4</b>	<p>A Pre-Bid meeting [ ... insert "will" or "will not" ... ] take place.</p> <p>[ ... if a meeting takes place insert details such as date, time, and place ... ]</p>

	A site visit conducted by the Employer [ ... insert "will" or "will not" ... ] be organized
--	---

### C. Preparation of Bids

<b>ITB 10.1</b>	The language of the bid is: [ ... insert "English" ... ]
<b>ITB 11.1 (h)</b>	The Bidder shall submit with its bid the following additional documents: [ . . . list additional documents if so required . . . ]
<b>ITB 13.1</b>	Alternative bids [ . . . insert "shall" or "shall not" . . . ] be permitted.
<b>ITB 13.2</b>	Alternative times for completion [ . . . insert "shall" or "shall not" . . . ] be permitted.  If alternative times for completion are permitted, the evaluation method will be as specified in Section 3 (Evaluation and Qualification Criteria).
<b>ITB 13.4</b>	Alternative technical solutions shall be permitted for the following parts of the Works:  [ . . . either list parts of the Works for which alternative technical solutions are permitted or indicate "None". . . ]  If alternative technical solutions are permitted, the evaluation method will be as specified in Section 3 (Evaluation and Qualification Criteria).
<b>ITB 14.5</b>	The prices quoted by the Bidder shall: [ . . . insert either "shall be fixed " or "shall be adjustable" . . . ]
<b>ITB 15.1</b>	The unit rates and the prices shall be quoted by the bidder entirely in [ . . . insert currency of the Employers country . . . ]
<b>ITB 15.4</b>	The rates of exchange shall be the selling rates 28 days prior to the deadline for submission of bids published by [ . . insert Name of Central Bank in Employers country . . ]
<b>ITB 18.1</b>	The bid validity period shall be [ ... number of days ... ]days.
<b>ITB 19.1</b>	A bid security [ . . . insert "shall" or "shall not" . . . ] be required.  Bid-Securing Declaration [ . . . insert "shall" or "shall not" . . . ] be required.  If a bid security is required, the amount and currency of the bid security shall be:  [ . . . insert currency and amount . . . ]
<b>ITB 19.2</b>	The ineligibility period will be [.. insert number of years...]

<b>ITB 20.1</b>	In addition to the original of the bid, the number of copies is: [ . . . insert number of copies required. . . ]
<b>ITB 20.2</b>	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: [ . . . insert the name and description of the documentation required to demonstrate the authority of the signatory to sign the Bid. . . ]

### D. Submission and Opening of Bids

<b>ITB 22.1</b>	For <b><u>bid submission purposes</u></b> only, the Employer's address is:  [ ... insert details below as appropriate ... ] Attention: Street Address: Floor/Room number: City: ZIP Code: Country: <b>The deadline for bid submission is:</b> Date: Time:
<b>ITB 22.1</b>	Electronic bid submission [ . . . insert "is" or "is not" . . . ] permitted. If electronic bid submission is permitted bidders shall follow the following electronic bid submission procedure: [ ... insert details describing the electronic bid submission procedure ... ]
<b>ITB 25.1</b>	The bid opening shall take place at:  [ ... insert details below as appropriate ... ] Street Address: Floor/Room number: City: Country: Date: Time:
<b>ITB 25.1</b>	Electronic bid opening procedure shall be as follows: [ ... if electronic bidding is permitted in accordance with ITB 22.1, insert here a description of the electronic bid opening procedures otherwise state "not applicable"... ]

### E. Evaluation and Comparison of Bids

<b>ITB 32.1</b>	<p>The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is: [ . . insert the name of currency . . ]</p> <p>The source of the selling exchange rate shall be: [ . . insert Name of Central Bank in the Employers country . . ]</p> <p>The date for the selling exchange rate shall be: [ ... specify any date (day/month/year) not earlier than 30 days prior to the deadline for submission of the Bids, nor later than the original date for the expiry of bid validity ... ]</p>
<b>ITB 33.1</b>	<p>A margin of preference [ . . . insert "shall" or "shall not" . . . ] apply.</p> <p><b>If a margin of preference applies insert “The application methodology shall be as stipulated in Section 3 (Evaluation and Qualification Criteria)."</b></p>

## Section 3 - Evaluation and Qualification Criteria

This Section contains all the criteria that the Employer shall use to evaluate bids and qualify Bidders if the bidding was not preceded by a prequalification exercise and postqualification is applied. ADB requires bidders to be qualified by meeting predefined, precise minimum requirements. The method entails setting pass-fail criteria, which, if not met by the bidder, results in disqualification. It will therefore be necessary to ensure that a bidder's risk of having its bid rejected on grounds of qualification is remote if due diligence is exercised by the bidder during bid preparation. For that purpose, clear-cut, fail-pass qualification criteria need to be defined and indicated in the Invitation for Bids and the Bidding Document in order to enable bidders to make an informed decision whether to pursue a specific contract and, if so, either as a single entity or in joint venture. The criteria adopted must relate to characteristics that are essential to ensure satisfactory execution of the contract, and must be stated in unambiguous terms. In accordance with ITB 34 and ITB 36, no other methods, criteria and factors shall be used. The Bidder shall provide all the information requested in the forms included in Section 4 (Bidding Forms).

In case the bidding was preceded by a prequalification process updating of information pertaining to a bidder's eligibility, pending litigation, and financial situation will be necessary during bidding.

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# 1. Evaluation

In addition to the criteria listed in ITB 34.2 (a) – (e) the following criteria shall apply:

**- Note -**

Use the evaluation criteria listed below as appropriate and required for the project.

## 1.1 Adequacy of Technical Proposal

Evaluation of the Bidder's Technical Proposal will include an assessment of the Bidder's technical capacity to mobilize key equipment and personnel for the contract consistent with its proposal regarding work methods, scheduling, and material sourcing in sufficient detail and fully in accordance with the requirements stipulated in Section 6 (Employer's Requirements).

## 1.2 Multiple Contracts

Works are grouped in multiple contracts and pursuant to Sub-Clause 34.4 of the Instructions to Bidders, the Employer will evaluate and compare Bids on the basis of a contract, or a combination of contracts, or as a total of contracts in order to arrive at the least cost combination for the Employer by taking into account discounts offered by Bidders in case of award of multiple contracts.

If a bidder submits several successful (lowest evaluated substantially responsive) bids, the evaluation will also include an assessment of the Bidder's capacity to meet the aggregated requirements regarding:

- Experience
- Financial situation
- Current contract commitments,
- Cash flow capacity,
- Equipment to be allocated, and
- Personnel to be fielded.

## 1.3 Completion Time

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

## 1.4 Technical Alternatives

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

## 1.5 Quantifiable Nonconformities, Errors and Omissions

The evaluated cost of quantifiable nonconformities, errors and/or omissions are determined as follows:

**[Insert in bidding document: "Pursuant to ITB 30.3, the cost of all quantifiable nonmaterial nonconformities or omissions shall be evaluated. The Employer will make its own assessment of the cost of any nonmaterial nonconformities and omissions for the purpose of ensuring fair comparison of bids."]**

**Note**

The cost of minor omissions or missing items should be added to the Bid Price to allow for bid comparison on an equal basis. The price adjustment should be based on a reasonable estimate of the cost by the executing agency, engineer, consultant or bid evaluation committee, taking into consideration the corresponding quoted prices from other conforming bids. The price adjustment should be based on the fair price of the omitted item. The most frequently used method is to use the price equal to the highest price quoted for the same item by the other Bidders.

**1.6 Domestic Preference**

If a margin of preference is provided for under ITB 33.1, the following procedure shall apply:

1.6.1 In comparing domestic bids with foreign bids, a margin of preference will be granted to eligible domestic contractors, as defined below, in accordance with the following provisions.

- (a) For application of domestic preference, all responsive bids will first be classified into the following two categories:
  - (i) Category I: Bids offered by domestic contractors and joint ventures eligible for the preference in accordance with the criteria set forth in Sub-Clause 1.5.2 below; and
  - (ii) Category II: Bids offered by other contractors.

The Employer will review each bid to confirm the appropriateness of, or to modify as necessary, the category to which the bid was assigned by the bidder in preparing it.

- (b) The lowest evaluated bid of each category will then be determined by comparing all evaluated bids in each category among themselves.
- (c) Such lowest evaluated bids will next be compared with each other and if, as a result of this comparison, a bid from Category I is found to be the lowest, it will be selected for the award of contract.
- (d) If, however, as a result of the comparison under (c) above, the lowest bid is found to be from Category II, it will be further compared with the lowest evaluated bid from category I. For the purpose of this further comparison only an upward adjustment will be made to the lowest evaluated bid price of Category II by adding an amount equal to seven and one-half per cent (7 ½ %) of the bid price. If, after such comparison, the Category I bid is determined to be the lowest, it will be selected for the award of contract; if not, the lowest evaluated bid from Category II will be selected.

1.6.2 Domestic contractors and joint ventures between a domestic contractor(s) and its foreign partner(s) shall meet the following minimum criteria for eligibility of the Domestic Preference Scheme:

- (a) Domestic contractor(s):
  - (i) firms are registered in [ *insert name of the borrowing country* ];
  - (ii) firms have majority ownership by nationals of [ *insert name of the borrowing country* ]; and
  - (iii) firms will not subcontract to foreign contractors more than fifty per cent (50%) of the total value of their work.



- (b) A joint venture between a domestic contractor(s) and its foreign partner(s) will be eligible for the preference only if:
  - (i) the domestic partner(s) are individually eligible for the preference according to the criteria stated above;
  - (ii) the domestic partner(s) would not qualify for the Works on technical or financial grounds without the foreign participation; and
  - (iii) the domestic partner(s) will, under the arrangements proposed, carry out at least fifty per cent (50%) of the Works measured in terms of value.

1.6.3 Bidders applying for the preference shall provide all evidence, including details of ownership, necessary to prove that they are qualified for the preference according to the criteria set forth in paragraph 1.5.2 above.

1.6.4 If the Contract is awarded to a bidder who has received the preference pursuant to the foregoing provisions, such contractor shall not subcontract to foreign contractors more than fifty per cent (50%) of the total value of their work.

1.6.5 Comparison of bids will only be between bids which conform fully to the specifications. In the event that the alternative bid not conforming to the specifications, if any, of the bidder whose main bid which conforms with the specifications is the lowest evaluated, is considered more advantageous than its main bid, such alternative bid may be considered.

1.6.6 A joint venture which is awarded the Contract as a result of the application of the above domestic preference provisions, shall furnish the Employer, together with the Performance Security, a "Domestic Preference Security" to guarantee that the profit and loss distribution and work-sharing arrangements with which the joint venture satisfied the criteria of Sub-Clause 1.5.2 (b) above will not be modified throughout the execution of the Contract. The domestic performance security shall be in the form of an unconditional on-demand bank guarantee or standby letter of credit acceptable to the Employer, for an amount in a convertible currency equivalent to the difference between the joint venture's bid price and the bid price of the lowest foreign bid. The domestic preference security shall be issued either (a) by a bank located in the country of the Employer, or (b) directly by a foreign bank acceptable to the Employer. The domestic preference security shall be valid until the Contractor has substantially completed the Works and a Taking-Over Certificate has been issued by the Engineer in accordance with the provisions of GCC 10 and such security shall be returned to the Contractor together with the Taking-Over Certificate.

## 2. Qualification

### 2.1 Eligibility

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	

#### 2.1.1 Nationality

Nationality in accordance with ITB Sub-Clause 4.2.	must meet requirement	existing or intended JV must meet requirement	must meet requirement	not applicable	Forms ELI - 1; ELI - 2 with attachments
--	-----------------------	---	-----------------------	----------------	---

#### 2.1.2 Conflict of Interest

No conflicts of interest in accordance with ITB Sub-Clause 4.3.	must meet requirement	existing or intended JV must meet requirement	must meet requirement	not applicable	Letter of Bid
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#### 2.1.3 ADB Eligibility

Not having been declared ineligible by ADB, as described in ITB Sub-Clause 4.4.	must meet requirement	existing or intended JV must meet requirement	must meet requirement	not applicable	Letter of Bid
---	-----------------------	---	-----------------------	----------------	---------------

#### 2.1.4 Government-owned Entity

Bidder required to meet conditions of ITB Sub-Clause 4.5.	must meet requirement	must meet requirement	must meet requirement	not applicable	Forms ELI - 1; ELI - 2 with attachments
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## 2.2 Pending Litigation

Criteria	Compliance Requirements			Documents
Requirement	Single Entity	Joint Venture		
		All Partners Combined	Each Partner	One Partner

### 2.2.1 Pending Litigation

All pending litigation shall be treated as resolved against the Bidder and so shall in total not represent more than ..... percent of the Bidder's net worth.	must meet requirement by itself or as partner to past or existing JV	not applicable	must meet requirement by itself or as partner to past or existing JV	not applicable	Form LIT - 1
---	--	----------------	--	----------------	--------------

#### - Note -

<sup>1</sup> The percentage should normally be within the range of 50% to 100% of a Bidder's net worth

## 2.3 Financial Situation

Criteria	Compliance Requirements			Documents
Requirement	Single Entity	Joint Venture		
		All Partners Combined	Each Partner	One Partner

### 2.3.1 Historical Financial Performance

Submission of audited balance sheets or, if not required by the law of the bidder's country, other financial statements acceptable to the Employer, for the last ..... years to demonstrate the current soundness of the bidders financial position and its prospective long-term profitability. As a minimum, a Bidder's net worth calculated as the difference between total assets and total liabilities should be positive. As a minimum, the Bidder's net worth, calculated as the difference between total assets and total liabilities, must be positive.	must meet requirement	not applicable	must meet requirement	not applicable	Form FIN - 1 with attachments
--	-----------------------	----------------	-----------------------	----------------	-------------------------------

#### - Note -

The financial information provided by an Bidder should be reviewed in its entirety to allow a truly informed judgment, and the pass-fail decision on the financial position of the Bidder should be given on this basis. Any abnormal features which may lead to financial problems should alert the Employer to seek expert professional advice for further review and interpretation.

<sup>1</sup> The time period should not be less than 3 years

**2.3.2 Average Annual Construction Turnover**

Minimum average annual construction turnover of US\$ ..... <sup>1</sup> .. calculated as total certified payments received for contracts in progress or completed, within the last ..... <sup>2</sup> years.	must meet requirement	must meet requirement	must meet ..... of the requirement	must meet ..... of the requirement	Form FIN - 2
--	-----------------------	-----------------------	---------------------------------------	---------------------------------------	--------------

**- Note -**

<sup>1</sup> The amount stated should normally not be less than  $2 \times V/T$ , the estimated annual turnover or cash flow in the subject contract based on a straight-line projection of the Employer's estimated cost (V), including contingencies, over the contract duration (T). The multiplier of two may be reduced for very large contracts but should not be less than 1.5

<sup>2</sup> Insert number of years in words and figures, The time period is normally 3 years or more.

**2.3.3 Financial Resources**

Using Forms FIN – 3 and FIN - 4 in Section 4 (Bidding Forms) the Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet:  (1) the following cash-flow requirement, ..... and  (2) the overall cash flow requirements for this contract and its current works commitment.	must meet requirement	must meet requirement	must meet ..... of the requirement	must meet ..... of the requirement	Form FIN - 3
---	-----------------------	-----------------------	---------------------------------------	---------------------------------------	--------------

**- Note -**

Indicate under (1) above the construction cash flow requirement for a number of months (to the nearest half-month), determined as the total time needed by the Employer to pay a contractor's invoice, allowing for (a) the actual time consumed for construction, from the beginning of the month invoiced, (b) the time needed by the Engineer to issue the monthly payment certificate, (c) the time needed by the Employer to pay the amount certified, and (d) a contingency period of one month to allow for unforeseen delays. The total period should not exceed six months. The assessment of the monthly amount should be based on a straight-line projection of the estimated cash flow requirement over the particular contract period, neglecting the effect of any advance payment and retention monies, but including contingency allowances in the estimated contract cost.,

**2.4 Experience**

Criteria	Compliance Requirements			Documents
Requirement	Single Entity	Joint Venture		Submission Requirements
		All Partners Combined	Each Partner	

**2.4.1 General Construction Experience**

Experience under construction contracts in the role of contractor, subcontractor, or management contractor for at least the last ..... <sup>1</sup> years prior to the bid submission deadline.	must meet requirement	not applicable	must meet requirement	not applicable	Form EXP - 1
---	-----------------------	----------------	-----------------------	----------------	--------------

**- Note -**

(1) Insert number of years in words and figures. The time period is normally 5 years or more, but may be reduced to not less than 3 years, in agreement with ADB under special country circumstances such as to provide opportunities for a newly privatized construction industry with only a short record of experience

**2.4.2 Specific Construction Experience****(a) Contracts of Similar Size and Nature**

Participation as contractor, management contractor, or subcontractor, in at least ..... <sup>1</sup> contracts within the last ..... <sup>2</sup> years, each with a value of at least US\$ ..... <sup>3</sup> that have been successfully or are substantially completed and that are similar to the proposed works. The similarity shall be based on the physical size, complexity, methods, technology or other characteristics as described in Section 6 (Employer's Requirements)	must meet requirement	must meet requirement	not applicable	not applicable	Form EXP - 2(a)
--	-----------------------	-----------------------	----------------	----------------	-----------------

**- Note -**

(1) Insert number of contracts, The range should be one to three, depending on the size and complexity of the subject contract, the exposure of the Employer to risk of contractor default, and country conditions. For contracts in a developed environment with a high potential supply of construction services, three similar contracts may not limit applications, but would reduce the risk of contractor default.

(2) Insert number of years in words and figures. The range is normally five to ten years, and should be related to the number of similar contracts stated above and to the duration of the subject contract, e.g., ten years for two contracts of about five years' duration, or six years for two contracts of about three years' duration

(3) Insert US Dollar amount, usually 80% of the estimated value of the subject contract

**(b) Construction Experience in Key Activities (May be complied by specialist subcontractors. Employer shall require evidence of subcontracting agreement from the Bidder.)**

For the above or other contracts executed during the period stipulated in 4.2(a) above, a minimum construction experience in the following key activities:	must meet all requirements	must meet all requirements	not applicable	not applicable	Form EXP - 2(b)
*					
*					
*					
*					

**- Note -**

\* List the production rate(s) for the key activity or activities in the subject contract. The rates should be about 80% of the estimated production rates of the key activity or activities in the subject contract as needed to meet the expected construction schedule with due allowance for adverse climatic conditions.

X cubic meters of rock placed in rockfill dams in one year

Y tons of asphaltic concrete per month placed in road paving

Z cubic meters of concrete placed per ... etc.

## 2.5 Personnel

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

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

The Bidder shall provide details of the proposed personnel and their experience records in the relevant Information Forms included in Section 4 (Bidding Forms).

**Note -**

The managerial and technical competence of a contractor is largely related to the key personnel on site. The extent to which the Bidder should demonstrate having staff with extensive experience should be limited to those requiring critical operational or technical skills. The criteria should therefore refer to a limited number of such key personnel, for instance, the project or contract manager and those superintendents working under the project manager who will be responsible for major components (e.g., superintendents specialized in dredging, piling, tunneling, or earthworks, as required for each particular project).

Bidders should normally be required to name a principal candidate and an alternate for each key position. Criteria of acceptability should be based on:

- (a) a minimum number of years of experience in a similar position; and
- (b) a minimum number of years of experience and/or number of comparable projects carried out in a specified number of preceding years.

The requirement of specified education and academic qualifications is normally unnecessary for such positions, as contractors often employ competent staff who have learned their profession "on the job" rather than through academic training.

It is appropriate to specify that certain positions are filled by individuals who have held posts of comparable authority for, say, three years with the Bidder, so that key staff in executive site positions have sufficient knowledge of the Bidder's management, policy, procedures, and practices to act with confidence and authority within that framework.

## 2.6 Equipment

The Bidder must demonstrate that it has the key equipment listed hereafter:

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

The Bidder shall provide further details of proposed items of equipment using the relevant Form in Section 4 (Bidding Forms)

**- Note -**

An inventory of construction equipment represents a high capital cost overhead to a contractor. Consequently, not all competent potential bidders will maintain an inventory of high-value items that are in suitable condition for major contracts. This is particularly so with management contractors, who undertake construction projects mainly by subcontracting. In most cases Bidders can readily purchase, lease, or hire equipment; thus, it is usually unnecessary for the assessment of a contractor's qualification to depend on the contractor's owning readily available items of equipment. The pass-fail criteria adopted should therefore be limited only to those bulky or specialized items that are critical for the type of project to be implemented, and that may be difficult for the contractor to obtain quickly. Examples may include items such as heavy lift cranes and piling barges, dredgers, tunnel boring machines, or asphalt mixing plants. Even in such cases, contractors may not own the specialized items of equipment, and may rely on specialist subcontractors or equipment-hire firms. The availability of such subcontractors and of the specified equipment should be subject to verification prior to contract award. The terms of any lease or hire agreement for equipment should preferably include a provision that the equipment will remain on the site (or be vested in the Employer) in the event of default of the Contractor, thereby ensuring more timely continuity of work by a replacement contractor.





## Section 4 - Bidding Forms

This Section contains the forms which are to be completed by the Bidder and submitted as part of his Bid.

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## Letter of Bid

Date: .....

ICB No.: .....

Invitation for Bid No.: .....

To: .....

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB) 8;
- (b) We offer to execute in conformity with the Bidding Documents the following Works:
- (c) The total price of our Bid, excluding any discounts offered in item (d) below is:
- (d) The discounts offered and the methodology for their application are:
- (e) Our bid shall be valid for a period of . . . . . days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents;
- (g) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from eligible countries [insert the nationality of the Bidder, including that of all parties that comprise the Bidder if the Bidder is a consortium or association, and the nationality of each Subcontractor and Supplier];
- (h) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 4.3;
- (i) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 4.3, other than alternative offers submitted in accordance with ITB 13;
- (j) Our firm, its affiliates or subsidiaries, including including any Subcontractors or Suppliers for any part of the contract, has not been declared ineligible by ADB, under the Employer's country laws or official regulations or by an act of compliance with a decision of the United Nations Security Council;

- (k) We are not a government owned entity / We are a government owned entity but meet the requirements of ITB 4.5; \*
- (l) We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract: [If none has been paid or is to be paid, indicate "none."]

Name of Recipient	Address	Reason	Amount
.....	.....	.....	.....
.....	.....	.....	.....

- (m) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and
- (n) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (o) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the ADB.

Name .....

In the capacity of .....

Signed .....

Duly authorized to sign the Bid for and on behalf of .....

Date .....

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\* Use one of the two options as appropriate

\*\* If none has been paid or is to be paid, indicate "none"

## Schedules

### Schedule of Payment Currencies

For .....insert name of Section of the Works .....

Separate tables may be required if the various sections of the Works (or of the Bill of Quantities) will have substantially different foreign and local currency requirements. The Employer should insert the names of each Section of the Works.

	A	B	C	D
Name of Payment Currency	Amount of Currency	Rate of Exchange to Local Currency	Local Currency Equivalent $C = A \times B$	Percentage of Net Bid Price (NBP) $\frac{100 \times C}{NBP}$
Local currency		1.00		
Foreign Currency #1				
Foreign Currency #2				
Foreign Currency #3				
Net Bid Price				100.00
Provisional Sums Expressed in Local Currency	<i>To be entered by the Employer</i>	1.00	<i>To be entered by the Employer</i>	
BID PRICE				

#### - Note -

The rates of exchange shall be the selling rates 28 days prior to the deadline for submission of bids published by the source specified in BDS 15

## Tables of Adjustment Data

**Table A - Local Currency**

Index Code	Index Description	Source of Index	Base Value and Date	Bidder's Local Currency Amount	Bidder's Proposed Weighting
	Nonadjustable	—	—	—	a: _____ b: _____ c: _____ d: _____ e: _____
<b>Total</b>					<b>1.00</b>

To be entered by the Employer: Index Code, Index Description, Source of Index, Base Value and Date.  
 To be entered by the Bidder: Bidder's Local Currency Amount, Bidder's Proposed Weighting.

**Table B - Foreign Currency**

Name of Currency: .....insert name of currency. If the Bidder wishes to quote in more than one foreign currency, this table should be repeated for each foreign currency.....

Index Code	Index Description	Source of Index	Base Value and Date	Bidder's Currency in Type/Amount	Equivalent in FC1	Bidder's Proposed Weighting
	Nonadjustable	—	—	—		a: _____ b: _____ c: _____ d: _____ e: _____
<b>Total</b>						<b>1.00</b>

To be entered by the Bidder: Index Code, Index Description, Source of Index, Base Value and Date, Bidder's Currency in Type/Amount.  
 To be entered by the Employer: Equivalent in FC1, Bidder's Proposed Weighting.

**- Note -**

As per GCC 1.1.3.1, "Base Date" means the date 28 days prior to the latest date for submission and Completion of the Tender.

# Bid Security

## Bank Guarantee

.....*Bank's Name, and Address of Issuing Branch or Office* .....

**Beneficiary:** .....*Name and Address of Employer* .....

**Date:** .....

**Bid Security No.:** .....

We have been informed that .....*name of the Bidder*..... (hereinafter called "the Bidder") has submitted to you its bid dated ..... (hereinafter called "the Bid") for the execution of .....*name of contract* ..... under Invitation for Bids No. .... ("the IFB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we .....*name of Bank*..... hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of .....*amount in figures* ..... (...*amount in words* ..... ) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) does not accept the correction of errors in accordance with the Instruction to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of its Bid by the Employer during the period of bid validity, (i) fails or refuses to execute the Contract Agreement, or (ii) fails or refuses to furnish the performance security, in accordance with the ITB.

This guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract Agreement signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; and (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy your notification to the Bidder of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of the Bidder's bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

.....*Bank's seal and authorized signature(s)* .....

---

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

## Bid-Securing Declaration

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

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

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

To: *[insert complete name of Employer]*

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Borrower for the period of time of *[insert number of months or years]* starting on the date that we receive a notification from the Employer, if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) Have withdrawn our Bid during the period of bid validity specified in the Form of Bid; or
- (b) does not accept the correction of errors in accordance with the Instruction to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of our Bid by the Employer during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB.

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

Signed: *[insert signature of person whose name and capacity are shown]*

In the capacity of *[insert legal capacity of person signing the Bid-Securing Declaration]*

Name: *[insert complete name of person signing the Bid-Securing Declaration]*

Duly authorized to sign the bid for and on behalf of: *[insert complete name of Bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

Corporate Seal *[where appropriate]*

*[Note: In case of a Joint Venture, the Bid-Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid.]*



# Bill of Quantities

## Objectives

The objectives of the Bill of Quantities are

- (a) to provide sufficient information on the quantities of Works to be performed to enable bids to be prepared efficiently and accurately; and
- (b) when a contract has been entered into, to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.

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

## Content

The Bill of Quantities should be divided generally into the following sections:

- (a) Preamble;
- (b) Work Items (grouped into parts);
- (c) Daywork Schedule; and
- (d) Summary.

## Preamble

The Preamble should indicate the inclusiveness of the unit prices, and should state the methods of measurement that have been adopted in the preparation of the Bill of Quantities and that are to be used for the measurement of any part of the Works.

## Rock

Where excavation, boring, or driving is included in the Works, a comprehensive definition of rock (always a contentious topic in contract administration), if not given in the Technical Specification, should be given in the Preamble, and this definition should be used for the purposes of measurement and payment.

## Work Items

The items in the Bill of Quantities should be grouped into sections to distinguish between those parts of the Works that by nature, location, access, timing, or any other special characteristics may give rise to different methods of construction, phasing of the Works, or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bill of Quantities. When families of Price Adjustment Formulae are used, they should relate to appropriate sections in the Bill of Quantities.

## Quantities

Quantities should be computed net from the Drawings, unless directed otherwise in the Contract, and no allowance should be made for bulking, shrinkage, or waste. Quantities should be rounded up or down where appropriate, and spurious accuracy should be avoided.

### Units of Measurement

The following units of measurement and abbreviations are recommended for use unless other national units are mandatory in the country of the Employer.

Unit	Abbreviation	Unit	Abbreviation
cubic meter	m <sup>3</sup> or cu m	millimeter	mm
hectare	ha	month	mon
hour	h	number	nr
kilogram	kg	square meter	m <sup>2</sup> or sq m
lump sum	sum	square millimeter	mm <sup>2</sup> or sq mm
meter	m	week	wk
metric ton (1,000 kg)	t		

### Ground and Excavation Levels

The commencing surface should be identified in the description of each item for work involving excavation, boring, or driving, for which the commencing surface is not also the original surface. The excavated surface should be identified in the description of each item for work involving excavation for which the excavated surface is not also the final surface. The depths of work should be measured from the commencing surface to the excavated surface, as defined.

### Daywork Schedule

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

- (a) a list of the various classes of labor, materials, and Contractor's Equipment for which basic Daywork rates or prices are to be inserted by the bidder, together with a statement of the conditions under which the Contractor will be paid for work executed on a Daywork basis; and
- (b) a percentage to be entered by the bidder against each basic Daywork Subtotal amount for labor, materials, and plant representing the Contractor's profit, overheads, supervision, and other charges.

### Provisional Quantities and Sums

Provision for quantity contingencies in any particular item or class of work with a high expectation of quantity overrun should be made by entering specific "Provisional Quantities" or "Provisional Items" in the Bill of Quantities, and *not* by increasing the quantities for that item or class of work beyond those of the work normally expected to be required. To the extent not covered above, a general provision for physical contingencies (quantity overruns) should be made by including a "Provisional Sum" in the Summary of the Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a "Provisional Sum" in the Summary of the Bill of Quantities. The inclusion of such Provisional Sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as future needs arise.

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by a Nominated Subcontractor should be indicated in the relevant part of the Bill of Quantities as a particular Provisional Sum with an appropriate brief description. A separate bidding procedure is normally carried out by the Employer to select the specialists, who are then nominated as subcontractors to the main or prime contractor. To provide an element of competition among the main bidders (or prime contractors) in respect of any facilities, amenities, attendance, etc., to be provided by the successful bidder as prime contractor for the use and convenience of the specialist or nominated subcontractor, each related Provisional Sum should be followed by an item in the Bill of Quantities inviting a percentage (to be quoted by the main bidder) payable on the actual expenditure from the Provisional Sum.

**Summary**

The Summary should contain a tabulation of the separate parts of the Bill of Quantities carried forward, with provisional sums for Daywork, for physical (quantity) contingencies, and for price contingencies (upward price adjustment) where applicable.

## Sample Bill of Quantities

### A. Preamble

1. The Bill of Quantities shall be read in conjunction with the Instructions to Bidders, General and Particular Conditions of Contract, Technical Specifications, and Drawings.
2. The quantities given in the Bill of Quantities are estimated and provisional, and are given to provide a common basis for bidding. The basis of payment will be the actual quantities of work ordered and carried out, as measured by the Contractor and verified by the Engineer and valued at the rates and prices bid in the priced Bill of Quantities, where applicable, and otherwise at such rates and prices as the Engineer may fix within the terms of the Contract.
3. The rates and prices bid in the priced Bill of Quantities shall, except as otherwise provided under the Contract, include all construction equipment, labor, supervision, materials, erection, maintenance, insurance, profit, taxes, and duties, together with all general risks, liabilities, and obligations set out or implied in the Contract.
4. A rate or price shall be entered against each item in the priced Bill of Quantities, whether quantities are stated or not. The cost of Items against which the Contractor has failed to enter a rate or price shall be deemed to be covered by other rates and prices entered in the Bill of Quantities.
5. The whole cost of complying with the provisions of the Contract shall be included in the Items provided in the priced Bill of Quantities, and where no Items are provided, the cost shall be deemed to be distributed among the rates and prices entered for the related Items of Work.
6. General directions and descriptions of work and materials are not necessarily repeated nor summarized in the Bill of Quantities. References to the relevant sections of the Contract documentation shall be made before entering prices against each item in the priced Bill of Quantities.
7. Provisional Sums included and so designated in the Bill of Quantities shall be expended in whole or in part at the direction and discretion of the Engineer in accordance with the Conditions of Contract.
8. The method of measurement of completed work for payment shall be in accordance with *[insert the name of a standard reference guide, or full details of the methods to be used. The method of measurement should be spelled out precisely in the Preamble to the Bill of Quantities, describing for example the allowances (if any) for timbering in excavation, etc. Many national standard reference guides have been prepared on the subject, and one such guide is the Standard Method of Measurement of the U.K. Institution of Civil Engineers.]*
9. Arithmetic errors will be corrected by the Employer as follows:
  - (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.
10. Rock is defined as all materials that, in the opinion of the Engineer, require blasting, or the use of metal wedges and sledgehammers, or the use of compressed air drilling for their removal, and that cannot be extracted by ripping with a tractor of at least 150 brake hp with a single, rear-mounted, heavy-duty ripper.

## B. Work Items

1. The Bill of Quantities usually contains the following part Bills, which have been grouped according to the nature or timing of the work:

Bill No. 1 - General Items;  
 Bill No. 2 - Earthworks;  
 Bill No. 3 - Culverts and Bridges;  
 Bill No. 4 - etc., as required;  
 Daywork Schedule; and  
 Summary Bill of Quantities.

2. Bidders shall price the Bill of Quantities in local currency only and shall indicate in the Appendix to Bid the percentage expected for payment in foreign currency or currencies. The example given illustrates one of the two alternative methods of setting up a Bill of Quantities, in which rates and prices are entered in local currency only, with bidders stating separately their proportionate requirements in different types and amounts of foreign currencies. The second method is where rates and prices are broken down for each item into local and foreign currency components. The first method is administratively more convenient and hence is more commonly used in Works contracts.

### Bill No. 1: General Items

Item no.	Description	Unit	Quantity	Rate	Amount
101	Performance Bond/Guarantee	sum	item	—	
102	Insurance of the Works	sum	item	—	
103	Insurance of Contractor's Equipment	sum	item	—	
104	Third-Party Insurance	sum	item	—	
105	Allow for maintenance of Works for 12 months after completion	month	12		
106	—etc.—				
112	Provide and equip Engineer's offices	nr	2		
113	Maintain Engineer's offices for 24 months, including services	month	24		
114	—etc.—				
121	Provide diversion road	sum	item	—	
122	Provide for traffic control and maintenance of diversion road	month	24	—	
123	—etc.—				
132	Provide for cleaning up the Site on completion	sum	item	—	
	—etc.—				
<b>Total for Bill No. 1</b>					_____
(carried forward to Summary, p. ____)					

**Bill No. 2: Earthworks**

Item no.	Description	Unit	Quantity	Rate	Amount
201	Excavate topsoil to maximum depth 25 cm and stockpile for reuse, maximum haul distance 1 km	m <sup>3</sup>	95,000		
202	Excavate topsoil to maximum depth 25–50 cm, and dispose	m <sup>3</sup>	15,000		
203	—etc.—				
206	Excavate fill material from cuttings or approved borrow pits, haul up to 1 km, deposit, shape, and compact to fill	m <sup>3</sup>	258,000		
207	Excavate rock in cuttings and dispose, any depth	m <sup>3</sup>	25,000		
208	—etc.—				
Total for Bill No. 2 _____ (carried forward to Summary, p. ____)					

**Bill No. 3: Culverts and Bridges**

Item no.	Description	Unit	Quantity	Rate	Amount
301	Excavate in all materials other than rock from ground level to underside of foundations, maximum depth 5 m, and dispose	m <sup>3</sup>	18,500		
302	Excavate in all materials other than rock, depth 5 m to 7.5 m	m <sup>3</sup>	2,500		
303	Provisional Item As Item 302, depth 7.5 m to 10 m	m <sup>3</sup>	500		
304	—etc.—				
311	Concrete class B in abutments	m <sup>3</sup>	18,500		
312	—etc.—				
318	Mild steel reinforcement in abutments and piers up to 20 mm diameter	t	370		
319	—etc.—				
Total for Bill No. 3 _____ (carried forward to Summary, p. ____)					

### C. Daywork Schedule

#### **Note -**

A "Daywork Schedule" is commonly found in contracts where the likely incidence of unforeseen work cannot be covered by definitive descriptions and approximate quantities in the Bill of Quantities. The preferred alternative is to value the additional work in accordance with the provisions of Clause 12 of the Conditions of Contract. A Daywork Schedule normally has the disadvantage of not being competitive among bidders, who may therefore load the rates assigned to some or all the items. If a Daywork Schedule is to be included at all in the bidding documents, it is preferable to include nominal quantities against the items most likely to be used, and to carry the sum of the extended amounts forward into the Bid Summary in order to make the basic Schedule of Daywork Rates competitive.

The total amount assigned to such competitive daywork is normally 3-5 percent of the estimated base Contract Price and is regarded as a Provisional Sum for contingencies to be expended under the direction and at the discretion of the Engineer. A limitation on quantity should not apply, and the unit rate quoted should be invariable whatever quantities of work are ordered.

#### **General**

1. Work shall not be executed on a daywork basis except by written order of the Engineer. Bidders shall enter basic rates for daywork items in the Schedules, which rates shall apply to any quantity of daywork ordered by the Engineer. Nominal quantities have been indicated against each item of daywork, and the extended total for Daywork shall be carried forward as a Provisional Sum to the Summary Total Bid Amount. Unless otherwise adjusted, payments for daywork shall be subject to price adjustment in accordance with the provisions in the Conditions of Contract.

#### **Daywork Labor**

2. In calculating payments due to the Contractor for the execution of daywork, the hours for labor will be reckoned from the time of arrival of the labor at the job site to execute the particular item of daywork to the time of return to the original place of departure, but excluding meal breaks and rest periods. Only the time of classes of labor directly doing work ordered by the Engineer and for which they are competent to perform will be measured. The time of gangers (charge hands) actually doing work with the gangs will also be measured but not the time of foremen or other supervisory personnel.

3. The Contractor shall be entitled to payment in respect of the total time that labor is employed on daywork, calculated at the basis rates entered by him in the **Schedule of Daywork Rates: 1. Labor**. The rates for labor shall be deemed to cover all costs to the Contractor including (but not limited to) the amount of wages paid to such labor, transportation time, overtime, subsistence allowances, and any sums paid to or on behalf of such labor for social benefits in accordance with (Country of Borrower) law, as well as Contractor's profit, overheads, superintendence, liabilities and insurance and allowance to labor, timekeeping and clerical and office work, the use of consumable stores water, lighting and power; the use and repair of stagings, scaffolding workshops and stores portable power tools, manual plant and tools; supervision by the Contractor's staff, foremen and other supervisory personnel; and charges incidental to the foregoing. The rates shall be stated in the local currency, but payments will be made in the following currency proportions:

- (i) foreign: \_\_\_\_\_ percent *[The bidder shall state the percentage in a common foreign currency equivalent required for payment and the exchange rates and official sources used]*
- (ii) local: \_\_\_\_\_ percent *[To be stated by bidder]*.

**Daywork Materials**

4. The Contractor shall be entitled to payment in respect of materials used for daywork (except for materials for which the cost is included in the percentage addition to labor costs as detailed heretofore), at the rates entered by him in the **Schedule of Daywork Rates: 2. Materials** and shall be deemed to include overhead charges and profit as follows;

(a) the rates for materials shall be calculated on the basis of the invoiced price, freight, insurance, handling expenses, damage, losses, etc., and shall provide for delivery to store for stockpiling at the Site. The rates shall be stated in local currency but payment will be made in the following currency proportions:

(i) foreign: \_\_\_\_ percent [*The bidder shall state the percentage in a common foreign currency equivalent required for payment and the exchange rates and official sources used*]

(ii) local: \_\_\_\_ percent [*To be stated by bidder*].

(b) the cost of hauling materials for use on work ordered to be carried out as daywork from the store or stockpile on the Site to the place where it is to be used will be paid in accordance with the terms for Labor and Constructional Plant in this Schedule.

**Daywork Contractor's Equipment**

5. The Contractor shall be entitled to payments in respect of Contractor's Equipment already on Site and employed on daywork at the basic rental rates entered by him in the **Schedule of Daywork Rates: 3. Contractor's Equipment**. The said rates shall be deemed to include due and complete allowance for depreciation, interest, indemnity and insurance, repairs, maintenance, supplies, fuel, lubricants, and other consumable, and all overhead profit and administrative costs related to the use of such equipment. The cost of drivers, operators and assistants will be paid for separately as described under the section on Daywork Labor.

6. In calculating the payment due to the Contractor's Equipment employed on daywork, only the actual number of working hours will be eligible for payment, except that where applicable and agreed with the Engineer, the traveling time from the part of the Site where the Construction Plant was located when ordered by the Engineer to be employed on daywork and the time for return journey thereto shall be included for payment.

7. The basic rental rates for Contractor's Equipment employed on daywork shall be stated in local currency but payments to the Contractor will be made in currency proportions as follows:

(i) foreign: \_\_\_\_ percent [*The bidder shall state the percentage in a common foreign currency equivalent required for payment and the exchange rates and official sources used*]

(ii) local: \_\_\_\_ percent [*To be stated by bidder*].



**Schedule of Daywork Rates: 1. Labor**

Item no.	Description	Unit	Nominal Quantity	Rate	Extended Amount
D100	Ganger	hour	500		
D101	Laborer	hour	5,000		
D102	Bricklayer	hour	500		
D103	Mason	hour	500		
D104	Carpenter	hour	500		
D105	Steelwork Erector	hour	500		
D106	—etc.—	hour			
D113	Driver for vehicle up to 10 tons	hour	1,000		
D114	Operator for excavator, dragline, shovel, or crane	hour	500		
D115	Operator for tractor with dozer blade or ripper	hour	500		
D116	—etc.—	hour			
<b>Total for Daywork: Labor</b> _____ <b>(carried forward to Daywork Summary, p. _____)</b>					

**Schedule of Daywork Rates: 2. Materials**

Item no.	Description	Unit	Nominal Quantity	Rate	Extended Amount
D201	Cement, ordinary Portland, or equivalent in bags	t	200		
D202	Mild steel reinforcing bar up to 16 mm diameter to BS 4449 or equivalent	t	100		
D203	Fine aggregate for concrete as specified in Clause _____	m <sup>3</sup>	1,000		
D204	—etc.—				
D222	Gelignite (Nobel Special Gelatine 60%, or equivalent) including caps, fuse, wire, and requisite accessories	t	10		
<b>Total for Daywork: Materials</b> _____ <b>(carried forward to Daywork Summary, p. _____)</b>					

### Schedule of Daywork Rates: 3. Contractor's Equipment

Item no.	Description	Nominal quantity (hours)	Basic Hourly Rental Rate	Extended Amount
D301	Excavator, face shovel, or dragline:			
.1	Up to and including 1 m <sup>3</sup>	500		
.2	Over 1 m <sup>3</sup> to 2 m <sup>3</sup>	400		
.3	Over 2 m <sup>3</sup>	100		
D302	Tractor, including bull or angle dozer:			
.1	Up to and including 150 kW	500		
.2	Over 150 kW to 200 kW	400		
.3	Over 200 kW to 250 kW	200		
D303	Tractor with ripper:			
.1	Up to and including 200 kW	400		
.2	Over 200 kW to 250 kW	200		
D304	—etc.—			
<b>Total for Daywork: Contractor's Equipment</b> _____ <b>(carried forward to Daywork Summary, p. _____)</b>				

### Daywork Summary

	Amount [ local currency ]	% Foreign
1. Total for Daywork: Labor		
2. Total for Daywork: Materials		
3. Total for Daywork: Contractor's Equipment		
<b>Total for Daywork (Provisional Sum)</b> <b>(carried forward to Bid Summary, p. _____)</b>	_____	_____

### Summary of Specified Provisional Sums

Bill no.	Item no.	Description	Amount
1			
2	2.8	Supply and install equipment in pumping station	1,250,000
3			
4	4.32	Provide for ventilation system in subway tunnel	3,500,000
etc.			
Total for Specified Provisional Sums (carried forward to Grand Summary (B), p. _____)			4,750,000

### Summary of Bill of Quantities

General Summary	Page	Amount
Bill No. 1: Preliminary Items		
Bill No. 2: Earthworks		
Bill No. 3: Drainage Structures		
—etc.—		
<b>Subtotal of Bills</b>	(A)	
Total for Daywork (Provisional Sum)	(B)	
Specified Provisional Sums included in Subtotal of Bills	(C)	4,750,000
<b>Total of Bills plus Provisional Sums (A + B + C)</b>	(D)	
Add Provisional Sum for Contingency	(E)	
<b>Bid Price (D + E) Carried forward to Letter of Bid</b>	(F)	

#### Note -

All Provisional Sums are to be expended in whole or in part at the direction and discretion of the Engineer in accordance with the Conditions of Contract.

The amount for (C) **Specified Provisional Sums included in Subtotal of Bills**, if any, is to be entered by the Employer.

The amount for (B) **Daywork** needs to be included only when the Daywork Schedule is made competitive by the introduction of nominal quantities of work to be extended at the rates quoted. Otherwise it should be included in (E) **Provisional Sum for Contingencies**.

For (E) **Provisional Sum for Contingency**, covering unforeseen physical quantities of work, it is recommended to insert a predetermined percentage to provide for unforeseen physical quantities of work (usually 5-15 per cent of base cost, that is of the Subtotal of Bills) and, if included in the Contract, for price escalation adjustments (commonly 6-12 percent per annum on estimated annual payments). The resulting total Bid Price is then a more realistic estimated final Contract value for the purposes of budgetary approval. As an alternative to the percentage addition for contingencies, a fixed amount can be predetermined by the Employer, based on the estimated Contract amount, and inserted as a common figure in the "Amount" column.

# Technical Proposal

## Technical Proposal - Personnel

### Form PER – 1: Proposed Personnel

Bidders should provide the names of suitably qualified personnel to meet the specified requirements stated in Section 3 (Evaluation and Qualification Criteria). The data on their experience should be supplied using the Form below for each candidate.

1.	Title of position*
	Name
2.	Title of position*
	Name
3.	Title of position*
	Name
4.	Title of position*
	Name
5.	Title of position*
	Name
6.	Title of position*
	Name
etc.	Title of position*
	Name

\*As listed in Section 3 (Evaluation and Qualification Criteria).



## Technical Proposal - Equipment

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section 3 (Evaluation and Qualification Criteria). A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder.

<b>Item of Equipment</b>		
<b>Equipment Information</b>	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
<b>Current Status</b>	Current location	
	Details of current commitments	
<b>Source</b>	Indicate source of the equipment	
	<input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

Omit the following information for equipment owned by the Bidder.

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

**Technical Proposal - Site Organization****Technical Proposal - Method Statement****Technical Proposal - Mobilization Schedule****Technical Proposal - Construction Schedule**

## Bidder's Qualification

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 hereunder

### Form ELI - 1: Bidder's Information Sheet

Bidder's Information	
<b>Bidder's legal name</b>	
<b>In case of JV, legal name of each partner</b>	
<b>Bidder's country of constitution</b>	
<b>Bidder's year of constitution</b>	
<b>Bidder's legal address in country of constitution</b>	
<b>Bidder's authorized representative</b> (name, address, telephone numbers, fax numbers, e-mail address)	
<b>Attached are copies of the following original documents.</b>	
<input type="checkbox"/> 1. In case of single entity, articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and 4.2.	
<input type="checkbox"/> 2. Authorization to represent the firm or JV named in above, in accordance with ITB 20.2.	
<input type="checkbox"/> 3. In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1.	
<input type="checkbox"/> 4. In case of a government-owned entity, any additional documents not covered under 1 above required to comply with ITB 4.5.	



**Form ELI - 2: JV Information Sheet**

Each member of a JV must fill in this form

<b>JV / Specialist Subcontractor Information</b>	
<b>Bidder's legal name</b>	
<b>JV Partner's or Subcontractor's legal name</b>	
<b>JV Partner's or Subcontractor's country of constitution</b>	
<b>JV Partner's or Subcontractor's year of constitution</b>	
<b>JV Partner's or Subcontractor's legal address in country of constitution</b>	
<b>JV Partner's or Subcontractor's authorized representative information</b> (name, address, telephone numbers, fax numbers, e-mail address)	
<p><b>Attached are copies of the following original documents.</b></p> <p><input type="checkbox"/> 1. Articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and 4.2.</p> <p><input type="checkbox"/> 2. Authorization to represent the firm named above, in accordance with ITB 20.2.</p> <p><input type="checkbox"/> 3. In the case of government-owned entity, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB 4.5.</p>	

**Form LIT - 1: Pending Litigation**

Each Bidder or member of a JV must fill in this form

Pending Litigation			
<input type="checkbox"/> No pending litigation in accordance with Criteria 2.2 of Section 3 (Evaluation and Qualification Criteria)			
<input type="checkbox"/> Pending litigation in accordance with Criteria 2.2 of Section 3 (Evaluation and Qualification Criteria)			
Year	Matter in Dispute	Value of Pending Claim in US\$ Equivalent	Value of Pending Claim as a Percentage of Net Worth

**Form FIN - 1: Financial Situation**

Each Bidder or member of a JV must fill in this form

<b>Financial Data for Previous 3 Years [US\$ Equivalent]</b>		
<b>Year 1:</b>	<b>Year 2:</b>	<b>Year 3:</b>

**Information from Balance Sheet**

<b>Total Assets</b>			
<b>Total Liabilities</b>			
<b>Net Worth</b>			
<b>Current Assets</b>			
<b>Current Liabilities</b>			

**Information from Income Statement**

<b>Total Revenues</b>			
<b>Profits Before Taxes</b>			
<b>Profits After Taxes</b>			

- ☐ Attached are copies of financial statements (balance sheets including all related notes, and income statements) for the last three years, as indicated above, complying with the following conditions.
- All such documents reflect the financial situation of the Bidder or partner to a JV, and not sister or parent companies.
  - Historic financial statements must be audited by a certified accountant.
  - Historic financial statements must be complete, including all notes to the financial statements.
  - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

**Form FIN - 2: Average Annual Construction Turnover**

Each Bidder or member of a JV must fill in this form

The information supplied should be the Annual Turnover of the Bidder or each member of a JV in terms of the amounts billed to clients for each year for work in progress or completed, converted to US Dollars at the rate of exchange at the end of the period reported.

Annual Turnover Data for the Last 3 Years (Construction only)			
Year	Amount Currency	Exchange Rate	US\$ Equivalent

**Average Annual Construction Turnover**

**Form FIN – 3: Financial Resources**

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as indicated in Section 3 (Evaluation and Qualification Criteria)

Financial Resources		
No.	Source of financing	Amount (US\$ equivalent)
1		
2		
3		

**Form FIN- 4: Current Contract Commitments / Works in Progress**

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

<b>Current Contract Commitments</b>					
<b>No.</b>	<b>Name of Contract</b>	<b>Employer's Contact Address, Tel, Fax</b>	<b>Value of Outstanding Work [Current US\$ Equivalent]</b>	<b>Estimated Completion Date</b>	<b>Average Monthly Invoicing Over Last Six Months [US\$/month]</b>
1					
2					
3					
4					
5					

**Form EXP – 1: General Construction Experience**

Each Bidder or member of a JV must fill in this form

<b>General Construction Experience</b>				
<b>Starting Month Year</b>	<b>Ending Month Year</b>	<b>Years</b>	<b>Contract Identification and Name Name and Address of Employer Brief Description of the Works Executed by the Bidder</b>	<b>Role of Bidder</b>

**Form EXP – 2(a): Specific Construction Experience**

Fill up one (1) form per contract.

Contract of Similar Size and Nature		
Contract No ..... of ..... .	Contract Identification	
Award Date	Completion Date	
Role in Contract	<input type="checkbox"/> Contractor <input type="checkbox"/> Management Contractor <input type="checkbox"/> Subcontractor	
Total Contract Amount	US\$	
If partner in a JV or subcontractor, specify participation of total contract amount	Percent of Total	Amount
Employer's Name Address Telephone/Fax Number E-mail		
Description of the similarity in accordance with Criteria 2.4.2(a) of Section 3		
<div style="border: 1px solid black; padding: 5px;"> <p><b>Note</b></p> <p>The Employer should insert here contract size, complexity, methods, technology or other characteristics as described in Section 6 (Employer's Requirements) against which the Bidder demonstrates similarity in the box on the right-hand-side.</p> </div>		

**Form EXP - 2(b): Specific Construction Experience in Key Activities**

Fill up one (1) form per contract

Contract with Similar Key Activities		
Contract No ..... of ..... .	Contract Identification	
Award Date	Completion Date	
Role in Contract	<input type="checkbox"/> Contractor <input type="checkbox"/> Management Contractor <input type="checkbox"/> Subcontractor	
Total Contract Amount	US\$	
If partner in a JV or subcontractor, specify participation of total contract amount	Percent of Total	Amount
Employer's Name Address Telephone Number Fax Number E-mail		
Description of the key activities in accordance with Criteria 2.4.2(b) of Section 3		
<b>- Note -</b> The Employer should insert here production rate(s) for the key activity (activities) in the subject contract against which the Bidder demonstrates in the box on the right-hand-side production rates achieved by him on previous contracts.		





## Section 5 - Eligible Countries

This section contains the list of eligible countries

**Note****A. For loans from the ADB's Ordinary Capital Resources**

Insert the most recent list of ADB member countries obtainable from the ADB Business Opportunities or the ADB's web page at [www.adb.org](http://www.adb.org).

**B. For loans from the ADB's Special Funds Resources**

Insert the most recent list of ADB developed member countries, which have contributed to such resources, and all developing member countries.



# Section 6 - Employer’s Requirements

This Section contains the Specifications, the Drawings, and supplementary information that describe the Works to be procured.

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# Specifications

## Note

1. Precise and clear Specifications are a prerequisite for bidders to respond realistically and competitively to the requirements of the Employer without qualifying or conditioning their bids. In the context of international competitive bidding, the Specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of materials, Plant, other supplies, and workmanship to be provided. Only if this is done will the objectives of economy, efficiency, and equality in procurement be realized, responsiveness of bids be ensured, and the subsequent task of bid evaluation facilitated. The Specifications should require that all materials, Plant, and other supplies to be incorporated in the Works are new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract. A clause setting out the scope of the Works is often included at the beginning of the Specifications, and it is customary to give a list of the Drawings. Where the Contractor is responsible for the design of any part of the Permanent Works, the extent of his obligations must be stated. (Ref GCC Sub-Clause 1.1 Contractor's General Obligations)

2. Samples of Specifications from previous similar projects in the same country are useful in this respect. ADB encourages the use of metric units. Most Specifications are normally written specially by the Employer or Engineer to suit the contracts for Works in hand. There are no standard Specifications for universal application in all sectors in all countries, but there are established principles and practices that are reflected in these documents.

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

4. Care must be taken in drafting Specifications to ensure that they are not restrictive. In the specification of standards for materials, plant, other supplies, and workmanship, recognized international standards should be used as much as possible. Where other particular standards are used, whether national standards of the Borrower's country or other standards, the Specifications should state those materials, plant, other supplies, and workmanship meeting other authoritative standards, and which ensure substantially equal performance, as the standards mentioned, will also be acceptable.

5. Employers should decide whether technical solutions to specified parts of the Works are to be permitted. Alternatives are appropriate in cases where obvious (and potentially less costly) alternatives are possible to the technical solutions indicated in the bidding documents for certain elements of the Works, taking into consideration the comparative specialized advantage of potential bidders. For example:

- pile foundations (proprietary methods and different material)
- bridge foundations (open well, caissons, piles, etc.)
- columns, beams, decking (reinforced concrete, prestressed concrete, steel, etc.)
- proprietary methods for post-tensioning concrete
- lining of canals
- pipeline materials, coating, jointing
- road surfacing (asphalt, concrete, etc.)
- transmission tower design and erection
- street lighting
- offshore foundations
- offshore trestle spans

6. The Employer should provide a description of the selected parts of the Works with appropriate references to Drawings, Specifications, Bill of Quantities, and Design or Performance criteria, stating that the alternative solutions shall be at least structurally and functionally equivalent to the basic design parameters and specifications.

7. Such alternative solutions shall be accompanied by all information necessary for a complete evaluation by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, proposed construction methodology, and other relevant details.

8. In more complex cases, a "turnkey" or "design-and-construct" approach may be more appropriate, in which cases a two-stage bidding process is recommended in conformity with other Bank Standard Bidding Documents.

# Drawings

**Note -**

1. It is customary to bind the drawings in a separate volume, which is often larger than other volumes of the Contract documents. The size will be dictated by the scale of the drawings, which must not be reduced to the extent that details are rendered illegible.

2. A simplified map showing the location of the Site in relation to the local geography, including major roads, posts, airports, and railroads, is helpful.

3. The construction drawings, even if not fully developed, must show sufficient details to enable bidders to understand the type and complexity of the work involved and to price the Bill of Quantities.

## **Supplementary Information**





## Section 7 – General Conditions of Contract

The Conditions of Contract comprise two parts, this Section 7 - General Conditions of Contract (GCC) and the following Section 8 - Particular Conditions of Contract (PCC)

The General Conditions shall be the Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer, Multilateral Development Bank Harmonized Edition, prepared by the Fédération Internationale des Ingénieurs-Conseil, or FIDIC (FIDIC MDB Harmonized Construction Contract) available at <http://www1.fidic.org/resources/mdb/>. The FIDIC MDB Harmonized Construction Contract is exclusive for the use of ADB Borrowers and their project implementing agencies as provided under the License Agreement dated 09 June, 2005, between the ADB and FIDIC, and, consequently, no part of this publication may be reproduced, translated, adapted, stored in a retrieval system or communicated, in any form or by any means, whether mechanical, electronic, magnetic, photocopying, recording or otherwise, without prior permission in writing from FIDIC, except by the Employer identified in the contract and only for the exclusive purpose of preparing bidding documents for ADB financed contracts.

The standard text of the General Conditions chosen must be retained intact to facilitate its reading and interpretation by Bidders and its review by the Bank. Any amendments and additions to the GCC, specific to the contract in hand, should be introduced in Section 8 (Particular Conditions of Contract), Part A (Contract Data) and Part B (Special Provisions). Clause numbers in the PCC correspond to those in the GCC. As per GCC 1.5 (Priority of Documents), the PCC take precedence over the GCC.

Part A (Contract Data) of the PCC, includes data to complement the GCC in a manner similar to the way in which the Bid Data Sheet (BDS) complements the Instructions to Bidders (ITB).

Part B (Specific Provisions) is intended to be used to introduce country or project specific provisions if so required. Whoever drafts the Specific Provisions should be thoroughly familiar with the provisions of the GCC and with any specific requirements of the Contract. Legal advice is recommended when amending provisions or drafting new ones.

The Conditions of Contract have been prepared for an ad measurement (unit price or unit rate) type of contract and cannot be used for other types of contract.

# APPENDIX

## General Conditions of Dispute Board Agreement

### 1. Definitions

Each "Dispute Board Agreement" is a tripartite agreement by and between:

- (a) the "Employer";
- (b) the "Contractor"; and
- (c) the "Member" who is defined in the Dispute Board Agreement as being:
  - (i) the sole member of the "DB" and, where this is the case, all references to the "Other Members" do not apply, or
  - (ii) one of the three persons who are jointly called the "DB" (or "dispute board") and, where this is the case, the other two persons are called the "Other Members."

The Employer and the Contractor have entered (or intend to enter) into a contract, which is called the "Contract" and is defined in the Dispute Board Agreement, which incorporates this Appendix. In the Dispute Board Agreement, words and expressions which are not otherwise defined shall have the meanings assigned to them in the Contract.

### 2. General Provisions

Unless otherwise stated in the Dispute Board Agreement, it shall take effect on the latest of the following dates:

- (a) the Commencement Date defined in the Contract,
- (b) when the Employer, the Contractor and the Member have each signed the Dispute Board Agreement, or
- (c) when the Employer, the Contractor and each of the Other Members (if any) have respectively each signed a dispute board agreement.

This employment of the Member is a personal appointment. At any time, the Member may give not less than 70 days' notice of resignation to the Employer and to the Contractor, and the Dispute Agreement shall terminate upon the expiry of this period.

### 3. Warranties

The Member warrants and agrees that he/she is and shall be impartial and independent of the Employer, the Contractor and the Engineer. The Member shall promptly disclose, to each of them and to the Other Members (if any), any fact or circumstance which might appear inconsistent with his/her warranty and agreement of impartiality and independence.

When appointing the Member, the Employer and the Contractor relied upon the Member's representations that he/she is:

- (a) experienced in the work which the Contractor is to carry out under the Contract,
- (b) experienced in the interpretation of contract documentation, and
- (c) fluent in the language for communications defined in the Contract.

**4. General  
Obligations of the  
Member**

The Member shall:

- (a) have no interest financial or otherwise in the Employer, the Contractor or Engineer, nor any financial interest in the Contract except for payment under the Dispute Board Agreement;
- (b) not previously have been employed as a consultant or otherwise by the Employer, the Contractor or the Engineer, except in such circumstances as were disclosed in writing to the Employer and the Contractor before they signed the Dispute Board Agreement;
- (c) have disclosed in writing to the Employer, the Contractor and the Other Members (if any), before entering into the Dispute Board Agreement and to his/her best knowledge and recollection, any professional or personal relationships with any director, officer or employee of the Employer, the Contractor or the Engineer, and any previous involvement in the overall project of which the Contract forms part;
- (d) not, for the duration of the Dispute Board Agreement, be employed as a consultant or otherwise by the Employer, the Contractor or the Engineer, except as may be agreed in writing by the Employer, the Contractor and the Other Members (if any);
- (e) comply with the annexed procedural rules and with Sub-Clause 20.4 of the Conditions of Contract;
- (f) not give advice to the Employer, the Contractor, the Employer's Personnel or the Contractor's Personnel concerning the conduct of the Contract, other than in accordance with the annexed procedural rules;
- (g) not while a Member enter into discussions or make any agreement with the Employer, the Contractor or the Engineer regarding employment by any of them, whether as a consultant or otherwise, after ceasing to act under the Dispute Board Agreement;
- (h) ensure his/her availability for all site visits and hearings as are necessary;
- (i) become conversant with the Contract and with the progress of the Works (and of any other parts of the project of which the Contract forms part) by studying all documents received which shall be maintained in a current working file;
- (j) treat the details of the Contract and all the DB's activities and hearings as private and confidential, and not publish or disclose them without the prior written consent of the Employer, the Contractor and the Other Members (if any); and
- (k) be available to give advice and opinions, on any matter relevant to the Contract when requested by both the Employer and the Contractor, subject to the agreement of the Other Members (if any).

**5. General  
Obligations of the  
Employer and the  
Contractor**

The Employer, the Contractor, the Employer's Personnel and the Contractor's Personnel shall not request advice from or consultation with the Member regarding the Contract, otherwise than in the normal course of the DB's activities under the Contract and the Dispute Board Agreement. The Employer and the Contractor shall be responsible for compliance with this provision, by the Employer's Personnel and the Contractor's Personnel respectively.

The Employer and the Contractor undertake to each other and to the Member that the Member shall not, except as otherwise agreed in writing by the Employer, the Contractor, the Member and the Other Members (if any):

- (a) be appointed as an arbitrator in any arbitration under the Contract;
- (b) be called as a witness to give evidence concerning any dispute before arbitrator(s) appointed for any arbitration under the Contract; or
- (c) be liable for any claims for anything done or omitted in the discharge or purported discharge of the Member's functions, unless the act or omission is shown to have been in bad faith.

The Employer and the Contractor hereby jointly and severally indemnify and hold the Member harmless against and from claims from which he is relieved from liability under the preceding paragraph.

Whenever the Employer or the Contractor refers a dispute to the DB under Sub-Clause 20.4 of the Conditions of Contract, which will require the Member to make a site visit and attend a hearing, the Employer or the Contractor shall provide appropriate security for a sum equivalent to the reasonable expenses to be incurred by the Member. No account shall be taken of any other payments due or paid to the Member.

## 6. Payment

The Member shall be paid as follows, in the currency named in the Dispute Board Agreement:

- (a) a retainer fee per calendar month, which shall be considered as payment in full for:
  - (i) being available on 28 days' notice for all site visits and hearings;
  - (ii) becoming and remaining conversant with all project developments and maintaining relevant files;
  - (iii) all office and overhead expenses including secretarial services, photocopying and office supplies incurred in connection with his duties; and
  - (iv) all services performed hereunder except those referred to in subparagraphs (b) and (c) of this Clause.

The retainer fee shall be paid with effect from the last day of the calendar month in which the Dispute Board Agreement becomes effective; until the last day of the calendar month in which the Taking-Over Certificate is issued for the whole of the Works.

With effect from the first day of the calendar month following the month in which the Taking-Over Certificate is issued for the whole of the Works, the retainer fee shall be reduced by one third. This reduced fee shall be paid until the first day of the calendar month in which the Member resigns or the Dispute Board Agreement is otherwise terminated.

- (b) a daily fee which shall be considered as payment in full for:
  - (i) each day or part of a day up to a maximum of two days' travel time in each direction for the journey between the Member's home and the site, or another location of a meeting with the Other Members (if any);

- (ii) each working day on Site visits, hearings or preparing decisions; and
- (iii) each day spent reading submissions in preparation for a hearing.
- (c) all reasonable expenses including necessary travel expenses (air fare in less than first class, hotel and subsistence and other direct travel expenses) incurred in connection with the Member's duties, as well as the cost of telephone calls, courier charges, faxes and telexes: a receipt shall be required for each item in excess of five percent of the daily fee referred to in sub-paragraph (b) of this Clause;
- (d) any taxes properly levied in the Country on payments made to the Member (unless a national or permanent resident of the Country) under this Clause 6.

The retainer and daily fees shall be as specified in the Dispute Board Agreement. Unless it specifies otherwise, these fees shall remain fixed for the first 24 calendar months, and shall thereafter be adjusted by agreement between the Employer, the Contractor and the Member, at each anniversary of the date on which the Dispute Board Agreement became effective.

If the parties fail to agree on the retainer fee or the daily fee of the appointing entity or official named in the Contract Data shall determine the amount of the fees to be used.

The Member shall submit invoices for payment of the monthly retainer and air fares quarterly in advance. Invoices for other expenses and for daily fees shall be submitted following the conclusion of a site visit or hearing. All invoices shall be accompanied by a brief description of activities performed during the relevant period and shall be addressed to the Contractor.

The Contractor shall pay each of the Member's invoices in full within 56 calendar days after receiving each invoice and shall apply to the Employer (in the Statements under the Contract) for reimbursement of one-half of the amounts of these invoices. The Employer shall then pay the Contractor in accordance with the Contract.

If the Contractor fails to pay to the Member the amount to which he/she is entitled under the Dispute Board Agreement, the Employer shall pay the amount due to the Member and any other amount which may be required to maintain the operation of the DB; and without prejudice to the Employer's rights or remedies. In addition to all other rights arising from this default, the Employer shall be entitled to reimbursement of all sums paid in excess of one-half of these payments, plus all costs of recovering these sums and financing charges calculated at the rate specified in Sub-Clause 14.8 of the Conditions of Contract.

If the Member does not receive payment of the amount due within 70 days after submitting a valid invoice, the Member may (i) suspend his/her services (without notice) until the payment is received, and/or (ii) resign his/her appointment by giving notice under Clause 7.

## 7. Termination

At any time: (i) the Employer and the Contractor may jointly terminate the Dispute Board Agreement by giving 42 days' notice to the Member; or (ii) the Member may resign as provided for in Clause 2.

If the Member fails to comply with the Dispute Board Agreement, the Employer and the Contractor may, without prejudice to their other rights, terminate it by notice to the Member. The notice shall take effect when received by the Member.

If the Employer or the Contractor fails to comply with the Dispute Board Agreement, the Member may, without prejudice to his other rights, terminate it by notice to the Employer and the Contractor. The notice shall take effect when received by them both.

Any such notice, resignation and termination shall be final and binding on the Employer, the Contractor and the Member. However, a notice by the Employer or the Contractor, but not by both, shall be of no effect.

#### **8. Default of the Member**

If the Member fails to comply with any of his obligations under Clause 4 (a) - (d) above, he shall not be entitled to any fees or expenses hereunder and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses received by the Member and the Other Members (if any), for proceedings or decisions (if any) of the DB which are rendered void or ineffective by the said failure to comply.

If the Member fails to comply with any of his obligations under Clause 4 (e) - (k) above, he shall not be entitled to any fees or expenses hereunder from the date and to the extent of the non-compliance and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses already received by the Member, for proceedings or decisions (if any) of the DB which are rendered void or ineffective by the said failure to comply.

#### **9. Disputes**

Any dispute or claim arising out of or in connection with this Dispute Board Agreement, or the breach, termination or invalidity thereof, shall be finally settled by institutional arbitration. If no other arbitration institute is agreed, the arbitration shall be conducted under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with these Rules of Arbitration.

## Procedural Rules

Unless otherwise agreed by the Employer and the Contractor, the DB shall visit the site at intervals of not more than 140 days, including times of critical construction events, at the request of either the Employer or the Contractor. Unless otherwise agreed by the Employer, the Contractor and the DB, the period between consecutive visits shall not be less than 70 days, except as required to convene a hearing as described below.

The timing of and agenda for each site visit shall be as agreed jointly by the DB, the Employer and the Contractor, or in the absence of agreement, shall be decided by the DB. The purpose of site visits is to enable the DB to become and remain acquainted with the progress of the Works and of any actual or potential problems or claims, and, as far as reasonable, to endeavour to prevent potential problems or claims from becoming disputes.

Site visits shall be attended by the Employer, the Contractor and the Engineer and shall be co-ordinated by the Employer in co-operation with the Contractor. The Employer shall ensure the provision of appropriate conference facilities and secretarial and copying services. At the conclusion of each site visit and before leaving the site, the DB shall prepare a report on its activities during the visit and shall send copies to the Employer and the Contractor.

The Employer and the Contractor shall furnish to the DB one copy of all documents which the DB may request, including Contract documents, progress reports, variation instructions, certificates and other documents pertinent to the performance of the Contract. All communications between the DB and the Employer or the Contractor shall be copied to the other Party. If the DB comprises three persons, the Employer and the Contractor shall send copies of these requested documents and these communications to each of these persons.

If any dispute is referred to the DB in accordance with Sub-Clause 20.4 of the Conditions of Contract, the DB shall proceed in accordance with Sub-Clause 20.4 and these Rules. Subject to the time allowed to give notice of a decision and other relevant factors, the DB shall:

- (a) act fairly and impartially as between the Employer and the Contractor, giving each of them a reasonable opportunity of putting his case and responding to the other's case, and
- (b) adopt procedures suitable to the dispute, avoiding unnecessary delay or expense.

The DB may conduct a hearing on the dispute, in which event it will decide on the date and place for the hearing and may request that written documentation and arguments from the Employer and the Contractor be presented to it prior to or at the hearing.

Except as otherwise agreed in writing by the Employer and the Contractor, the DB shall have power to adopt an inquisitorial procedure, to refuse admission to hearings or audience at hearings to any persons other than representatives of the Employer, the Contractor and the Engineer, and to proceed in the absence of any party who the DB is satisfied received notice of the hearing; but shall have discretion to decide whether and to what extent this power may be exercised.

The Employer and the Contractor empower the DB, among other things, to:

- (a) establish the procedure to be applied in deciding a dispute,
- (b) decide upon the DB's own jurisdiction, and as to the scope of any dispute referred to it,
- (c) conduct any hearing as it thinks fit, not being bound by any rules or procedures other than those contained in the Contract and these Guidelines,



- (d) take the initiative in ascertaining the facts and matters required for a decision,
- (e) make use of its own specialist knowledge, if any,
- (f) decide upon the payment of financing charges in accordance with the Contract,
- (g) decide upon any provisional relief such as interim or conservatory measures, and
- (h) open up, review and revise any certificate, decision, determination, instruction, opinion or valuation of the Engineer, relevant to the dispute.

The DB shall not express any opinions during any hearing concerning the merits of any arguments advanced by the Parties. Thereafter, the DB shall make and give its decision in accordance with Sub-Clause 20.4, or as otherwise agreed by the Employer and the Contractor in writing. If the DB comprises three persons:

- (a) it shall convene in private after a hearing, in order to have discussions and prepare its decision;
- (b) it shall endeavour to reach a unanimous decision: if this proves impossible the applicable decision shall be made by a majority of the Members, who may require the minority Member to prepare a written report for submission to the Employer and the Contractor; and
- (c) if a Member fails to attend a meeting or hearing, or to fulfil any required function, the other two Members may nevertheless proceed to make a decision, unless:
  - (i) either the Employer or the Contractor does not agree that they do so, or
  - (ii) the absent Member is the chairman and he/she instructs the other Members to not make a decision.

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## Section 8 – Particular Conditions of Contract

The PCC complement the GCC to specify data and contractual requirements linked to the special circumstances of the country, the Employer, the Engineer, the sector, the overall project, and the Works. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

Part A - Contract Data of the PCC, includes data to complement the GCC in a manner similar to the way in which the Bid Data Sheet (BDS) complements the Instructions to Bidders (ITB).

Part B - Specific Provisions of the PCC are sample provisions for use by the Employer in preparing the PCC. They are not a complete standard set of PCC provisions. Country- or project-specific provisions may need to be prepared in each case.

Note that the PCC provisions take precedence over those in the GCC.

Clause numbers in the PCC correspond to those in the GCC.

## Part A - Contract Data

### Note -

The Employer shall insert relevant data prior to the issue of the bidding document. Where a number of days is to be inserted it is desirable for the number to be a multiple of seven for consistency with the Conditions of Contract.

Ref. GCC	Subject	Data
1.1.2.2 & 1.3	Employer's name and address	[ ... insert Employer's name and address ... ]
1.1.2.4 & 1.3	Engineer's name and address	[ ... insert Engineer's name and address ... ]
1.1.2.11	Bank's name	Asian Development Bank (ADB)
1.1.2.12	Borrower's name	[ ... insert Borrower's name ... ]
1.1.3.3	Time for Completion	.....days [ ... insert the time for completion of the whole of the Works and also the time for completion of sections, if applicable. If times (or dates) are to be specified for various sections of the Works, they should be listed here ... ]
1.1.3.7	Defects Notification Period	365 days.
1.1.5.6	Sections	[If sections are used, refer to table Summary of Sections of the Works given below]
1.3	Electronic transmission systems	[ ... insert Electronic transmission systems... ]
1.4	Governing Law	[ ... insert: "The law of name Borrower's country ... ]
1.4	Ruling language	English
1.4	Language for communications	English
2.1	Time for access to the Site	_____days after Commencement Date
3.1(b)(ii)	Engineer's Duties and Authority	Variations resulting in an increase of the Accepted Contract Amount in excess of____% shall require approval of the Employer.
4.2	Performance Security	The performance security will be in the form of an unconditional bank guarantee in the amount(s) of [insert related figure(s)] percent of the Contract Price.]
6.5	Normal working hours	
8.7 & 14.15(b)	Delay damages for the Works	_____ % of the final Contract Price per day, in the currencies and proportions in which the Contract Price is payable.
8.7	Maximum amount of delay damages	_____ % of the final Contract Price.
13.5.(b)(ii)	Provisional Sums	_____ %[If there are Provisional Sums, insert a percentage for adjustment of Provisional Sums]
13.8	Adjustments for Changes in Cost; Table(s) of Adjustment Data	Period "n" applicable to the adjustment multiplier "Pn": _____ [Insert the period if different from one (1) month; if period "n" is one (1) month, insert "not applicable"]

14.2	<b>Total advance payment</b>	% Percentage of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable [Insert number and timing of installments if applicable]
14.2(b)	<b>Repayment amortization of advance payment</b>	_____ %
14.3	<b>Percentage of Retention</b>	_____ %
14.3	<b>Limit of Retention Money</b>	_____ % of the Accepted Contract Amount
14.5(b)(i)	<b>Plant and Materials</b>	If Sub-Clause 14.5 applies: Plant and Materials for payment when shipped en route to the Site _____ [list].
14.5(c)(i)		Plant and Materials for payment when delivered to the Site _____ [list].
14.6	<b>Minimum Amount of Interim Payment Certificates</b>	_____ % of the Accepted Contract Amount.
17.6	<b>Maximum total liability of the Contractor to the Employer</b>	[Select one of the two options below as appropriate]  The product of _____ [insert a multiplier less or greater than one] times the Accepted Contract Amount,  or _____ [insert amount of the maximum total liability]
18.1	<b>Periods for submission of insurance:</b>  a. evidence of insurance. b. relevant policies	[Insert period for submission of evidence of insurance and policy. Period may be from 14 days to 28 days.] ____ days ____ days
18.2(d)	<b>Maximum amount of deductibles for insurance of the Employer's risks</b>	[insert maximum amount of deductibles]
18.3	<b>Minimum amount of third party insurance</b>	[insert minimum amount of third party insurance]
20.2	<b>Date by which the DAB shall be appointed</b>	28 days after the Commencement
20.2	<b>The DAB shall be comprised of</b>	insert either "One sole Member" or "Three Members"
20.2	<b>List of potential DB sole members</b>	[Only when the DB is to be comprised of one sole member, list names of potential sole members; if no potential sole members are to be included, insert: "none"]
20.3	<b>Appointment (if not agreed) to be made by</b>	[Insert name of the appointing entity or official] Note: The entity or official to be appointed must not, in any way be related to the Employer/Project Executing Agency /Project Implementing Agency.
20.6 (a)	<b>International arbitration</b>	International arbitration shall be:  (i) Administered by: [ ... insert institution ... ] If no institution has been specified, then the Singapore International Arbitration Centre (SIAC) shall be the institution to administer the arbitration.  (ii) Conducted in accordance with the rules of: [ ... insert rules ... ]. If no rules have been specified, then SIAC rules shall apply.

**Summary of Sections of the Works**

Section Name/Description (Sub-Clause 1.1.5.6)	Time for Completion (Sub-Clause 1.1.3.3)	Damages for Delay (Sub-Clause 8.7)

**Part B - Specific Provisions****- Note -**

Part B - Specific Provisions of the PCC are intended to address country, project, and contract specific requirements not covered by the GCC. Whoever drafts the Specific Provisions should be thoroughly familiar with the provisions of the GCC and with any specific requirements of the contract. Legal advice is recommended when amending provisions or drafting new ones.

# Section 9 - Contract Forms

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

## Table of Forms

<b>Letter of Acceptance .....</b>	<b>98</b>
<b>Contract Agreement .....</b>	<b>99</b>
<b>Performance Security.....</b>	<b>100</b>
<b>Advance Payment Security.....</b>	<b>101</b>

# Letter of Acceptance

---- on letterhead paper of the Employer ----

.....date.....

To: ..... name and address of the Contractor .....

Subject: ..... Notification of Award Contract No. ....

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

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the Performance Security Form included in Section 9 (Contract Forms) of the Bidding Document.

Authorized Signature: .....

Name and Title of Signatory: .....

Name of Agency: .....

Attachment: Contract Agreement

## Contract Agreement

THIS AGREEMENT made the .....day of ....., between .....*name of the Employer*..... (hereinafter “the Employer”), of the one part, and .....*name of the Contractor*... (hereinafter “the Contractor”), of the other part:

WHEREAS the *Employer* desires that the Works known as .....*name of the Contract*.... should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - (a) the Letter of Acceptance
  - (b) the Letter of Bid
  - (c) the Addenda Nos .....*insert addenda numbers if any*.....
  - (d) the Particular Conditions
  - (e) the General Conditions;
  - (f) the Specification
  - (g) the Drawings; and
  - (h) the completed Schedules,
3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of .....*name of the borrowing country*.... on the day, month and year indicated above.

Signed by .....

for and on behalf of the Employer  
in the presence of

Witness, Name, Signature, Address, Date

Signed by .....

for and on behalf the Contractor  
in the presence of

Witness, Name, Signature, Address, Date



## Performance Security

*Bank's Name, and Address of Issuing Branch or Office*

**Beneficiary:** .....*Name and Address of Employer* .....

**Date:** .....

**Performance Guarantee No.:** .....

We have been informed that .....*name of the Contractor*..... (hereinafter called “the Contractor”) has entered into Contract No. ....*reference number of the Contract*..... dated .....with you, for the execution of .....*name of contract and brief description of Works*..... (hereinafter called “the Contract”).

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

At the request of the Contractor, we .....*name of the Bank*..... hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of .....*name of the currency and amount in figures*<sup>1</sup>..... (*amount in words*..... ) such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the ..... Day of .....<sup>2</sup>, and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

.....  
*Seal of Bank and Signature(s)*

### **- Note -**

All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

<sup>1</sup> The Guarantor shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Employer.

<sup>2</sup> Insert the date twenty-eight days after the expected completion date. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”

## Advance Payment Security

*Bank's Name, and Address of Issuing Branch or Office*

**Beneficiary:** .....*Name and Address of Employer* .....

**Date:** .....

**Advance Payment Guarantee No.:** .....

We have been informed that .....*name of the Contractor*..... (hereinafter called "the Contractor") has entered into Contract No. ....*reference number of the Contract*..... dated .....with you, for the execution of .....*name of contract and brief description of Works*..... (hereinafter called "the Contract").

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum .....*name of the currency and amount in figures* <sup>1</sup>.....(*amount in words*..... ) is to be made against an advance payment guarantee.

At the request of the Contractor, we .....*name of the Bank*..... hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of .....*name of the currency and amount in figures*\*.....(*amount in words*..... ) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number .....*Contractor's account number*..... At.....*name and address of the Bank*.....

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the ... day of .....,.....<sup>2</sup>, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date..

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

.....*Seal of Bank and Signature(s)*.....

### **- Note -**

All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

<sup>1</sup> The Guarantor shall insert an amount representing the amount of the advance payment denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.

<sup>2</sup> Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

## **User's Guide: Procurement of Works**

This User's Guide is intended to provide guidance to borrowers on how to prepare a bidding document for an admeasurement (unit price) type of works contracts, and how to evaluate bids and award contracts, based on *ADB's Standard Bidding Document for the Procurement of Works* that are available for cases of "with" and "without" prequalification.

## **About the Asian Development Bank**

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries substantially reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to two-thirds of the world's poor: 1.8 billion people who live on less than \$2 a day, with 903 million struggling on less than \$1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.