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**Ministry of Finance and Treasury**

**Republic of Maldives**

**SECTION 2: INSTRUCTION TO TENDERERS**

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| **DEVELOPMENT OF 2500 HOUSING UNITS PROJECT IN HULHUMALE’ PHASE 2, 2016** |

**Project Number: TES/ 2016/W-75**

**September 2016**

**Public Procurement Division**

**Ministry of Finance and Treasury**

# 2.1 Relevant Background Information

Given below is the relevant background information.

1. Project Scope :

The scope of work includes Design & construction of the following works in **Hulhumalé, Republic of Maldives.**

Design and Construct 2500 Social Housing Units in Hulhumale’ Phase 2 of Maldives. The Housing units must be 2 bedrooms with attached toilets, with a total unit area of 550 square feet. The height of buildings will be 10-15 stories.

1. Design and Specifications :

The design has to be done by the Contractor, and shall be as per the guidelines given by the Employer and the construction should be conforming to British Standard Specifications.

1. Type of Contract and Agreement :

The contract will be a priced as **Lump sum** contract and the agreement will be based on the Conditions of Contract for EPC/Turnkey Projects, First Edition 1999 published by the *Fédération Internationale Des Ingénieurs-Conseils* (FIDIC).

1. Method of Implementation :

The contractor shall, design and execute the Works in accordance to the approved Drawings, Technical Specifications, Conditions of contract and compliance with requirements of relevant authorities. The work progress and quality of work will be inspected by the Employer throughout the Construction Stage, to check whether the Works confirm with the above mentioned documents.

1. Time for Completion :

The duration for completion of the works has to be proposed as follows;

* Construction and design stage: to be proposed (Maximum 720 calendar days)

1. Customs Duties and Taxes :

Customs duties for imports of materials, machinery and equipment related to the contract of this Project will be exempted (Duty Free). However, Taxes applicable under local regulations will be applicable throughout the Project.

1. Funding :

The Contractor shall arrange and facilitate a financier whereby the employer will sign a loan agreement as a borrower with the financier.

OR

The Contractor shall finance the project whereby the employer will sign a loan agreement as a borrower with the Contractor.

1. Advance payment :

The contractor will be entitled to an advance payment of 15% of the agreed contract sum, upon submission of an acceptable Bank Guarantee. The advance shall be deducted at a rate of 15% of each and every certified interim payment.

1. Performance bond :

The contractor will have to submit a Performance Bond equal to 5 % (Five percent) of the contract sum. This bond should be valid throughout the contract and defects liability period.

1. Retention Monies :

Retention will be deducted at 10% (ten percent) of each and every interim payment, up to a maximum of 5% (five percent) of the contract sum. Retention will be released on completion of the defects liability period, subject to making good all defects.

1. Defects liability period :

The defects liability period will be one year after practical completion and handover of the works.

1. Liquidated damages :

Liquidated penalty damages will be levied at the rate of 0.01% (naught point zero one percent) for each and every day’s delay in completion by the contractor, up to a maximum of 05% of the final contract price, less time of extensions granted.

1. Resolution of disputes :

Disputes will be settled pursuant to the *Fédération Internationale des Ingénieurs-Conseils* (FIDIC)-1st Edition 1999, Conditions of Contract for EPC/Turnkey Projects.

1. Language of Contract :

The language of the contract shall be English and the contractor will be expected to have site staff competent in English or provide translators where necessary.

1. Submission of bids :

All applicants who have obtained bid documents will be expected to submit their bids within the dates as specified in Section 1 (Invitation to Tender).

1. Validity of bids:

Validity period of the Bid will be 120 days from the date of submission.

1. Bid Security

Bid security of this project is USD 500,000 (Five Hundred Thousand United State Dollar)

1. Material transport to the island

For the transport of the Materials to the Hulhumalé’ island, contractors has to follow the local rules and regulations and has to bear all the cost involved.

1. Contractors Yard

Contractors yard to be allocated within the site. If the contractor request for an additional yard, it will be allocated at the rate of USD 0.44 per Sqft.

# 2.2 Instruction to Bidders (ITB)

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|  |  |  | 1. **GENERAL** |
| **1** | **Scope of Bid** | 1.1 | **The Ministry of Finance and Treasury** (Executing Agency) on behalf of the **Housing Development Corporation Limited** (herein after called and referred to as “the Employer”),  wishes to receive bids for the Design, execute and completion of works and remedying defect of 2,500 Housing Units Project in Hulhumale’ Phase 2 which consist of;   * 10-15 Storey buildings, with a total area of 550 square feet per Housing unit, each unit consisting of 2 bedrooms with attached toilets   Hereinafter referred to as “the Works.” |
|  |  | 1.2 | The successful bidder will be expected to complete the Works within the period stated in the Section 3, “Form of letter of Tender” from the date of commencement of the Works. |
|  |  | 1.3 | The contractor shall develop a Conceptual drawing and prepare detailed design and obtain approval from the employer.  The contractor shall bring in all materials, machinery, equipment and necessary labour. The contractor will be expected to provide food and lodging for all management staff and labour at site.  Works shall be carried out in accordance to the approved Drawings, Technical Specifications, Conditions of contract and compliance with requirements of relevant authorities. The contractor will have to conform to the Laws of the Republic of Maldives in all respects in executing the works.  The work progress and quality of work will be inspected by the Employer throughout the Construction Stage, to check whether the Works confirm with the above mentioned documents. |
|  |  | 1.4 | Contractor’s yard will be allocated within the site. If the contractor request for an additional yard, it will be allocated based on the requirement in according to Employer’s guideline. |
|  |  | 1.5 | Unless mentioned otherwise, all the documents requested to be submitted as per any of the clauses below and anywhere else in this bid, should be submitted and noncompliance to this may lead to rejection of that particular Proposal at the Bid Evaluation Stage. |
| **2** | **Interpretation** | 2.1 | The terms used in these instructions shall have the same meanings assigned to them in sub clause 1.1 (Definitions) and sub clause 1.2 (interpretation) of Section 5- General conditions in the tender documents, subject to any amendments stated in Particular Conditions of Section 6. The words “tender” and “bid” are used here interchangeable and shall have the same meaning and likewise any derivative of each shall have the same meaning as the corresponding derivative of the other. |
| **3** | **Source of Funds** | 3.1 | The Contractor shall arrange and facilitate a financier whereby the employer will sign a loan agreement as a borrower with the financier.  OR  The Contractor shall finance the project whereby the employer will sign a loan agreement as a borrower with the Contractor. |
| **4** | **Eligible Bidders** | 4.1 | This invitation to bid is open for any local and international Engineering firms, Companies meeting all the following requirements:   1. the bidder shall not be affiliated with a firm or entity that: 2. has provided consulting services related to the Works to the Employer during the preparatory stages of the Works; or 3. has been hired by the Employer for provision of any services for the Works 4. the bidder should be well established and professionally organized companies and should have been in operation since at least 10 (Ten) years(s) prior to the date of bid submission and should have completed at least 1 (One) Project of value similar to the scale and scope of this project within past 10 Years. 5. the bidder should have the legal capacity to bid and enter into contracts. Such bidders shall not at the time of tendering or thereafter be ineligible to bid and enter into contracts. 6. the bidder should be able to arrange and facilitate a financer who will finance the project according to the Financial Terms specified in the Employer’s Requirements.   Bidders shall provide the following documentation for evidence of eligibility for above matters. *Failure to do so WILL render the Bidder ineligible and lead to* ***disqualification of the bid****.*   1. Business profile/ work profile in the format shown in Form 4.1 (General Information), in section 4 (Forms of Bid Qualification Information) 2. A copy of business Registration certificate. 3. Tax (GST) Registration certificates (where applicable). 4. Design & Construction Permit/License (where applicable). 5. Documents (a letter, certificates, etc.) signed by previous Clients indicating the project value, duration and completion date corresponding to and supporting the above. 6. Financier’s official document(s) ensuring that they will provide finance as per the Financial Terms specified in the Employer’s Requirement & as per the bidders offer in Form B of Section 3, Letter of Tender.   **Late submission of any of the above mentioned document will not be entertained.** |
|  |  | 4.2 | Bidders are **required to produce a signed declaration** stating that they have no continuing decreed debt, have not been convicted of theft, fraud and/or embezzlement during the last five years. In case of companies and partnerships, the declaration should be for the company, partners, directors, and shareholders of private limited companies. ***Failure to do so WILL render the Bidder ineligible and lead to disqualification of the bid.*** |
| **5** | **Qualification of the Bidder** | 5.1 | Each bidder shall submit the following as part of the bid information and confirm that such information has not changed. In any case information concerning the following must be submitted in the formats shown in section 4 (Forms of Bid Qualification Information) ;   1. Summary of audited financial statement for the last 5 (Five) years in the format shown in 4.2.1 of 4.2: Financial Data. 2. Audited financial statements (Certified copies of audited Balance Sheets, Income Statements, and Cash flow Statements for most recent 5 years/Chartered Accountants Certificates to be enclosed) of the bidder. 3. evidence of access to lines of credit and availability of other financial resources; (refer to 4.2.2 of Section 4) 4. financial predictions for the current year and the two following years, including the effect of known commitments; (refer to 4.2.3 of Section 4) 5. any current litigation in which the bidder is involved in the format shown in the Form 4.3 of Section 4; “Litigation/Arbitration.” 6. The continued availability of equipment required for execution of the works in the format shown in the format shown in the Form 4.5 of Section 4; “EQUIPMENT, MACHINERIES AND PLANTS PROPOSED FOR THE PROJECT” Form A & B. 7. List of works of similar nature executed by the bidder during the last 5 years- with the value more than USD 50 Million for each individual project. A Completion certificate (or any other document given by the customer/client) which clearly indicates the total contract value, the completion date, the scope of works undertaken must be submitted for each individual project listed. Projects should be listed in the format shown in the Form 4.4.2 of Section 4; “List of all completed contracts” 8. Names and qualifications of senior management and technical personnel in the bidder's organization in the format shown in the FORM 4.6: STAFF PROPOSED FOR EXECUTION OF THE WORKS. 9. Is not debarred, suspended, nominated or proposed for debarment, by any of the client or who proposes to do business with firms or firms’ principals who are debarred, suspended, or proposed for debarment by the Client in the performance of the requirement of this activity, in the format shown in 4.9 of Section 4: PARTICULARS OF BANNED OR DE-LISTED TENDERER/FIRM/VENDORS, 10. Have a minimum annual turnover of Design and Construction work of not less than an amount determined in accordance with the following formula:   The bidder’s price x 12 x 1.5  No. of Months of Design & Construction of the Work  Minimum Annual  Turnover =  The Minimum Annual Turnover will be compared with the average turnover of last five years (Audited Financial Statements). |
|  |  | 5.2 | To be qualified for award of the Contract, bidders shall submit a written power of attorney/Resolution by the Board of Directors of the Company authorizing the signatory of the bid to commit the bidder. |
| **6** | **One Bid per Bidder** | 6.1 | Each bidder shall submit only one bid either by himself, or the bidder as a partner in a joint venture, or as a shareholder in a private company. A bidder who submits or participates in more than one bid will be disqualified. |
| **7** | **Cost of Bidding** | 7.1 | The bidder shall bear all costs associated with the preparation and submission of its bid, and the Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. However, upon submission of the bid to the Employer, the bid will become the absolute property of Employer, and the bidder will not have any right whatsoever to claim back any of the documentation or material comprising the bid. |
| **8** | **Site Visit** | 8.1 | The bidder shall visit and examine the Site of the Project and its surroundings and obtain for itself on its own responsibility all information that may be necessary for Design and preparing the bid and entering into a contract for execution of the Works. The costs of visiting the Site shall be at the bidder's own expense. |
|  |  | 8.2 | 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. |
|  |  |  | 1. **BIDDING DOCUMENTS** |
| **9** | **Content of Bidding Documents** | 9.1 | The Bidding Documents are those stated below, and bidding should be read in conjunction with any Addenda issued documents in accordance with Clause 11 of this ITB:  Section 1: Invitation for Bids  Section 2: Instructions to Bidders  Section 3: Form of Letter of Tender  Section 4: Forms of Bid Qualification Information  Section 5: General Conditions  Section 6: Particular Conditions  Section 7: Employer’s Requirements  Section 8: Forms & Agreement  Section 9: Technical specifications |
| **10** | **Clarification of Bidding Documents** | 10.1 | A prospective bidder requiring any clarification of the Bidding Documents may notify the Employer in writing, by fax or e-mail at the Employer's address indicated in the Appendix to bid. The Employer will respond to any request for clarification, (as instructed by the bidder in the 'Pre-Bid Meeting) copies of the Employer's response will be forwarded to all purchasers of the Bidding Documents, including a description of the inquiry but without identifying its source.  No oral interpretation shall be made to any bidder as to the meaning of any of the bid documents. |
| **11** | **Amendment of Bidding Documents** | 11.1 | The Employer may Issue Addenda as Instructed in the pre-Bid meeting. |
|  |  | 11.2 | Any Addendum thus issued shall be part of the Bidding Documents pursuant to Sub-Clause 9.1 of this ITB, and shall be communicated in writing, by fax or e-mail to all purchasers of the Bidding Documents. Prospective bidders shall promptly acknowledge receipt of each Addendum by fax or email to the Employer. |
|  |  | 11.3 | To give prospective bidders reasonable time in which to take an Addendum into account in preparing their bids, the Employer shall extend as necessary the deadline for submission of bids, in accordance with Clause 21 of this ITB. |
|  |  |  | **C. PREPARATION OF BIDS** |
| **12** | **Language of the Bid** | 12.1 | The tender, contract documents and correspondence and documents relating to the project shall be in the English language(s). Documents submitted in any other language should accompany the attested English translation of the same and the translation will be referred to and considered throughout the bidding process and in contracts. The bidder will be expected to have site staff competent in English or provide translators where necessary. |
| **13** | **Documents Comprising the Bid** | 13.1 | The bid submitted by the bidder shall comprise the following:   * Duly filled-in Form of letter of tender (section 3); * Bid Security; * Alternative offers where invited; and any other materials required to be completed and submitted by bidders in accordance with these Instructions to bidders. * All Filled forms of Bid Qualification Information (Section 4)   All the documents specified in Sections 3, 7 and Form of Bid Security in Section 8 shall be completed without exception, subject to extensions therefore in the same format and to the provisions of Sub-clause 17.2 of this ITB regarding the alternative forms of bid security. |
| **14** | **Bid Prices** | 14.1 | Unless stated otherwise in the Bidding Documents, the Contract shall be for the whole works as described in Sub clause 1.1 based on the price proposed by the bidder in Section 3: Letter of Tender. |
|  |  | 14.2 | The bidder shall fill in rates for all the Works described in the Section 7. The bid submitted by the bidder shall be deemed to cover all materials, equipment, personnel and work necessary for the Project, and deemed to have examined the site and its surrounding, site conditions and access, and have taken into account all possible risk and contingencies, prior to quoting. |
|  |  | 14.3 | All duties, taxes, and other levies applicable & payable by the Contractor under the contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the rates and prices and the total Bid Price submitted by the bidder. |
|  |  | 14.4 | Unless otherwise provided in the Particular Conditions, the rates quoted by the bidder are not subject to price adjustment during the performance of the Contract. |
| **15** | **Currencies of Bid and Payment** | 15.1 | The bid currency shall be in United States Dollar (USD). |
| **16** | **Bid Validity** | 16.1 | Bids shall remain valid for the period of **120 Calendar Days** from the date of bid opening specified in sub-clause 24.1 of this ITB |
|  |  | 16.2 | In exceptional circumstances, prior to expiry of the original bid validity period, the Employer may request that the bidders extend the period of validity for a specified additional period. The request and the responses thereto shall be made in writing; by fax or e-mail. A bidder may refuse the request without forfeiting its bid security. A bidder agreeing to the request will not be required or permitted to modify its bid, but will be required to extend the validity of its bid security for the period of the extension, and in compliance with Clause 17 in all respects. |
| **17** | **Bid Security** | 17.1 | The bidder shall furnish, as part of its bid, a bid security in the amount **USD 500,000.00** in the bid currency. |
|  |  | 17.2 | The Bid Security shall, at the bidder's option, be in the form of a bank guaranteed cheque, or a bank guarantee from a reputable bank selected by the bidder and acceptable to the Employer. The format of the bank guarantee shall be in accordance with the “form of bid security” included in Section 7. Other formats may be permitted, subject to the prior approval of the Employer. **Bid security shall remain valid for a period of 28 days beyond the original validity period for the bid**, and beyond any period of extension subsequently requested under Sub-Clause 16.2. |
|  |  | 17.3 | Any bid not accompanied by the bid security as required under the clause 17 shall be rejected by the Employer as non-responsive. The bid security of a joint venture must be in the name of the joint venture submitting the bid or from the lead partner of the joint venture. |
|  |  | 17.4 | The Bid Securities of unsuccessful bidders will be returned as promptly as possible, but not later than 28 days after the expiration of the period of bid validity. |
|  |  | 17.5 | The Bid Security of the successful bidder will be returned when the bidder has signed the Agreement and furnished the required performance security. |
|  |  | 17.6 | The Bid Security may be forfeited;   1. if the bidder withdraws its bid, except as provided in Sub-Clause 23.2. 2. if the bidder does not accept the correction of its Bid Price, pursuant to Sub-Clause 28.2 or 3. in the case of a successful bidder, if he fails within the specified time limit to:   (i) Sign the Agreement, or  (ii) Furnish the required Performance Security   1. arrange financing as per their proposal |
| **18** | **Pre-Bid Meeting** | 18.1 | Not Applicable. |
| **19** | **Format and Signing of Bids** | 19.1 | The bidder shall prepare one original of the bid comprising the bid as described in Clause 13 of these Instructions to Bidders, bound with the section containing the Form of Letter of Tender and Appendix to Tender, and clearly marked **"ORIGINAL**." In addition, the bidder shall submit **1 Hard Copy** of the bid and clearly marked "COPY” and **1 Soft Copy** of the original signed and stamped proposal submitted. In the event of discrepancy between them, the original shall prevail. |
|  |  | 19.2 | The original of the bid shall be typed or written in indelible ink (in the case of copies, photocopies are also acceptable) and shall be signed by a person or persons duly authorized to sign on behalf of the bidder, pursuant to sub-Clause 5.2. All pages of the bid, except for un amended printed literature, shall be initialled by the person or persons signing the bid. |
|  |  | 19.3 | The bid shall contain no alterations, omissions, or additions, unless such corrections are initialled by the person or persons signing the bid. |
|  |  |  | **D. SUBMISSION OF BIDS** |
| **20** | **Sealing and Marking of Bids** | 20.1 | The bidder shall seal the original and each copy of the bid in separate envelopes, duly marking the envelopes as “ORIGINAL" and "COPY" as appropriate. The envelopes shall then be sealed in an outer envelope. |
|  |  | 20.2 | The inner and outer envelopes shall   1. be addressed to the Employer at the address provided in the sub-clause 1.1. 2. bear the following identification and warning:   **“Development of 2500 Housing Project in Hulhumale’ Phase 2”**  **DO NOT OPEN BEFORE 13:00 HRS , September 26, 2016** |
|  |  | 20.3 | In addition to the identification required in Sub-Clause 20.2, the inner envelopes shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is declared “late" pursuant to Clause 22, and for matching purposes under Clause 23. |
|  |  | 20.4 | If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the bid. If the outer envelope discloses the bidder's identity, the Employer will not guarantee the anonymity of the bid submission, but this shall not constitute grounds for rejection of the bid. |
| **21** | **Deadline for Submission of Bids** | 21.1 | Bids must be received by the Employer at the address stated in Sub-Clause 20.2. (a) no later than the time and date stipulated in the Sub-clause 20.2 (b). |
|  |  | 21.2 | The Employer may, in exceptional circumstances and at its discretion, extend the deadline for submission of bids by issuing an Addendum in accordance with Clause 11, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will thereafter be subject to the deadline as extended. |
| **22** | **Late Bids** | 22.1 | Any bid received by the Employer after the deadline for submission of bids prescribed in Clause 21 will be returned unopened to the bidder. |
| **23** | **Modification, Substitution and Withdrawal of Bids** | 23.1 | The bidder may modify, substitute, or withdraw its bid after bid submission, provided that written notice of the modification or withdrawal is received by the employer prior to the deadline for submission of bids. |
|  |  | 23.2 | The bidder's modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with the provisions of Clause 20, with the outer and inner envelopes additionally marked “MODIFICATION", "SUBSTITUTION", or "WITHDRAWAL," as appropriate. |
|  |  | 23.3 | No bid may be modified by the bidder after the deadline for submission of bids, except in accordance with Sub-Clauses 23 .2 and 28.2. |
|  |  | 23.4 | No bid may be withdrawn during the interval (after the submission of bids and the expiry of the period of bid validity specified in Clause 16). Withdrawal of a bid during the said interval may result in the forfeiture of the Bidder's bid security pursuant to Sub-Clause 17.6. |
|  |  |  | **E. BID OPENING AND EVALUATION** |
| **24** | **Bid Opening** | 24.1 | The Employer will open the bids, including modifications made pursuant to Clause 23, in the presence of bidders’ representatives who choose to attend at **13:00 HRS , 26th September 2016** at the following location:  Public Procurement Division,  Ministry of Finance and Treasury  Ameenee Magu  Republic of Maldives  The bidder’s representatives who are present shall sign a register evidencing their attendance. |
|  |  | 24.2 | Envelopes marked ‘WITHDRAWAL’ and ‘SUBSTITUTION’ shall be opened first and the name of the bidder shall be read out. Bids for which an acceptable notice of withdrawal has been submitted pursuant to clause 23 shall not be opened. |
|  |  | 24.3 | The bidders names, the total amount of each bid and any alternative bid (if an alternative has been requested or permitted), any discounts, bid modifications, substitutions and withdrawals, the presence or absence of bid security, and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening. |
|  |  | 24.4 | The Employer shall prepare minutes of the bid opening, including the information disclosed to those present in accordance with sub-clause 24.3. |
|  |  | 24.5 | Bids not opened and read out at the bid opening shall not be considered further for evaluation, irrespective of the circumstances. |
| **25** | **Process to be Confidential** | 25.1 | Information relating to the examination, clarification, evaluation and comparison of bids, and recommendations for the award of the Contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful bidder has been announced. Any effort by a bidder to influence the Employer's processing of bids or award decisions may result in the rejection of the bidder's bid. |
| **26** | **Clarification of Bids and Contacting the Employer** | 26.1 | To assist in the examination, evaluation, and comparison of bids, the Employer may, at its discretion, ask any bidder for clarification of its bid. The request for clarification and the response shall be in writing or, by fax, but no change in the price or substance of the bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids in accordance with Clause 28. |
|  |  | 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 bid, it should do so in writing. |
|  |  | 26.3 | Any effort by the bidder to influence the Employer in the Employer's bid evaluation, bid comparison or contract award decisions may result in the rejection of the bidder's bid |
| **27** | **Examination of Bids and Determination of Responsiveness** | 27.1 | Prior to the detailed evaluation of bids, the Employer will determine whether each bid:   1. meets the eligibility criteria pursuant to clause 4. 2. has submitted all the documents pursuant to clause 5. 3. has been properly signed; 4. is accompanied by the required securities; 5. is substantially responsive to the requirements of the Bidding Documents, and; 6. provides any clarification and/or substantiation that the Employer may require to determine responsiveness pursuant to Sub -Clause 27.2. |
|  |  | 27.2 | A substantially responsive bid is one that conforms to all the terms, conditions, and specifications of the bidding documents without material deviation or reservation. A material deviation or reservation is one:   1. which affects in any substantial way the scope, quality, or performance of works 2. which limits in any substantial way, inconsistent with the Bidding Documents, the Employer's rights or the bidder's obligations under the contract; or 3. whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids |
|  |  | 27.3 | If a bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation |
| **28** | **Correction of Errors** | 28.1 | Bids determined to be substantially responsive will be checked by Employer for any arithmetic errors. Errors will be corrected by the Employer as follows   1. where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and 2. where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in opinion of the Employer there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern and the unit rate will be corrected. |
|  |  | 28.2 | The amount stated in the bid will be adjusted by the Employer in accordance with above procedure for the correction of errors and, with the concurrence of the bidder, shall be considered as binding upon the bidder. If the bidder does not accept the corrected amount of bid, its bid will be rejected, and the bid security may be forfeited in accordance with Sub-Clause 17.6(b). |
| **29** | **Evaluation and Comparison of Bids** | 29.1 | The Employer will evaluate and compare only the bids determined to be substantially responsive in accordance with clause 27. |
|  |  | 29.2 | In evaluating the bids, the Employer will determine for each bid the Evaluated Bid Price by adjusting the Bid price as follows:   1. Making any corrections for errors pursuant to Clause 28. 2. Excluding, (if any) provisional Sums and the provision, (if any) for Contingencies in the Summary Bill of Quantities. |
|  |  | 29.3 | The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, alternative offers, and other factors that are in excess of the requirements of the Bidding Documents shall not be taken into account in bid evaluation. |
|  |  | 29.4 | No cost price adjustment provision will be taken into account in bid evaluation |
|  |  | 29.5 | If the bid of the successful bidder is seriously unbalanced or front loaded in relation to the Employer's estimate of the items of work to be performed under the contract, 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 set forth in Clause 34 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. |
|  |  | 29.6 | Points will be awarded to the Bidders using the Evaluation Criteria as outlined in "Clause G. EVALUATION CRITERIA" |
|  |  |  | **F. AWARD OF CONTRACT** |
| **30** | **Award** | 30.1 | Subject to Clause 31, the Employer will award the contract to the bidder whose bid has been determined to be substantially responsive to the Bidding Documents and who has achieved the highest point as per clause 29.6 provided that such bidder has been determined to be;  (a) Eligible in accordance with the provisions of Clause 4; and  (b) Qualified in accordance with the provisions of Clause 5. |
| **31** | **Employer’s Right to Accept any Bid and to Reject any or all Bids** | 31.1 | 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 award of contract, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for the Employer's action. |
| **32** | **Notification of Award** | 32.1 | Prior to expiration of the period of bid validity prescribed by the Employer, the Employer will notify the successful bidder by fax confirmed by registered letter that its bid has been accepted. This letter (hereinafter and in the Conditions of Contract called the “Letter of Acceptance") shall specify the Contract sum for the execution and completion of the Works and the remedying of any defects therein by the Contractor as prescribed by the contract (hereinafter and in the Conditions of Contract called the “Accepted Contract Price"). |
|  |  | 32.2 | The successful bidder's bid and the Letter of Acceptance will constitute a binding contract between the Employer and the bidder until the Agreement as stipulated in Sub-Clauses 33.1 and 33.2 has been signed. |
| **33** | **Signing of the Agreement** | 33.1 | At the same time that the Employer notifies the successful bidder that its bid has been accepted, the Employer will send the bidder the Agreement in the form provided in the Bidding Documents, incorporating all agreements between the parties. |
|  |  | 33.2 | Within 28 days of receipt of the Agreement, the successful bidder shall sign the Agreement and return it to the Employer, together with the required performance security as stipulated in Clause 34. |
|  |  | 33.3 | Upon fulfilment of Sub-Clause 33.2, the Employer will promptly notify the other bidders that their bids have been unsuccessful and their bid security will be returned as promptly as possible, in accordance with Sub-Clause 17.4. |
| **34** | **Performance Security** | 34.1 | Within 28 days of sign of Loan agreement between the Employer and Financier, the successful bidder shall furnish to the Employer a performance security in the form stipulated in the Conditions of Contract. The form of performance security provided in Section 8 of the Bidding Documents may be used or some other form acceptable to the Employer. |
|  |  | 34.2 | The Performance Security shall be issued either (a) at the bidder's option, by a bank located in the country of the Employer or by a foreign bank through a correspondent bank located in the country of the Employer, or (b) with the prior agreement of the Employer directly by a foreign bank acceptable to the Employer. |
|  |  | 34.3 | Failure of the successful bidder to comply with the requirements of Clauses 33 or 34 shall constitute a breach of contract, cause for annulment of the award, forfeiture of the bid security and any such other remedy the Employer may take under the contract, and the Employer may resort to awarding the contract to the next ranked bidder. |
| **35** | **Resolution of disputes** | 35.1 | Disputes will be settled pursuant to “Conditions of Contract for EPC/Turnkey Projects” First Edition 1999 published by the Federation Internationale des Ingenieurs-Conseils (FIDIC)” |
|  |  |  |  |

**G. EVALUATION CRITERIA**

1. The Evaluation Criteria will comprise as follows;

|  |  |
| --- | --- |
| Category |  |
| Financial Capability | Must Meet Requirement |
| Experience | Must Meet Requirement |
| Concept, Design and Methodology | Must meet all the Requirements stipulated in Employer’s Requirement |
| Financial Terms (in case of contractor arranged finance) | Must meet requirement |
| **Total** |  |

**Financial Capability Requirements;**

1. summary of audited financial statement for the last 3 (Three) years in the format mentioned in Sub clause 4.1(i),
2. Supporting documents related to audited financial statements mentioned in sub- clause 4.1 (j) of the bidder for the last 3 (three) years.
3. Financial stability of the proponent will be calculated based on  
   1. **Average annual turnover**. Proponent should have a minimum average annual turnover of **USD 100,000,000** (Hundred Million United State Dollars) within the last 3 (Three) years.
   2. **Working Capital:** Proponent should have a minimum working capital of **USD 20,000,000.** (Twenty Million United State Dollar).

**Experience (As per the Percentage stipulated in Section G (a))**

1. Proponent must have experience in;
   1. Experience under contracts in the role of contractor, subcontractor, or management contractor for at least the last **5** years prior to the applications submission deadline.
   2. in at least **2** contracts within the last **5** years , each with a value of at least **USD 40 million** , that have been successfully and substantially completed and that are similar to the proposed Works. The similarity shall be based on the physical size, complexity, complete methods/technology or other characteristics as described in,Employer’s Requirements.
2. Documents such as “Letters of Award” or “Agreement Copies” or “Notifications of Award”, etc. will only be used for clarification purposes and will not be considered for awarding any points.
3. Past experience (projects) simply stated in tabular or other format (not backed by the document explained in sub clause 4.1 (h) will not be awarded any points.
4. It is up to the sole discretion of Employer to determine similarity in nature of the bidder’s past experience to the current scope of works and the score awarded by Employer will be final and shall not be contested.

**Concept, Design and Methodology**

Must meet all requirements stipulated in Employers Requirement.

* 1. The Employer reserves the right not to consider those bids that do not fulfil the requirements stated above in this clause for further evaluation.