



## **INVITATION FOR BIDS (IFB)**

**FOR**

**Design, Supply, Installation, Testing and Commissioning of Electro-Mechanical Equipment**

**(EM PACKAGE)**

**Single-Stage: Two-Envelope Bidding Procedure**

**March 2023**



## Document Information

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### **INVITATION FOR BIDS (IFB) (National Open Competitive Bidding)**

**Contract Title: Design, Supply, Installation, Testing and Commissioning of Electro-Mechanical Equipment (EM Package) for Keyi Hydropower Project (23 MW) in Arunachal Pradesh**

**IFB No:** *KEYI-W002-EM*

**IFB issued on:** *22<sup>nd</sup> March 2023*

## Section 1: Instructions to Bidders

Volume number	Contents	Section No./ Name
Volume-1	Invitation for Bids	Section 0: Invitation for Bids
	Bidding Procedures and Bidding Forms	Section 1: Instructions to Bidders
		Section 2: Bid Data Sheet
		Section 3: Evaluation, Eligibility and Qualification Criteria
		Section 4: Bidding Forms for Technical Bid
		Section 5: Bidding Forms for Price Bid
	Employer's Requirements	Section 6: Employer's Requirements ( the contents of this Section include by reference the contents of Volume-2 and Volume -3)
	Conditions of Contract and Contract Form	Section 7: General Conditions of Contract
		Section 8: Special Conditions of Contract
		Section 9: Contract Forms
Volume-2	Technical Specifications	Part-I: Technical Specification for E & M Equipment
		Part-II: Technical Data Sheet
Volume-3	Drawings	Drawings - E & M System Drawings

# Section 1: Instructions to Bidders

## Table of Contents

<b>A.</b>	<b>General.....</b>	<b>1</b>
1.	Scope of Bid .....	1
2.	Definitions.....	1
3.	Fraud and Corruption .....	3
4.	Eligibility, Qualification and Other Criteria/ Requirements and Conflict of Interest.....	4
5.	Eligible Plant and Services.....	6
<b>B.</b>	<b>Contents of Bidding Document.....</b>	<b>7</b>
6.	Sections of Bidding Document .....	7
7.	Clarification of Bidding Document, Site Visit, Pre-Bid Meeting .....	8
8.	Amendment of Bidding Document .....	9
<b>C.</b>	<b>Preparation of Bids.....</b>	<b>10</b>
9.	Cost of Bidding .....	10
10.	Language of Bid .....	10
11.	Documents Comprising the Bid.....	10
12.	Letter of Bid and Schedules .....	11
13.	Alternative Bids .....	11
14.	Documents Establishing the Eligibility of Plant and Services .....	12
15.	Documents Establishing the Eligibility and Qualifications of the Bidder .....	12
16.	Documents Establishing Conformity of the Plant and Installation Services.....	12
17.	Technical Proposal, Subcontractors .....	13
18.	Bid Prices and Discounts .....	13
19.	Currencies of Bid and Payment .....	17
20.	Period of Validity of Bids .....	17
21.	Bid Security/ Bid Securing Declaration .....	17
22.	Format and Signing of Bid.....	18
<b>D.</b>	<b>Submission and Opening of Bids .....</b>	<b>19</b>
23.	Submission, Sealing, and Marking of Bids.....	19
24.	Deadline for Submission of Bids .....	20
25.	Late Bids .....	20

26.	Withdrawal, Substitution, and Modification of Bids .....	20
27.	Bid Opening.....	21
<b>E.</b>	<b>Evaluation and Comparison of Bids .....</b>	<b>23</b>
28.	Confidentiality.....	23
29.	Clarification of Bids .....	23
30.	Deviations, Reservations, and Omissions .....	24
31.	Examination of Technical Bids .....	24
32.	Responsiveness of Technical Bid .....	24
33.	Nonmaterial .....	25
	Nonconformities .....	25
34.	Detailed Evaluation of Technical Bids.....	25
35.	Eligibility and Qualification of the Bidder.....	26
36.	Correction of Arithmetical Errors .....	27
37.	Single Currency Bid Evaluation.....	28
38.	Preference.....	28
39.	Evaluation and Comparison of Price Bids.....	28
40.	Abnormally Low Bids.....	29
41.	Employer's Right to Accept Any Bid, and to Reject Any or All Bids.....	30
42.	Negotiations .....	30
<b>F.</b>	<b>Award of Contract.....</b>	<b>30</b>
43.	Award Criteria.....	31
44.	Notification of Award through Letter of Acceptance.....	31
45.	Signing of Contract.....	31
46.	Performance Security.....	32
47.	Source of Funds.....	32
48.	Dedicated bank account of Contractor.....	32



## A. General

- 1. Scope of Bid**
- 1.1 In connection with the Invitation for Bids (IFB), indicated in the Bid Data Sheet (BDS), the Employer, as indicated in the BDS, issues this Bidding Document for the procurement of plant and services as specified in Section 6 (Employer's Requirements) for the project named and briefly described in the BDS. The name, identification, and number of sub-packages (contract/s) of the package under open competitive bidding (OCB) are provided in the BDS.
- 1.2 Throughout this Bidding Document,
- (a) the term "in writing" means communicated in written form and delivered; and
  - (b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular.
- 2. Definitions**
- 2.1 For the purpose of this **Section 1: Instructions to Bidders** and **Section 2: Bid Data Sheet** and other Sections where the context so requires,
- (a) "Affiliate(s)" means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Bidder.
  - (b) "Applicable Law" means the laws and any other instruments having the force of law in India, as may be issued and in force from time to time.
  - (c) "Bid" means the technical part (first Envelope), referred to as Technical Bid, and the price part (Second Envelope) referred to as Price Bid, of the bid submitted by the Bidder who participates in the bidding in response to Notice Inviting Tenders (NIT)/ Invitation for Bids (IFB). It is alternatively also referred to as the tender.
  - (d) "Bid Data Sheet, Section 2, means an integral part of the Instructions to Bidders (ITB) Section 1, that is used to reflect issues, details and conditions specific to the procurement, to supplement and/or modify the provisions of ITB.
  - (e) "Bidder" means a professional firm or an entity that may submit its Bid to the Employer in response to the IFB / NIT issued by the Employer, to provide/ provision the Plant/ Facilities to the Employer.
  - (f) "Contract" shall have the same meaning as ascribed to it in Section 7.
  - (g) "Day" means a calendar day, unless otherwise specified as "Business Day". A Business Day is any day that is an official

working day of Employer. It excludes Employer's official public holidays.

- (h) Employer' means the entity, as briefly described in Bid Data Sheet, that has issued the Invitation for Bids for award of the Contract for the Design, Supply and Installation of Plant (also referred to as the Scope of Work), as specified in Section 6, Employer's Requirement.
- (i) "Government" means the government of India, State Government or Local Government as applicable.
- (j) "IFB" means the invitation for Bids issued by Employer for the selection of the successful Bidder from amongst the bids submitted by bidders(s) who bid against and in response to the Invitation for Bids under Two Envelope Single Stage Bidding Process.
- (k) "ITB" (this Section 1 of the Bidding Documents) means the Instructions to Bidders that, along with other Sections, provides the Bidder with all information needed to prepare and submit their Bid.
- (l) "Joint Venture (JV)" means an association with or without a legal personality distinct from that of its members, of more than one entity/ firm where one member has the authority to conduct all business for and on behalf of any and all the members/ partners of the JV, and where the members/ partners of the JV are jointly and severally liable to Employer for the performance of the Contract. Whether or not bidding by Joint Venture is permitted, is specified in Section 3.
- (m) "Month" shall mean the calendar month.
- (n) "Plant", "Installation Services", "Facilities", "Works" used herein, shall have the same meaning as ascribed to them in Section 7.
- (o) "Project Manager" or "Engineer-in-Charge" or "Engineer" or Owner's Engineer" means the party appointed to design and engineer the Works and/or manage and supervise the construction of the Works, as the case may be, under the Contract on behalf of the Employer.
- (p) "Sub-contractor" means an entity to whom the Contractor subcontracts any part of the Works as per the applicable provisions of the Contract while the Contractor remains responsible to Employer for the whole and successful performance of the Contract.
- (q) "week" shall mean continuous period of seven (7) days.
- (r) Capitalized terms used herein but not defined specifically shall have the meaning as ascribed to them in Section 6: Employer's

Requirements and Section 7: Conditions of Contract, and elsewhere in Bidding Document.

**3. Fraud and Corruption**

3.1 The Employer requires compliance with the Anti-Corruption Guidelines/ Laws in force of the relevant Government/ its instrumentalities.

3.2 The Employer expects Bidders, Suppliers, Contractors, agents, subcontractors, sub-consultants, service providers, sub-suppliers, manufacturers (including their respective officers, directors, employees and personnel) to observe the highest standard of ethics during the procurement and execution of such contracts. For the purposes of this provision, the terms set forth below shall mean as follows:

- (i) *“corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;*
- (ii) *“fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;*
- (iii) *“coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;*
- (iv) *“collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;*
- (v) *“abuse” means theft, waste, or improper use of assets related to Employer-related activities, either committed intentionally or through reckless disregard;*
- (vi) *“conflict of interest” means any 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.*

**3.3 The Employer:**

- (a) will reject a proposal for award if it determines that the Bidder recommended for award or any of its officers, directors, employees, personnel, subconsultants, subcontractors, service providers, suppliers or manufacturers has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing

for the Contract; and

- (b) may declare ineligible, either indefinitely or for a stated period of time, a firm to participate<sup>1</sup> in any procurement by the Employer, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices or other integrity violations.

- 3.4 Furthermore, Bidders shall be aware of the provision if any stated in GCC, which shall also be applicable.

**4. Eligibility, Qualification and Other Criteria/ Requirements and Conflict of Interest**

- 4.1 The eligibility, qualification and other criteria/ requirements against the IFB are given in **Section 3 - Evaluation, Eligibility and Qualification Criteria (EQC)**, for the Bidders and the Plant/ Installation Services/ Works to be procured. Bids, if any, from Bidders and/or offering Plant/ Installation Services/ Works not complying with the same shall be rejected and shall not be considered for further evaluation.

- 4.2 Bids submitted by the Bidders shall be evaluated to ascertain their compliance with eligibility, qualification and other requirements, based on the details/ information/ documentary evidence pertaining to the same to be submitted in the Technical Bid, as specified in ITB. The Bidders shall provide in **Section 5 - Bidding Forms**, requisite details and documents in support of meeting the criteria/ requirements specified in **Section 3 - Evaluation, Eligibility and Qualification Criteria (EQC)**. A Bid shall be rejected if the Bidder submitting the Bid fails to meet the criteria/ requirements specified in EQC, however, the Employer while evaluating bids, reserves the right to waive non-substantial deviation in the case of a bidder otherwise considered to have the capacity and capability to successfully perform the works under the Contract in the event of award. Bids submitted by those Bidders who meet the criteria/ requirements specified in EQC shall be shortlisted for further evaluation of their bids.

- 4.3 A Bidder shall provide such additional documentary evidence of meeting and complying with criteria/ requirements specified in EQC, as the Employer shall reasonably request.

- 4.4 A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this bidding process, if the Bidder and/ or a Joint Venture partner:

- (a) directly or indirectly controls, is controlled by or is under common

control with another Bidder; or

- (b) receives or has received any direct or indirect subsidy from another Bidder; or
- (c) has the same legal representative as another Bidder; or
- (d) has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the Bid of another Bidder, or influence the decisions of the Employer regarding this Bidding process; or
- (e) any of its affiliates or the Bidder and/ or a Joint Venture partner, participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the Bid ( the particulars of the such entities/ persons, hereinafter referred to as the **Consultant**, hired or engaged by the Employer are mentioned in **BDS**); or
- (f) any of its affiliates or the Bidder and/ or a Joint Venture partner, has been hired or engaged (or is proposed to be hired or engaged) by the Employer for the Contract implementation (the particulars of the such entities/ persons, hereinafter referred to as the **Engineer or Engineer in Charge or Owner's Engineer or Project Manager** for the Contract, engaged by the Employer are mentioned in **BDS**); or
- (g) has a close business/ financial or family relationship with a professional staff of the Employer/ Owner (or of the Consultant or Engineer engaged by the Employer) who: (i) are directly or indirectly involved in the preparation of the bidding document or specifications of the Contract, and/or the Bid evaluation process of such Contract; or (ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Employer throughout the Bidding process and execution of the Contract
- (h) a Bidder participates in more than one bid in this bidding process, either individually or as a partner in a Joint Venture, except for alternative offers permitted under ITB 13. This will result in the disqualification of all Bids in which it is involved. However, subject to any finding of a conflict of interest in terms of ITB 4.4 (a) - (d) above, this does not limit the participation of a Bidder as a subcontractor in another Bid or of a firm as a subcontractor in more than one Bid.

4.5 Bidders shall provide such evidence of their continued eligibility, qualification etc. and not having conflict of interest, satisfactory to the Employer, as the Employer shall reasonably request.

4.6 A Bidder shall not be under suspension from bidding by the

Employer as the result of the execution of a Bid–Securing Declaration.

- 4.7 Firms or individuals from a country, or goods manufactured in a country, shall be excluded and declared ineligible if:
- a. as a matter of law or sanction/official regulation, the Government of India or the Government of Arunachal Pradesh prohibits commercial relations with that country or sourcing of goods or services from any country or source under specified category/ negative list; or
  - b. debarred/ blacklisted/ sanctioned by the Employer or its Investor(s).
- 4.8 A firm or individual shall be excluded if declared ineligible, sanctioned pursuant to the Anti-Corruption Guidelines and Policy of the Employer.
- 4.9 A firm or individual shall be excluded and declared ineligible if the firm/ individual has been debarred, temporarily suspended, declared ineligible or are ineligible, or blacklisted by the Government of India or the Government of Arunachal Pradesh where the project site is located (including any of its ministries, department or subordinate offices) or any public authority or international organization, OR, any of the key officers and directors of the firm have been charged or convicted of any criminal offense (including felonies and misdemeanours) or infractions/violations of law/regulations which carry the penalty of imprisonment, during the preceding five (5) years reckoned from the date of bid/ proposal opening,

**5. Eligible Plant and Services**

- 5.1 The plant and services to be supplied under the Contract shall have their origin complying with the criteria/ requirements, as may be specified in **Section 3 - Evaluation, Eligibility and Qualification Criteria (EQC)** and all expenditures under the Contract will be limited to such plant and services. At the Employer's request, Bidders may be required to provide evidence of the origin of plant, equipment, and services.
- 5.2 For purposes of ITB 5.1 above, "origin" means the place where the plant, or component parts thereof are mined, grown, produced, or manufactured, and from which the services are provided. Plant components are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that is substantially 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 consists Volume 1, Volume-2 and Volume-3, which include all the sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITB 8.

**VOLUME -1**

**Bidding Procedures and Bidding Forms**

Section 1 - Instructions to Bidders (ITB)

Section 2 - Bid Data Sheet (BDS)

Section 3 - Evaluation, Eligibility and Qualification  
Criteria (EQC)

Section 4 – Bidding Forms for Technical Bid (BDF-T)

Section 5 – Bidding Forms for Price Bid (BDF-F)

**Employer's Requirements**

Section 6 - Employer's Requirements (ERQ)

( the contents of this Section include by reference the  
contents of Volume-2 and Volume -3)

**Conditions of Contract and Contract Forms**

Section 7 - General Conditions of Contract (GCC)

Section 8 - Special Conditions of Contract (SCC)

Section 9 - Contract Forms (COF)

**VOLUME -2**

**Technical Specifications**

Part-I: Technical Specification for E & M Equipment

Part-II: Technical Data Sheet

**VOLUME -3**

**Drawings**

Drawings - E & M System Drawings

- 6.2 The IFB 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 IFB.
- 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 on the Bidding Document shall contact the Employer in writing at the Employer's address indicated in the BDS, or raise inquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond to any request for clarification, provided that such request is received no later than 21 days prior to the deadline for submission of bids. The Employer's response shall be in writing with copies 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/ issue Addendum to the Bidding Document as a result of a request for clarification, it shall do so following the procedure under ITB 8 and ITB 24.2.
- If so specified **in the BDS**, the Employer shall also promptly publish its response to the request for clarification / Addendum to Bidding Document at the web page identified in ITB/ BDS 7.7.
- 7.2 The Bidder is advised to visit and examine the site where the plant is to be installed 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 the provision of plant and services. The costs of visiting the site shall be at the Bidder's own expense.
- The bidder shall assess and satisfy himself as to the adequacy of the local conditions such as approach roads to the Site, adequacy of existing culverts/bridges/roads for the expected traffic, water and power supply, nature of ground and sub-soil conditions, water table level, accommodation required during the Contract, river regime, river water levels, other details of river, geological and climatic conditions, local terrain, availability of labour, construction materials, details of taxes, royalties, duties & levies as applicable and locally applicable laws & regulations governing engagement of labour for employment & deployment at site and any other information required. Further stipulations, if any, specified in Section 6: Employer's Requirements and/or the **BDS** shall also be applicable.



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 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 to submit any questions in writing, to reach the Employer not later than 1 week before the pre-bid meeting.

All questions raised during the Pre-Bid Meeting, for which the Bidders expect clarifications from the Employer, shall be submitted by the bidder in writing during the Pre-Bid 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 (any reference to addendum shall include and mean amendment/ corrigendum too, and vice versa) pursuant to ITB 8 and not through the minutes of the pre-bid meeting.

If so specified **in the BDS**, the Employer shall also promptly publish the Minutes of the pre-Bid meeting/ Addendum to Bidding Document at the web page identified **in the BDS**.

- 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/ Opening 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.

If provided in ITB 7.6, the Employer shall also promptly publish the addendum on the Employer's web page.

- 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 24.2

#### C. Preparation of Bids

- 9. Cost of Bidding** 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall in no case 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 English. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into English, in which case, for purposes of interpretation of the Bid, such translation shall govern.

- 11. Documents Comprising the Bid** 11.1 Under the Single Stage Two Envelope bidding process, the Bid shall comprise two envelopes submitted simultaneously, one containing the technical part of the Bid, referred to as the Technical Bid, and the other containing the price part of the Bid, referred to as the Price Bid, both envelopes enclosed together in an outer single envelope.

The Technical Bid shall not include any financial information related to the Bid price. Where material financial information related to the Bid price is contained in the Technical Bid, the Bid is liable to be declared non-responsive.

- 11.2 The Technical Bid submitted by the Bidder shall comprise the following:
- (a) Letter of Technical Bid;
  - (b) Bid Security or Bid-Securing Declaration, in accordance with ITB 21;
  - (c) Alternative Bids – Technical part, if permissible, in accordance with ITB 13;
  - (d) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 22.2;

- (e) documentary evidence in accordance with ITB 14.1, that the plant and services offered by the Bidder in its Bid or in any alternative Bid, if permitted, are eligible;
- (f) documentary evidence in accordance with ITB 15, the Bidder's eligibility and qualifications to perform the contract if its Bid is accepted;
- (g) Technical Proposal in accordance with ITB 17.
- (h) documentary evidence in accordance with ITB 16, that the plant and services offered by the Bidder conform to the Bidding Document;
- (i) in the case of a bid submitted by a Joint Venture, the Bid shall include a copy of the Joint Venture Agreement entered into by all partners and a Joint Deed of Undertaking as specified in Section 2- Eligibility and Qualification Criteria, in the format specified in Section 4 – Bidding Forms for Technical Bid, signed by all the partners;
- (j) list of subcontractors, in accordance with ITB 17.2; and
- (k) any other document required in the BDS.

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

- (a) Letter of Price Bid;
- (b) completed schedules as required, including Price Schedules, in accordance with ITB 12 and ITB 18;
- (c) alternative price Bids, if permissible, in accordance with ITB 13; and
- (d) any other document required in the BDS.

**12. Letter of Bid and Schedules**

**12.1** The Letters of Technical Bid and Price Bid, and the Schedules, and all documents listed under ITB 11, shall be prepared using the relevant forms furnished in Section 4 (Bidding Forms for Technical Bid) and Section 5 (Bidding Forms for Price Bid), respectively. 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 and as required in the BDS.

**13. Alternative Bids**

**13.1** The BDS indicates whether alternative Bids are allowed. If they are allowed, the BDS will also indicate whether they are permitted in accordance with ITB 13.3, or invited in accordance with ITB13.2 and/or ITB 13.4.

**13.2** When alternatives to the Time Schedule are explicitly invited, a statement to that effect will be included in the BDS, and the method of evaluating different time schedules will be described in BDS.

- 13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the Employer's requirements as described in the Bidding Document must also provide: (i) a price at which they are prepared to offer a plant meeting the Employer's requirements; and (ii) all information necessary for a complete evaluation of the alternatives by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed installation methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer.
- 13.4 When Bidders are invited in the BDS to submit alternative technical solutions for specified parts of the facilities, such parts shall be described in Section 6 (Employer's Requirements). Technical alternatives for the specific parts of the facilities that comply with the performance and technical criteria specified for the plant and services shall be considered by the Employer on their own merits.
14. **Documents Establishing the Eligibility of Plant and Services** 14.1 To establish the eligibility of the plant and services in accordance with ITB 5, Bidders shall complete the Country of Origin Declaration Form included in Section 4 (Bidding Forms for Technical Bid).
15. **Documents Establishing the Eligibility and Qualifications of the Bidder** 15.1 To establish its eligibility and qualifications to perform the Contract in accordance with **Section 3 - Evaluation, Eligibility and Qualification Criteria (EQC)**, the Bidder shall provide the information requested in the corresponding information sheets included in Section 4 (Bidding Forms for Technical Bid).
16. **Documents Establishing Conformity of the Plant and Installation Services** 16.1 The documentary evidence of the conformity of the plant and services to the Bidding Document may be in the form of literature, drawings and data, and shall furnish:
- (a) a detailed description of the essential technical and performance characteristics of the plant and services, including the functional guarantees of the proposed plant and services, in response to the Specification;
  - (b) Bidder shall ensure supply of spares as required by employer for a period as specified in BDS and also furnish full particulars of the spare parts, including available sources, of all spare parts and special tools necessary for the proper and continuing functioning of the plant, following completion of plant and services in accordance with provisions of the contract; and
  - (c) a commentary on the Employer's Specifications and adequate evidence demonstrating the substantial responsiveness of the plant and services to those specifications. Bidders shall note

that standards for workmanship, materials and equipment designated by the Employer in the Bidding Document are intended to be descriptive (establishing standards of quality and performance) only and not restrictive. The Bidder may substitute alternative standards, brand names and/or catalog numbers in its Bid, provided that it demonstrates to the Employer's satisfaction that the substitutions are substantially equivalent or superior to the standards designated in the Specifications.

**17. Technical Proposal, Subcontractors**

- 17.1 The Bidder shall furnish a Technical Proposal, including a statement of work methods, equipment, personnel, schedule, environmental, social, health and safety (ESHS) management plan commensurate with the proposed scope of works, ESHS Code of Conduct, and any other information as stipulated in Section 4 (Bidding Forms for Technical Bid), in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time
- 17.2 For major items of plant and services as listed by the Employer in Section 3 (Evaluation, Eligibility and Qualification Criteria), which the Bidder intends to purchase or subcontract, the Bidder shall give details of the name and nationality of the proposed Subcontractors, including Manufacturers, for each of those items. In addition, the Bidder shall include in its Bid information establishing compliance with the requirements specified by the Employer for these items. Bidders are free to list more than one Subcontractor against each item of the plant and services. Quoted rates and prices will be deemed to apply to whichever Subcontractor is appointed, and no adjustment of the rates and prices will be permitted on this account.
- 17.3 The Bidder shall be responsible for ensuring that any Subcontractor proposed complies with the requirements of ITB 4, and that any plant, or services to be provided by the Subcontractor comply with the requirements of ITB 5 and ITB 15.1

**18. Bid Prices and Discounts**

- 18.1 Unless otherwise specified in the BDS and/or Section 6 (Employer's Requirements), bidders shall quote for the entire plant and services on a "single responsibility" basis such that the total Bid price covers all the Contractor's obligations mentioned in or to be reasonably inferred from the Bidding Document in respect of the design, manufacture, including procurement and subcontracting (if any), delivery, construction, installation, and completion of the plant. This includes all requirements under the Contractor's responsibilities for testing, pre-commissioning and commissioning of the plant and, where so required by the Bidding Document, the acquisition of all permits, approvals, and licenses, etc.; the operation, maintenance, and training services and such other items

and services as may be specified in the Bidding Document, all in accordance with the requirements of the Conditions of Contract. Items against which no price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed to be covered by the prices for other items.

18.2 Bidders are required to quote the price for the commercial, contractual, and technical obligations outlined in the Bidding Document. The prices for all items in the Price Schedules shall be expressed in positive values. If the prices are expressed in negative values, the bid will be rejected.

18.3 Bidders shall give a breakdown of the prices in the manner and detail called for in the Price Schedules included in Section 5 (Bidding Forms for Price Bid). Bidders shall present their breakdown of prices in the following manner: Separate numbered Schedules included in Section 5 (Bidding Forms for Price Bid) shall be used for each of the following price elements/ components. The total amount from each Schedule (Nos. 1 and 2) shall be summarized in a Grand Summary (Schedule No. 3) giving the total bid price(s) to be entered in the Letter of Price Bid. Absence of the total bid price in the Letter of Price Bid may result in the rejection of the Bid.

Schedule No. 1: Plant and Mandatory Spare Parts to be Supplied from outside or within India

Schedule No. 2: Installation and Other Services

Schedule No. 3: Grand Summary (Schedule Nos. 1 to 4)

Schedule No. 4: Recommended Spare Parts

Bidders shall note that the plant and mandatory spare parts included in Schedule Nos. 1 above exclude materials used for civil, building, and other construction works. All such materials shall be included and priced under Schedule No. 2, Installation and Other Services.

18.4 In the Schedules, Bidders shall give the required details and a breakdown of their prices as follows:

(a) Plant and Mandatory Spare Parts to be supplied from outside or within India (Schedule No. 1):

(i) *the price shall be quoted on FOR\* (named place of final destination as specified in BDS) basis including prices for port handling and custom clearance wherever applicable, inland transportation to the named place of final destination, transit insurance, and other services incidental to delivery of the plant*

*and mandatory spares at site, and shall include all customs and import duties and other taxes and duties already paid or payable on the components and raw material used in the manufacture or assembly of plant and mandatory spares and/or the finished plant and mandatory spare of foreign origin to be imported or previously imported, considering all input credits wherever applicable, but excluding Goods and Service Tax (GST) as per (ii) below;*

- *Though no longer a valid incoterm, FOR (Freight on Road) is a term frequently used in commerce and trade, and means that the goods will be transported by road, and the freight cost will be to the Contractor's account. The goods will be transported from the Contractor to the Employer without any additional transportation charges.*

- (ii) *Goods and Service Tax (GST) payable in India prevailing as on 7 (seven) days prior to the deadline for submission of Bid, on the plant and mandatory spares, on direct transactions between Employer and the Contractor, if the contract is awarded to the Bidder, and*
- (iii) *the total price for the plant and mandatory spare parts i.e. (B) (i) plus (b) (ii).*

**(b) Installation and Other Services (Schedule No. 2):**

- (i) *The price for Installation and Other Services shall be quoted separately (excluding prices for port handling and custom clearance wherever applicable, inland transportation to the named place of final destination as specified in BDS, transit insurance, and other services incidental to delivery of the plant and mandatory spares at site, included in Schedule 1) including all labor, contractor's equipment, temporary works, materials, consumables, and all matters and things of whatsoever nature, unloading and storage at site, installation and civil works, insurance as specified, including Testing and Commissioning including performance testing in respect of all the Plant, operations and maintenance services, the provision of operations and maintenance manuals, training, etc., where identified in the Bidding Document, as necessary for the proper execution of the installation and other services, including all taxes, duties, levies, and charges payable in India or abroad, considering all input credits wherever applicable, but excluding the Goods and Service Tax (GST) but excluding the Goods and Service Tax (GST) payable in India on direct transactions between Employer and the Contractor to be quoted separately*

*as per (ii) below.*

- (ii) *Goods and Service Tax (GST) payable in India prevailing as on 7 (seven) days prior to the deadline for submission of Bid, on the plant, on direct transactions between Employer and the Contractor, if the contract is awarded to the Bidder, and*
- (iii) *the total price for the Installation and Other Services i.e. (c) (i) plus (c) (ii) .*

(c) Recommended spare parts (Schedule No. 4) shall be quoted separately as specified in subparagraph (a) above.

(d) The price for design, engineering and other such services as may be necessary and applicable for the plant and the services required for successful Completion of the Works/ Facilities shall be deemed to be included in the prices quoted in the different schedules.

18.5 The edition of Incoterms as mentioned in BDS, published by the International Chamber of Commerce shall govern.

18.6 The prices shall be either fixed or adjustable as specified in the BDS.

(a) In the case of Fixed Price, prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation on any account. A Bid submitted with an adjustable price quotation will be treated as nonresponsive and rejected.

(b) In the case of Adjustable Price, prices quoted by the Bidder shall be subject to adjustment during performance of the contract to reflect changes in the cost elements such as labor, material, transport, and contractor's equipment in accordance with the procedures specified in the corresponding appendix to the Contract Agreement. A Bid submitted with a fixed price quotation will not be rejected, but the price adjustment will be treated as zero. If not already specified in appendix to the Contract Agreement stated above, the Bidder shall furnish the indexes (e.g. for labor and materials), their weightings and source in the Tables of Adjustment Data included in Section 4 (Bidding Forms for Technical Bid). The Employer may require the Bidder to justify its proposed indexes and weightings. Any bid that omits indexes and weightings shall be subject to clarification with the Bidder.

18.7 Bidders wishing to offer any price reduction (discount) shall specify in their Letter of Price Bid the offer price reductions and the manner in which the price reductions will apply.

If so indicated in BDS 1.1, Bids are being invited for individual sub-packages (contracts) or for any combination of sub-packages. Bidders wishing to offer any price reduction (discount) for the award of more than one contract shall specify in their Letter of Price Bid the price reductions applicable to each sub-package, or alternatively, to individual contracts, and the manner in which the



price reductions will apply.

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| <b>19. Currencies of Bid and Payment</b>          | 19.1 The currency of the bid shall be Indian Rupees (Rs.) only and the Bidder shall quote the rates and prices, and shall be paid for, entirely in Indian Rupees (Rs.).  |
| <b>20. Period of Validity of Bids</b>             | <p>20.1 Bids shall remain valid for the bid validity period specified in the BDS. The bid validity period starts from the date fixed for the bid submission deadline date prescribed by the Employer in accordance with ITB 24.1. A bid valid for a shorter period shall be rejected by the Employer as nonresponsive.</p> <p>20.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 21, it shall also be extended 28 days beyond the deadline of the extended bid 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.</p>  |
| <b>21. Bid Security/ Bid Securing Declaration</b> | <p>21.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its Bid, in the Technical 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 and currency shall be as specified in the BDS.</p> <p>21.2 If a Bid-Securing Declaration is required pursuant to ITB 21.1, it shall use the form included in Section 4 (Bidding Forms for Technical Bid). The Employer will declare a Bidder ineligible to be awarded a Contract for a specified period of time, as indicated in the BDS, if a Bid-Securing Declaration is executed.</p> <p>21.3 If a bid security is specified pursuant to ITB 21.1, the bid security shall be, at the Bidder's option, in any of the following forms:</p> <ul style="list-style-type: none"> <li>(a) an unconditional bank guarantee (hard copy of the bank guarantee or in the form of SWIFT message MT760), or</li> <li>(b) an irrevocable letter of credit, or</li> <li>(c) a cashier's or banker's certified cheque, or</li> <li>(d) a crossed bank draft/pay order issued by the Bank.</li> </ul> <p>all from a reputable source from a country eligible as described in Section 3. In the case of a bank guarantee, the bid security shall be submitted using either the Bid Security Form included in Section 4 (Bidding Forms for Technical Bid) or another form acceptable to the Employer. The form must include the complete name of the Bidder. The bid security shall be valid for 28 days beyond the original</p> |

validity period of the Bid, or beyond any period of extension if requested under ITB 20.2.

- 21.4 Unless otherwise specified in the BDS, any Bid not accompanied by a substantially compliant bid security or Bid-Securing Declaration, if one is required in accordance with ITB 21.1, shall be rejected by the Employer as nonresponsive.
- 21.5 If a bid security is specified pursuant to ITB 21.1, the bid security of substantially nonresponsive Technical Bids shall be returned before opening the Price Bids. The bid security of unsuccessful Bidders at Price Bid evaluation shall be returned promptly upon the successful Bidder's furnishing of the performance security pursuant to ITB 46.
- 21.6 If a bid security is specified pursuant to ITB 21.1, the bid security of successful Bidders shall be returned promptly once the successful Bidder has signed the Contract and furnished the required performance security.
- 21.7 The bid security may be forfeited or the Bid-Securing Declaration executed, if
- (a) notwithstanding ITB 26.3, a Bidder withdraws its Bid during the period of bid validity, except as provided in ITB 20.2 or
  - (b) the successful Bidder fails to:
    - (i) *sign the Contract in accordance with ITB 45;*
    - (ii) *furnish a performance security in accordance with ITB 46; or*
    - (iii) *accept the arithmetical corrections of its Bid in accordance with ITB 36.*
- 21.8 If the bid security is required as per ITB 21.1, the bid security of a Joint Venture shall be in the name of the Joint Venture that submits the Bid. If the Bid-Securing Declaration is required as per ITB 21.1, the Bid-Securing Declaration of a Joint Venture shall be in the name of the Joint Venture that submits the Bid.

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

- 22.1 The Bidder shall prepare one original set of the Technical Bid and one original set of the Price Bid comprising the Bid as described in ITB 11 and clearly mark it "ORIGINAL - TECHNICAL BID" and "ORIGINAL - PRICE BID". 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 each of them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the Bid.

A Bid submitted by a Joint Venture shall be signed so as to be legally binding on all partners, as specified in BDS. The name and position held by each person signing the authorization must be typed or printed below the signature.

22.3 If a Bidder submits a deficient authorization, the Bid shall not be rejected in the first instance. The Employer shall request the Bidder to submit an acceptable authorization within the number of days as specified in the BDS. Failure to provide an acceptable authorization within the period stated in the Employer's request shall cause the rejection of the Bid. If either the Letter of Technical Bid or Letter of Price Bid or the Bid-Securing Declaration (if applicable) is not signed, the Bid shall be rejected.

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

#### D. Submission and Opening of Bids

##### **23. Submission, Sealing, and Marking of Bids**

23.1 Bidders shall submit their Bids as specified in the BDS. Procedures for submission, sealing and marking are as follows:

- (a) Bidders submitting Bids by mail or by hand shall enclose the original and each copy of the Bid, including alternative Bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL," "ALTERNATIVE," and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB 23.2 to ITB 23.6.
- (b) It electronic submission of Bids is permitted as per BDS, Bidders submitting Bids electronically shall follow the electronic bid submission procedures specified in the BDS.

23.2 The inner and outer envelopes shall

- (a) bear the name and address of the Bidder,
- (b) be addressed to the Employer in accordance with ITB 24.1, and
- (c) bear the specific identification of this bidding process indicated in the ITB/ BDS 1.1.

23.3 The outer envelopes and the inner envelopes containing the Technical Bid shall bear a warning not to open before the time and date for the opening of Technical Bid, in accordance with ITB 27.1.

- 23.4 The inner envelopes containing the Price Bid shall bear a warning not to open until advised by the Employer in accordance with ITB 27.7.
- 23.5 Alternative Bids, if permissible in accordance with ITB 13, shall be prepared, sealed, marked, and delivered in accordance with the provisions of ITB 20 and ITB 21, with the inner envelopes marked in addition "ALTERNATIVE NO...." as appropriate.
- 23.6 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.
- 24. Deadline for Submission of Bids**
- 24.1 Bids must be received by the Employer at the address and no later than the date and time indicated in the BDS. , subject to ITB 24.2.
- 24.2 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.
- 25. Late Bids**
- 25.1 The Employer shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB 24. Any Bid received by the Employer after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.
- 26. Withdrawal, Substitution, and Modification of Bids**
- 26.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 22.2 (except for withdrawal notices, which do not require copies). The corresponding substitution or modification of the Bid must accompany the respective written notice. All notices must be:
- (a) prepared and submitted in accordance with ITB 22 and ITB 23 (except for withdrawal notices, which do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and
- (b) received by the Employer prior to the deadline prescribed for submission of Bids, in accordance with ITB 24.
- 26.2 Bids requested to be withdrawn in accordance with ITB 26.1 shall be returned unopened to the Bidders.

- 26.3 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of Bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Technical Bid or any extension thereof.

**27. Bid Opening**

- 27.1 The Employer shall open the Technical Bids at the address, on the date, and time specified in the BDS in the presence of Bidder's designated representatives. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 23.1, shall be as specified in the BDS. The Price Bids will remain unopened and will be held in custody of the Employer until the specified time of their opening. If the Technical Bid and the Price Bid are submitted together in one envelope, the Employer may reject the entire Bid. Alternatively, the Price Bid may be immediately resealed for later evaluation.
- 27.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening.
- 27.3 Second, outer envelopes marked "SUBSTITUTION" shall be opened. The inner envelopes containing the Substitution Technical Bid and/or Substitution Price Bid shall be exchanged for the corresponding envelopes being substituted, which are to be returned to the Bidder unopened. Only the Substitution Technical Bid, if any, shall be opened, read out, and recorded. Substitution Price Bid will remain unopened in accordance with ITB 27.1. No envelope shall be substituted unless the corresponding Substitution Notice contains a valid authorization to request the substitution and is read out and recorded at bid opening.
- 27.4 Next, outer envelopes marked "MODIFICATION" shall be opened. No Technical Bid and/or Price Bid shall be modified unless the corresponding Modification Notice contains a valid authorization to request the modification and is read out and recorded at the opening of Technical Bids. Only the Technical Bids, both Original as well as Modification, are to be opened, read out, and recorded at the opening. Price Bids, both Original as well as Modification, will remain unopened in accordance with ITB 27.1.
- 27.5 All other envelopes holding the Technical Bids shall be opened one at a time, and the following read out and recorded:
- (a) the name of the Bidder;
  - (b) whether there is a modification or substitution;

- (c) the presence of a bid security or a Bid-Securing Declaration, if required; and
- (d) any other details as the Employer may consider appropriate.

Only Technical Bids and alternative Technical Bids read out and recorded at bid opening shall be considered for evaluation. Unless otherwise specified in the BDS, all pages of the Letter of Technical Bid are to be initialled by at least three representatives of the Employer attending the bid opening. No Bid shall be rejected at the opening of Technical Bids except for late Bids, in accordance with ITB 25.1.

- 27.6 The Employer shall prepare a record of the opening of Technical Bids that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; and alternative Bids; and the presence or absence of a bid security or a 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 who submitted Bids on time, and posted online when electronic bidding is permitted.
- 27.7 At the end of the evaluation of the Technical Bids, the Employer will invite bidders who have submitted substantially responsive Technical Bids and who have been determined as being qualified for award to attend the opening of the Price Bids. The date, time, and location of the opening of Price Bids will be advised in writing by the Employer. Bidders shall be given reasonable notice of the opening of Price Bids.
- 27.8 The Employer will notify in writing Bidders who have been rejected for submitting nonresponsive Technical Bids and return their Price Bids unopened together with their bid securities, before opening the Price Bids of the substantially responsive Bidders.
- 27.9 The Employer shall conduct the opening of Price Bids of all Bidders who submitted substantially responsive Technical Bids, in the presence of Bidders' representatives who choose to attend at the address, on the date, and time specified by the Employer. The Bidder's representatives who are present shall be requested to sign a register evidencing their attendance.
- 27.10 All envelopes containing Price Bids shall be opened one at a time and the following read out and recorded:
  - (a) the name of the Bidder;
  - (b) whether there is a modification or substitution;
  - (c) the Bid Prices, including any discounts and alternative offers;

and

(d) any other details as the Employer may consider appropriate.

Only Price Bids, discounts, and alternative offers read out and recorded during the opening of Price Bids shall be considered for evaluation. Unless otherwise specified in the BDS, all pages of the Letter of Price Bid and Price Schedules are to be initialed by at least three representatives of the Employer attending bid the opening. No Bid shall be rejected at the opening of Price Bids.

27.11 The Employer shall prepare a record of the opening of Price Bids that shall include, as a minimum: the name of the Bidder, the Bid Price (per lot if applicable), any discounts, and alternative offers. 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 who submitted Bids on time, and posted online when electronic bidding is permitted.

E. Evaluation and Comparison of Bids

- 28. Confidentiality**
- 28.1 Information relating to the evaluation of Bids and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until finalisation of Contract award.
- 28.2 Any attempt by a Bidder to influence the Employer in the evaluation of the Bids or Contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB 28.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the bidding process, it should do so in writing.
- 29. Clarification of Bids**
- 29.1 To assist in the examination, evaluation, and comparison of the Technical and Price Bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change in the substance of the Technical Bid or prices in the Price Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids, in accordance with ITB 36.
- 29.2 If a Bidder does not provide clarifications of its Bid by the date and time set in the Employer's request for clarification, its Bid may be

rejected.

- 30. Deviations, Reservations, and Omissions**
- 30.1 During the evaluation of Bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified in the Bidding 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.
- 31. Examination of Technical Bids**
- 31.1 The Employer shall examine the Technical Bid to confirm that all documents and technical documentation requested in ITB 11.2 have been provided, and to determine the completeness of each document submitted. If any of these documents or information is missing, the Bid may be rejected.
- 31.2 The Employer shall confirm that the following documents and information have been provided in the Technical Bid. If any of these documents or information is missing, the offer is liable to be rejected.
- (a) Letter of Technical Bid;
  - (b) written confirmation of authorization to commit the Bidder;
  - (c) Bid Security or Bid-Securing Declaration, if applicable; and
  - (d) Technical Proposal in accordance with ITB 17.
- 32. Responsiveness of Technical Bid**
- 32.1 The Employer's determination of a bid's responsiveness is to be based on the contents of the Bid itself, as defined in ITB11.
- 32.2 A substantially responsive Technical Bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would:
    - (i) *affect in any substantial way the scope, quality, or performance of the plant and services 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: or



(c) is, in the Employer's opinion, a deviation, reservation, or omissions related to/ regarding critical provisions Bidding Document, listed in BDS.

32.3 The Employer shall examine the technical aspects of the Bid submitted in accordance with ITB 17, Technical Proposal, in particular to confirm that all requirements of Section 6 (Employer's Requirements) have been met without any material deviation, reservation, or omission.

32.4 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.

32.5 Notwithstanding ITB 32.4 above, if so specified in BDS, such bids with material deviation, reservation, or omission, shall be considered substantially responsive in accordance with and subject to stipulations mentioned in BDS.

**33. Nonmaterial  
Nonconformities**

33.1 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.

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

33.3 Provided that a Bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or nonconforming item or component. The adjustment shall be made generally using the method indicated in BDS.

**34. Detailed  
Evaluation of  
Technical Bids**

34.1 The Employer will carry out a detailed technical evaluation of the Bids not previously rejected as being substantially nonresponsive, to determine whether the technical aspects are in compliance with the Bidding Document. The Bid that does not meet minimum acceptable standards of completeness, consistency, and detail, and the specified minimum and/or maximum requirements for specified functional guarantees, will be treated as nonresponsive and hence

rejected. To reach such a determination, the Employer will examine and compare the technical aspects of the bids on the basis of the information supplied by the Bidders, taking into account the following:

- (a) overall completeness and compliance with the Employer's Requirements; deviations from the Employer's Requirements; deviations from Conditions of Contract; conformity of the plant and services offered with specified performance criteria; suitability of the plant and services offered in relation to the environmental and climatic conditions prevailing at the site; and quality, function and operation of any process control concept included in the Bid. The Bid that does not meet minimum and/or maximum acceptable standards of completeness, consistency, and detail will be rejected for non-responsiveness;
- (b) type, quantity, and long-term availability of mandatory and recommended spare parts and maintenance services; and
- (c) Evaluation Criteria and other relevant factors, if any, listed in **Section 3 - Evaluation, Eligibility and Qualification Criteria (EQC), Section 6 – Employer's Requirements and BDS.**

34.2 Where alternative technical solutions have been allowed in accordance with ITB 13, and offered by the Bidder, the Employer will make a similar evaluation of the alternatives. Where alternatives have not been allowed but have been offered, they shall be ignored.

**35. Eligibility and Qualification of the Bidder**

35.1 The Employer shall determine to its satisfaction during the evaluation of Technical Bids whether a Bidder meets the eligibility and qualifying criteria specified in Section 3 (Evaluation, Eligibility and Qualification Criteria) and other requirements specified in ITB 4 and ITB 5.

35.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 15. Unless permitted in the BDS, the determination shall not take into consideration the qualifications of other firms such as the Bidder's subcontractor's, Bidder's subsidiaries, parent entities, affiliates or associates.

35.3 An affirmative determination shall be a prerequisite for the opening and evaluation of a Bidder's Price Bid. The Employer reserves the right to reject the bid of any bidder found to be in circumstances described in GCC 42.2.1(a). A negative determination shall result into the disqualification of the Bid, in which event the Employer shall return the unopened Price Bid to the Bidder.

- 35.4 The capabilities of the manufacturers and subcontractors proposed in its Bid for the major items of plant and services to be used by a Bidder will also be evaluated for acceptability in accordance with Section 3 (Eligibility and Qualification Criteria). Their participation should be confirmed with a letter of intent between the parties, as needed. Should a manufacturer or subcontractor be determined to be unacceptable, the Bid will not be rejected, but the Bidder will be required to propose, without changing its bid price, an acceptable substitute manufacturer or subcontractor meeting the minimum technical specifications stated in Section 6 (Employer's Requirements). If a Bidder does not provide an acceptable substitute manufacturer or subcontractor by the date and time set in the Employer's request for substitution of manufacturer or subcontractor, its Bid may be rejected.
- 35.5 Prior to signing the Contract, the corresponding Appendix to the Contract Agreement shall be completed, listing the approved manufacturers or subcontractors for each item concerned.

**36. Correction of  
Arithmetical  
Errors**

- 36.1 During the evaluation of Price Bids, the Employer shall correct arithmetical errors on the following basis:
- (a) only for admeasurement contracts and/ or items of the price schedules, if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity (in case of discrepancy between the quantity indicated by the Employer in the price schedule and the quantity indicated by the Bidder in the priced schedules, the former shall prevail), 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;
  - (c) where there are errors between the total of the amounts given under the column for the price breakdown and the amount given under the Total Price, the amounts given under the column for the price breakdown shall prevail and the Total Price will be corrected accordingly;
  - (d) if there is a discrepancy between the grand total price given in Schedule of Grand Summary and the bid amount in corresponding item of the Letter of Price Bid, the grand total price given in Schedule of Grand Summary will prevail and the bid amount in corresponding item of the Letter of Price Bid will be corrected; and
  - (e) 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 arithmetical error, in which case the amount in figures shall prevail

subject to (a), (b), and (c) above.

- 36.2 If the Bidder that submitted the Most Advantageous 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.
- 37. Single Currency Bid Evaluation**
- 37.1 For evaluation and comparison purposes as well as for the purpose of award of Contract and payments under the Contract, the currency shall be Indian Rupees (Rs.). Bids taking any deviation in this regard shall be rejected.
- 38. Preference**
- 38.1 Unless otherwise specified in the BDS, no preference shall apply.
- 39. Evaluation and Comparison of Price Bids**
- 39.1 The Employer shall use the criteria and methodologies listed in the Bidding Document. No other evaluation criteria or methodologies shall be permitted, except under unusual circumstances encountered, in which Employer may, at its discretion, adopt reasonable criteria and methodology.
- 39.2 **A. To evaluate a Price Bid, the Employer shall consider the following:**
- (a) the bid price, excluding provisional sums and the provision, if any, for contingencies in the Price Schedules as per ITB 18.4 (a) (i) and ITB 18.4 (b) (i) ;
  - (b) price adjustment for correction of arithmetical errors in accordance with ITB 36.1;
  - (c) price adjustment due to discounts offered in accordance with ITB 18.7 (conditional discount shall not be considered for the purpose of evaluation by the Employer may consider the same for purpose of award);
  - (d) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 33.3 and material nonconformities if so specified in ITB/ BDS 32.5;
  - (e) assessment whether the bid is abnormally low in accordance with ITB 40; and
  - (f) the additional evaluation factors if any specified in **Section 3 - Evaluation, Eligibility and Qualification Criteria (EQC), Section 6 – Employer’s Requirements and BDS.**
- B. If not otherwise specified in BDS, the Employer’s evaluation of a Bid will also include and take into account,**
- (a) in the case of Plant and Mandatory Spare Parts (Schedule No. 1) supplied from outside or within India, Goods and Service Tax (GST) payable in India 7 (seven) days prior to the deadline for submission of Bid on the Plant and Mandatory Spare Parts, on direct transactions between Employer and the Contractor, if the Contract is awarded to the Bidder, as per ITB 18.4 (a) (ii), and
  - (b) in case of Installation and Other Services (Schedule No 2), Goods

and Service Tax (GST) payable in India prevailing as on 7 (seven) days prior to the deadline for submission of Bid, on direct transactions between Employer and the Contractor, if the contract is awarded to the Bidder, as per ITB 18.4 (b) (ii)

- 39.3 If price adjustment is allowed in accordance with ITB 18.6, 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.
- 39.4 If this Bidding Document allows Bidders to quote separate prices for different sub-packages (contracts), and the award to a single Bidder of multiple sub-packages (contracts), the methodology to determine the lowest evaluated price of the sub- packages (contract) combinations, including any discounts offered in the Letter of Price Bid, is specified in BDS.
- 39.5 If the Bid Price of the Bid, which results in the Most Advantageous Bid, is seriously unbalanced or front loaded in the opinion of the Employer, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Price Schedules, to demonstrate the internal consistency of those prices with the methods and time schedule proposed. After evaluation of the price analyses, taking into consideration the terms of 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 or to retain certain payment due against Plant and Mandatory Spares to be supplied and release the same on completion of corresponding Installation and Other Services
- 39.6 Notwithstanding ITB 39.5, a Bid which results in Most Advantageous Bid, shall be considered by the Employer as unbalanced or front loaded, if the evaluated bid price for Plant and Mandatory Spare Parts (Schedule No. 1) supplied from outside or within India, exceeds the percentage specified in BDS of the total Evaluated Bid Price as per ITB 39.2.
- 39.7 The Employer shall compare all substantially responsive Bids to determine the lowest evaluated Bid, in accordance with ITB 39.

#### **40. Abnormally Low Bids**

- 40.1 These provisions on abnormally low bids shall apply only is so specified in BDS. An abnormally low bid is one where the bid price, in combination with other elements of the bid, appears to be so low that it raises concerns as to the capability of the Bidder to perform the contract for the offered bid price.
- 40.2 When the offered bid price appears to be abnormally low, the Employer shall undertake a three-step review process as follows:
- (a) identify abnormally low costs and unit rates by comparing them

with the engineer's estimates, other substantially responsive bids, or recently awarded similar contracts;

- (b) clarify and analyze the bidder's resource inputs and pricing, including overheads, contingencies and profit margins; and
- (c) decide whether to accept or reject the bid.

40.3 With regard to ITB 40.2 (b) above, the Employer will seek a written explanation from the bidder of the reasons for the offered bid price, including a detailed analysis of costs and unit prices, by reference to the scope, proposed methodology, schedule, and allocation of risks and responsibilities. This may also include information regarding the economy of the manufacturing process; the services to be provided, or the construction method to be used; the technical solutions to be adopted; and any exceptionally favorable conditions available to the bidder for the works, equipment or services proposed.

40.4 After examining the explanation given and the detailed price analyses presented by the bidder, the Employer may:

- (a) accept the bid, if the evidence provided satisfactorily accounts for the low bid price and costs, in which case the bid is not considered abnormally low;
- (b) accept the bid, but 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. The increase in the amount of the performance security on this account shall generally be not more than 20% of the contract price; or
- (c) reject the bid if the evidence provided does not satisfactorily account for the low bid price, and make a similar determination for the next ranked bid, if required.

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

41.1 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.

**42. Negotiations**

42.1 In case the Employer identifies reasons due to which negotiation is required, which include price negotiations, the Employer reserves its right to negotiate with the Bidder whose bid price is determined to be Most Advantageous Bid Price, and who is otherwise acceptable to the Employer. In case the circumstances so warrant, the Employer may hold negotiations with other Bidders and, basis that, determine the Most Advantageous Bid.

**F. Award of Contract**

- 43. Award Criteria**
- 43.1 The Employer shall award the Contract to the Bidder whose offer has been determined as the Most Advantageous Bid. The Most Advantageous Bid is the Bid of the Bidder (also referred to as the successful bidder) who meets the Eligibility and Qualification Criteria specified in Section 3 and whose Bid has been determined:
- (a) to be substantially responsive to the Bidding Document;
  - (b) to have the most advantageous cost/ price, having compared the evaluated cost/price of Bids pursuant to ITB 39 and ITB 42, and subject to provisions of ITB 40, if applicable; and
  - (c) the Bidder is determined to have the capacity and capability to perform the Contract satisfactorily and is otherwise acceptable to the Employer.
- 43.2 The mode of contracting with the successful bidder shall be as specified in BDS.
- 44. Notification of Award through Letter of Acceptance**
- 44.1 Prior to the expiration of the period of bid validity, the Employer shall transmit the notification of award through issuance of Letter of Acceptance (LOA) using the form included in Section 9 (Contract Forms) to the successful Bidder, in writing, that its Bid as may have been negotiated has been accepted. The Letter of Acceptance shall specify the sum that the Employer will pay the Contractor in consideration of the execution of the Contract (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price").
- 44.2 Until a formal contract is prepared and executed, the notification of award through issuance of Letter of Acceptance shall constitute a binding Contract.
- 44.3 Subsequent to the LOA, in due course, the Employer shall separately notify the Contractor through a "Notice to Proceed", to proceed with execution of the Works/ work on the Facilities stipulating therein the Commencement Date which shall not be later than 15 days after the date of the Notice to Proceed.
- 45. Signing of Contract**
- 45.1 Promptly after notification of award through the Letter of Acceptance, the Employer shall prepare the Contract Agreement incorporating all agreements between the Employer and the successful Bidder. The Contract Agreement so prepared shall be shared with the successful Bidder.
- 45.2 All efforts shall be made by the Employer and the Successful Bidder so that the Contract Agreement is signed by the Employer and the successful Bidder preferably within 28 days of receipt of notification of award through issuance of Letter of Acceptance from the Employer. In the normal course the Contract Agreement shall be signed in the

office of the Employer. Alternatively, the successful Bidder shall sign, date, and return the Contract Agreement shared by the Employer as per ITB 45.1.

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| <b>46. Performance Security</b>                 | <b>46.1</b> | Within Within 28 days of the Effective Date of the Contract as per Conditions of Contract, the successful Bidder shall furnish the performance security for the amount specified in BDS, in accordance with the conditions of contract, subject to ITB 39.5 and ITB 40.4, using for that purpose the Performance Security Form included in Section 9 (Contract Forms), or another form acceptable to the Employer. If the bank issuing performance security is located outside India, it shall be counter-guaranteed or encashable by a bank in India. |
|   | <b>46.2</b> | Failure of the successful Bidder to submit the above mentioned performance security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security 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 and is acceptable to the Employer.                                |
| <b>47. Source of Funds</b>                      | <b>47.1</b> | The Employer intends to use the capital arranged by the Employer through its own resources, other investors and/or loans from FIs. In general, the payment as per the payment terms specified in the Contract will be released timely by the Employer.   |
| <b>48. Dedicated bank account of Contractor</b> | <b>48.1</b> | If required by the Employer, the Contractor may be required to create a dedicated bank account for usage of the funds under the project, and the Contractor may be required to provide the details of the transactions under this account to the Employer at the time of key milestones as defined by the Employer.  |