

Section III: Evaluation Methodology

A. Proposal Evaluation

General

The evaluation of proposals shall be carried out based on the information submitted pursuant to the provisions of ITP 10.

If provided for under ITP 11 the Client shall also evaluate any alternatives offered by the Participant.

During the evaluation the Client shall follow the instructions provided in ITP 23-32, as appropriate.

1. Preliminary Examination

Proposals shall be examined to check that all documents required by the Procurement Document have been submitted. It shall be followed by verification whether the documents are correctly signed by an authorised person, appropriate power of attorney is enclosed, proposal validity period is correct, the tender security, if required, is substantially responsive, forms contain all the required information etc.

Where necessary and provided for by the ITP, the Client shall request a Participant to submit within a reasonable period of time any necessary missing information or documentation.

To assist with the examination, evaluation, and comparison of proposals as well as with the assessment of the eligibility and qualification of the Participants, the Client may ask, at its discretion, any Participant for a clarification of its proposal, allowing a reasonable time for response.

Proposals that are not substantially complete or which otherwise do not provide a basis for detailed evaluation shall not be considered further and shall be rejected.

2. Preliminary Economic and Financial Evaluation

2.1 General Considerations

The Client shall evaluate the financial aspects of the Letter of Tender, the Appendix to Tender (where appropriate) and the Financial Documentation vis-à-vis the requirements set forth in the Procurement Document.

The Client shall determine for each proposal the respective evaluated price by adjusting the proposal price stated in the Letter of Tenders, as follows:

- (i) correcting arithmetical errors;
- (ii) adjusting for provisional sums and contingencies;
- (iii) applying the discounts offered, if any, by Participants;
- (iv) converting, if applicable, into the common evaluation currency;

- (v) adjusting for economic factors, taking into account alternative technical proposals, where appropriate; and
- (vi) applying further evaluation factors.

2.2 Correction of Arithmetical Errors

The Client shall check the arithmetic and correct any arithmetical errors of the proposals, which passed the detailed legal and technical examination and shall correct any errors in accordance with the provision of ITP 27.

2.3 Adjustment for Provisional Sums

For the purposes of comparison and evaluation of proposals, provisional sums and contingencies, if any, shall be excluded from the evaluated price of proposals. Where priced competitively, the day-works price shall be included into the evaluated price of proposals.

2.4 Discounts

The Client shall adjust the proposal price for any discounts proposed by respective Participants, using the methodology prescribed by them in the Participant in its Letter of Tender.

In case of any ambiguity in the Participant's methodology, the benefit of the doubt in its interpretation shall be given to the Client. If a Participant does not accept the Client's determination, its proposal shall be declared non-responsive and its tender security may be forfeited.

2.5 Conversion to a Single Currency

For evaluation and comparison purposes, the Client shall convert the corrected proposal prices to a single currency, namely United States Dollars (USD), at the selling rates established by the Central Bank of Mongolia on the date of the proposal.

2.6 Adjustments for Alternatives

The Client requires the Works under the Contract to be completed within the Time for Completion specified therein.

Proposals offering completion periods in excess of this time will be rejected as non-responsive. Equally, no benefits will be given for early completion.

2.7 Preliminary Determination of Most Economically Advantageous Proposal

The most economically advantageous proposal is the proposal which has the lowest evaluated proposal price.

Since the Procurement Process covers two Contracts (lots), the evaluation methodology shall take into account potential combinations of proposals by several Participants:

The most economically advantageous proposals are those, whose evaluated proposal prices, represent cumulatively the most economically advantageous evaluated proposal price combination, namely the lowest combined evaluated proposal price.

3. Detailed Technical Evaluation

Concerning the proposal, which has been found to be the most economically advantageous, the Client shall evaluate the technical and, as appropriate legal, aspects of the Letter of Tender, the Covenant of Integrity, the Appendix to Tender (where appropriate) and the Technical Documentation, vis-à-vis the requirements set forth in the Procurement Document with special focus on Section VI, Requirements, and Section VII, Contract Terms and Conditions.

During the evaluation of the technical aspects of the proposal, the Client shall assess inter alia the following information:

- (i) the Base Programme;
- (ii) the Work methods;
- (iii) the Environmental, Social, Health and Safety plan;
- (iv) the Quality Assurance plan;
- (v) the procurement and logistics plan;
- (vi) the Participant's key personnel proposed for the Contract;
- (vii) the major equipment to be made available to complete the Works in accordance with the proposed Programme and taking into account the proposed Work Method;
- (viii) the Subcontracting arrangements;
- (ix) the sources and suppliers of major Plant and Materials; and
- (x) the draft traffic management plan showing intended diversions along the road based on work progress and logistics, as well as planned traffic safety measures.

Technical alternatives, which comply with the Client's requirements shall be considered by the Client on their own merits.

Proposals that are found after detailed examination not to be substantially responsive to the requirements of the Procurement Document shall be rejected.

If the proposal is found to be substantially responsive to the requirements of the Procurement Document, pursuant to the provisions of ITP 25, it shall be subject to final economic and financial evaluation. Otherwise, the Client shall reject the proposal and proceed to the next most economically advantageous proposal.

4. Final Economic and Financial Evaluation

4.1 General Considerations

The Client shall finalise evaluation of the financial aspects of the Letter of Tender, the Appendix to Tender (where appropriate) and the Financial Documentation vis-à-vis the requirements set forth in the Procurement Document, taking into account the respective Technical Documentation submitted by the Participant, whose proposal was found to be most economically advantageous.

Using the results of the preliminary economic and financial evaluation of the proposal, the Client shall

- (i) add the cost of quantifiable non-material nonconformities, converting, if applicable, into the common evaluation currency;
- (ii) if necessary, adjust for economic factors, taking into account alternative technical proposals, where appropriate; and

(iii) if necessary, apply further evaluation factors.

4.2 Adjustments for Quantifiable Non-material Nonconformities

The Client shall follow the instructions of ITP 26 and adjust the proposal price to account for any quantifiable Deviations, Reservations or Omissions.

4.3 Other Adjustments

The Client shall follow the instructions of Paragraph 2 above and make appropriate adjustments to the proposal, if any.

4.4 Determination of Most Economically Advantageous Proposal

The Client shall verify if the proposal, which was found to be most economically advantageous proposal at the preliminary evaluation, remains to be such after the final evaluation. If it is not the case the Client shall proceed with the final economic and financial evaluation of the most economically advantageous proposal, as per Paragraph 4 above.

Since the Procurement Process covers two Contracts (lots), the evaluation methodology shall take into account potential combinations of proposals by several Participants:

The most economically advantageous proposals are those, whose evaluated proposal prices, represent cumulatively the most economically advantageous evaluated proposal price combination.

4.5 Abnormally Low Proposals

If in the opinion of the Client the proposal which results in the most economically advantageous priced is determined to be abnormally low, the Client shall require the Participant to produce detailed price analyses for any or all items of the Price Schedules, and supplementary evidence, to demonstrate the internal consistency of those prices with the information provided in the Participant's Technical Documentation.

If after evaluation of the price analyses and taking into consideration the Technical Documentation and the Contract cash flow forecast, the Client still considers that the proposal price is abnormally low, it shall outline its concerns to the Participant in writing and request the Participant to provide further clarifications.

In the event that the Participant is subsequently unable to demonstrate beyond reasonable doubt its capability to perform the Contract for the offered price, the proposal shall be rejected as non-responsive.

5. Evaluation of Eligibility and Qualification

The Client shall determine to its satisfaction whether the Participant, who has been determined to have submitted the substantially responsive and the most economically advantageous proposal meets the eligibility and qualification criteria and requirements, specified in ITP and Section IV, Eligibility and Qualification Criteria.

The methodology for the assessment is defined in Part B of Section III, Evaluation Methodology.

In the event that a prequalification of the Participants has been undertaken the Client shall establish whether any conditions for prequalification were met by Participants.

An affirmative determination of the Participant's eligibility and qualification shall be a prerequisite for award of the Contract to the Participant. A negative determination shall result in rejection of the proposal, in which event the Client shall proceed to the Participant, who submitted the next substantially responsive and the most economically advantageous proposal to make similar determination of that Participant's eligibility and qualifications to perform the Contract successfully.

6. Verification in Respect of Exclusions from Contract Award

The Client through application of the provisions of ITP 31 shall verify if there are any grounds for exclusion of the Participant, who has been determined to have submitted the substantially responsive and the most economically advantageous proposal, from award of the Contract. If such grounds exist, the Client shall reject the respective proposal and proceed to the Participant, who submitted the next substantially responsive and the most economically advantageous proposal to make similar determination.

7. Substitution of Financial Institutions

The Client may request the successful Participant to substitute financial institutions proposed by the Participant for receiving payments, providing bank guarantees or insurance policies under the Contract, if it was determined that their involvement may prohibit or impair in any material respect payments or the enforceability of these bank guarantees or insurance policies by the Client.

B. Eligibility and Qualification Requirements

In order to be qualified for the Contract award, a Participant shall demonstrate to the Client that it substantially meets all eligibility and qualification requirements set forth in ITP 4 and ITP 30, as well as the criteria specified in Section IV, Eligibility and Qualification Criteria.

The evaluation of Participants' eligibility and qualification shall be carried out, based on the information submitted pursuant to the provisions of ITP 10.

1. Eligibility

Participants shall be eligible for award of the Contract, as stated in the Procurement Document.

2. Qualification

2.1 Experience

The Client shall assess information and evidence to determine whether the Participant substantially meets the criteria for general, management and specific experience for the time period stated in Section IV, Eligibility and Qualification Criteria.

Where necessary, the Client may make inquiries with the Participant's clients in respect of the reference projects or contracts.

2.2 Financial Situation

The financial information shall be provided for the time periods stated in Section IV, Eligibility and Qualification Criteria.

The submitted annual financial statements for the required period must demonstrate the soundness of the Participant's financial position, showing long-term profitability. Consistent losses or a risk of insolvency shown in the accounts may be cause for the disqualification of the Participant.

The Participant shall have the financial resources free of ongoing obligations and recent contract awards, for which the Participant shall provide information.

The Client may reject the proposal if the level of the confirmed commitments to be carried out in parallel with the Contract exceeds the Participant's annual revenues for the previous year by a factor of **1.5**.

Where necessary, the Client may make inquiries with the Participant's banks.

2.3 Historical Contract Non-Performance

Non-performance, as determined by the former or current clients, includes any contracts where (a) non-performance was not challenged by the Participant, including through referral to the dispute resolution mechanism under the respective contracts, or (b) non-performance was so challenged, but was fully settled against the Participant. Non-performance shall not include contracts, where client's decision was overruled by the dispute resolution mechanism. Determination of non-performance must be based on information on fully settled disputes or litigations, i.e. dispute or litigation that has been resolved in accordance with the dispute

resolution mechanism under the respective contract and where all appeal instances available to the Participant have been exhausted.

The information in respect of litigation or arbitration shall be provided for the time period stated in Section IV, Eligibility and Qualification Criteria. It shall include any pending litigations or arbitration.

A consistent history of litigation or arbitration awards against the Participant or any partner of a JVCA or their non-performance under the contracts may result in rejection of the proposal.

2.4 Environmental, Social, Health and Safety Records

The Participant shall meet the criteria for Environmental, Social, Health and Safety records and experience for the time periods stated in Section IV, Eligibility and Qualification Criteria.

2.5 Specific Requirements with regard to JVCA

A JVCA must satisfy the following minimum qualification requirements:

- (a) the JVCA must satisfy collectively all the qualification criteria, for which purpose the relevant figures for each of the partners shall be added to arrive at the JVCA's total capacity; and
- (b) each partner of the JVCA shall fully satisfy the requirements with regard to the soundness of the financial position and non-performance history. They also shall individually meet the share/percentage of certain qualifying criteria, as stated in Section IV, Eligibility and Qualification Criteria.

2.6 Subcontractors

The Client shall assess eligibility and qualification of the Subcontractors, proposed by the Participant in its Technical Documentation for implementation of works in excess of **20 %** percent of the estimated value of the Contract, or for the specific critical works or activities under the Contract, namely asphalt concrete pavement construction.

The Subcontractor's financial information shall be disregarded for the purposes of qualification of the Participant. However, their specific experience related to the Contract and/or availability of licenses, where required, may be taken into account.

The Participants shall demonstrate that the Subcontractors proposed for the Contract substantially satisfy the qualification criteria stated in Section IV, Eligibility and Qualification Criteria.

2.7 Personnel Capabilities

The Participant shall provide suitably qualified personnel to the positions listed in Section IV, Eligibility and Qualification Criteria.

For each position Participant shall supply information in the relevant form on a main candidate and an alternate, each of whom should meet the experience requirements specified in Section IV, Eligibility and Qualification Criteria.

3. Substitution of Subcontractors or Personnel

The Client may request the successful Participant to substitute Subcontractors or, where appropriate Personnel, who were determined to be unacceptable in accordance with ITP.

4. Exceptions

Notwithstanding the above provisions, in the event that a Participant is prohibited by an applicable law from providing the Client with specific information or documents required to prove the Participant's qualifications, the absence of such information or documents shall not result in the rejection of its proposal, provided that the respective prohibition is evidenced by the Participant in its proposal, and the other information and documents submitted by the Participant demonstrate their ability to perform the proposed Contract successfully.