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## Section-II

### Instructions to Bidders

#### A. General

##### 1. Scope of Bid

1.1 Bhutan Power Corporation Limited (BPC) (hereafter referred to as “the Employer”) wishes to receive sealed Bids for the Rural Electrification Works in Chukha, Haa, Paro, Punakha, Wangdue and Samtse Dzongkhags. The Rural Electrification (RE) works include construction, erection, testing, commissioning of MV lines, LV lines, Distribution Substations, Service Connections, including loading/unloading, transportation, delivery of all materials and equipment to sites, storage, tree felling, clearance of ROW, etc. (hereinafter referred to as “RE Works”). The works are classified under the following packages:

1. Package B7- RE Works in Chapcha, Geling and Dungna Gewogs under Chukha Dzongkhag.
2. Package B8- RE Works in Matapkha, Geling, and Lokchina Gewogs under Chukha Dzongkhag.
3. Package B9- RE Works in Balujhora/Sampheling and Phuentsholing Gewogs under Chukha Dzongkhag.
4. Package B10- RE Works in Getena Gewog under Chukha Dzongkhag.
5. Package B11- Construction of 33 kV line from Ketokha village (Bongo Gewog) to Gangu School (Getena Gewog) under Chukha Dzongkhag.
6. Package B12- RE Works in Darla and Bongo Gewogs under Chukha Dzongkhag.
7. Package E2- RE Works in Gakiling and Sombaykha Gewogs under Haa Dzongkhag.
8. Package H2- RE Works in Lungnyi and Doga Gewog under Paro Dzongkhag.
9. Package J2- RE Works in Guma and Tewang Gewogs under Punakha Dzongkhag.
10. Package S7- RE Works in Nahi, Sephu, Bjina and Athang Gewogs under Wangdue Dzongkhag.

- 11. Package L19- RE Works in Samtse, Dorokha and Tendu Gewog under Samtse Dzongkhag.
- 12. Package L20- RE Works in Samtse and Pagli Gewog under Samtse Dzongkhag.
- 13. Package L21- RE Works in Pagli Gewog under Samtse Dzongkhag.
- 14. Package L22- RE Works in Denchukha Gewog under Samtse Dzongkhag.
- 15. Package L23- RE Works in Denchukha Gewog under Samtse Dzongkhag.
- 16. Package L24- RE Works in Denchukha Gewog under Samtse Dzongkhag.

1.2 The successful bidder will be expected to complete the works within the stipulated time from the date of commencement of works as indicated in Article III, Clause No.11 of Conditions of Contract.

## **2. Eligible Bidders**

2.1 This Invitation for Bid is open to all Medium Class and above Bhutanese registered Contractors with W4 (Power and Telecommunications) valid License and CDB registration.

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

2.3 A Bidder shall not have a conflict of interest. All Bidders found to have conflict of interest shall be disqualified. Bidders may be considered to have a conflict of interest with one or more parties in this bidding process, if:

- (a) they have a relationship with each other, directly or through third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Employer regarding this bidding process; or
- (b) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Works that are the subject of the Bid or in any other way provided consulting services in any aspect of the preparatory stages leading up to the issue of these Bidding Documents; or
- (c) a Bidder lends, or temporarily seconds its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personal would be involved in any capacity on the same project.

### **3. Cost of Bidding and Site Visit**

- 3.1 The Bidder shall bear all costs associated with the preparation and delivery of its Bid, and the Employer will in no case be responsible or liable for those costs.
- 3.2 The Bidder is strongly advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Bids, and entering into a contract for the construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense and at his own risk.

The Bidder and any of his personnel or agents will be granted permission by the Employer to enter upon its premises and land for the purpose of such inspection, but only upon the condition that the Bidder, his 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.

- 3.3 The interested Bidder shall make prior appointment for field visit before submitting the bid offer. The contact persons for the field visits shall be as below:

For Chukha, Haa, Paro, Punakha and Wangdue Dzongkhags

Mr. Phuntscho Wangdi  
Sr. Manager, RECD,  
RED, BPC, Thimphu,  
Telephone No. 02 322764; 17600447

For Samtse Dzongkhag

Mr. Vesraj Bhujel  
Manager, RECD,  
RED, BPC, Samtse  
Telephone No. 05 365602; 17762904

### **4. Pre-bid Meeting**

- 4.1 The Bidder or his authorized representative is invited to attend at his own cost and risk, the pre-bid meeting which will take place at BPC Conference Hall, Thimphu at 10:00 AM on January 19, 2012. Bidders are expected to seek clarification, if any in writing at least two days prior to the pre-bid conference in order to enable BPC prepare for the clarification.
- 4.2 The purpose of the meeting will be to clarify issues and to answer questions or any matter that may be raised at that stage.

- 4.3 Bidders are advised to attend the pre-bid meeting. However, non-attendance at the pre-bid meeting will not be a cause for disqualification of a bidder.
- 4.4 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 Documents. Any modification to the Bidding documents that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to Clause 7 and not through the minutes of pre-bid meeting.

## **B. The Bidding Documents**

### **5 Bidding Documents**

- 5.1 The bidding procedures and contract terms are prescribed in the Bidding Documents. In addition to the Invitation for Bid, the Bidding Documents include:

- I Integrity Pact
- II Instructions to Bidders;
- III Conditions of Contract;
- IV Technical Specifications & Drawings;
- V Price Schedules & Sample Bill of Quantities;
- VI Bid form; and
- VII Sample Forms
  - Bid Security Form
  - Contract Form
  - Performance Security Form
  - Bank Guarantee for Advance Payment
  - Form of Information for Establishment of Bidder's Eligibility
  - Form of Information for Establishment of Bidder's Qualification
  - Confirmation of Litigation History

- 5.2 The Bidders are expected to examine the Bidding Document, including all instructions, forms, terms and specifications. Failure to furnish all information required by Bidding Document or submission of a Bid not substantially responsive to the Bidding Document in every respect will result in the rejection of the Bid.

### **6. Clarification of Bidding Documents**

- 6.1 Prospective bidders requiring any further information or clarification of the Bidding Document may notify the Employer in writing at the Employer's mailing address indicated under Clause 20.2. The Employer will respond in writing to any request for information or clarification of the Bidding Documents, which it receives no later than ten (10) days prior to the submission of bids. The Employer's

response including an explanation to the query will be sent in writing to all prospective bidders who purchased the Bidding Document.

## **7. Amendments of Bidding Documents**

- 7.1 At any time prior to the deadline for submission of Bids, the Employer may, for any reason, whether at its own initiative or in response to a clarification requested by prospective bidder, modify the bidding Document by issuing addendum.
- 7.2 The amendment shall be part of the Bidding Document, pursuant to Sub-Clause 5.1, and it will be notified in writing or by fax to all prospective bidders who have received the Bidding Documents, and will be binding on them.
- 7.3 In order to afford prospective bidders reasonable time in which to take the amendment into account in preparing their Bids, the Employer may, at its discretion, extend the dead line for the submission of Bids.

## **C. Preparation of Bids.**

### **8. Language of Bid**

- 8.1 The Bids prepared by the bidder, and all correspondence and documents relating to the Bid exchanged by the Bidders and the Employer, shall be written in the English language.

### **9 Documents Comprising the Bid**

- 9.1 The Bid prepared by the bidders shall comprise of the following components:
- (a) Bid Form and Price Schedule completed in accordance with Clause 10, 11, 12;
  - (b) Documentary evidence establishing, in accordance with Clause 13, that the bidder is eligible to bid.
  - (c) Documentary evidence establishing in accordance with Clause 14, that the bidder is qualified to perform the Contract if it's Bid is accepted;
  - (d) Bid security furnished in accordance with Clause 16.
  - (e) Acknowledgement of Compliance with Guidelines for Procurement under Japanese ODA Loans, which shall be signed and dated by the Bidder's authorized representative.
  - (f) Written power-of-attorney authorizing the signature by Bidders in accordance with Clause 19.2

## **10 Bid Form**

- 10.1 The bidder shall complete **an original and (two) copies of the Bid Form and the appropriate Price Schedules** furnished in the Bidding Document.

Bid forms not duly filled and signed appropriately shall be treated as non-responsive and the bid shall be rejected.

## **11. Bid Prices**

- 11.1 The Bidder shall complete the appropriate Price Schedules included herein, stating the unit prices, total price per item and the total amount. Prices quoted shall follow strictly the format provided herein.

- 11.2 Unless stated otherwise in the Bidding Document, the Contract shall be for the whole works, based on the schedule of unit rates and prices submitted by the bidders.

- 11.3 The Bidder shall fill in rates and prices for all items of the works described in the Bill of Quantities. Items against which no rate or price is entered by the bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities.

- 11.4 All duties, taxes and other levies payable by the Contractor under the contract, or any other cause, as of the date twenty eight (28) days prior to the deadline for submission of bids shall be included in the rates and prices and the total bid price submitted by the bidder.

- 11.5 Rates quoted by the bidder shall remain fixed and valid until completion of the Contract performance and will not be subject to variation on any account. A bid submitted with price adjustment condition will be treated as non-responsive and will be rejected.

- 11.6 Conditional tenders shall be rejected without any further explanation.

## **12 Bid Currencies**

- 12.1 Rates shall be quoted in Ngultrum.

## **13 Documents Establishing Eligibility of the Bidder**

- 13.1 The Bidder shall furnish, as part of its Bid, certification establishing the bidder's eligibility to bid pursuant to Clause 2.

- 13.2 The Bidder is a registered qualified electrical contractor. If in case, the license and the CDB registration certificate have expired during the bid submission, the bidder

shall submit letters from competent authorities validating the license and the Form No.5 “Information for Establishment for Bidders Eligibility” enclosed in Section VII.

- 13.3 The Bidder does not anticipate change in ownership during the proposed period of work (if such a change is anticipated, the scope and effect thereof shall be defined).
- 13.4 The Bidder shall submit proposals of work method and schedule, in sufficient detail to demonstrate the competency of the bidder’s proposals to meet the completion schedule referred to in Sub-Clause 1.2 above.

**14 Documents Establishing the Bidder’s Qualifications to Perform the Contract**

- 14.1 The technical qualification of bidder to perform the required works is the most important criteria and each bidder shall submit a list of skilled employee in the project along the line of Form No. 6 in Section VII. One of the key personnel who has sufficient experience shall be proposed as the Accident Prevention Officer in Form No. 6. A minimum of one supervisor with electrical Degree/Diploma with one year experience or electrical RTI/VTI graduate with three years of field experience shall be engaged for each package.
- 14.2 The Bidder shall provide a list of tools and equipment (Form No. 6 in Section VII) related to the works including vehicles to show that the bidder has enough tools and equipment to execute the work immediately.
- 14.3 The Bidder shall submit a list of experience of works of similar nature (Form No. 6 in section VII) along with certificates.
- 14.4 In case of award of multiple packages, the Employer shall evaluate the award capacity of bidders from the aggregated requirements stated in Form No. 6.

**15 Documents Establishing the Goods’ and Services Conformity to the Bidding Documents**

- 15.1 Not applicable in this contract.

**16 Bid security**

- 16.1 Bidder shall furnish, as part of its bid, a bid security in the amount as given below :

<b>Sl.No</b>	<b>Dzongkhag</b>	<b>Package</b>	<b>Bid Security Amount (Nu.)</b>
1	Chukha	B7	166,000.00
2	Chukha	B8	158,000.00

3	Chukha	B9	128,000.00
4	Chukha	B10	168,000.00
5	Chukha	B11	80,000.00
6	Chukha	B12	158,000.00
7	Haa	E2	146,000.00
8	Paro	H2	38,000.00
9	Punakha	J2	64,000.00
10	Wangdue	S7	176,000.00
11	Samtse	L19	181,000.00
12	Samtse	L20	149,000.00
13	Samtse	L21	170,000.00
14	Samtse	L22	132,000.00
15	Samtse	L23	116,000.00
16	Samtse	L24	121,000.00

- 16.2 The bid security shall be denominated in the currency of the Bid. It shall be valid for **148 days** (that is from February 7, 2012 to July 3, 2012) from the date of opening of bids and shall be in one of the following forms acceptable to the Employer:
- (a) Cash Warrant/Bank Draft/Bank Guarantee issued by a reputable bank in Bhutan acceptable to the Employer in the form provided in the Bidding Documents or another form subject to prior approval of the Employer.
  - (b) The Bank Guarantee shall be drawn in favour of Chief Finance Officer, Finance & Accounts Services, Bhutan Power Corporation Limited, Thimphu, Bhutan.
  - (c) Cash, personal cheque, etc., will not be accepted as a bid security and the bid will be treated as non-responsive and will be rejected.
- 16.3 Any Bid not secured in accordance with Sub-Clause 16.1 and 16.2 above will be treated as non-responsive and will be rejected.
- 16.4 The unsuccessful bidder's bid security will be discharged/returned as promptly as possible upon award of Contract to the successful bidder, but in any event not later than thirty (30) days after the expiration of the period of bid validity.
- 16.5 The successful bidder's bid security will be discharged/returned upon furnishing the performance security and the bidder's executing the Contract.

16.6 The bid security may be forfeited:

- (a) if the bidder withdraws its Bid during the Period of the bid validity specified by the bidder on the Bid Form; or
- (b) if the bidder does not accept the correction of its bid prices; or
- (c) in the case of a successful bidder, if the bidder fails to comply with the specified time limit to
  - (i) sign the Contract; or
  - (ii) furnish the performance security.

## **17. Period of Validity of Bids**

17.1 Bids shall remain valid for a period of **120 days** from the date of opening of bids.

17.2 Notwithstanding Sub-Clause 17.1 above, the Employer may solicit bidder's consent to an extension of the period of bid validity. The request and the responses thereto shall be made in writing or by fax. If the bidder agrees to the extension request, the validity of the bid security provided under Clause 16 shall also be suitably extended. A bidder may refuse the request without forfeiting its bid security. A bidder agreeing to the request will not be required or permitted to modify its Bid, but will be required to extend the validity of its bid security for the period of the extension, and in compliance with Clause 16 in all respects.

17.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the Contract Price shall be adjusted by a factor as specified in the request for extension. Bid evaluation shall be based on the Bid Price without taking into consideration the above correction.

## **18 Alternative Bids**

18.1 Not applicable in this contract.

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

19.1 The Original Bid Form and accompanying documents (as specified in Clause 9), clearly marked "**Original Bid**", plus "**Two (2) copies**" must be received by the Employer at the date, time and place specified pursuant to Clause 20 and 21. In the event of any discrepancy between the original and the copies, the original will govern.

- 19.2 The original and the copies of the bid shall be typed or written in indelible ink and shall be signed by the bidder or a person or persons duly authorized to sign on behalf of the bidder. Such authorization shall be by a written Power of Attorney accompanying the Bid. If the bid is not accompanied by the written Power of Attorney, the Bid will be treated as non-responsive and will be rejected. All pages of the Bid, except for un-amended printed literature, shall be initialed by the person or persons signing the Bid. The name and position held by each person signing must be typed or printed below the signature.
- 19.3 The Bid shall contain no interlineations, erasures or overwriting except as necessary to correct errors made by the bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.

**D. Submission of Bids**

**20. Sealing and Marking of Bids**

20.1 The Bidder shall seal the original and each copy of the Bid in an inner and an outer envelope, duly marking the envelopes as “**Original**” and “**Copy**”.

20.2 The inner and outer envelopes shall:

- a. be addressed to the Employer at the following address:

**General Manager,  
Rural Electrification Department,  
Bhutan Power Corporation Limited,  
Yarden Lam, Chubachu, Post Box No. 580,  
Thimphu: Bhutan;  
Telephone : +975-2-333820; and Facsimile: +975-2-335531**

- b. bear the following identification:

- **Bid for Rural Electrification Works in Chukha, Haa, Paro, Punakha, Wangdue and Samtse Dzongkhags under JICA Financing (Phase 2).**
- **Bid Reference No.64/BPC/RED/JICA-2(Works)/2011/LOT- I/770**
- **DO NOT OPEN BEFORE 1430 Hours on February 7, 2012.**

20.3 In addition to the identification required in Sub-Clause 20.2 above, the inner envelope indicate the name and address of the bidder to enable the Bid to be returned unopened in case it is declared “Late” pursuant to Clause 23.

20.4 If the outer envelope is not sealed and marked as required by Sub-Clause 20.2, the Employer will assume no responsibility for the bid misplacement or premature opening.

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

- 21.1 The original Bid, together with the required copies, must be received by the Employer at the address specified in Sub-Clause 20.2 no later than **1230 hours on February 7, 2012.**
- 21.2 The Employer may, at its discretion, extend the deadline for the submission of Bids by issuing an addendum in accordance with Clause 7, in which case all rights and obligations of the Employer and the bidders previously subject to the deadline will thereafter be subject to the deadline as extended.
- 21.3 The Bidder's representative attending the Bid opening shall have an Authorization Letter from the Bidder, without which the representative may not be permitted to attend the public Bid Opening.

## **22. One Bid per Bidder**

- 22.1 Each bidder shall submit only one Bid individually and no Joint Venture/Consortium is acceptable. A bidder who submits or participates in more than one Bid will be disqualified.

## **23. Late Bids**

- 23.1 Any Bid received by the Employer after the deadline for submission of Bids prescribed by the Employer, pursuant to Clause 21, will be declared "**Late**" and rejected and returned unopened to the bidder.

## **24. Modification and Withdrawal of Bids**

- 24.1 The bidder may modify or withdraw its Bid after the Bid's submission, provided that written notice of the modification or withdrawal is received by the Employer prior to the deadline prescribed for submission of Bids.
- 24.2 The bidder's modification or withdrawal notice shall be prepared, sealed, marked and delivered in accordance with provisions of Clause 20, with the outer and inner envelopes additionally marked "MODIFICATION" or "WITHDRAWAL", as appropriate. A withdrawal notice may also be sent by fax but must be followed by signed confirmation copy.
- 24.3 No Bid may be modified by the bidder after the deadline for submission of Bids.
- 24.4 Withdrawal of a bid during the interval between the deadline for submission of Bids and the expiration of the period of bid validity specified in the Form of Bids may result in the forfeiture of the Bid Security pursuant to Clause 16.

- 24.5 Bids requested to be withdrawn in accordance with Clause 24.1 shall be returned unopened to the Bidders.

## **E. Bid Opening and Evaluation**

### **25. Opening of Bids by Employer**

- 25.1 The Employer will open Bids, including modifications made pursuant to Clause 24, in the presence of bidder's representatives who choose to attend, at **1430 hours** on **February 7, 2012** in the Conference Hall of Bhutan Power Corporation Limited, Thimphu.

The bidder(s)' representatives who are present shall sign a register evidencing their attendance.

- 25.2 Envelopes marked "WITHDRAWAL" shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to clause 23 shall not be opened, but returned to the Bidder.

- 25.3 The Bidders' names, prices of bids, all discounts offered, modifications and bid withdrawals, and the presence or absence of the requisite bid security, and such other details as the Employer, at its discretion, may consider appropriate will be announced and recorded at the time of opening. Any bid Price, or discount which is not read out and recorded at bid opening will not be taken into account in bid evaluation. No bid shall be rejected at bid opening except for late bids, in accordance with Clause 23.1.

### **26. Process to be Confidential**

- 26.1 Information relating to the examination, clarification, evaluation and comparison of Bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process. Any effort by a bidder to influence the Employer's processing of Bids or award decision may result in the rejection of the bidders Bid.

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

- 27.1 To assist in the examination, evaluation and comparison of Bids, the Employer may, at its discretion, ask the bidder for a clarification of its Bid. All requests for clarification and the responses shall be in writing, and no change in the price or substance of the Bid shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids in accordance with Clause 28.4.

## **28. Preliminary Examination of Bids**

- 28.1 The Employer will examine the Bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the Bids are generally in order.
- 28.2 Prior to the detailed evaluation, pursuant to Clause 30, the Employer will determine the substantial responsiveness of each Bid to the Bidding Documents. A substantially responsive Bid is one which conforms to all the terms and conditions of the Bidding Documents without material deviation or reservation. A material deviation, reservation, or omission is one;
- (i) which affects in any substantial way the scope, quality, completion schedule or performance of the Works;
  - (ii) which limits in any substantial way, inconsistent with the provision of the bidding documents, the Employer's rights or the bidder's obligations under the Contract; or
  - (iii) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.
- 28.3 A Bid determined as not substantially responsive will be rejected by the Employer and may not subsequently be made responsive by the bidder by correction of the non- conformity.
- 28.4 Arithmetical errors will be rectified on the following bases;
- (i) If there is a discrepancy between the unit price and the total price per item that is obtained by multiplying the unit price and the quantity, the unit price shall prevail and the total price per item will be corrected.
  - (ii) If there is a discrepancy between the Total Amount and the sum of the total price per item, the sum of the total price per item shall prevail and the Total Amount will be corrected.
- 28.5 The amount stated in the Form of Bid will be adjusted by the Employer in accordance with the above procedure for the corrections of errors and, shall be considered as binding upon the bidder. If the bidder does not accept the corrected amount to bid, its bid will be rejected, and the bid security will be forfeited.

## **29. Conversion to Ngultrum**

29.1 The bid price shall be in Ngultrum.

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

30.1 The Employer will evaluate and compare only the bids determined to be substantially responsive in accordance with Clause 28.

30.2 In evaluating the bids, the Employer will determine for each bid the evaluated bid price by adjusting the bid price as follows:

- (a) making any correction for errors pursuant to Clause 28;
- (b) applying any discounts offered by the bidder for the award;

30.3 The Employer reserves the right to accept or reject any variation, deviation or alternative offer. Variation, deviation, alternative offers and other factors which are in excess of the requirements of the bidding documents or otherwise result in the accrual of unsolicited benefits to the Employer shall not be taken into account in bid evaluation.

30.4 The estimated effect of the price adjustment provision of the Condition of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.

30.5 If the bid of the successful bidder is seriously unbalanced in relation to the Employer's estimate of the cost of work to be performed under the Contract, the Employer may require the bidder to produce detailed price analysis for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, the Employer may require that the amount of the performance security set forth in Clause 37 be increased at the expense of the successful bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful bidder under the Contract.

30.6 The Bid evaluations will be carried out package-wise.

## **31 Contacting the Employer**

31.1 Subject to Clause 27, no bidder shall contact the Employer on any matter relating to its bid, from the time of bid opening to the time of the Contract is awarded.

31.2 Any effort by a bidder to influence the Employer in the Employer's decisions in respect of bid evaluation, bid comparison or Contract award will result in the rejection of the bidder's Bid.

### **32 Employer's Right to Accept Any Bid and to Reject Any or All Bids**

32.1 The Employer reserves the right to accept or reject any Bid and to annul the bidding process and reject all Bids at any time prior to award of Contract, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for the Employer's action.

## **F. Award of Contract**

### **33 Award**

33.1 The Employer will determine to its satisfaction whether the bidder selected as having the lowest-evaluated, responsive Bid is qualified to satisfactorily perform the Contract.

33.2 The determination will take into account the bidder's financial and technical capabilities. It will be based upon an examination of the documentary evidence of the bidder's qualifications submitted by the bidder, pursuant to Clause 14, as well as such other information as the Employer deems necessary and appropriate.

33.3 An affirmative determination will be a prerequisite for award of the Contract to the bidder. A negative determination will result in rejection of the bidder's Bid.

33.4 The Employer will award the Contract to the successful bidder whose Bid has been determined to be the Lowest-Evaluated Responsive Bid, provided further that the bidder is determined to be qualified to satisfactorily perform the Contract. In the event of a single bidder being lowest in more than one package, the Employer, at the time of award, at its sole discretion, may limit the number of packages to two (2) to be awarded to a single bidder, taking into consideration the logistics, its own assessment of impact on the schedule, etc., or for any other reason whatsoever.

### **34 Employer's Right to Vary Quantities at Time of Award**

34.1 The Employer reserves the right at the time of award of Contract to increase or decrease by up to twenty percent (20%) the quantity, without any change in rate or other terms and conditions.

### **35 Notification of Award**

35.1 Prior to the expiration of the period of bid validity prescribed by the Employer, the Employer will notify the successful bidder in writing by registered letter or by fax

that its bid has been accepted. This letter (hereinafter and in the Conditions of Contract called the “**Letter of Acceptance**”) shall name the sum which the Employer will pay the Contractor in consideration of the execution and completion of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Conditions of Contract called “The Contract Price”)

- 35.2 The notification of award will constitute the formation of a contract, until the Contract has been affected pursuant to Clause 36.
- 35.3 Upon the furnishing by the successful Bidder of Performance Security or upon signing of the Contract Agreement, whichever is earlier, the Employer shall notify the other Bidders of the results of the bidding and shall publish a notification of award on the Employer’s website.

### **36 Signing of Contract**

- 36.1 At the time of notification of award, the Employer will send the successful bidder the Contract form provided in the bidding Documents, incorporating all agreements between the parties.
- 36.2 The successful bidder shall be invited for contract signing at the venue and date specified in the Letter of Acceptance.

### **37 Performance Security**

- 37.1 Within ten (10) days of the receipt of the notification of award from the Employer, the successful bidder shall furnish the Performance Security in an amount of ten percent (10%) of the contract price, in accordance with the Conditions of Contract, in the Performance Security Form provided in the Bidding Documents or another forms acceptable to the Employer.
- 37.2 Failure of the successful bidder to comply with the requirements of Clause 36 or 37.1 above shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security.

### **38 Corrupt or Fraudulent Practices**

- 38.1 It is JICA’s policy to require that Bidders and Contractors, as well as Borrowers under contracts funded with Japanese ODA Loans, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance to this policy, BPC
  - (a) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question; and

- (b) will declare a firm ineligible, either definitely or for a stated period of time, to be awarded a contract if at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing contract.
- (c) For the purpose of this provision, BPC defines the terms set forth below as follows:
  - (i) “corrupt practice” means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves and/or those close to them, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement processes or in contract execution; and
  - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the BPC, and includes collusive practice among bidders (prior to or after bid submission or in contract execution) designed to establish bid prices at artificial non-competitive levels and to deprive the BPC of the benefits of free and open competition;

**39 Labour**

- 39.1 The bidder shall commit that no child labour shall be engaged in the construction works.

**40 Equal Pay**

- 40.1 The men and women shall be paid equal for work of equal value.