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# Section - 1

# INSTRUCTIONS TO BIDDERS

Note: It is the responsibility of the bidders to comply with all the requirements given in the bidding document.

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# A. General

## 1. Scope of Bid

*1.1* The Employer as defined in the Bidding Data invites Bids for the construction of Works, as described in section 5, Bidding Data.

*1.2* The successful bidder will be expected to complete Works by the Intended Completion Date specified in the Bidding Data

*1.3* Bids should be submitted in the forms available from the office given in the Bidding Data on a payment of a non-refundable fee given in the Bidding Data. Forms can be collected until the date given in the Bidding Data.

## 2. Source of Funds

*2.1* Works will be financed by the source given in Bidding Data.

## 3. Ethics, Fraud and Corruption

3.1 The attention of the bidders is drawn to the following guidelines of the Procurement Guidelines published by National procurement Agency:

- Parties associated with procurement actions, namely, suppliers/contractors and officials shall ensure that they maintain strict confidentiality throughout the process;
- Officials shall refrain from receiving any personal gain from any Procurement Action. No gifts or inducement shall be accepted. Suppliers/ contractors are liable to be disqualified from the bidding process if found offering any gift or inducement which may have an effect of influencing a decision or impairing the objectivity of an official.

3.2 The attention of the bidders is also drawn to the Sub-Clause 59.2(g) of the Conditions of Contract (Section 3) which shall apply to any bidder.

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**4 Eligibility and Qualification of the Bidder**

**Eligibility**

4.1 The bidder shall not be a blacklisted contractor at the time of bidding and at the time of award of contract.

4.2 Domestic Bidders should hold a valid registration with the Institute for Construction Training and Development (ICTAD) under the grade and specialty given in the Bidding Data, Section 5 at the time of submission of Bids. To qualify for contract award the successful bidder should hold a valid registration as above at the time of award.

**Qualification Requirements**

4.3 All bidders shall provide in Section 4 -Form of Bid and Qualification Information the information requested in the Bidding Data.

4.4 To qualify for award of the Contract, bidders shall meet the minimum qualifying criteria if given in Section 5 -Bidding Data.

**5. One Bid per Bidder**

5.1 Each bidder shall submit only one Bid, either individually or as a partner in a joint venture. A bidder who submits or participates in more than one Bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the bidder's participation to be disqualified.

**6. Cost of Bidding**

6.1 The bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible or liable for those costs regardless of the conduct or outcome of the bidding process.

**7. Site Visit**

7.1 The bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the bidder's own expense.

## B. Bidding Documents

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### 8 Content of Bidding Documents

8.1 The set of bidding documents comprises the documents listed below and addenda issued in accordance with Clause 10:

**Volume 1:**

Section 1 Instructions to Bidders
Section 2 Standard Forms [Contract]
Section 3 Conditions of Contract

**Volume 2:.**

Invitation to bid
Section 4 Form of Bid and Qualification Information
Section 5 Bidding Data and Contract Data
Section 6 Specifications
Section 7 Bills of Quantities
Section 8 Drawings
Section 9 Standard Forms [Bid]

### 9 Clarification of Bidding Documents

9.1 A prospective bidder requiring any clarification of the bidding documents may notify the Employer in writing at the Employer's address indicated given in the Bidding Data. The Employer will respond to any such request for clarification received 10 Days prior to the deadline for submission of Bids. Copies of the Employer's response will be forwarded to all purchasers of the bidding documents, including a description of the inquiry, but without indentifying its source.

### 10. Amendment of Bidding Documents

10.1 Before the deadline for submission of Bids, the Employer may modify the bidding documents by issuing addenda.

10.2 Any addendum thus issued shall be a part of the bidding documents and shall be communicated in writing (to be acknowledged in writing) to all those who have purchased the bidding documents.

10.3 Prospective bidders shall be given a reasonable time of not less than 07 Days to enable them to prepare their Bids in accordance with the addenda.

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## C. Preparation of Bids

**11. Language of Bid** 11.1 All documents relating to the Bid shall be in the language stated in the Bidding Data.

**12. Documents Comprising the Bid**

12.1 The Bid submitted by the bidder shall comprise the following:

(A) Enclosed in the envelope marked as "ORIGINAL" ;

(a) The Form of Bid and Qualification Information (in the format indicated in Section 4, and Qualification Information)

(b) Bid Security or Bid-Securing Declaration as specified

(c) Bidding Data and Contract Data

(d) Specifications

(e) Drawings

(f) Priced Bills of Quantities

(g) If alternative offers are invited, such offers shall contain adequate information for evaluation. However the main offer of the Contractor must conform to the bidding documents

(h) Any other information required to be completed and submitted by bidders, as specified in the Bidding Data.

and

(B).Enclosed in the envelope marked as "COPY"

a) the form of Bid and Qualification Information (in the format indicated in Section 4, and Qualification Information)
b) priced Bills of Quantities
c) If alternative offers are invited, such offers shall contain adequate information for evaluation; and
d) any other information required to be completed and submitted by bidders, as specified in the Bidding Data.

**13. Bid Prices** 13.1 The Contract shall be for the whole of the Works, as described in Sub-Clause1.1,based on the priced Bills of Quantities submitted by the bidder.

13.2 The bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for 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 Bills of Quantities.

13.4 The Contract Price shall be subjected to adjustment during the performance of the Contract if provided in the Bidding Data.

**14. Currencies of Bid** 14.1 The unit rates and prices shall be quoted by the bidder entirely in Sri Lanka Rupees unless otherwise provided in the Bidding Data.

**15. Bid Validity** 15.1 Bids shall remain valid up to the date specified in the Bidding Data. A bid valid for a shorter period shall be rejected by the Employer.

15.2 In exceptional circumstances, the Employer may request that the bidders extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing. A bidder may refuse the request. A bidder agreeing to the request will not be required or permitted to otherwise modify the Bid, but will be required to extend the validity of the Bid and bid security for the period of the extension, and in compliance with Clause 16 in all respects. If a bidder does not agree for an unconditional extension of the validity of his Bid, his Bid shall be rejected without forfeiting the bid security or executing the bid-securing declaring as appropriate.

**16. Bid Security and Bi-Securing Declaration** 16.1 The bidder shall furnish as part of its Bid, a bid security or a bid-securing declaration as specified in the Bidding Data in the format given in Section 9.

16.2 If a bid security is selected under 16.1 above, the bid security shall be in the amount specified in the Bidding Data and shall be valid up to the Date specified in the Bidding data, from an agency acceptable to the Employer.

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16.3 Any bid not accompanied by a substantially responsive bid security or bid-securing declaration in accordance with this clause, shall be rejected by the Employer.

16.4 The bid security or the bid-securing declaration of unsuccessful bidders shall be returned promptly upon the successful bidder furnishing the performance security.

16.5 The bid security may be forfeited or the bid-securing declaration executed:

(a) if a bidder withdraws its bid during the period of bid validity specified by the bidder on the Form of Bid; or

(b) if the bidder does not accept the correction of its bid price pursuant to ITB Sub-Clause 27; or

(c) if the successful bidder fails within the specified time to:

(I) sign the Contract; or
(II) furnish the required performance security.

**17. Pre-Bid Meeting**

17.1 The bidder's designated representative is invited to attend a pre-bid meeting which, if convened and stated so in the Bidding Data, will take place at the venue and time stipulated in the Bidding Data. The minutes of such pre-bid meeting shall be made available to all bidders within a reasonable time prior to the closing date of the Bid. Such minutes should be included by the bidder in his Bid.

17.2 The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. The bidder is requested, as far as possible, to submit any questions in writing or by fax to reach the Employer not later than one week before the meeting. It may not be practicable at the meeting to answer questions received late.

**18. Format and Signing of Bid**

18.1 The bidder shall prepare one original of the documents comprising the Bid as described in Clause 12 of these

Instructions to Bidders, and clearly marked "ORIGINAL". In addition, the bidder shall submit a copy of the bid, which is clearly marked as a "COPY". In the event of discrepancy between them, the original shall prevail.

18.2 The original and the copy of the Form of Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the bidder. All pages of the Bid where entries or amendments have been made shall be initialed by the person or persons signing the Bid.

18.3 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or 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

**19. Sealing and Marking of Bids**

19.1 The bidder shall seal the original and the copy of the Bid in two separate inner envelopes and one outer envelope, duly marking the inner envelopes as "ORIGINAL" and "COPY".

19.2 The inner outer envelopes shall;

a) be addressed to the Employer at the address provided in the Bidding Data.
b) bear the name and identification number of the Contract as defined in the Bidding Data;
c) include the name an address of the bidder; and
d) provide a warning not to open before the specified time and date for bid opening as defined in the Bidding Data.

19.3 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the bid.

**20. Deadline for Submission of Bids**

20.1 Bids shall be delivered to the Employer at the address specified above no later than the time and date specified in the Bidding Data.



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20.2 The Employer may extend the deadline for submission of Bids by issuing an addendum in accordance with Clause 10, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subject to the new deadline.

**21.Late Bids**

21.1 Any Bid received by the Employer after the deadline prescribed in Clause 20 will be returned unopened to the bidder.

**22.Modification and Withdrawal of Bids**

22.1 Bidder may modify, or withdraw their bids by giving notice in writing before the deadline prescribed in Clause 20.

22.2 The bidder's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clauses 18 and 19, with the outer and inner envelopes additionally marked "MODIFICATION" or "WITHDRAWAL" as appropriate.

22.3 No Bid may be modified after the deadline for submission of bids.

22.4 Withdrawal of a bid between the deadline for submission of bids and the expiration of the period of bid validity specified in the Bidding Data or as extended pursuant to sub clause 15.2 may result in the forfeiture of the bid security pursuant to clause 16.

22.5 Bidders may only offer discounts to, or otherwise modify the price of their bids by submitting bid modifications in accordance with this clause, or included in the original bid submission.

## E. Bid Opening and Evaluation

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**23. Bid Opening**

23.1 The Employer will open the bids, including modifications made pursuant to Clause 22, in the presence of the bidders' authorized representatives who choose to attend at the time and in the place specified in the Bidding Data. The bidders' representatives who are present shall sign their attendance.

23.2 Envelopes marked " WITHDRAWAL" shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to Clause 22 shall not be opened.

23.3 The envelope marked as "ORIGINAL" will be opened. If no envelope is marked as "ORIGINAL" the Employer may open one of the envelopes. If the required documents are available in that required documents are available in that envelope, Employer may mark it as the "ORIGINAL" and the unopened envelope as the "COPY". If so the envelope marked as copy will remain unopened. If any of the required document is missing in the envelope opened first, the Employer may open the other envelope to search such missing information transfer such documents to one envelope and mark it as "ORIGINAL" and resealed the other envelope and mark as "COPY".

23.4 The bidders' names, the bid prices, or any discounts, Bid modifications and withdrawals, the presence or absence of bid security/ bid security declaration and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening. No bid shall be rejected at bid opening except late bids.

23.5 After announcing and completing the other procedures, the Employer shall reseal all the opened envelopes in the presence of the bidder's representatives.

**4. Process to be Confidential**

24.1 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 until the award to the successful bidder has been announced. Any effort by a bidder to influence the Employer's processing of bids or award decisions may result in the rejection of his bid.

**25. Clarification of Bids**

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25.1 To assist in the examination, evaluation, and comparison of Bids, the Employer may, at the Employer's discretion, ask any bidder for clarification of the bidder's Bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids in accordance with Clause 27.

**26. Examination of Bids and Determination of Responsiveness**

26.1 Prior to the detailed evaluation of Bids, the Employer will determine whether each Bid (a) meets the eligibility criteria defined in the bidding document; (b) has been properly signed; (c) is accompanied by the required securities; and (d) is substantially responsive to the requirements of the bidding documents.

26.2 A Substantially responsive bid is one which conforms to all the terms, conditions, and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which limits in any substantial way the scope, quality, or performance of the Works; (b) Which limits in any substantial way, inconsistent with the nodding documents, the Employer's rights or the bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids; (d) a bid which proposes an alternative where not allowed to do so.

26.3 If a bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

## 27. Correction of Errors

27.1 Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows;

a) Where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and
b) Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless there is an obvious gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern, and the unit rate will be corrected.
c) If the bid price changes by the above procedure, the amount stated in the Form of Bid shall be adjusted with the concurrence of the Bidder and shall be considered as binding upon the bidder.
d) If the bidder does not accept the corrected amount of bid, Its bid shall be rejected and the bid security shall be forfeited or bid security declaration shall be executed in accordance with Clause 16.

## 28. Currency for Bid Evaluation

Not used unless specified in Bidding Data.

## 29. Evaluation and Comparison of Bids

29.1 The Employer will evaluate and compare only the Bids determined to be substantially responsive.

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

a) excluding provisional sums and the provision, if any, for contingencies in the Bills of Quantities, but including Dayworks, where priced competitively;
b) making any correction for errors pursuant to Clause 27;
c). making appropriate adjustments as described below to reflect discounts or other price modifications offered in accordance with Sub-Clause 22.5

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I. If discounts are offered to limited items it should be applicable to such items;

II. If the discount offered is to the total bid price as a percentage it should be applicable to all the items at th percentage discount offered, excluding for contingencies and provisional sum items before the contract award all rates and prices shall be adjusted to suit the discount;

III. If the discount offered is to the total bid price as a lump sum, such lump sum amount should be considered for evaluation and before the award of contract such lump sum amount shall be uniformly distributed to all the items, excluding for contingencies and provisional sums.

d). making an appropriate adjustment for any other acceptable variations, deviations.

e) converting to a common currency if appropriate.

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

29.4 The estimated effect of any price adjustment conditions under clause 47of the Conditions of Contract, during the period of implementation of the Contract, will not be taken into account in bid evaluation.

29.5 If the Employer determines that the bid is unbalanced and hence the bidder may fail in the performance of his obligations in some items within the quoted rates, a higher performance security as determined by the Employer may be requested to mitigate such risks

**30. Preference for Domestic Bidders**

Not used unless specified in Bidding Data.

## F. Award of Contract

**31. Award of Contract**

31.1 Subject to procedures if provided under Sub-Clause 3[illegible] under Bidding Data and subject to Clause 31.2 and Clause 32 below, the Employer will award the Contract to the bidder whose Bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest evaluated bid price, provided that such bidder has determined to be eligible and qualified in accordance with the provisions of the bidding document.

31.2 Even though the bidders meet the eligibility and qualification criteria specified they are subjected to disqualify if they have:

a) made misleading or false representation in the forms, statements and attachments submitted in proof of the eligibility and qualification requirements; or
b) participated in fraud and corrupt practice.
c) Record of poor performance in previous contracts, such as abandoning the works, inordinate delays resulted in payment of liquidated damages up to the maximum limit specified in the contract etc;

**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 cancel the bidding process and reject all Bids, at any time prior to the 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.

**33. Notification of Award and Signing of Agreement**

33.1 Prior to expiration of the bid validity period, the Employer will notify the successful bidder that his bid has been accepted. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Initial Contract Price")



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33.2 The notification of award will constitute the formation of the Contract.

33.3 The agreement will incorporate the memorandum of understanding if any between the Employer and the successful bidder, and shall be signed by the Employer and the successful bidder, and shall be signed by the Employer and the successful bidder.

33.4 Upon the furnishing by the successful bidder of the performance security, the Employer will promptly notify the other bidders that their bids have been unsuccessful.

33.5 At the same time that the Employer notifies the successful bidder that its bid has been accepted, the Employer will prepare the agreement in the form provided in the bidding documents, incorporating all agreements between the parties.

33.6 The Employer shall notify the successful bidder the date, time and venue for the signing of the agreement. The agreement shall be signed within 28 Days of the Letter of Acceptance.

**34. Performance Security**

34.1 Within 14 Days after receipt of the Letter of Acceptance, the successful bidder shall deliver to the Employer a performance security from an agency acceptable to the Employer in the form of unconditional guarantee and in the amount stipulated in the Bidding Data.

34.2 During the Bid evaluation if the Employer found that the rate/s or amount/s quoted by the bidder is/are unreasonably low and could not furnish rational justification to the Employer, the Employer may request the bidder to furnish a performance security to an increased amount than that specified in the Bidding Data.

**35. Advance Payment and Security**

35.1 The Employer will provide an Advance Payment on the Initial Contract Price subject to maximum amount as stipulated in the Conditions of Contract, within 14 Days of the Contractor submitting an acceptable guarantee.

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**36. Adjudicator**

36.1 The Employer shall include the name of the person to be appointed as an Adjudicator under the Contract in the Bidding Data. If the bidder disagrees with the person named, the bidder should state so in the Bid, in which event the Employer and the Contractor may reach agreement on the appointment of an Adjudicator by mutual consent within 28 Days from the Letter of Acceptance.

If mutual consent is not reached or resorted to or the Adjudicator was not proposed then Adjudicator shall be appointed by the Institute for Construction Training and Development (ICTAD) at the request of either party after the expiry of 28 Days.

The Adjudicator shall be a person not associated with the project directly or indirectly and who could demonstrate impartiality and independence in his functions.

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