

VOLUME I

INSTRUCTION TO TENDERERS

SECTION 1
INVITATION TO TENDERERS

Form of Invitation for Tenders

[letterhead paper of the Employer]¹

_____ date

To: _____ [name of Contractor]
_____ [address]

Dear Sirs:

1. We now invite you and other pre-qualified tenderers to submit sealed tenders for the execution and completion of the cited contract or on a slice and package. Tenderers may tender for one or several contracts, as further defined in the tendering documents, depending on the volume of work for which they are qualified.
2. You may obtain further information from, and inspect and acquire the tendering documents, at our offices at

Ethiopian Electric Power Corporation
(cable/telex/facsimile number)
P.O. Box 1233
Room 207
Dequalle Square
Addis Ababa, Ethiopia

3. A complete set of tendering documents may be purchased by you at the above office, and upon payment of a nonrefundable fee of _____ [insert amount and currency].
4. All tenders must be accompanied by a security in the form and amount specified in the tendering documents, and must be delivered to **Ethiopian Electric Power Corporation, Procurment Division Room 207** at or before _____ [insert amount and currency]. Tenders will be opened immediately thereafter in the presence of tenderers' representatives who choose to attend.
5. Please confirm receipt of this letter immediately in writing by cable, fax, or telex. If you do not intend to tender, we would appreciate be so notified also in writing at your earliest opportunity.

Yours truly,

Authorized signature: _____
Name and title: _____
Employer: _____

SECTION 2
INSTRUCTIONS TO TENDERERS

SECTION 1**INSTRUCTIONS TO TENDERERS**

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SECTION 2

INSTRUCTIONS TO TENDERERS

A. GENERAL

1. FOREWORD

Terms used in these Instructions to Tenderers which are defined in the Conditions of Contract have the meanings assigned to them to them in the Conditions of Contract.

- 1.1 Ethiopian Electric Power Corporation (EPCO) intends to construct
~~insert name of the project~~ with the aim of enhancing the energy and power supply of the country.

EPCO (hereinafter referred to as the Employer) will be the Executing Agency for this Project.

- 1.2 The successful tenderer will be expected to complete the Works with in the the period specified in the Appendix to Tender and Tendering Data.

2. DESCRIPTION OF WORKS TO BE UNDERTAKEN

- 2.1 The Works to be undertaken under this Contract include:

~~insert detailed scope of works~~

- 2.2 The estimated project completion period is as pecified in the Appendix to Tender and Tendering Data.

3. ELIGIBILITY AND QUALIFICATION REQUIREMENTS

- 3.1 This Invitation to Tender is restricted to contractors who were selected by the Employer following **Prequalification procedures.**

- 3.2 A tender submitted by a joint venture of two or more firms as partners shall comply with the following requirements:

- (a) the tender, and in the case of a successful tender, the Form of Agreement, shall be signed so as to be legally binding jointly and severally on all partners;
- (b) one of the partners shall be nominated as being in charge and authorised to sign tenders on behalf of the joint venture; this authorisation shall be evidenced by submitting a power of attorney signed by legally authorised signatories of all the parties;
- (c) the partners in charge shall be authorised to incur liabilities and receive instructions for and on behalf of any and all partners in the joint venture and the entire execution of the Contract including payment shall be performed exclusively with the partner in charge;
- (d) all partners in the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a relevant statement to this effect shall be included in the agreement mentioned under (e) below as well as in the Form of Tender and the Form of Agreement (in case of a successful Tender); and
- (e) a copy of the agreement entered into by the joint venture partners shall be submitted with the tender. The agreement shall identify the nominated individual of the partner in charge

who is authorised to sign the tender on behalf of the joint venture, and shall incorporate and give legal effect to the requirement of (c) and (d) above.

- 3.3 To be recognised as valid under the laws of Ethiopia, powers of attorney and all documents executed outside of Ethiopia in connection with, or required by, the Contract must be authenticated by a notary public or other official deputised to witness sworn statements and must be authorised by an Ethiopian Consular diplomatic representative.
- 3.4 Each tenderer shall submit only one tender either by himself, or as a partner in a joint venture. A tenderer who submits or participates in more than one bid (other than alternatives pursuant to Clause 15) will be disqualified.
- 3.5 Updated any information submitted with their application for prequalification to meet the minimum threshold criteria as listed below
- a. evidence of access to line of credit and availability of other financial resources.
 - b. financial predictions for the current year and the two following years, including the effect of known commitment .
 - c. work commitmentt acquired since prequalification.
 - d. current litigation history; and
 - e. availability of critical equipment.

4. COST OF TENDERING

The tenderer shall bear all costs associated with the preparation and submission of his tender and the Employer will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the tender process. The document fee for the purchase of these documents is non-refundable.

5. SITE VISIT

- 5.1 The tenderer is advised to visit and examine the Site of Works and its surroundings and obtain for himself on his own responsibility all information that may be necessary for preparing the tender and entering into a Contract. The costs of visiting the Site shall be at the tenderer's own expense. The date of an organised site visit is stated in the Letter Of Invitation To Tender.
- 5.2 The tenderer and any of his personnel or agents will be granted permission by the Employer to enter upon his premises and lands for the purpose of such inspection, but only upon the express condition that the tenderer, his personnel or agents, will release and indemnify the Employer and his personnel and agents from and against all liability in respect thereof and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses however caused, which, but for the exercise of such permission would not have arisen.

B. TENDER DOCUMENTS

6. CONTENT OF TENDER DOCUMENTS

- 6.1 The set of tender document issued for the purpose of tender includes the following sections stated below together with Addenda thereto issued in accordance with Clause 8 and any minutes of pre-tender meetings issued in accordance with Clause 16:
0. Letter of Invitation to Tender
 1. Instructions to Tenderers
 2. Conditions of Contract: Part I - General Conditions
 3. Conditions of Contract: Part II -Conditions of Particular Application

4. Technical Specification
5. Form of Tender, Tender Security and Appendix to Form of Tender
6. Bill of Quantities
7. Schedules of Supplementary Information
8. Form of Agreement
9. Forms of Performance Security and Bank Guarantee for Advance Payment
10. Drawings
11. Supplementary Technical Information
12. Prequalification Information .

- 6.2 The tenderer is expected to examine carefully all instructions, conditions, forms, terms, specifications and drawings in the tender documents. Failure to comply with the requirements of tender submissions will be at the tenderer's own risk. Pursuant to Clause 25, tenders which are not substantially responsive to all the requirements of the tender documents will be rejected.

7. CLARIFICATION OF TENDER DOCUMENTS

A prospective tenderer requiring any clarification of the tender documents may notify the Employer in writing or by cable (which is deemed to include telex, facsimile transmission or e-mail transmission) at the Employer's address indicated in the Invitation to Tender. The Employer will respond in writing or by cable to any request for clarification which he receives earlier than 28 days prior to the deadline for the submission of tender. Written copies of the Employer's response (including a description of the enquiry but without identifying its source) will be sent to all prospective tenderers who have purchased the tender documents.

8. AMENDMENT OF TENDER DOCUMENTS

- 8.1 At any time prior to the deadline for submission of tenders, the Employer may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective tenderer modify the tender documents by the issuance of Addenda or Corrigenda.
- 8.2 Any Addendum or Corrigendum thus issued will be sent in writing, by post or cable, to all prospective tenderers who have purchased the tender documents and will be binding upon them. Prospective tenderers shall promptly acknowledge receipt thereof by post or cable to the Employer.
- 8.3 In order to afford prospective tenderers reasonable time in which to take an addendum or corrigendum into account in preparing their tenders, the Employer may, at his discretion, extend the deadline for the submission of tenders in accordance with Clause 19.

C. PREPARATION OF TENDERS

9. LANGUAGE OF TENDER

The tender prepared by the tenderer and all correspondence and documents relating to the tender exchanged by the tenderer and the Employer shall be written in the English language. Supporting documents and printed literature furnished by the tenderer with the tender may be in another language provided they are accompanied by an appropriate translation of pertinent passages in the above stated language. For the purpose of interpretation of the tender, the English language shall prevail.

10. DOCUMENTS COMPRISING THE TENDER

- 10.1 The tender to be prepared by the tenderer shall include the following: the Form of Tender and Appendix thereto; the Tender Security; the Bill of Quantities; the Schedules of Supplementary Information; information on eligibility and qualifications; alternative offers where invited, and any other materials required to be completed and submitted in accordance with the Instructions to Tenderers embodied in these tender documents.
- 10.2 The Forms, Bills of Quantities and Schedules shall be used without exception (subject to extensions of the Schedules in the same format and to the provisions of Subclause 14.2 regarding the alternative forms of tender security).

11. TENDER PRICES

- 11.1 Unless stated otherwise in the tender documents, the Contract shall be for the whole works as described in Clause 2 hereof, based on the unit rates and prices submitted by the tenderer.
- 11.2 The tenderer shall fill in rates and prices for all items of Works described in the Bill of Quantities, whether quantities are stated or not. Items against which no rate or price is entered by the tenderer 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.
- 11.3 All duties, taxes and other levies, deemed payable by the Contractor under the Contract, or for any other cause, as of the date 30 days prior to the closing date for submission of tenders shall be included in the rates and prices and total Tender Price submitted by the tenderer. For the evaluation of comparison of tenders by the Employer deduction shall be made in respect of all local taxes, duties etc.in accordance with Clause 28.3 (c) of these instructions and the amount shown in Schedules.
- 11.4 The rates and prices quoted by the tenderer are subject to adjustment during the performance of the Contract in accordance with the provisions of **Clause 70** of the Conditions of Contract. The tenderer shall complete all Schedules and their annexes included herein, and shall submit with his tender such other supporting information as required under Subclause 70(1) of the Conditions of Contract.

12. CURRENCIES OF TENDER AND PAYMENT

- 12.1 The unit rates and prices shall be quoted by the tenderer entirely in Ethiopian Birr. A tenderer expecting to incur expenses in other currencies for inputs to the Works supplied from outside the Employer's country (referred to as "the foreign currency requirements") shall indicate in Schedule P1 " Foreign Currency Requirements" the percentage of the Tender Prices (excluding Provisional Sums) needed by him for the payment of such foreign currency requirements either (i) entirely in the currency of the tenderer's home country or, at the tenderer's option, (ii) entirely in US Dollars, (as nominated by him in Item 15 of the Appendix to the Form of Tender). The rates of exchange to be used by the tenderer in arriving at the local currency equivalent and the percentage of the Tender Price indicated above shall be the selling rates for similar transactions published by the Commercial Bank of Ethiopia on the date 28 days prior to the latest date for the submission of tenders. (The tenderer shall state the exchange rate used in Item 16 of the Appendix to Form of Tender). If exchange rates are not so published for chosen currencies, the tenderer shall state the rates used as prevailing on that date and the sources. The rates of exchange adopted by the tenderer shall also be indicated in Schedule P1, and shall apply to all payments under the Contract to mitigate the amount of exchange risk borne by the Contractor.

Where materials and equipment to be utilized in the Works are to provided from a source country that has a national currency different from the currency nominated in Item 15 of the Appendix to the Form of Tender, the rates of exchange utilized to convert source country currency (or currencies) to the currency of Tender shall also be provided in Schedule P1.

For taxation purposes within Ethiopia, any payment made to the Contractor in foreign currency that is subject to tax payable in local currency shall be converted into Ethiopian Birr at the exchange rates prevailing at the time such tax is levied.

In the event rates so stated are found different from those published, the published rates shall prevail.

- 12.2 Tenderers shall indicate their expected foreign currency requirements in Schedule P1 Estimate of Foreign Currency Requirements and shall provide details thereof in Annex1 to Schedule P1, including but not limited to the specific requirements for:
- a. expatriate staff and labour employed directly on Works;
 - b. social, insurance, medical and other charges relating to such expatriate staff and labour, and foreign travel expenses;
 - c. imported materials, both temporary and permanent, required for the Works;

- d. depreciation and usage of imported plant and equipment, including spare parts, required for the Works;
- e. foreign insurance and freight charges for imported materials, plant and equipment, including spare parts, and
- f. overhead expenses, fees and financial charges arising outside Ethiopia in connection with the Works.

12.3 Tenderers may be required by the Employer to clarify their foreign currency requirements, and to justify that the amounts included in Schedule P1 are reasonable and responsive to Subclause 12.1. Tenderers should note that payments in Foreign Exchange will be effected in accordance with the regulations of the National Bank of Ethiopia.

12.4 Tenderers shall complete the tabulation in respect of Estimated Contract Payments given in Schedule P2. These entries should be supported by a proposed Programme of Works, method of working and bar chart prepared by the tenderer indicating the approximate quantities of major Bill of Quantities items expected to be performed each month during the Contract period. The proposed Programme of Works of the successful tenderer will be provide the basis of the detailed programme to be provided pursuant to Clause 14 of Conditions of Contract.

Tenderers shall clearly state whether they require the foreign currency portion of the Contract Price to be paid through an irrevocable Letter of Credit or Direct Telegraphic or Electronic Transfer. The Employer would prefer to make foreign currency payments by Direct Telegraphic or Electronic Transfer. However, if any Tenderer requires the foreign currency portion of the Contract Price to be paid through a Letter of Credit, the Employer shall establish such a facility, and shall pay all banking fees and other associated costs that may be incurred in raising and maintaining an irrevocable Letter of Credit, which would be issued by the Commercial Bank of Ethiopia. If the Tenderer requires that such a Letter of Credit be confirmed outside of Ethiopia, then the associated charges of such confirmation both inside and outside of Ethiopia shall be borne by the Tenderer.

The local currency portion of the Contract Price will be paid by transfer to the Contractor's local bank account.

12.5 During the progress of the Works, the foreign currency portions of the outstanding balance of the Contract Price may be adjusted by agreement between the Employer and the Contractor in order to reflect any changes in the foreign currency requirements of the Contract, in accordance with Sub-Clause 72.4 of the Conditions of particular Application. Any such adjustment will be effected by comparing the percentages quoted in the tender with the amounts already used in the Works and the Contractor's future needs for imported items.

13. TENDER VALIDITY

13.1 Tenders shall remain valid and open for acceptance for a period of 180 days after the deadline for submission stated in the Tender Invitation, or such later date as may have been notified under Clause 19.2 hereof.

13.2 In exceptional circumstances, prior to expiry of the original tender validity period, the Employer may request the tenderer for an extended period of validity. The request and the responses hereto shall be made in writing or by cable. A tenderer may refuse the request without forfeiting his tender security. A tenderer agreeing to the request will not be required nor permitted to modify his tender, but will be required to extend the validity of his tender security correspondingly. The provisions of Clause 14 regarding discharge and forfeiture of tender security shall continue to apply during the extended period of tender validity.

14. TENDER SECURITY

14.1 The tenderer shall furnish, as part of his tender, a tender security in Ethiopian Birr or equivalent foreign currency at the exchange rate published by the Commercial Bank of Ethiopia on the day 28 days prior to the submission of Tenders in the amount stated in the Invitation to Tender.

- 14.2 The tender security shall, at the tenderer's option, be in the form of a cash deposit, a certified cheque, a bank draft, an irrevocable letter of credit or a guarantee from a bank located in the country of the Employer or a foreign bank which has been determined by the tenderer to be acceptable to the Employer or a bond issued by an insurance company or bonding company likewise located in the country of the Employer or otherwise acceptable to the Employer. The format of the bank guarantee or the bond shall be in accordance with one of the sample forms of tender security included in these tender documents; other formats may be permitted, subject to the prior approval of the Employer. Letters of credit, and bank guarantees shall be valid for 30 days beyond the validity of the tender.
- 14.3 Any tender not accompanied by an acceptable tender security will be rejected by the Employer as non-responsive.
- 14.4 The tender securities of unsuccessful tenders will be discharged/returned as promptly as possible, but not later than 28 days after the expiration of the period of tender validity prescribed by the Employer.
- 14.5 The tender security of the successful tenderer will be discharged when the tenderer has signed the Form of Agreement and furnished the required performance security.
- 14.6 The tender security may be forfeited:
- (a) if a tenderer withdraws his tender during the period of tender validity, or
 - (b) if a tenderer does not accept the correction of his bid price pursuant to sub-clause 26.2, or
 - (c) in the case of a successful tenderer, if he fails within the specified time limit to:
 - (i) sign the Form of Agreement, or
 - (ii) furnish the required performance security.
- 14.7 The said tender security shall be counter-guaranteed by the Commercial Bank of Ethiopia.
- 14.8 Tender securities which are not counter-guaranteed by the Commercial Bank of Ethiopia will be rejected and returned to the tenderers.

15. VARIATIONS IN TENDER CONDITIONS

- 15.1 Tenderers wishing to qualify their tenders or otherwise to deviate from the requirements of the tender documents on items of a financial/administrative nature shall present such qualifications or deviations in the form of alternative offers to the basic tender requirements. The attention of tenderers is drawn to the provision of Clause 25 regarding the rejection of tenders which are not substantially responsive to the requirements of the tender documents. Each alternative offer shall be accompanied by a detailed description and price breakdown indicating the tenderer's estimate of the cost implications to the Employer in accordance with Clause 28 if the alternative offer were to be accepted by the Employer and incorporated in the Contract. Tenders containing qualifications and deviations which are not so detailed and priced as alternative offers may be rejected. After evaluation in accordance with Clause 28 the Employer reserves the right to accept or reject any alternative offer submitted pursuant to this Subclause.
- 15.2 Tenderers wishing to offer technical alternatives to the requirements of the tender documents must first price the Employer's design as described in the tender documents and shall further provide all information necessary for the complete evaluation by the Employer of the alternatives, including drawings, design calculations, technical specifications, breakdowns of prices, proposed construction methodology and other relevant details. Only technical alternatives, if any, of the lowest evaluated tenderer for the basic Employer's technical requirements shall be considered by the Employer.

16. PRE-TENDER MEETING

- 16.1 The tenderer or his official representative is invited to attend a pre-tender meeting. The date of the pre-tender meeting is stated in the Letter of Invitation to Tender.
- 16.2 The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 16.3 The tenderer is requested to submit any questions in writing or by cable, to reach the Employer not later than one week before the meeting.
- 16.4 Minutes of the meeting, including copies of the questions raised and responses given, will be furnished expeditiously to all those attending the meeting (and subsequently to all purchasers of the tender documents). Any modification of the tender documents listed in Subclause 6.1 which may become necessary as a result of the pre-tender meeting, shall be made by the Employer exclusively through the issuance of an Addendum pursuant to Clause 8, and not through the minutes of the pre-tender meeting.

17. FORMAT AND SIGNING OF TENDERS

- 17.1 The tenderer shall prepare one original and four copies of the documents comprising the tender as described in Subclause 10.1 of these Instructions to Tenderers, bound with the volume containing the Form of Tender, and clearly marked ORIGINAL and COPY as appropriate. In the event of any discrepancy between them, the original shall prevail.
- 17.2 The original and copies of the tender shall be typed or written in indelible ink and shall be signed by a person or persons duly authorised to bind the tenderer to the Contract. Proof of authorisation shall be furnished in the form of a written Power of Attorney which shall accompany the Tender. All pages of the tender where entries or amendments have been made shall be initialed by the person or persons signing the tender.
- 17.3 The complete tender shall be without alterations, interlineations or erasures, except those to accord with instructions issued by the Employer, or as necessary to correct errors made by the tenderer in which case such corrections shall be initialed by the person or persons signing the tender.
- 17.4 Only one tender may be submitted by each tenderer excepting alternative offers pursuant to Clause 15. No tenderer may participate in the tender of another for the same Contract in any relation whatsoever.

D. SUBMISSION OF TENDERS

18. SEALING AND MARKING OF TENDERS

- 18.1 The tenderer shall seal the original and each copy of the tender in an inner and an outer envelope, duly marking the envelopes as ORIGINAL and COPY as appropriate.
- 18.2 The outer envelope shall:
- (a) be addressed to:

Ethiopian Electric Power Corporation
P.O. Box 1233
Room 207
Degualle Square
Addis Ababa
Ethiopia
Attention: The Purchasing Division

Fax ++251 1 550822
 - (b) bear the following identification:
 - (i) Tender for Construction of Tekeze Hydropower Project, Lot 1B/2/3 - Civil Works

- (ii) the words "DO NOT OPEN BEFORE THE OFFICIAL MEETING ARRANGED FOR THE OPENING OF THESE TENDERS".

The inner envelope should indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared late or is otherwise unacceptable.

- 18.3 If the outer envelope is not sealed and marked as instructed above, the Employer will assume no responsibility for the misplacement or premature opening of the tender submitted. A tender opened prematurely for this cause will be rejected by the Employer and returned to the tenderer.
- 18.4 The sealed parcel delivered to the Employer shall contain two separately sealed envelopes or packages one containing the original and one containing four copies of:

Section 5 Tender, Tender Security and Appendix To Tender

Section 6 Bill Of Quantities

Section 7 Schedules Of Supplementary Information

Programme Of Works

Method Of Working

19. DEADLINE FOR SUBMISSION OF TENDERS

- 19.1 Tenders must be received by the Employer at the address specified above not later than 16:00 hours on the latest date for submission of tenders as stated in the Invitation to Tender.
- 19.2 The Employer may, at his discretion, extend the deadline for submission of tenders by issuing an amendment in accordance with Clause 8, in which case all rights and obligations of the Employer and the tenderers previously subject to the original deadline shall thereafter be subject to the new deadline as extended.

20. LATE TENDERS

Any tender received by the Employer after the deadline for submission of tenders prescribed by the Employer in accordance with Clause 19 will be returned unopened to the tenderer.

21. MODIFICATION AND WITHDRAWAL OF TENDERS

- 21.1 The tenderer may modify or withdraw his tender after tender submission, provided that the modification or notice of withdrawal is received in writing by the Employer prior to the prescribed deadline for submission of tender.
- 21.2 The tenderer's modification or notice of withdrawal should be prepared, sealed, marked and delivered in accordance with the provisions of Clause 18 for the submission of tenders, with the inner envelope additionally marked MODIFICATION or WITHDRAWAL as appropriate.
- 21.3 Subject to Clause 24, no tender may be modified subsequent to the deadline for submission of tenders.
- 21.4 Withdrawal of a tender during the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer in the Form of Tender may result in the forfeiture of the tender security pursuant to Clause 14.

E. TENDER OPENING AND EVALUATION

22 TENDER OPENING

- 22.1 The Employer will open the tenders, including submissions made pursuant to Clause 21, in the presence of tenderers' representatives who choose to attend, at the offices of the Employer, Addis Ababa, Ethiopia. The Tenderer's representatives who are present shall sign a register evidencing their attendance.
- 22.2 Tenders for which an acceptable notice of withdrawal has been submitted pursuant to Clause 21 shall not be opened. The Employer will examine tenders to determine whether they are complete, whether the requisite tender securities have been furnished, whether the documents have been properly signed and whether the tenders are generally in order.
- 22.3 At tender opening, the Employer will announce the tenderers' names, the Tender Prices, written notifications of tender modifications and withdrawals, if any, the presence of the requisite tender security, and such other details as the Employer may consider appropriate.
- 22.4 The Employer shall prepare, for his own records, minutes of the tender opening, including the information disclosed to those present in accordance with Subclause 22.3.

23. PROCESS TO BE CONFIDENTIAL

- 23.1 After the public opening of tenders, information relating to the examination, clarification, evaluation and comparison of tenders and recommendations concerning the award of contract shall not be disclosed to tenderers or other persons not officially concerned with such process until the award of the Contract to the successful tenderer has been announced.
- 23.2 Any effort by a tenderer to influence the Employer in the process of examination, clarification, evaluation and comparison of tenders and in decisions concerning award of contract, may result in the rejection of the tenderer's tender.

24. CLARIFICATION OF TENDERS

To assist in the examination, evaluation and comparison of tenders, the Employer may ask tenderers individually for clarification of their tenders, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, but no change in the price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer during the evaluation of the tenders in accordance with Clause 26.

25. DETERMINATION OF RESPONSIVENESS

- 25.1 Prior to the detailed evaluation of tenders, the Employer will determine whether each tender is substantially responsive to the requirements of the tender documents.
- 25.2 For the purpose of this Clause, a substantially responsive tender is one which conforms to all the terms, conditions and specifications of the tender documents without material deviation or reservation. A material deviation or reservation is one which affects in any substantial way the scope, quality, or performance of the Works, or which limits in any substantial way, inconsistent with the tender documents, the Employer's rights or the tenderer's obligations under the Contract, and the rectification of which deviation or reservation would affect unfairly the competitive position of other tenderers presenting substantially responsive tenders.
- 25.3 If a tender is not substantially responsive to the requirements of the tender documents, it will be rejected by the Employer, and may not subsequently be made responsive by the tenderer having corrected or withdrawn the non-conforming deviation or reservation.

26. CORRECTION OF ERRORS

- 26.1 Tenders determined to be substantially responsive will be checked by the Employer for any arithmetic errors in computation and summation. Errors will be corrected by the Employer as follows:
- (a) where there is a discrepancy between 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 total amount derived from the multiplication of the unit rate and the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer there is an obvious gross misplacement of the decimal point in the unit rate, in which event the total amount as quoted will govern and the unit rate will be corrected.

26.2 The amount stated in the Form of Tender will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the tenderer, shall be considered as binding upon the tenderer. If the tenderer does not accept the corrected amount of the tender, his tender will be rejected and the tender security will be forfeited.

27. CONVERSION TO SINGLE CURRENCY

As this tender is required to be priced exclusively in Ethiopian Birr, there will be no requirement for conversion to a single currency.

28. EVALUATION AND COMPARISON OF TENDERS

28.1 Opening or Return to Tenderers

Tenders which have been determined to be substantially responsive in accordance with Clause 25.2 will be evaluated in accordance with the procedures described in Sub-Clauses 28.2 to 28.6.

28.2 In evaluating tenders, the Employer will determine for each tender the Evaluated Tender Price by adjusting the Tender Price as follows:

- (a) making any correction for errors pursuant to Clause 26;
- (b) excluding Provisional Sums and the provision, if any, for Contingencies and Increase or Decrease of Costs in the Summary Bill of Quantities, but including Daywork where priced competitively;
- (c) making any appropriate adjustment for any acceptable quantifiable variations, deviations or alternative offers not reflected in the Tender Price, including any changes in the rates of exchange pursuant to Clause 12.1 at the times of evaluation and award;
- (d) tenderers requiring further security for Contract payments in excess of that indicated in Clause 1 shall include all such costs in its Tender Price. These may include the cost of further Letters of Credit, counter-guarantees issued by foreign banks, or other means.

For those tenderers that request payment through an irrevocable Letter of Credit, and for the purpose of evaluation only, the following charges will be added to the Tender Price to reflect the costs to the Employer:

Exchange Commission Cost	=	1.5% of the Letter of Credit
Service Charge	=	0.5% of the Letter of Credit per period (1 period equals 3 months)
Opening Charge	=	0.5% of the Letter of Credit
Sales Charge	=	5% of the Opening and Service Charges Indicated above

For those tenderers requiring payment via Direct Telegraphic or Electronic Transfer (DTT), and for the purposes of evaluation only, the following charges will be added to the Tender Price to reflect the costs to the Employer:

Exchange Commission	=	1.5% of the total DTT amount required
Service Charge	=	1.0% of the total DTT amount required
Sales Charge	=	5% of the Service Charge indicated above

It should be noted that if a tenderer requires the entire foreign currency component of the Tender Price to be paid by Letter of Credit or DTT, the above percentages would be applied to the entire foreign currency portion of the Tender Price.

(e) consideration, in the form of a reduction of the Tender Price by a sum equivalent to the financial benefit that will be enjoyed by the Employer, will be given to tenderers proposing to provide a grant or soft loan from their respective governments and/or financing agencies.

- 28.3 For the purpose of comparing different times for completion offered by respective tenderers, the benefits foregone by the Employer for each month of completion longer than the shortest time for completion offered by a responsive tenderer shall be assessed at one percent of the respective tenderer's Tender Price (corrected for arithmetic errors, if any). The foregone benefits so assessed shall be discounted to present values and added to the respective tenderers Tender Price for comparison purposes only.
- 28.4 The Employer reserves the right to accept or reject any variation, deviation or alternative offer. Variations, deviations, alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in the accrual of unsolicited benefits by the Employer shall not be taken into account in tender evaluation.
- 28.5 Contract price adjustment provisions applying to the period of execution of the Contract shall not be taken into account in tender evaluation.
- 28.6 If the tender , which results in the lowest evaluated tender, is seriously unbalanced or front loaded in relation to the Engineer's estimate of the real cost of work to be performed under the Contract, the Employer may require the tenderer to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate internal consistency of those prices with the construction method and schedule proposed. After evaluation of the price analyses, the Employer may either reject the tender in its entirety, or, after taking into consideration the schedule of estimated contract payments, the Employer may require the amount of the performance security set forth in Clause 34 be increased at the expense of the successful tenderer to a level sufficient to protect the Employer against financial loss in the event of subsequent default of the successful tenderer under the Contract.

28.7 Preference for Domestic Tenderers

If so indicated in the invitation to tender, the Domestic contractors may receive a margin of preference in tender evaluation for which this clause shall apply.

Domestic tenderer's shall provide all evidence necessary to establish that they meet the following criteria to be eligible for a 7.5 percent margine of preference in the comparison of their tenderers with those tenderers who do not qualify for the preference. They should:

- i. .
- ii. .
- iii. .
- iv. .

Joint venture between domestic and foreign firms shall be eligible for the margin of preference provided that :

- a. .
- b. .
- c. .
- d. .

29. FINANCING

The Ethiopian Government has allocated a budget to cover the foreign and local currency payments of the Project. However, consideration, as indicated in Section 28.2.e above, shall be given to tenderers proposing to provide a grant or soft loan from their respective governments and/or financing agencies.

F. AWARD OF CONTRACT

30. AWARD CRITERIA

Subject to Clause 31, the Employer will award the Contract to the tenderer whose tender has been determined to be substantially responsive to the tender documents and who has offered the lowest Evaluated Tender Price pursuant to Clause 28.

31. EMPLOYER'S RIGHT TO ACCEPT ANY TENDER AND TO REJECT ANY OR ALL TENDERS

Notwithstanding Clause 30, the Employer reserves the right to accept or reject any tender and to annul the tender process and reject all tenders, at any time prior to signing of the Contract, without thereby incurring any liability to the affected tender or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds of the Employer's action.

32. NOTIFICATION OF NEGOTIATION

32.1 Prior to the expiration of the period of tender validity prescribed by the Employer, the Employer will call the preferred tenderer for negotiation.

32.2 Upon satisfactory completion of negotiation, the Employer will issue a Letter Of Acceptance. The Letter Of Acceptance will constitute the formation of the Contract.

32.4 Upon the furnishing by the successful tenderer of a performance security in accordance with the provisions of Clause 34, the Employer will promptly notify the other tenderers that their tenders have been unsuccessful.

33. SIGNING FORM OF AGREEMENT

33.1 At the same time that he notifies the successful tenderer that his tender has been accepted, the Employer will send the tenderer the Form of Agreement as exemplified in the tender documents, incorporating all agreements between the parties.

33.2 Within 21 days of receipt of the Form of Agreement, the successful tenderer shall sign the Form Of Agreement and return it to the Employer.

34. PERFORMANCE SECURITY

Within 28 days of the receipt of the Letter of Acceptance from the Employer, the successful tenderer shall furnish to the Employer a performance security in the form of a bank guarantee under the terms of Clause 10 of the Conditions of Contract. The form of such guarantee shall follow the forms provided in these documents. Tenderers shall provide with their tenders an undertaking from their proposed Guarantor that he would be prepared to be bound with, or guarantee to, the Employer in a form similar to one of those exemplified.

35. DISPUTES REVIEW BOARD

A Disputes Review Board for the resolution of disputes shall be established according to the provisions of **Clause 67** of the Conditions of Particular Application.

Alternative proposal for approval

3.1 Restricted for tenderers prequalified.

To be modified as follows.

3.1 Restricted for tenderers registered as class 1 contractors in Ethiopia and International Contractors.....

3.2 The Tenderer's qualification should satisfy the following conditions.

- a- General.
- b- Experience.
- c- Personnel.
- d- .
- e- .
- f- .

SECTION 3

TENDERING DATA

TENDERING DATA

Clause of Instruction To tenderes	<p>This section should be filled in by the Employer before issuance of the bidding documents. The following specific data for the Works to be procured shall complement, amend, or supplement the provisions in the Instructions to Bidders. Whenever there is conflict, the provisions herein shall prevail over those in the Instructions to Bidder.</p> <p>[Instructions are provided, as needed, in italics]</p>	
1	<p>FORWARD:</p> <p>-Owner's Name and Address :</p> <p>-Project funding:</p>	
2.1	<p>Summary of works:</p>	
	<p>Indicate whether the contract is being tendered simultaneously with other contracts on a slice and package basis.</p>	
2.2	<p>Period of completion</p> <p>-</p>	
2.3	<p>Source of fund</p> <p>-100 % of contract price Letter of credit from National Bank of Ethiopia</p>	
3.2 to 3.4	<p>Joint venture qualification requirement :</p> <p>-</p>	
3.4	<p>Participation of tenderer in only one tender.</p> <p>-</p>	
3.5	<p>Prequalification to be updated:</p> <p>-</p>	
3.6	<p>Domestic preference:</p> <p>-</p>	
4	<p>Cost of tendering</p> <p>-Cost tender document preparation shall be at Tenderers own cost.</p>	
5.1	<p>Site visit for examine / Information of Works:</p> <p>-</p>	
9.	<p>Language of the tender:</p> <p>-</p>	
10	<p>Documents comprising the Tender</p> <p>-</p>	
11.1	<p>Tender price to be submitted : Unit Rate and Prices contract:</p> <p>-</p>	
11.3	<p>Tender price inclusive of Duties/Taxes and other levies deemed payable by the Contractor.</p> <p>-</p> <p>-Tender price exclusive of taxes and duties :</p> <p>-</p>	
11.4	<p>Tender unit rates and prices quoted are subjected to adjustment during performance of the contract.</p> <p>-</p> <p>Indices and weightings proposals for price adjustment should be submitted by tenderer.</p> <p>-</p>	
12.1	<p>Currency of tender and payment</p> <p>-Quotation for unite rate and prices are only in Birr</p> <p>-</p> <p>-Exchange rate :</p> <p>-Payment for domestic contractors.</p>	

	-Tender should indicate separately taxes separately from the Tender price (for duty free privilege)	
12.2	-Estimate of foreign currency requirement as % and list materials of foreign supply -	
12.3	Requirements to clarify foreign currency requirement . -	
12.4	Estimated Contract payment in schedule P2 -Letter of credit for local payments are not required. -Payments for Domestic partners shall be in local currency. -	
12.5	Adjustment to the Contract Price: Percentage annual increase for foreign costs to adjust Bid Price -	
13.1	Tender validity period : -	
	Percentage annual increase for foreign cost to adjust Tender price. Percentage annual increase for local cost -	
14.1	Tender security amount, currency and required conditions: -	
15.1	Tenders are invited for alternative times of completion. The method of evaluation is indicated in Subclause.... The time for completion offered by the -	
15.2	-Alternative proposals for specified works -Alternative proposals for completion time. -Incentives for early completion...	
16	Pretender meeting time, date and place: -	
17	Format and Signing of Tenders Number of copies of the tender to be completed and returned. Employers address for the purpose of bid submission.	
19	Dead line for submission of Tenders:	
22	Tender opening time, date and place:	
	Bids are invited for alternative times for completionday's minimum and days maximum.	
27	Conversion to single currency : Not required as the tender price is exclusively in Ethiopian Birr.	
28.2	Evaluated tender price will be determined by: Adjustment to errors, exclusion of Provisional sum, variation, contract payments,	
28.3	Alternative completion time:	
28.4	Variation, deviation, alteration to the tender:	
28.9	Domestic margin of preference: Indicate whether domestic contractor will receive margin of preference in the tender evaluation.	
34	Performance security acceptable to the employer : Standard form, amount, type (from bank guarantee or insurance bond)	
35	Method for dispute resolution.	