

PHNOM PENH CAPITAL ADMINISTRATION

PREQUALIFICATION DOCUMENT

MUNICIPAL SOLID WASTE MANAGEMENT PROJECT

**COLLECTION AND TRANSPORTATION OF SOLID
WASTE IN PHNOM PENH CITY**

February 2020

Table of Contents

ABBREVIATIONS	3
GLOSSARY	4
SECTION 1: INSTRUCTIONS TO APPLICANTS	6
A. GENERAL	6
1. <i>Scope of Application</i>	6
2. <i>Source of Funds</i>	6
3. <i>Fraud and Corruption</i>	6
4. <i>Eligible Applicants</i>	7
B. CONTENTS OF PREQUALIFICATION DOCUMENT	8
5. <i>Sections of the Prequalification Document</i>	8
6. <i>Clarification of Prequalification Document</i>	9
7. <i>Amendment of Prequalification Document</i>	9
C. PREPARATION OF APPLICATIONS	10
8. <i>Cost of Applications</i>	10
9. <i>Language of Application</i>	10
10. <i>Documents Comprising the Application</i>	10
11. <i>Application Submission Sheet</i>	10
12. <i>Documents Establishing the Eligibility of the Applicant</i>	10
13. <i>Documents Establishing the Qualifications of the Applicant</i>	11
14. <i>Format and Signing of the Application</i>	11
D. SUBMISSION OF APPLICATIONS	12
15. <i>Sealing and Marking of Applications</i>	12
16. <i>Deadline for Submission of Applications</i>	12
17. <i>Late Applications</i>	12
18. <i>Opening of Applications</i>	12
E. EVALUATION OF APPLICATIONS	12
19. <i>Confidentiality</i>	12
20. <i>Clarification of Applications</i>	12
21. <i>Responsiveness of Applications</i>	13
22. <i>Domestic Preference</i>	13
23. <i>Subcontractors</i>	13
F. PREQUALIFICATION OF APPLICATIONS	13
24. <i>Evaluation of Applications</i>	13
25. <i>Owner’s Right to Accept or Reject Applications</i>	13
26. <i>Prequalification of Applicants</i>	13
27. <i>Notification of Prequalification</i>	13
28. <i>Invitation to Bid</i>	13
29. <i>Changes in Qualifications of Applicants</i>	14
30. <i>Bidding-Related Complaints</i>	14

Abbreviations

ADS	Application Data Sheet
APF	Application Forms
CON	Historical Contract Non-performance
ELI	Eligibility Form
EXP	Experience Form
FIN	Financial Data Form
IFP	Invitation for Prequalification
ITA	Instructions to Applicants
OCB	Open Competitive Bidding
QLC	Qualification Criteria
PPCA	Phnom Penh Capital Administration
SOC	Scope of Contract

Glossary

Applicant	A legal entity that submits a Prequalification Application for the Municipal Solid Waste Management Project - Collection and Transportation of Municipal Waste in Phnom Penh City
Application Data Sheet	means the data sheet attached as Section 2 (Application Data Sheet)
Bidder	A Prequalified Applicant that submits a bid for the Municipal Solid Waste Management Project - Collection and Transportation of Municipal Waste in Phnom Penh City
Contractor	A legal entity that is party to and performs the service contract relating to the Collection and Transportation of Municipal Waste in Phnom Penh City
Joint Venture	An ad hoc association of firms that pool their resources and skills to undertake a large or complex contract in the role of the contractor, with all firms (partners in the Joint Venture or in a Consortium) being legally liable, jointly and severally, for the execution of the contract in the event of a partner's withdrawal.
Laws of the Royal Government of Cambodia	means the Constitution, laws, decisions or regulations and other forms of primary and secondary legislation, decree, sub-decree, prakas which are in force in Cambodia, as well as the final and binding judgments, orders and decisions of any court of last instance of competent jurisdiction in the country, including the international conventions applicable in Cambodia in accordance with the Constitution.
Owner	means the Royal Government of Cambodia represented by the Phnom Penh Capital Administration
Prequalification	An assessment made by the Owner of the appropriate level of experience and capacity of firms expressing interest in undertaking the Municipal Solid Waste Management Project - Collection and Transportation of Municipal Waste in Phnom Penh City.
Prequalification Application	has the meaning assigned thereto in Clause 10.1
Prequalified Applicant	means an Applicant whose Prequalification Application has been determined to meet the Prequalification Criteria in accordance with Clause 26.1
Prequalification Application Submission Deadline	has the meaning assigned thereto in Clause 16.1

Prequalification Criteria means the Criteria set forth in Section 3 (Qualification Criteria)

Prequalification Document means this prequalification document

Section 1: Instructions to Applicants

A. General

1. Scope of Application
 - 1.1. In connection with the Invitation for Prequalification (IFP) indicated in Section 2 (Application Data Sheet) (ADS), the Owner, as defined in the ADS, issues this Prequalification Document to Applicants interested in bidding for the Contracts described in Section 5 (Scope of Contract) in relation to the Project, as specified in the ADS. The number of contracts and the name and identification of each contract as well as the open competitive bidding (OCB) number corresponding to this prequalification are provided in the ADS.
 - 1.2. Only one Prequalification Application is to be submitted which will be considered for all contracts, as specified in the ADS for ITA 1.1. However, Applicants can state in the Application Submission Sheet: Section 4, if they do not wish to be considered for any of the contracts specified under ADS for ITA 1.1. Contract Award will be restricted to one Contract per Bidder.
2. Source of Funds
 - 2.1. The financing of the Contracts will be provided by the Phnom Penh Capital Administration (PPCA).
3. Fraud and Corruption
 - 3.1. The Owner requires Applicants, Suppliers, and Contractors to observe the highest standard of ethics during the prequalification process. In pursuance of this policy, the Owner
 - a) defines, for the purposes of this provision, the terms set forth below as follows:
 - i. “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - ii. “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - iii. “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - iv. “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

- v. "abuse" means theft, waste, or improper use of assets related to Owner- related activity, either committed intentionally or through reckless disregard;
 - vi. "conflict of interest" means any situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations;
 - vii. "obstructive practice" means (a) deliberately destroying, falsifying, altering, or concealing of evidence material to an Owner investigation, or deliberately making false statements to investigators, with the intent to impede an Owner investigation; (b) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to an Owner investigation or from pursuing the investigation; or (c) deliberate acts intended to impede the exercise of Owner's contractual rights of audit or inspection or access to information; and
- b) will reject an Applicant for Prequalification if it determines that the Applicant recommended for Prequalification has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract.

4. Eligible Applicants

- 4.1. An Applicant may be a private entity, or government-owned enterprise subject to ITA 4.4 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture. In the case of a Joint Venture,
- i. all Joint Venture Partners shall be jointly and severally liable; and
 - ii. a Joint Venture shall nominate a Lead Joint Venture Partner who shall have the authority to conduct all business for and on behalf of any and all the Partners of the Joint Venture during the prequalification process; in the event the Joint Venture is prequalified, during the bidding process; and, in the event the Joint Venture is awarded the Contract, during contract execution.
 - iii. the number of Joint Venture Partners shall not be more than three (3).
- 4.2. At the time of Prequalification, Applicants shall not have a conflict of interest. All Applicants found to have a conflict of interest shall be disqualified. Applicants may be considered to be in a conflict of interest with one or more parties in the Prequalification process if any of, including but not limited to, the following apply:
- i. they have controlling shareholders in common; or
 - ii. they receive or have received any direct or indirect subsidy from any of them; or

- iii. they have the same legal representative for purposes of this Prequalification; or
 - iv. they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to material information about or improperly influence the Prequalification of another Applicant, or influence the decisions of the Owner regarding this Prequalification process; or
 - v. an Applicant participates in more than one Application for the same Contract in this Prequalification process, either individually or as a partner in a Joint Venture. This will result in the disqualification of all Applications in which it is involved. However, subject to any finding of a conflict of interest in terms of ITA 4.2(a) to (d) above, this does not limit the participation of an Applicant as a Subcontractor in another bid or of a firm as a Subcontractor in more than one bid.
- 4.3. Applicants found to be in conflict of interest situations at the time of prequalification but otherwise meeting requirements shall be invited to submit bids, however in the invitation for bids such applicants will be informed about conflict of interest and will be required to manage it in a manner acceptable to the Owner to comply with ITA 4.2 above.
- 4.4. Applicants shall be excluded if by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Royal Government of Cambodia prohibits any import of goods or contracting of works or services from that country or any payments to persons or entities in that country or are sanctioned by the Royal Government of Cambodia from participating in any of its financed contracts.

B. Contents of Prequalification Document

5. Sections of the Prequalification Document
- 5.1. The Prequalification Document consists of Parts I and II which include all the sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITA 7.
- PART I Prequalification Procedures
- Section 1 Instructions to Applicants (ITA)
 - Section 2 Application Data Sheet (ADS)
 - Section 3 Qualification Criteria (QLC)
 - Section 4 Application Forms (APF)
- PART II Requirements
- Section 5 Scope of Contract (SOC)
- 5.2. The IFP issued by the Owner is not part of the Prequalification Document.

- 5.3. The Owner is not responsible for the completeness of the Prequalification Document and its addenda, if they were not obtained directly from the source stated by the Owner in the IFP.
 - 5.4. The Applicant is expected to examine all instructions, forms, and terms in the Prequalification Document and to furnish all information or documentation required by the Prequalification Document. The information or documentation shall be complete, accurate, current, and verifiable. The Owner shall have the right to conduct independent checks to determine the completeness and accuracy of the information or documentation provided by the Applicant, and to take remedial actions, including rejection of the Applicant, as appropriate.
6. Clarification of Prequalification Document
- 6.1. A prospective Applicant requiring any clarification on the Prequalification Document shall contact the Owner and may send an electronic request for clarification to the Owner at the e-mail addresses or in writing at the Owner's address indicated in the ADS. The Owner will respond by e-mail or in writing to any request for clarification, provided that such request is received no later than 14 days prior to the deadline for submission of Applications. The Owner shall forward electronic copies of its response to all Applicants who have acquired the Prequalification Document, including a description of the inquiry but without identifying its source, subject to ITA 5.3. The Owner may choose to provide a single response to a group of similar or repeated queries. The Owner further reserves the right not to respond to certain queries. Should the Owner deem it necessary to amend the Prequalification Document as a result of a request for clarification, it shall do so following the procedure under ITA 7 and in accordance with the provisions of ITA 17.1.
 - 6.2. The Applicant's designated representative is invited to attend a pre-Application Conference, as indicated in the ADS. During this pre-Application Conference, prospective Applicants may request clarification of the project requirements, scope of services, the criteria for qualifications or any other aspects of the Prequalification Document. Site visits will also be arranged during the pre-Application Conference. Non- attendance at the pre-Application meeting will not be a cause for disqualification of an Applicant.
 - 6.3. Any modification to the Prequalification Document that may become necessary as a result of the pre-Application Conference shall be made by the Owner exclusively through the use of an Addendum pursuant to ITA 7.2.
7. Amendment of Prequalification Document
- 7.1. At any time prior to the deadline for submission of Applications, the Owner may amend the Prequalification Document by issuing addenda. Any addendum issued shall be part of the Prequalification Document and shall be communicated in writing to all who have obtained the Prequalification Document from the Owner in accordance with ITA 5.3.

- 7.2. To give prospective Applicants reasonable time in which to take an addendum into account in preparing their Applications, the Owner may, at its discretion, extend the deadline for the submission of Applications, pursuant to ITA 17.1.

C. Preparation of Applications

8. Cost of Applications
- 8.1. The Applicant shall bear all costs associated with the preparation and submission of its Application, and the Owner shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Prequalification process.
9. Language of Application
- 9.1. The Application, as well as all correspondence and documents relating to the prequalification exchanged by the Applicant and the Owner, shall be written in the English language. Supporting documents and printed literature that are part of the Application may be in another language, provided they are accompanied by an accurate translation of the relevant passages into the English language, in which case, for purposes of interpretation of the Application, the translation shall govern.
10. Documents Comprising the Application
- 10.1. The Application shall comprise the following:
- (a) Application Submission Sheet, in accordance with ITA 12;
 - (b) written confirmation authorizing the signatory of the Application to commit the Applicant, in accordance with ITA 14.3;
 - (c) documentary evidence establishing the Applicant's eligibility to prequalify, in accordance with ITA 12;
 - (d) documentary evidence establishing the Applicant's qualifications, in accordance with ITA 13; and
 - (e) any other document required as specified in the ADS.
11. Application Submission Sheet
- 11.1. The Applicant shall prepare an Application Submission Sheet using the form furnished in Section 4 (Application Forms). This form must be completed without any alteration to the text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
12. Documents Establishing the Eligibility of the Applicant
- 12.1. To establish its eligibility in accordance with ITA 4, the Applicant shall complete the eligibility declarations in the Application Submission Sheet and Forms ELI 1 and 2, included in Section 4 (Application Forms).

13. Documents
Establishing the
Qualifications of
the Applicant

13.1. To establish its qualifications to perform the Contract in accordance with Section 3 (Qualification Criteria), the Applicant shall provide the information requested in the corresponding Information Sheets included in Section 4 (Application Forms).

14. Format and
Signing of the
Application

14.1. The Applicant shall prepare one original set of the documents comprising the Application as described in ITA 10 and clearly mark it "ORIGINAL." The original of the Application shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Applicant.

14.2. The Applicant shall submit copies of the signed original Application, in the number specified in the ADS, and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

14.3. The Applicant shall submit an electronic copy (on CD-ROM/DVD-ROM or USB drive) of the complete Prequalification Application and clearly mark it as "ELECTRONIC COPY". In the event of any discrepancy between the original and the electronic copy, the original shall prevail. The electronic copy (on CD-ROM/DVD-ROM or USB drive) shall include a table of contents, shall be free of any virus and shall contain non-compressed and non-protected files in printable and reproducible PDF format. The CD-ROM/DVD-ROM or USB drive shall contain a scanned electronic copy in PDF format of the complete original Prequalification Application.

14.4. The requirements regarding the legal instrument evidencing the authorization to represent and sign on behalf of the Applicant shall be as specified in the ADS. The name and position held by each person signing the authorization must be typed or printed below the signature. If an Applicant submits a deficient authorization, the Application shall not be rejected in the first instance. The Owner shall request the Applicant to submit an acceptable authorization within the number of days as specified in the ADS. Failure to provide an acceptable authorization within the period stated in the Owner's request shall cause the rejection of the Application.

14.5. Applications submitted by an existing or intended Joint Venture shall include an undertaking signed by all Joint Venture Partners:

- a) stating that all partners shall be jointly and severally liable; and
- b) nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the partners of the Joint Venture during the prequalification process; in the event the Joint Venture is prequalified, during the bidding process; and, in the event the Joint Venture is awarded the Contract, during contract execution.

D. Submission of Applications

15. Sealing and Marking of Applications
- 15.1. The Applicant shall enclose the original and the copies of the Application in a sealed envelope which shall
- a) bear the name and address of the Applicant;
 - b) be addressed to the Owner, in accordance with ITA 17.1; and
 - c) bear the specific identification of this prequalification process indicated in ADS 1.1.
- 15.2. If the envelope is not sealed and marked as required, the Owner will assume no responsibility for the misplacement of the Application.
- 15.3. Applicants shall not be allowed to submit their Prequalification Applications by e-mail.
16. Deadline for Submission of Applications
- 16.1. Applications must be received by the Owner at the address and no later than the deadline indicated in the ADS.
- 16.2. The Owner may, at its discretion, extend the deadline for the submission of Applications by amending the Prequalification Document in accordance with ITA 7, in which case all rights and obligations of the Owner and the Applicants subject to the previous deadline shall thereafter be subject to the deadline as extended.
17. Late Applications
- 17.1. The Owner reserves the right to accept or reject late Applications.
18. Opening of Applications
- 18.1. The Owner shall open all Applications at the date, time and place specified in the ADS, subject to ITA 17.1.

E. Evaluation of Applications

19. Confidentiality
- 19.1. Information relating to the evaluation of Applications, and recommendation for Prequalification, shall not be disclosed to Applicants or any other persons not officially concerned with such process until the notification of Prequalification is made to all Applicants who met all the requirements specified in the Qualification Criteria: Section 3. Applicants who fail to meet the requirements will be notified separately.
- 19.2. From the deadline for submission of Applications to the time of notification of the results of the Prequalification in accordance with ITA 27, if any Applicant wishes to contact the Owner on any matter related to the prequalification process, it may do so in writing or by e-mail.
20. Clarification of Applications
- 20.1. To assist in the evaluation of Applications, the Owner may, at its discretion, ask any Applicant for a clarification of its Application which

shall be submitted within a stated reasonable period of time. Any request for clarification and all clarifications shall be in writing.

- 20.2. If an Applicant does not provide clarifications of the information requested by the date and time set in the Owner’s request for clarification, its Application may be rejected.
- 21. Responsiveness of Applications
 - 21.1. The Owner may reject any Application which is not responsive to the requirements of the Prequalification Document, subject to ITA 20.
- 22. Domestic Preference
 - 22.1. If so indicated in the ADS, domestic preference shall apply in the bidding process resulting from this prequalification.
- 23. Subcontractors
 - 23.1. The Applicant shall not subcontract any key activities included in the scope of the contract.
 - 23.2. Unless otherwise stated in the ADS, the Owner does not intend for the Applicant to execute any specific elements of the contract through nominated subcontractors.

F. Prequalification of Applications

- 24. Evaluation of Applications
 - 24.1. The Owner shall use only the criteria and methods defined in Section 3 (Qualification Criteria) to evaluate the qualifications of the Applicants, and proposed Subcontractors.
 - 24.2. This prequalification shall be contract-wise for each of the three (3) contracts, as indicated in the ADS.
 - 24.3. The qualifications of other firms, including the Applicant’s subsidiaries, parent entities, affiliates, subcontractors or any other firm(s) different from the Applicant shall not be considered.
- 25. Owner’s Right to Accept or Reject Applications
 - 25.1. The Owner reserves the right to accept or reject any Application, and to annul the prequalification process and reject all Applications at any time, without thereby incurring any liability to Applicants.
- 26. Prequalification of Applicants
 - 26.1. All Applicants, whose Applications have been determined to be substantially responsive to the requirements of the Prequalification Document and who have met or exceeded the specified criteria shall be prequalified by the Owner.
- 27. Notification of Prequalification
 - 27.1. Once the Owner has completed the evaluation of the Applications it shall notify in writing successful Applicants who have been prequalified. In addition, those Applicants who have been disqualified will be informed separately.
- 28. Invitation to Bid
 - 28.1. After the notification of the results of the prequalification, the Owner shall invite bids from all the Applicants that have been prequalified.

- 28.2. Bidders may be required to provide bid security or a Bid-Securing Declaration acceptable to the Owner for an amount as specified in the bidding document.
- 29. Changes in Qualifications of Applicants**
- 29.1. Any change in the structure or formation of an Applicant after being prequalified in accordance with ITA 26 and invited to bid (including, in the case of a Joint Venture, any change in the structure or formation of any Joint Venture Partner) shall be subject to the written approval of the Owner prior to the deadline for submission of Bids. Any such change should be submitted to the Owner not later than 14 days after the date of the Invitation for Bids. Such approval shall be denied if
- a) as a consequence of the change, the Applicant no longer substantially meets the qualification criteria set forth in Section 3 (Qualification Criteria); or
 - b) in the opinion of the Owner, the change may result in a substantial reduction in competition.
- 30. Bidding-Related Complaints**
- 30.1. The procedures for dealing with Bidding-Related Complaints arising out of this Prequalification process are specified in the ADS.