**STANDARD BIDDING DOCUMENTS**

**User’s Guide**

**for**

**The Design and Build Procurement of Small Works Contract**

**TRIAL PERIOD**

**Inter-American Development Bank   
March 5, 2018**

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## Preface

This User’s Guide aim is to assist with the preparation of a Bidding Document for the procurement of design and construction small work contracts through a one envelope international public bidding process usually without previous pre-qualification, for IADB full or partially financed investment projects.

The document calls for granting the award to the Lowest Evaluated Bid complying with all the Employer’s requirements.

This User’s Guide and Guide prepared for the Standard Bidding Document (SBD) are being tried out and open to receive comments and observations from Users, staff, industry and associates during an initially estimated period of two years or until the multilateral development banks harmonize a design and construction for small Works replacement document.

The Infrastructure Department (INE) of the Bank has prepared a Projects Design Guide containing recommendations that supplement this Guide in content and expected design content by the Contractor[[1]](#footnote-1).

The Bank also has available other bidding documents related to larger or more complex Public Works for the procurement of design and construction using a two-envelope procedure with or without prior pre-qualification.

This document includes a global amount contract for the sole responsibility of the Contractor. Global sum contracts are used mainly for the construction of buildings and other types of well-defined Works with few possibilities of undergoing changes in the quantities or specifications, or in such cases where it is hardly possible to encounter difficult or unforeseen conditions at the Projects Site (for example, hidden foundation problems). The Projects manager must exercise his/her duties as a supervisor and contract administrator careful not to interfere or undermine the Contractor sole responsibility.

If the Employer identifies those parts in Section VII. "Specifications & Performance Requirements", the document allows for paying some parts of the projects (preferably not very significant) *ad-measurements* or *Daywork*, whenever the Employer requests separate quotes for those lines with the intent of better distribute risks among Parties.

In such cases, it is advisable that Section VII. "Specifications & Performance Requirements” set forth differentiated payment levels for distinct levels of larger Works quantities above the established quantities in the final design implemented by the Contractor in order to distribute equitably the built-in risks in those parts of the projects.

Global sum contracts must be used for projects with physical and quality features which can be determined in its entirety, before requesting proposals or for projects with minimum risk of significant design variations made.

In global sum contracts introducing the concept of “programs or lists of activities and sub-activities” with prices stipulation, to allow for payments related to percentages completed in each activity.

During the trial period for the Bidding Document and the Guide, the Bank would welcome comments and observations to make the documents more effective. To this end, please contact:

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## Preamble

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| --- |
| This preamble spells out the main modifications to the bidding document for the procurement of Small Works Construction Projects to turn it into a document for the procurement of works design and construction. Users of this document must be carefully mindful of the evolution and changes that shall certainly be introduced to the document as other Users gain experience in using the document and encourage changes which shall be reflected in new editions of the document and the Guide in years to come. |

Guide Organization

1. This Guide follows the same order of parts and sections and was prepared for the Standard Bidding Document (SBD).

Guide Contents

1. This Guide only discusses the main or novel aspects of the Design and Construction Bidding Document. The preceding Bidding Document was designed for small projects designed by the Employer to be built by the Contractor under the supervision of the Projects Manager. New articles and provisions were added to the existing document for Works construction to deal with the approval of works design in the manner detailed below, but the other functions of the Projects Manager were not modified.
2. Thus, Contracting Parties must count on an experienced Projects Manager appropriately qualified who shall avoid interfering with the Contractors sole responsibility with instructions and changes.

Instructions to Bidders

1. Seventeen instructions to Bidders in the original construction document were amended to indicate that the Bidder shall have be experienced in design and shall have to submit blueprints, outlines and strategies related to the works design. The Data Sheet did not undergo significant changes or adjustments.

Bidding Forms

1. Twelve adjustments were introduced to the construction document Bid forms, including eight new forms to be completed by Bidders, guiding them in preparing the Bid and facilitate its evaluation.

Contract conditions

1. Twenty-eight clauses of the construction document contract conditions were modified or added to determine the Parties obligations concerning the design and the manner of supervising the projects design and construction contract. Clauses relating to the Projects Manager duties in the preceding document were not changed, hence, the official performing the role of Projects Manager must be cautious in his duties not to undermine the Contractors, who designs and builds, sole responsibility.

Contractors sole responsibility and Projects Management role

1. The contract conditions in this Document do not include the executive figure of a type "FIDIC" “Engineer”. Thus, it is incumbent upon the Project Manager to shield the Contractor’s “sole responsibility” role, and who design and execute the projects. The Projects Manager must avoid direct instructions that would modify the designs or the Works execution in such a manner that it would diminish, alter or undermine the Contractor’s sole responsibility to design and implement the projects.
2. The discrepancies that the Project Manager finds with regard to the design or projects implementation must be taken to the meetings with the Contractors and if these discrepancies are not resolved in these meetings they must be referred to the Technical Mediator.

Environmental, social, safety and health in the workplace measures (ASSS)

1. The SBD includes new provisions strengthening environmental, social and safety and health in the workplace obligations which become much more relevant in a type of a Contractor’s sole responsibility design and construction contract. These obligations result from legislation and regulations in each country, and if none exist or if they are insufficient, they result from the Employer’s detailed Requirements. Collectively, these measures are designated as ASSS (“environmental, social and safety and health in the workplace” measures).

Terminology

1. In this standard document the term “Bidders” refers to bidders, interested parties, Consortia, JVCA, legal persons submitting Bids. The “PCC - “Particular Conditions of Contract” supplement or modify the Contract General Conditions.

Type of contract is lump sum but allows certain parts of the projects to be quoted in unit prices or real

1. The procurement of design and construction is in a lump sum contract. Provisions have been kept of the Small Works document which would allow some parts of the Works or elements (preferably minor and not very significant) to include “ad-measurement” and “unit prices” or “day work” competitively quoted by Bidders against nominal projects quantities if such parts are clearly identified in the Employer Requirements and are added to the respective Bidding forms.
2. When daywork or small parts of the projects quoted in unit prices and ad-measurement are specified and used, the Employer must not change the main design and construction contract characteristic which is for a lump sum and is not subject to changes or adjustments related to the approved designs.

## Section I. Instructions to Bidders (ITB)

* 1. Section I, Instructions to Bidders (ITB), contains the necessary information for Bidders to prepare Bids in compliance with the Employer Requirements. Likewise, therein is information about submission, opening and evaluation of Bids as well as the contract award.
  2. Section I contains provisions that must be used without any modifications. Section II, Bidding Data Sheet (BDS) contains provisions supplementing, amending or specifying information or changes to Section I that are particular to each bidding. When ITB highlight in bold “**in the BDS**” it means that the Employer must include some information in Section II.
  3. The provisions governing the Contract performance by the Contractor, payments planned under the Contractor or issues that have an impact on risks, rights and obligations of the contracting parties are not included in this Section. They are included in Section V, General Conditions of Contract and in Section VI, Particular Conditions of Contract.
  4. In case it becomes unavoidable to address the same issue in different sections of the document, the Employer must be careful to avoid contradictions, or inconsistencies among clauses or instructions or forms related to the same topic.

Prohibited Practices

* 1. The Prohibited Practices stipulated in this Document concern the Bank’s operations covered in the Good and Projects Procurement Policies financed by the Inter-American Development Bank (document GN-2349-9 from March 2011). For those prior operations that use this Bidding Document, the BDS and the Special Conditions must reflect the respective Policy substituting the relevant parts.

Visit to Projects Site

* 1. This document addresses the visit to the Bidders Projects Site as a recommendation of the Employer, which is a typical provision in the works bidding documents and not a demand.
  2. Certainly, in public works design and construction contracts, it is inconceivable for Bidders not to visit the Projects Site during the Bid preparation. However, the cost incurred by the Employer to oversee, certify and later verify whether the Bidder visited the Projects Site or not, and the effects of determining whether the visit took place should it be mandatory, outweighs the benefits to maintain the Site visit as a simple recommendation from the bidding process perspective.
  3. In cases where the Employer instructs Bidders to carry out a mandatory visit, the Data Sheet must be used to specify the requirement, procedures and sanctions unless Bidders demonstrate a Site visit, considering risks of reducing competition or removing qualified Bidders proposals which could have been interesting and convenient.
  4. In other jurisdictions, ordinarily there is a request for a Bidder to provide an affidavit that the Projects Site visit occurred. Such a requirement may be set forth in the BDS.

Bid Contents

* 1. ITB 13.1 describes the Bid content as follows:

1. The Bid Letter (in the form indicated in Section IV);
2. The Bid Security, or the Bid Validity, if it is required according to ITB 17;
3. The List of Activities valued (that is, indicating prices);
4. The form and Information documents for Qualification;
5. The alternative Bids, should they have been requested; and
6. Any other material requested to Bidders that must be completed and submitted according to BDS specifications.

Alternative Bids

* 1. The submission of alternative Bids in Design and Build Contracts is not very frequent, but there could be cases when it is allowed. In such cases, Bidders shall have to explain in their Bid why they are different from the Employer concept, and if the proposal is acceptable, the alternatives and the basic Bids must be reviewed and evaluated under like conditions unless Section III specifies a method to compare the Alternative Bids.

Bids evaluation

* 1. Starting in Part E, Bid Opening and Evaluation (ITB 24 and forward) there are provisions stipulating and defining the Bids evaluation mechanism.
  2. Bid are reviewed for preliminary acceptability and Contractors qualifications without using scores given that requirements are simple.

Excessively Low Bids

* 1. This SBD uses an instruction recently approved by the Bank which allows the request of information and the review of cases that the evaluating committee considers to be a seemingly excessively low Bid Price with respect to the official estimated cost and the rest of the proposals. This request to the Bidder transfers the “burden of proof” to the Bidder whose capacity to execute the contract at the quoted Price raised doubts in the evaluating committee. In such cases, the Bidder shall have to demonstrate his prices are reasonable and if not achieved, the Employer may recommend that the Bidder with an excessively low Bid and no convincing explanation is disqualified.

Technical Mediator

* 1. The Small Works SBD "Mediator" in this SBD is called "Technical Mediator" for purposes of hiring an individual who would resolve technical issues closely following the best engineering for the project and who understands the projects design. The mediator shall have to understand the contract and some legal features, such as “sole responsibility”, although his/her main function shall be to resolve technical issues submitted for consideration, which means that the mediator’s academic qualifications and experience must be closely related to the main nature of the Projects.

## Section II. Bidding Data Sheet (BDS)

* 1. The Employer shall have to complete Section II, Bidding Data Sheet, before issuing the Bidding Document *[respective instructions are included in cursive, in necessary cases]*.
  2. The following is a segment of the BDS indicating spaces to complete. In this section showing no significant differences with respect to the original small Works for construction BDS document. ITB 5.5 (b) sets forth the number of designed projects as a requirement for Bidders qualification.
  3. If the Employer requires an organized or mandatory visit to the Site of Works, ITB 8.1 y 8.2 must be amended, determining time, occasion, requirements, attendance oversight and consequences for not participating in the mandatory visit.
  4. It is expected that small works contracts do not exceed 18 months of implementation, therefore in most cases, when the bidding document is used, there should be no prices readjustments. However, global sums or payments related to day work shall have to be readjusted in a country with high inflation or if the implementing time line exceeds 18 months. Relevant explanations must be provided in BDS ITB 14 and detailed in the Particular Conditions of Contract. In lump sum contracts, readjustment is possible as long as the Contractor provides a detail of labor components, equipment usage and materials and other elements components in each List of Activities.

|  |  |
| --- | --- |
| General Provisions | |
| **ITB 1.1** | The Employer is: *[indicate the name of Employer]*  The Projects are *[indicate a brief description of the Projects to design and build]*  The name and identification of the contract are *[indicate the name and number of identification of the]* |
| **ITB 1.2** | Planned Date of Projects Completion is *[indicate the date]* |
| **ITB 1.3 (a)** | **[*Delete if not applicable*]**  **Electronic procurement system**  The Employer shall use the following electronic procurement system to manage this Bidding Process:  [*indicate the name of the electronic system and the URL address or the link*]  The electronic procurement system shall be used to administer the following aspects of the Bidding Process:  *[list the aspects and modify the relevant BD relevant parts when appropriate, for example, concerning the publication of the Bidding Document, Bid submissions, Bids opening]* |
| **ITB 2.1** | The Borrower is *[indicate the name of Borrower]* |
| **ITB 2.1** | The expression “Bank” used means the Inter-American Development Bank (IADB). The Bank requirements and funds administered are identical with the exception of eligible countries where membership vary (See Section of Eligible Countries). References made in this document to *“loans”* cover the instruments and financing methods, technical cooperation (TC), and operational financing. References made to “Loan Contracts” include all the legal instruments under which the Bank operations are formalized. The Bank’s loan is: *[indicate name of loan or identification]*  Number: *[indicate # of loan]*  Date: *[indicate date of loan approval]* |
| **ITB 2.1** | The Project’s name is *[indicate the name and brief description of the Project financed by the Inter-American Development Bank loan]* |
| **ITB 5.3[[2]](#footnote-2)** | The information requested to Bidders in ITB 5.3 is modified in the following manner: *[indicate what is added or deleted to ITB; otherwise, indicate “None”]* |
| **ITB 5.3 (j)** | The maximum subcontractors participation is: *[indicate the percentage]* |
| **ITB 5.4** | Qualification requirements for JVCAs in ITB 5.4 are modified in the following manner: *[indicate what is added or deleted to the list ITB5.4; should none of these alternatives apply, indicate “None”]* |
| **ITB 5.5** | The qualification criteria in ITB5.5 are modified as follows: *[indicate what is added or deleted to the list in 5.5, otherwise indicate “None”]* |
| **ITB 5.5(a)** | The multiple is: *[insert the multiple; generally, two]*  The period is: *[indicate the number of days; generally, 5 years)* |
| **ITB 5.5 (b)** | The number of Projects similar in nature, amount and complexity designed is: *[indicate the number; generally, two in the last 5 years]* |
| **ITB 5.5 (c)** | The number of projects is: *[indicate the number; generally, two]*  The period is: *[indicate the number of days; generally, 5 years]* |
| **ITB 5.5 (c)** | The crucial equipment that the selected Bidder must have available to execute the Contract is: *[list the equipment]* |
| **ITB 5.5 (e)[[3]](#footnote-3)** | The minimum amount of liquid assets and/or credit access to loans free of other contract commitments of the selected Bidder shall have to be: *[indicate the figure], expressed in [indicate the name of traded international currency]* |
| **ITB 5.6** | Experience and Subcontractor’s resources *indicate [Indicate the appropriate: “Shall be” or “Shall not be”]* considered |
| Bidding Document | |
| **ITB 10.1** | The Contractor’s address to request clarifications is: *[indicate the address]* |
| C. Bids Preparation | |
| **ITB 12.1** | The language in which the Bids must be drawn is: *[indicate English, Spanish, French or Portuguese]* |
| **ITB 13.1** | Bidders shall have to submit the following additional materials with their Bid: *[indicate the list or indicate “None”)* |
| **ITB 14.4** | Prices *[indicate “shall be” or “shall not be”]* subject to price adjustments according to GCC clause 47  [Prices adjustment is mandatory when the planned works execution period exceeds 18 months] |
| **ITB 15.1** | The currency in the country of the Employer is *[name the currency]* |
| **ITB 15.2** | The designated source to set Exchange rates shall be: [*indicate the name*] |
| **ITB 15.4** | Bidders *[indicate “shall have” or “shall not have”]* to demonstrate that their needs for foreign currency included in unit prices are reasonable and adjusted to requirement of ITB 15.1. |
| **ITB 16.1** | The period of Bid Security shall be *[indicate the number of days]* |
| **ITB 17.1** | *[Select one of the following options]*  - No Bid Security is required; **or**  - The Bid shall have to include a Guarantee to Maintain issued by a bank or insurance company using the form to guarantee the Bid (bank guarantee or bond) included in Section X “Guarantee Forms”. The Bid Guarantee shall be for *[indicate the amount in national currency; shall have to be equal to the amount specified in the Call for Bidding]* or the equivalent in a currency of free convertibility, ***or else***   * The Bid shall have to include a “Declaration to Maintain the Bid” using the form included in Section X |
| **ITB 17.2** | The amount of the Bid Security is *[indicate the amount. Should not exceed 3 percent of the estimated Projects value. For reasons of confidentiality it would be preferable to indicate a fixed sum instead of a percentage of the Bid price]* |
| **ITB 18.1** | Alternative Bids *[Select the applicable: “Shall be considered” or “Shall not be considered”]*  *[If alternative Bids are considered, indicate: “The Employer shall consider (indicate “Option One” or “Option Two”)]* |
| **ITB 19.1** | The number of copies of the Bid that Bidders shall have to submit is *[indicate the number of copies]* |

## Section III. Eligible Countries

* 1. This Section must not be modified. This section specifies nationalities and territories eligible to use the Bank as a source of financing or administered funds. The Bank shall amend this Section when appropriate and shall keep it updated.
  2. Unlike other Bank standard documents, in this document, the Eligible Countries Section is included as Section IV and not in Section VI as provided in the Bidding Document for purposes of grouping sections in Document Volumes.
  3. On occasions the Technical Specifications or the Employer Requirements or the Bidding Forms are very lengthy, and the Employers must break the document down, in parts or Volumes, to fit in the content. By relocating the Eligible Countries Section near the ITB, BDS and Evaluation and Qualification Criteria allows a more balanced or better separation of the various volumes.

## Section IV. Bidding Forms

* 1. Section IV. "Bidding Forms”, includes all the forms already current in the bidding documents for the construction of small Works adding various other forms. These new forms are designed so that the Employer shall indicate whether the submission of information briefly described in the form is or is not a requisite for bidding, by adding an "X" or the words "YES" or "NO" to indicate whether the requisite applies in each case or not.
  2. Texts in each form do not substitute the essential need that the issue is specified to its full extension in Section VI “Specifications & Performance Requirements”. The form texts may be used by the Employer and Bidders as a list to verify obligations related to the submission of the technical Bid to execute projects under small works design and build contracts.
  3. Generally, Bidders shall have to move the applicable form texts as part of titles or sections of the Bid and the matter must be developed in the Bid.
  4. Such a uniformity in the submission of technical Bids shall allow the Employer to evaluate Bids received based on information ordered in the same sequence and similar Bid contents.
  5. It could happen that forms submitted in the document are insufficient to get all the information that the Employer may want to consider when evaluating the Bids. In such cases, the Employer shall have to include additional forms to be completed by Bidders.

Required preliminary design

* 1. The bidding document is prepared for cases where Bidders submit a preliminary design for the projects. The required preliminary design scope is not defined. The Employer shall have to determine the required preliminary design scope (outlines, drawings, preliminary calculations, etc.) in Section VI “Specifications & Performance Requirements.” In some cases, the Employer shall not request the technical Bid preliminary design in which case, the ITB text in the BDS shall have to be corrected and the preliminary design deleted.

Oversight and quality assurance

* 1. The bidding document requires selected Contractors have the capacity, experience and resources to supervise the works technically on their own. This is a very important activity in “design and build” contracts that are paid in a lump sum and therefore, are hardly subject to modifications ordered by the Employer. The SAC form highlights this requirement that the Contractor selected have the technical resources and systems to assure the projects quality.
  2. Next, a typical sample form is shown: the methodology design description (MDD). Since bids generally do not submit the final design, and its preparation shall be the first remunerated activity of the contract, technical bids must describe the strategy, shape, methodology, steps and procedures to be used by the Contractor to prepare the executive designs.
  3. The SBD includes new provisions strengthening the environmental, social and safety and health in the workplace obligations which become much more relevant in a Contractor sole responsibility design and construction type contract. These obligations are the result of laws and regulations of each country, and should they not exist or be insufficient, they are detailed in Section VII “Specifications & Performance Requirements”. Collectively, these measures are known as ESSH (“environmental, social and safety and health in the workplace” measures).
  4. Specifically, all Bidders must submit a strategy to perform the environmental. social and safety and health in the workplace obligations and regarding ESSH code of conduct standards. The ESSH-GEPI form is open so that Bidders may use organization charts and texts to demonstrate their capacity and resources to meet the ESSH obligations built into the design and construction contract.
  5. Failure to submit such a strategy and the code of conduct may be a reason for disqualifying Bid after making clear that these requirements are lacking in the Bid. The information shown for Qualification in Section IV supplements these requirements in that the Bid Letter must indicate the personnel made available by the Bidder to address ESSH matters.
  6. The Bank Infrastructure Department (INE) has prepared a Projects Design Guide including recommendations supplementing this Guide concerning content and expected design quality from the Contractor[[4]](#footnote-4) which must be taken into account when Section VII of the Bidding Document is drawn.

##### DDM Form

##### Description of the Design Methodology

The Bidder must submit a design methodology that at least considers the following:

| **Nº** | **Element of the Bid** | **Applies** | **Does Not Apply** |
| --- | --- | --- | --- |
|  | Organizational arrangements for the design including: team structure, roles and responsibilities, review procedures and quality assurance procedures approval. |  |  |
|  | Deliverables program *[the Employer shall specify the requirements consistent with international industry good practices, for example, regarding lighting, signalization, gas and fuel disposal, sewage and temporary / permanent access to roads in the projects]*; |  |  |
|  | Declaration about the projects executive design establishing how requirements shall be achieved and the Projects purposes; |  |  |
|  | Declaration about any value added that Bidders shall contribute, including examples of design innovative aspects; |  |  |
|  | 1. comments about Section VII. "Specifications & Performance Requirements”, including: diagnosis about available technical information and design matters relevant to the Projects; 2. comments about errors, defects o ambiguities pointed out in Section VII.” Specifications & Performance Requirements”; 3. details of any exception in the conceptual design concerning Section VII.” Specifications & Performance Requirements” |  |  |
|  | Sustainable procurement: sustainability aspects (for example, energy efficiency, waste, plastics disposal, loaned sites, sources of materials, etc.) to demonstrate Contractors approach and commitment to sustainable design and construction practices; |  |  |
|  | Strategy to collect base information on environmental, social and safety and health in the workplace aspects to, feed the appropriate design development in due time; |  |  |
|  | Details about how the environmental, social and safety and health in the workplace requirements shall be included in all the design stages and how the consequences have been considered for the construction phase and during operations, if applicable; |  |  |
|  | Details about the approach to risks management, interested parties’ participation, permits and environmental consents; |  |  |
|  | Details about improvements when value engineering is applied; |  |  |
|  | Mechanisms and response standards should there be a need to consult or change the design as a result of events occurring during works implementation or during operations; and |  |  |
|  | Details about quality control and data quality control mechanisms and design methods |  |  |
|  | *[Insert any other relevant information as appropriate.]* |  |  |
|  |  |  |  |

**Form ESSH - GEPI**

##### Environmental, social, safety and health in the workplace Management Strategies and Implementation Plans

*[Note to Employer: to refer to the appropriate documents, modify the text in cursive in the items mentioned next.]*

Bidders shall submit complete and concise Strategies concerning Environmental, Social and Safety and Health in the workplace and Implementation Plans (ESSH-GEPI).

These strategies and plans shall describe in detail actions, materials, equipment, management procedures, etc. to be implemented by Contractors and their sub-contractors during the Works implementation.

When these strategies and plans are developed, Bidders shall consider the contract ASSS stipulations, including those described in more details in Section VII “Specifications & Performance Requirements”.

## Section V. Contract General Conditions

This part of the Guide only addresses the new provisions under contract conditions.

Definitions

* 1. Several definitions were added regarding the completion dates for designs, projects site investigation, distinguish between provisional and temporary Works, and Technical Oversight and ESSH obligations.
  2. The Contractor Technical Oversight is a new element, crucial to have the engineering technical resources to meet the sole responsibility contract implementation obligation.

Projects Manager

* 1. This SBD keeps all the obligations and responsibilities of the Projects Manager just as they are established in the Small Works construction SBD. It must be clearly understood that the Projects Managers duties related to the contract administration are kept and broadened with regard to design and its approval or rejection.
  2. However, the duties and responsibilities of the Projects Manager regarding the Small Works SBD technical oversight were set assuming that the Works design was implemented by the Employer. In this SBD, the design and construction projects responsibility represent the Contractor sole responsibility. Thus, the Projects Manager must be careful not to interfere in that sole responsibility and not give direct orders or instructions that alter, modify, compromise that Contractor’s sole responsibility.
  3. If the Projects Manager observes discrepancies in the design or bad construction methods, these must be taken to the administrative Meetings and try to convince the Contractor and Technical Oversight to rectify or take the matter to the Technical Mediator always in the interest of not interfering in matters of sole responsibility.

Contractors Risks

* 1. As risk for the Contractor meeting the ESSH obligations and the information given by the Employer about the projects were added, establishing that the Contractor recognizes to have been duly diligent and scrutinized the information assuming the risk whether to trust it or not. Thus, the Contractor is responsible for interpreting the information given and shall modify or not according to his/her criterium to comply with the Specifications & Performance Requirements and its purposes.

Part B. Projects Design

* 1. Six clauses are added regarding the Contractors obligation to execute the Projects and obtain the approval of the design from the Projects Manager. In a little more complex Works, the Employer shall have to use the Particular Conditions to specify more design details.

Negativa ficta[[5]](#footnote-5)

* 1. For design approval exclusive purposes, GCC 27.4 introduces the term "silence" of the Projects Manager. It means that if 7 days after the Manager should have issued an opinion about the design or some part of the design and does not let the Contractor know, silence shall be equal to disapproval (negativa ficta) and subsequently the Contractor shall have to proceed according to the dispute resolution mechanism. This measure has been introduced to avoid creating a vacuum or a long and indefinite wait for approval or rectifying a simple design in a small project.
  2. The aforesaid is a new provision not yet tried so that Users of this SBD shall have to comply with or supplement it appropriately in the Particular Conditions and report their experience to the Bank.

Permits and environmental licenses Clause 27.5

* 1. The contract conditions establish that among the Works design obligations, the Contractor is responsible for obtaining environmental licenses and permits. In some countries, only the Employer authority shall be able to request and obtain the environmental licenses and permits. In such cases the Particular Conditions shall have to establish the respective corrective provisions. In such cases, the implementation period could be suspended until the environmental license is obtained.

Administrative Meetings and Early Warning

* 1. The GCC 32 Administrative Meetings assigns special importance to this type of design and construction contract because that is the forum where all aspects of design and performance of other implementation condition aspects must be addressed and where the Projects Manager, in particular, must convince the Contractor to correct aspects related to design or implementation without interfering with the Contractor sole responsibility. The Administrative Meetings may be called by any of the parties.
  2. The GCC 33 Early Warning also is an essential mechanism for the contract to evolve smoothly. The mechanism is an obligation of the Contractor who must notify the Projects Manager about design difficulties or projects execution troubles.

Quality Control

* 1. GCC 34 highlights the Contractor’s obligation to depend on his/her technical oversight and hold the experience and sufficient resources to insure the projects quality and compliance with the design and agreed specifications. There is also a mechanism whereby the Projects Manager may instruct the Contractor to strengthen technical oversight if shortcomings are observed.

Variations

* 1. GCC 40 is a current clause in the Small Works SBD which allows to introduce variations in the contract implementation. The main Bank’s recommendation is that it should only be used in emergency situations because its use implies a conflict with the design and construction feature and the Contractor sole responsibility in a lump sum contract.

Payment Certificates

* 1. GCC 42 sets forth the manner in which a lump sum Contract is paid which consists of payment of completed sub-activities or milestones. The larger the number of sub-activities determined by the Contract in the proposal, the greater the cashflow shall be.

Paid Events

* 1. The paid event related to the most unfavorable terrain conditions that could reasonably be inferred, was the event excluded from the Small Works SBD events lists because the terrain conditions now are a Contractor risk.

Contract Termination

* 1. Two reasons are added to terminate a contract for basic non-performance of the Contractor: the recurrent rejection of the design and the insufficient technical oversight by the Contractor.

Performance Release

* 1. Projects performance minimum periods are added: If a country’s law establishes longer periods, these shall prevail.

## Section VI. Particular Conditions of Contract

* 1. A period to complete the design as GCC 1.1 (u) is added.
  2. The required design quality; according to the regular qualification in the country is added. Other directions on design quality are addressed in a Guide issued by the Infrastructure Department (INE) of the Bank.
  3. In lump sum contracts, readjustment is always possible as long as the Contractor provides the details of the labor force, use of equipment and materials and other items in each List of Activities.
  4. Categories for which the Contractor submitted a breakdown of prices payable to the Contractor and which the Employer agrees to be subject to readjustment, shall be subject to adjustment during the Contract execution in order to consider labor and materials cost variations.
  5. The Employer shall have to expand GCC 27.1 to 27.6 to address more complex projects design matters.
  6. The Employer shall have to specify the CPC GCC 47 the necessary provisions to estimate Price adjustments in each one of the List of Activities.

## Section VII. Specifications & Performance Requirements

* 1. Technical recommendations on the level of design quality required from the selected Contractor are found in a Guide issued by the Infrastructure Department (INE) of the Bank.
  2. In this Section the site information should be provided as well as the minimum technical specifications of Standards and Codes, the architectural program and the environmental, social and safety and health in the workplace and the supplementary information describing the works and forms to be used during the contract implementation.
  3. It is a “sole responsibility contract”. It is not expected that the Employer invite offer submissions which would include very detailed technical specifications. However, the Employer has and must know what they want and be able to communicate their needs to Bidders in the clearest possible specified requirements.
  4. This Section must be prepared to allow the widest possible competition, and at the same time, present a clear statement of design standards, labor, materials, performance and/or operations required for the Projects. “Specifications & Performance Requirements, Section VII” must stipulate that goods and materials included in the Projects must be new and unused and the state of the art models and include all the latest improvements of design and materials of an engineering design according to best practices.
  5. The Employer must make available to Bidders all relevant information related to the Projects site. Normally, the information provided by the Employer would include:
* Topographic Data
* Environmental and social basic Data
* Terrain investigative Data
* Soil conditions information
* Public services registries
* Land ownership information
* Underground water, Surface water and hydrological information
* Planning and zoning regulations
* Permits, licenses, and consents and its conditions
* “As built” blueprints of the existing infrastructure
* Details of any risk or danger
* Any other physical restriction
* Quality and environmental, health and safety systems required
* Information about stakeholders meetings
* Data on sub-surface and hydrological conditions at the Site, including environmental aspects.

## Section VIII. Drawings

* 1. In Design and Construction Contracts, best practices suggest that the Employer give Bidders all the technical information on the projects site, the Works characteristics, degree of Service, localization, and the geological, geotechnical, environmental, morphological, water, as hydraulic site conditions. Much of this information is better shown through blueprints and designs.
  2. Drawings and graphics including the Projects Site drawings shall have to be attached to this section, clearly indicating which ones are of reference and subject to verification by the Contractor and which ones are certified true and accurate by the Employer.
  3. The true and accurate certification is important regarding those elements that the Contractor should not overlap and therefore, avoid unnecessarily raising the projects costs. However, generally this statement shall exempt the Contractor’s responsibility if the terrain conditions differ from those shown by the Employer in the blueprints and concept designs and consequently, this resource must be used with great caution.

## Section IX. List of Activities

* 1. These notes to prepare the Lists of Activities sole purpose is to provide information for the Employer or the person drafting the Bidding Document.
  2. Usually, projects are procured on a sole responsibility contract basis and this Bidding Document is designed for that purpose. The recommendation is not to dilute the sole responsibility approach unless there are justifiable reasons to do so.
  3. Bidders shall quote for the entirety of the Projects under one “sole responsibility” mode, therefore the total Bid Price must include all the mentioned Contractor’s obligations or those that may reasonably concluded from the Bidding Documents regarding the design, manufacture, including procurement and sub-contracting (should there be any), delivery, construction and Projects completion. It includes all the requisites under the Contractor responsibilities to try, start up (or run, as appropriate) the Projects and, procurement of all permits, approvals and licenses, etc. when the Bidding Document so requires.
  4. The Lists of Activities also may include all operation, maintenance and training services when it is so established in the Employer’s Requirements and may also include other elements and services as specified in the Bidding Document.
  5. Usually the Employer determines the titles of the Lists of Activities however, it is up to Bidders to complete the description (and cost) of the sub-activities based on their design and projects execution plan. In addition to the Lists of Activities, some Employers also prefer to define the sub-activities description in the Bidding Document to make sure that Bidders may identify all the Works elements according to the conceptual design or executive design already at hand.
  6. Bidders shall provide a Price breakdown in the form and details required in the Lists of Activities and Sub-Activities with Prices included in Section IV, Bidding Forms. This breakdown is useful to determine payment objects or milestones. However, sub-activities may be defined in detail and individual costs (without altering the agreed lump sum) and the procedure to pay the milestones determined only when the final design is completed and approved.
  7. The total article prices in the List of Activities with prices is the Bidder’s Bid – Financial Part to complete the projects under the “sole responsibility” plan. The cost of any element which was omitted by the Bidder shall be considered included in the price of other elements in the Lists of Activities and Sub-activities which the Employer should not pay separately.
  8. Under specific circumstances, when some Projects components which should be provided under the Employer’s risk and responsibility (for example underground Works for which there is little geological information, in areas where active or inactive geological faults or the presence of abundant water, or soils with poor supporting capacity), the following text shall be used in the preamble of the Lists of Activities to bring in ad-measurement payments.

*[“The Contract Price shall be lump sum. Notwithstanding, if some part of the Works must be paid according to amounts provided or work carried out, provisions for measurement and evaluation shall be established in the Particular Conditions of the Contract – Part B – Sub-Clause 14.1. The Works parts to be paid based on measurements are specified in \_\_\_\_\_\_.*

Activities

* 1. Activities shall have to be grouped in sections to distinguish among works parts, which by nature, location, Access, sequence or some other special characteristic that may result to different methods of construction, programming work or cost considerations. General items common to all the projects parts may be grouped in a separate section by quantitative estimates. Whenever price adjustments formulas are used, these should correspond to the relevant sections in the list of activities.

Sub-Activities

* 1. Sub-Activities and their prices should be established for each Activity.

Daywork

* 1. If they are specified, nominal work/hours, etc. quantities must be equally specified by the Employer for Bidders to quote competitively.
  2. A list of day work shall have to be included when it is highly probable that unplanned work shall take place, work not included in the list of quantities. In the interest of making it easy for the Employer to verify that quotes submitted by bidders are realistic, normally the list of day work shall include the following:

(a) a list of the different types of labor, materials and equipment of the Contractor, for which bidders must include fees or basic prices for day work in addition to respective payment conditions; and

(b) a percentage of each labor, materials, installations sub-totals provided by bidders to cover a Contractor’s earnings plus general expenses, supervision expenses and other expenditures.

Ad-measurement work

* 1. If they are specified, the quantities available related to ad measurements which are exceptionally added to the contract objectives, must be calculated considering the net base of blueprints, unless otherwise expressed in the contract with no margin for volume, retraction or waste. Quantities must be indicated in rounded numbers, where appropriate to the immediate higher or lower figure. Total amounts of parts are carried to the summary as a temporary sum or an item to be implemented by quantities ad measurement.

Measurement Units

* 1. Usage of the following measurement units and abbreviations are recommended (unless the Employer’s country mandates the use of other national units):

|  |  |  |  |
| --- | --- | --- | --- |
| **Unit** | **Abbreviation** | **Unit** | **Abbreviation** |
| Cubic meter  hectare  hour  kilogram  global sum  meter  Metric ton  (1,000 kg) | m3  ha  h  kg  gl.amount  m  t | millimeter  month  number  square meter  square millimeter  week | mm  month  No  m2  mm2  wk. |

##### Example of List of Activities with Price

*[To be completed by Bidders using more tables if necessary to reflect the cost structure appropriately]*

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Activity No. | | Desciption of the Activity | | | | | Activity Price | | |
| 1. | | Design Services | | | | |  | | |
| 2. | | Mobilization | | | | |  | | |
| 3. | | Construction | | | | |  | | |
| 4. | | Electric Installations | | | | |  | | |
| 5. | | Sanitary Installations | | | | |  | | |
| 6. | | Mechanical Installations | | | | |  | | |
| 7. | | Environmental study and Licences | | | | |  | | |
| 8. | | Laboratory, Inspections, and Materials Trials | | | | |  | | |
| 9. | | Information system | | | | |  | | |
| 10. | | Contractor Oversight and technical consulttancies. | | | | |  | | |
| ... | |  | | | | |  | | |
| ... | |  | | | | |  | | |
|  | |  | | | | |  | | |
|  | |  | | | | |  | | |
|  | | Activities Total Price to carried over to Global Summary, Page \_\_\_\_ | | | | |  | | |
| Repeat the amount in letters | | |  | | | | | | |
|  |  | | |  |  |  | |  |  |
|  |  | | |  |  |  | |  |  |
|  |  | | |  | Name of Bidder | | |  | |
|  |  | | |  |  |  | |  |  |
|  |  | | |  |  |  | |  |  |
|  |  | | |  | Signature of Bidder | | |  | |
|  |  | | |  |  |  | |  |  |

## Section X. Security Forms

* 1. The performance forms are the same as the Small Works SBD forms.
  2. It is practice in some jurisdictions to add a separate quality design guarantee. This requisite is not found among the Bank recommended standard provisions, but if local practices so indicate, such a form may be added to this Section and made reference to in the Particular Conditions.

1. The design Guide among other aspects discusses: the architectural program, the terrain, the standards and codes, the design criteria, the preliminary design, if there is one, and the necessary documents to be submitted by the Contractor for design approval. [↑](#footnote-ref-1)
2. Delete if a pre-qualification was made. [↑](#footnote-ref-2)
3. Delete if there was a pre-qualification. [↑](#footnote-ref-3)
4. The design Guide, inter alia, addresses other aspects: the architectural program, the terrain, the standards and codes, the design criteria, the preliminary design, if there is one, and the necessary documents to be submitted by the Contractor for design approval. [↑](#footnote-ref-4)
5. For example, in Mexican legislation:

   "Article 2. For purposes of the current Law: For purposes of the current Law, the meaning of: Ficta Negativa will be understood as follows: a legal precept by virtue of which, and when the authority omits to issue an express resolution within the due date established by Law or regulations applicable to specific cases. Will consider the individual requested matter as solved in the negative.”

   “Administrative Procedure Act for the Federal District. Published, 12.21.1995” {"Ley de Procedimiento Administrativo del Distrito Federal. Fecha de Publicación: 21/12/1995"). [↑](#footnote-ref-5)