# InstructionS to bidderS

## 1 INTRODUCTION

### 1.1 GENERAL

The Bidder is expected to examine all corresponding instructions, forms, terms, and specifications contained in the ITB documents. Failure to comply with these documents will be at the Bidder’s risk and may affect the evaluation of the Bid.

### 1.2 ELIGIBLE BIDDERS

Bidders should not be associated or have been associated in the past, directly or indirectly, with a firm or any of its affiliates or an individual which have been engaged by the ILO to provide consulting services for the preparation of the design specifications, and other documents to be used for the procurement of goods, works or services to be purchased under this Invitation to Bid.

Bid submission is open for bidders who participated in the site visit and the pre-bid meeting. The bidders shall submit the certificates of the site visit and the pre-bid meeting along with their Quotation. Bidders shall be legally registered in the Authorized Ministries in Cambodia.

The bid will not be opened for the company that has been blacklisted by one of the following projects: Commune/Sangkat Fund, LEAP, and other UN projects.

Bids shall be accompanied by a bid security of an amount of a minimum of 2% of the bid value in US$ currency, in accordance with the bid security template in (Annex II-J)

### 1.3 COST OF BID

The Bidder shall bear all costs associated with the preparation and submission of the Bid. The ILO will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the solicitation.

### 1.4 ITB SCHEDULE SUMMARY

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| --- | --- |
|  |  |
| ITB Publishing date: | **19/09/2022** |
| Pre-bid Meeting and Site visit (mandatory): | **04/10/2022** |
| Pre-bid Training (mandatory): | **06/10/2022** |
| Clarification questions, if any, related to this ITB  must be submitted by: | **10/10/2022** before **15:30** |
| ILO response to clarification questions by: | **12/10/2022** |
| Bids Submission Deadline: | **17/10/2022** before **11:30** |
| Estimated Contract Signature Date: | **31/10/2022** |
| Estimated Contract Start Date: | **01/11/2022** |

### 1.5 MANDATORY SITE VISIT

The mandatory Pre-bid meeting and site visit are scheduled to take place,

* **Site Visit: 04/10/ 2022 at 11:30 am** meeting at Mukh Reah commune office, Rulha Kiri District, Battambang Province.

At the Bidder’s own responsibility and risk, it is mandatory to visit and examine the Site, and its surroundings where the Works are to be executed and obtain all information that may be necessary for preparing the Bid and entering into a contract for the construction of the Works.

The purpose of the mandatory site visit and pre-bid meeting is to familiarize potential Bidders with the requirements and to clarify any aspects of the ITB. The ILO reserves the right to decline to receive without comment any bid by a company that does not attend the mandatory site visit. Once completed, each bidder will receive a Certificate of Attendance. A copy of this certificate must be included in the bid. Compare required bid submission forms in Annex II-C.

### 1.6 MANDATORY PRE-BID TRAINING

Bid submission is open for bidders who have attended the Prebid training provided by the ILO. Bidders will have an opportunity to participate in training provided by the ILO ahead of bid submission via **ZOOM** on **06 October 2022** starting at **09:00 AM**. Copies of LRBT Certificate must be included in the bid. Compare required bid submission forms in Annex II-C.

The purpose of the mandatory Prebid training is to familiarize potential bidders with the objectives of the programme, including local resource-based technology, bidding process, and decent work principles. The ILO reserves the right to decline to receive without comments any bid by a company, which has not participated in the mandatory Prebid training.

Once completed, each participant will receive a Certificate of Attendance. Copies of individual certificates of key staff who will be involved in implementation must be included in the bid.

### 1.7 CLARIFICATION QUESTIONS

Bidders requiring any clarification on technical, commercial or legal aspects of the ITB documents may submit their queries by email address to procurement.bfc@ilo.org. The ILO’s response will be provided in writing to any request for clarification received by the deadline indicated in paragraph 1.4 above ITB schedule summary.

The list of all questions received in due course and ILO’s answers to them (“Q&A”) will be shared with all prospective bidders that received ITB documents by the date indicated in the 1.4 above ITB schedule summary.

### 2 BIDDING CONDITIONS

### 2.1 SUBMISSION AND RECEIPT OF BIDS

**2.1.1 Number of Copies, Format and Signing of Bid**

The Bidder shall submit one original and **one** copy of the Bid, clearly marking each “**Original Bid**” and “**Copy of Bid**” as appropriate. In the event of any discrepancy between them, the Original Bid shall prevail. The Bid shall be typed or written in indelible ink and shall be signed by the Bidder i.e., by a person or persons duly authorized to bind the Bidder to the contract. A Bid shall contain no interlineations, erasures, or overwriting except, as necessary, to correct errors made by the Bidder, in which case such corrections shall be initialled by the person or persons signing the bid

**2.1.2 Submission and Receipt of Bids**

It is the responsibility of the Bidder to ensure that a Bid is submitted to the ILO strictly in accordance with the stipulations in the solicitation documents.

Bids **must be received on or before 11:30 am, Phnom Penh time on 17 October 2022.** Bids and modifications to Bids received after the bid receipt deadline will be rejected. Bids must include all the documents requested in these Instructions to Bidders and shall be submitted to:

* ***ILO-Project Office-Battambang***
* ***Address: Provincial Department of Rural Development-Battambang***
* ***Street 3, Svay Por Commune, Battambang District, Battambang Province***
* **Bids submitted** *by* **any other means will be rejected.**

Bids must be submitted using an inner and outer envelope. The original and the copy of the Bid should be placed in separate sealed envelopes marked as **“Original” and “Copy**”. The envelopes containing the original and the copies shall then be enclosed in one single outer parcel.

**Where there is any infringement of these instructions (e.g., envelopes are unsealed or not marked as required), ILO will assume no responsibility for the misplacement or premature opening of a Bid.**

The outer parcel shall be sealed and bear the following information:

1. ***the address for submission of Bids indicated above;***
2. ***the reference of the ITB to which the Bidder is responding;***
3. ***the name and address of the Bidder, to enable the Bid to be returned unopened if it is declared to have been received “late”.***

The information set out below should appear on both sides of the parcel:

|  |
| --- |
| **ITB N°** 03-2022-BTB  Rehabilitation of rural road in Mukh Reah, Prek Chik and Basak communes, Rukha Kiri district, Battambang Province  **CONFIDENTIAL**  **DO NOT OPEN BEFORE**  **11:30 am Phnom Penh Time, 17 October2022** |

In addition, the information below should appear on both sides of the inner envelope:

|  |
| --- |
| **CONFIDENTIAL**  **To be opened by the Evaluation Panel ONLY** |

Bidders or their authorized representatives may attend this bid opening session.

### 2.2 OFFICIAL LANGUAGE

The Bid and all correspondence and documents related to the Bid shall be written in the English language. To facilitate the Works, part of the documents may be translated into Khmer. In case of discrepancies between the Khmer version and the English version, the English version shall prevail.

### 2.3 CORRESPONDENCE

Any communication in connection with this ITB should be addressed in writing to the e-mail address mentioned in paragraph 1.7 above. All correspondence should quote the reference number of the ITB. Bidders are requested not to contact the ILO after the closing time, i.e. during the ITB assessment period.

## 2.4 NO CONSULTATION

A Bidder shall not:

* consult, communicate or agree with any other Bidder or competitor, with regard to price or any other matter related to the ITB, for the purpose of restricting competition;
* disclose its price, directly or indirectly, to any other Bidder or competitor, except in the case of provision of standard public price lists;
* make any attempt to induce any other person or organization to submit or not to submit a Proposal for the purpose of restricting competition.

If a Bidder is found to be in breach of any of these instructions, the ILO reserves the right to exclude the Bidder from the procedure and reject its offer.

Nothing in this paragraph shall restrict the right of a Bidder to form a joint venture, a consortium or an association for the purpose of submitting a Bid.

## 2.5 CONTRACT CONDITIONS

Bidders are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in these ITB documents.

By submitting a Bid, the Bidder accepts in full and without restriction these instructions. It also accepts the provisions of the Short Form ILO Construction Contract (Annex III-F) being relied on for this bidding procedure and resulting contract, irrespective of the provisions of the Bidder’s own conditions of sale, which it hereby waives.

The ILO reserves the right to decline to consider without further comment any Bid which does not accept the Short Form ILO Construction Contract set out (Annex III-F).

## 2.6 WORK ON ILO PREMISES

If the Bidder’s personnel are required to work on ILO premises, they shall comply with the security and safety and health arrangements established by the ILO, including applicable provisions of local legislation. Failure to comply with such obligations may lead to suspension of payments under and cancellation of the contract.

## 2.7 BID CURRENCY

All prices shall be quoted in **USD**. If the Bid is submitted in a currency other than the Bid Currency, to facilitate evaluation and comparison, the ILO will convert all such prices in **USD** at the official UN exchange rate applying on the last day for submission of Bids.

## 2.8 INCOMPLETE BIDS

ILO may reject a Bid that does not provide all the information requested which is necessary for the assessment of the Bid by the ILO.

## 2.9 Changes to Bids

Changes or amendments to Bids will only be accepted if they are received before the deadline for receipt of Bids and shall be submitted in accordance with the instructions given above. The envelope shall be clearly marked “Change(s) to Bid’’.

## 2.10 MATERIAL CHANGE(S) IN CIRCUMSTANCES

The Bidder shall inform the ILO of any change(s) of circumstances arising during the ITB process, including but not limited to:

* a change affecting any declaration, accreditation, license or approval;
* major re-organizational changes, company re-structuring, a take-over, buy-out or similar event(s) affecting the operation and/or financing of the Bidder or its major sub-contractors;
* a change to any information on which the ILO may rely in assessing Bids.

## 2.11 ITB Document, Specifications, Drawings

The ITB documents and any specifications, plans, drawings, patterns, samples or information issued or furnished by the ILO are issued solely for the purpose of enabling a Bid to be completed and may not be used for any other purpose. The ITB documents and any additional information provided to Bidders shall remain the property of the ILO.

## 2.12 SUB-CONTRACTING

Sub-contracting of work to be undertaken as a result of this ITB is not permitted.

## 2.13 Bid Validity

The validity of a Bid shall be 90 days commencing from the time and date of the closure of Bids stated in paragraph 1.4 above ITB schedule summary. The ILO reserves the right to request an extension of the period of validity of Bids, and to modify or exclude any of the terms of this ITB, at its sole discretion.

## 2.14 NOTIFICATION OF CONTRACT AWARD

The ILO will evaluate the Bids based on the Bidders’ responses to the requirements set out in the ITB documents. Each Bidder will be informed of the decision reached concerning the award of the contract.

## 2.15 PUBLICITY

During the ITB process, a Bidder is not permitted to create any publicity in connection with the ITB.

# 3 CONTENT OF BID

Each Bid shall comprise the following documents:

### 3.1 Declaration of conduct (Annex II-H)

The ILO expects all participants in its procurement process to adhere to the very highest standards of moral and ethical conduct and transparency, to prevent any conflict of interest, and not to engage in any form of coercive, collusive, corrupt, or fraudulent practices.

### 3.2 Bidder’s Information Form (Annex II-A)

The Bidder’s Information Form explicitly indicates that the Bidder accepts in full and without restriction the Terms and Conditions applicable to ILO Contracts.

Each Bidder shall attach the following mandatory documents in the format shown in Annex II-A:

a) Certificate(s) confirming that obligations relating to the payment of taxes in accordance with the legal provisions of the country in which the Bidder is established have been fulfilled;

b) The proof of declaration and payment of taxes, fees by the Bidder should indicate the situation at the end of the previous fiscal year, bearing the statement “certified true copy”, the date and the signature of a person authorized to represent the company.

### 3.3 Recent References - COMPANY EXPERIENCE (Annex II-B)

Bidders shall provide details of three contracts entered into during the past five years which are similar in nature to that arising from this ITB. The information in Annex II-B must include, as a minimum:

* Client name, location, and date of the project;
* Description of goods provided and works or services performed;
* Contract value;
* Contact details for references.

### 3.4 PRICE SUBMISSION FORM (BILL OF QUANTITIES)- ANNEX II-G

Bidders shall complete the unpriced BoQ form as shown in Annex II-G

The Bids shall be checked for any arithmetic errors in computation and summation. Any arithmetical errors will be corrected without prejudice to the Bidder as follows:

* Where there is a discrepancy between the unit rate and the total amount derived from the multiplication of the unit rate by the corresponding quantity, the unit rate shall prevail and the total amount shall be corrected. If, in the opinion of the ILO, there is an obvious error in the unit rate, the total amount as quoted shall prevail and the unit rate shall be corrected.
* If there is a discrepancy between words and figures in Annex II-G, the amount in words will prevail.

Amounts corrected in the manner mentioned above shall be binding on the Bidder. If the Bidder does not accept the corrections, its Bid shall be rejected.

# 4 EVALUATION OF BIDS AND CONTRACT AWARD

## 4.1 Preliminary Evaluation

Prior to the detailed evaluation of each Bid, the ILO will undertake a preliminary examination. Bids will not be considered for further evaluation in cases where:

* The Bidder does not meet the eligibility criteria;
* They are incomplete (i.e. do not include all required documents as specified in 5.0 below - Annex II)
* The Original Bid is not signed by the duly authorized individual of the organization/company; and
* The validity period of the Bid is not in accordance with the requirements of the ITB as specified in 2.13 Bid Validity.

## 4.2 Evaluation of Bids

Bids will be reviewed and evaluated by an Evaluation Panel to determine if the Bid is substantially responsive to the requirements of the Bidding Documents.

A substantially responsive Bid is one that conforms to all the terms, conditions, and specifications of the Bidding Documents, without material deviation or reservation. A material deviation or reservation is one:

1. which affects in any substantial way the scope, quality, or performance of the Works;
2. which limits in any substantial way, inconsistent with the Bidding Documents, the ILO’s rights or the Bidder’s obligations under the Contract; or
3. whose rectification would affect unfairly the competitive position of other Bidders presenting substantially responsive Bids.

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

***Corrections of Errors***

Bids determined to be substantially responsive will be checked by the ILO for any arithmetic errors. Errors will be corrected by the ILO as follows:

1. Where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and
2. If a Bill of Quantities is used and there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the ILO there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern, and the unit rate will be corrected.
3. If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the totals shall be corrected.

The amount stated in the Bid will be adjusted by the ILO in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount, its Bid will be rejected.

To assist in the examination, evaluation, and comparison of Bids, the ILO may, at the ILO’s discretion, ask any Bidder for clarification of the Bidder’s Bid, including breakdowns of prices. The request for clarification and the response shall be in writing but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the ILO in the evaluation of the Bids.

## 4.3 Award of the Contract

The ILO will award the contract to the **lowest-priced, technically qualified Bidder**. The ILO reserves the right to accept or reject any Bid in whole or in part, to annul the solicitation process and reject all Bids at any time prior to the issue of the purchase order, without thereby incurring any liability to the affected Bidder(s) or any obligation to provide information on the grounds for the ILO’s decision(s).

Awarding of the contract arising from this ITB will be made at the absolute discretion of the ILO. The ILO's decision to award the contract to a preferred Bidder shall not be questioned by any other Bidder.

The Contract or the benefit of the Contract shall not be assigned, subcontracted or otherwise transferred by the successful Bidder in whole or in part, without ILO’s prior written consent, to be given at its sole discretion.

### 4.4 DEBRIEFING / BID PROTEST MECHANISM

The ILO is committed to ensure that all its bidding processes are conducted in a fair and transparent manner. A Bidder who participated in a formal ILO solicitation process and believes that he/she has been treated unjustly or unfairly, or who would simply like to receive clarifications on his/her unsuccessful proposal (“debriefing”), must submit a request by email to [bey-procurement@ilo.org](mailto:bey-procurement@ilo.org) within ten (10) business days after receiving the ILO notification of regret. The Bidder will be contacted upon receipt of their request and will be invited to a debriefing session.

4.4.1 Debriefing process

The purpose of the debriefing is to discuss the strengths and weaknesses of the proposal. If the Bidder believes they have been treated unjustly or unfairly this debriefing will provide the rational of the ILO’s decision. The ILO will not disclose any technical or financial information related to offers received by other Bidders who participated in the solicitation, nor the evaluation scores or other details from the tender process.

Debriefing will normally be conducted via teleconference by the Procurement Officer in charge of the relevant solicitation at an agreed time with the Bidder.

Should the Bidder not be satisfied with the clarifications provided during the debriefing, they may file a protest to the Chief, PROCUREMENT as described below.

4.4.2 Bid Protest

A Bidder who is not satisfied with the debriefing outcome, may lodge a protest to the ILO Chief, PROCUREMENT, by sending an email to [bidprotest@ilo.org](mailto:bidprotest@ilo.org)

The protest must be sent within ten (10) business days after the debriefing has taken place. The ILO will acknowledge receipt of the protest.

In the protest, the Bidder must provide the following information:

1. Company and contact name, address, telephone number, fax number and email;
2. The solicitation number and title, the contracting office and the name of the officer who has been leading the tender process;
3. The date of debriefing; and
4. The reasons for the protest together with copy of any documentation in support of the allegations.

The Chief, PROCUREMENT will perform a receivability review of the protest to determine if it was timely and correctly submitted and complies with the requirements set out above. The Bidder will be notified whether the protest is receivable in writing within ten (10) business days after receipt of the protest. A decision rejecting the receivability of the protest is final and not subject to further appeal or recourse.

If the protest is deemed receivable, the ILO will conduct an inquiry to determine its merits. The Bidder will be notified of the ILO decision as soon as it is available. The decision on the merits of the protest is final and not subject to further appeal or recourse.

4.4.3 Allegations of Misconduct or Fraud

Allegations of misconduct or fraud must be addressed by the Bidder to the ILO Treasurer and Financial Comptroller TR/CF (email: [TRCF@ilo.org](mailto:TRCF@ilo.org)) and to the ILO Chief, Internal Auditor Office (email: [IAO@ilo.org](mailto:IAO@ilo.org)). The allegations will be investigated in accordance with ILO’s investigating procedures.

# 5 Annexes:

### ANNEX I TERMS OF REFERENCES(TOR)

## Annex II: Forms to be completed and to be submitted by the bidder

### ANNEX II-A BIDDER INFORMATION

### ANNEX II-B COMPANY EXPERIENCE AND COMPANY PROFILE (IF AVAILABLE)

### ANNEX II-C CERTIFICATE OF SITE VISIT

### ANNEX II-D CONTRACTOR’S KEY PERSONNEL

### ANNEX II-E LIST OF THE CONSTRUCTION EQUIPMENT

### ANNEX II-F CONSTRUCTION WORK PLAN

### ANNEX II-G BOQ (BILL OF QUANTITIES)

### ANNEX II-H BID SUBMISSION FORM

### ANNEX II-I DECLARATION OF CONDUCT

### ANNEX II-J FORM OF BID GUARANTEE

### ANNEX II-K CONTRACTOR’S COMMITMENT TO COMMUNITY EMPLOYMENT PRACTICE

ANNEX III integral part of the Bid and subsequent contract

### ANNEX III-A TECHNICAL SPECIFICATIONS OF GENERAL ITEMS VOLUME 1

### ANNEX III-B TECHNICAL SPECIFICATIONS VOLUME 2

### ANNEX III-C DRAWINGS AND ROAD INVENTORY AND VOLUME CALCULATION FOR EARTHWORK

### ANNEX III-E FORM OF PERFORMANCE GUARANTEE

### ANNEX III-F SAMPLE OF THE SHORT FORM ILO CONSTRUCTION CONTRACT

### ANNEX III-G TERMS and CONDITIONS APPLICABLE TO ILO CONTRACT