

SECTION I

INSTRUCTIONS TO PROSPECTIVE BIDDERS

1. INFORMATION FOR PROSPECTIVE BIDDERS

Bidders are invited to submit a PQ submission for the Construction works of the Point Blanche Prison and House of Detention, in Sint Maarten, Dutch Caribbean in accordance with this PQ.

All correspondence, notification and proposals in relation to this PQ shall be done exclusively through the UNOPS eSourcing platform.

2. INTERPRETATION OF THE PQ

This PQ is an invitation to treat and shall not be construed as an offer capable of being accepted or as creating any contractual, other legal or restitutionary rights.

No binding contract, including a process contract or other understanding or arrangement, will exist between the bidder and UNOPS and nothing in or in connection with this PQ shall give rise to any liability on the part of UNOPS unless and until the Contract is signed by UNOPS and the successful bidder.

3. AMENDMENTS TO THE PQ

Prior to the Deadline for PQ Submission, UNOPS may at its discretion modify the PQ documents by way of a written addendum. All written addenda to the PQ documents shall form part of the PQ.

In the event UNOPS modifies the PQ, UNOPS will notify in writing all prospective bidders that have received the PQ from UNOPS of such modification.

In order to give the prospective bidders reasonable time to take such modification into account, UNOPS may extend the Deadline for PQ Submission as may be appropriate under the circumstances.

4. PROSPECTIVE BIDDER ELIGIBILITY

Notwithstanding the project specific eligibility requirements noted, a prospective bidder may be a private, public or government-owned legal entity or any association with legal capacity to enter into a binding contract with UNOPS.

A prospective bidder, and all parties constituting the bidder, may have the nationality of any country with the exception of the nationalities, if any, listed in the PQ Particulars.

A prospective bidder shall not be eligible to submit a PQ if and when at the time of proposal submission, the bidder:

- (i) is included in the Ineligibility List, hosted by UNGM, that aggregates information disclosed by UNOPS (UNOPS Ineligibility List) and other Agencies, Funds or Programs of the UN System;
- (ii) is included in the Consolidated United Nations Security Council Sanctions List, including the UN Security Council Resolution 1267/1989 list;
- (iii) is included in the World Bank Corporate Procurement Listing of Non-Responsible Vendors and World Bank Listing of Ineligible Firms and Individuals.

- (iv) is included in any other Ineligibility List from a UNOPS partner and if so listed in eSourcing Particulars.
- (v) is currently suspended from doing business with UNOPS and removed from its vendor database(s), for reasons other than engaging in proscribed practices as defined in the UNOPS Procurement Manual.

5. ERRORS OR OMISSIONS

Prospective Bidders shall immediately notify UNOPS in writing of any ambiguities, errors, omissions, discrepancies, inconsistencies or other faults in any part of the PQ, with full details of those ambiguities, errors, omissions, discrepancies, inconsistencies or other faults.

Prospective Bidders shall not benefit from such ambiguities, errors, omissions, discrepancies, inconsistencies or other faults.

6. PROSPECTIVE BIDDERS' RESPONSIBILITY TO INFORM THEMSELVES & ACKNOWLEDGEMENT

Prospective Bidders shall be responsible to inform themselves in preparing their PQ. In this regard, bidders shall ensure that they:

- (i) examine and fully inform themselves in relation to all aspects of the PQ, including all other documents included or referred to in this PQ;
- (ii) review the PQ to ensure that they have a complete copy of all documents;
- (iii) obtain and examine all other information relevant to the project and the scope of the works available on reasonable enquiry;
- (iv) verify all relevant representations, statements and information, including those contained or referred to in the PQ or made orally during any clarification meeting or site inspection or any discussion with UNOPS, its employees or agents;
- (v) fully inform and satisfy themselves as to requirements of any relevant authorities and laws that apply, or may in the future apply, to the execution of the works; and
- (vi) form their own assessment of the nature and extent of work required to execute the works and properly account for all work in their proposal.

Bidders acknowledge and agree that the PQ does not purport to contain all relevant information in relation to the works and is provided solely on the basis that bidders shall be responsible for making their own assessment of the matters referred to in the PQ.

Bidders acknowledge and agree that UNOPS, its directors, personnel and agents make no representations or warranties (express or implied) as to the accuracy, currency or completeness of this PQ or any other information provided to the bidders.

7. CONTENT OF PRE-QUALIFICATION SUBMISSIONS

7.1

Returnable PQ Schedules

Proposals shall include only a fully completed and dated set of the Returnable Proposal Schedules, including only the information required by each Returnable Proposal Schedule, either completed on the Returnable Proposal Schedule document or annexed to the document, as the case may be, each signed by a person authorized by the bidder to bind it. The Returnable Proposal Schedules are set out in Section III.

7.2

Other Information

Proposals submitted shall only include information required to be submitted in accordance with the PQ.

8. REMUNERATION FOR AND COSTS OF PROPOSALS

Prospective bidders shall not be entitled to any remuneration or compensation for the preparation and submission of their proposal.

Prospective bidders acknowledge that their participation in any stage of the bid process for this PQ is at the prospective bidders' own risk and cost. UNOPS shall not be responsible for any costs or expenses incurred by bidders in the preparation and submission of proposals or participation in the bid process, including any clarification meeting or site inspection.

UNOPS is not liable to prospective bidders for any costs, expense or loss on any legal, contractual, quasi contractual or restitutionary basis incurred or suffered in connection with the PQ or prospective bidders' participation in the bid process, including where:

- (i) clarifications and addenda are provided or not provided to bidders;
- (ii) a prospective bidder is not selected to tender the works;
- (iii) UNOPS varies, terminates, suspends or delays any aspect of the bid process or conducts another process in its place;
- (iv) UNOPS elects not to proceed with the PQ in whole or in part; or
- (v) UNOPS exercises any rights under the PQ.

9. PARTIAL PQ PROPOSALS

Bidders shall respond to all applicable Returnable Proposal Schedules.

10. PQ PROPOSAL FORMAT

A proposal shall contain no interlineations, erasures, or overwriting. If necessary to correct errors made by a Bidder, handwritten corrections to the proposal may be made before the submission and/or the Deadline for PQ Submission. In this case, such corrections shall be initiated by the person or persons who signed the proposal.

Proposals shall be signed by the person authorized to do so in the Returnable Proposal Schedule – Proposal Form (see Section III). That person shall be authorized by the prospective bidder to bind the prospective bidder. A copy of such authorization shall be submitted along with the proposal.

11. LANGUAGE OF PQ PROPOSALS

All proposals, information, documents and correspondence exchanged between UNOPS and the bidders in relation to this process shall be in the language set out in the PQ Particulars.

Supporting documents may be submitted in their original language. If such language is different from English or that set out in the PQ Particulars, the supporting documents shall be submitted together with a translation of the supporting documents' relevant excerpts.

12. DEADLINE FOR PQ SUBMISSION

All proposals shall be received by UNOPS by no later than the time and date set out in the PQ Particulars. It shall be the sole responsibility of the bidders to ensure that their proposal is received by the Deadline for Proposal Submission.

Proposals submitted after the Deadline for Proposal Submission shall be rejected.

13. PQ PROPOSAL SUBMISSION

All proposals shall be submitted to UNOPS in accordance with the requirements set out in this PQ.

Proposals that are not submitted in accordance with the provisions set out in this PQ shall be rejected.

14. OPENING OF PQ PROPOSALS

Proposals will be opened at the time and location, and in accordance with the requirements, set out in the PQ Particulars.

15. EVALUATION METHOD AND CRITERIA

UNOPS shall evaluate proposals and all bidders who meet the minimum threshold pursuant to Section II of this PQ shall be invited to submit a bid.

16. CONFIDENTIALITY

All information and documents provided to the prospective bidders by UNOPS shall be treated as confidential by the bidders and shall:

- (i) remain the property of UNOPS;
- (ii) not be used for any purpose other than the purpose of preparing a proposal; and
- (iii) be immediately returned to UNOPS in the event the bidder declines to respond to this PQ, or, in the event of a rejected or an unsuccessful bid,

within fifteen days of being notified by UNOPS that its proposal was rejected or unsuccessful.

All information and documents provided to the bidders by UNOPS shall not be disclosed to any third party, except:

- (i) with the prior written consent of UNOPS;
- (ii) where the third party is assisting a bidder in preparing the PQ, provided the prospective bidder has previously ensured that party's adherence to this duty of confidentiality;
- (iii) if the information or documents is/are at the time of this PQ lawfully in the possession of the bidder through a party other than UNOPS;
- (iv) if required by law, and provided that the bidder has previously informed UNOPS in writing of its obligation to disclose the information or documents; or
- (v) if the information is generally and publicly available other than as a result of breach of confidence by the person receiving the information.

17. ETHICS AND CORRUPT PRACTICES

UNOPS requires that all bidders observe the highest standard of ethics during the entire bid process, as well as the duration of any contract that may be signed as a result of this bid process. Therefore, all bidders shall represent and warrant that they:

- (i) have not unduly obtained, or attempted to unduly obtain, any confidential information in connection with the bid process and any contract that may be signed as a result of this bid process;
- (ii) have no conflict of interest that would prevent them from entering into a contract with UNOPS, and shall have no interest in other bidders or parties involved in this bid process or in the project underlying this bid process;
- (iii) have not engaged, or attempted to engage, in any Corrupt Practices in connection with this bid process or the contract that may be awarded as a result of this bid process. For the purposes of this provision, Corrupt Practices shall mean any of the following:
 - bribery: the act of unduly offering, giving, receiving or soliciting anything of value to influence the process of procuring works, or executing contracts;
 - extortion or coercion: the act of attempting to influence the process of procuring works, or executing contracts by means of threat of injury to person, property or reputation;
 - fraud: the misrepresentation of information or facts for the purpose of influencing the process of procuring works, or executing the contracts, to the detriment of UNOPS or other participants; or
 - collusion: the agreement between bidders designed to result in proposals at artificial rates that are not competitive.
- (iv) have not been involved in, either directly or indirectly, nor have they funded, either directly or indirectly, any terrorist activities, notably upon basis of the

consolidated list of individuals belonging to or associated with terrorist entities as established and maintained by the United Nations 1267 Committee.

In the event that a bidder fails to comply with any of the above representations and warranties, UNOPS shall have the right to reject the proposal submitted by such bidder, and UNOPS shall have the right to terminate any contract that may have been signed as a result of this bid process immediately upon notice, without any liability for termination charges or any other liability of any kind. In addition, the bidder may be precluded from doing business with UNOPS, any other entity of the United Nations System Institution in the future.

18. AUDIT

Any bidder participating in this bid process shall agree to cooperate with the Office of Internal Oversight Services of the United Nations, UNOPS Internal Audit and Investigations Group as well as with any other investigation units authorized by UNOPS Executive Director and UNOPS Ethics Officer to investigate any allegation of misconduct, and in particular any allegation of a breach of Article 29 above, in connection with this bid process or any contract that may be awarded as a result of this bid process.

In cooperating with UNOPS, the bidders shall give access to UNOPS, upon written request, to all employees, representatives, agents and assignees, as well as to all documents, records and other elements of the bidder that may be required to conduct such investigation. The failure of a bidder to comply with any of the above representations and warranties shall give UNOPS the right to disqualify the proposal submitted by such bidder, and UNOPS may terminate any contract that may have been signed as a result of this bid process immediately upon notice, without any liability for termination charges or any other liability of any kind of UNOPS. In addition, the bidder may be precluded from doing business with UNOPS, and any other entity of the United Nations System in the future.

19. BID PROTEST

Any bidder that believes to have been unjustly treated in connection with this bid process or any contract that may be awarded as a result of such bid process may submit a complaint to UNOPS' General Counsel. More information about bid protests can be found on UNOPS' website at www.unops.org.