

REPUBLIC OF KENYA: MINISTRY OF DEFENCE

REQUEST FOR QUALIFICATIONS OF BIDDERS FOR THE FINANCING,
DESIGN, CONSTRUCTION AND COMMISSIONING OF RESIDENTIAL
ACCOMMODATION FOR THE KENYA DEFENCE FORCES ON A BUILD-
LEASE-AND-TRANSFER(BLT) BASIS

TENDER NO: MOD/INFRAS/024/20/21

3-18-2021

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1. PROJECT INFORMATION

1.1. General

The Ministry of Defence¹ comprises the Kenya Army, the Kenya Air Force, the Kenya Navy, the Defence Forces Constabulary and the Civilian Staff. The mandate of the Ministry is derived from Article 241: 1 (a), (b) and (c) and the Kenya Defence Forces Act No. 25 of 2012 and its mission is to defend and protect the sovereignty and territorial integrity of the Republic, assist and cooperate with other authorities in situations of emergency or disaster and restore peace in any part of Kenya affected by unrest or instability as assigned.

The Ministry is headed by the Cabinet Secretary who is responsible to the President and Commander-in-Chief on matters of policy. The Cabinet Secretary is appointed by the President and chairs the Defence Council, which is responsible for the overall control and direction of the Kenya Defence Forces. The Chief of the Defence Forces (CDF) is the professional head of the three Kenya Defence Forces Services and the Principal Military Advisor to the Commander-in-Chief. He is also responsible for the control, direction and general superintendence of the Defence Forces. The Principal Secretary is the accounting and authorized officer on financial and administration matters of the Ministry of Defence.

The Ministry of Defence (MoD), in accordance with Kenya's PPP Act of 2013 and PPP Regulations of 2014, hereby invites interested qualified firms and consortia ("Bidders") to participate in a multi-step bid process by submitting qualification information for the right to bid for the development of residential accommodation and associated support facilities for the Kenya Defence Forces (the "Project") on a Build-Lease-and-Transfer (BLT) basis. The proposed Project will encompass the development of a total of 2,340 residential units by the private party for the use of Kenya Defence Forces' (KDF) Non-commissioned Officers (NCOs). Under the envisaged contractual structure, the private party will lease the project sites from KDF; develop the residential units and leaseback to MoD the residential units for a specified term for a consideration. Upon expiry of the lease term, the resultant lease payments by the MoD to the private party will cease and the lease will terminate. The Project will be developed through a special purpose vehicle incorporated under Kenyan Law (the "SPV").

1.2. Procurement Process

The qualified Bidders shortlisted as a result of this prequalification process (the "Qualified Bidders") will be invited to submit a proposal ("Proposal") for the Project in response to a Request for Proposals (the "RFP") to be issued by the MoD to the Qualified Bidders.

This bid shall comprise a three-step process:

- Step One is the period from the MoD's public announcement of the commencement of this Request for Qualification (the "RFQ") process until the MoD's public announcement of Qualified Bidders. This step will establish a Qualified Bidders list (the "BQL") based on acceptable Bidder qualifications submitted in response to this RFQ;
- Step Two is the period from RFP issuance to the Qualified Bidders to the submission of Proposals in response thereto and
- Step Three is the period from the start of the evaluation of submitted Proposals to the date of issuance of the letter of award and invitation to the first ranked Bidder (the "Preferred Bidder") to finalize the project agreements.

English is the official language of Kenya. As such, Bidders should submit all RFQ documents and any accompanying documents in English. Any documents not submitted in English will be designated as "Unacceptable" and will not qualify for the BQL.

¹ www.mod.go.ke

Clarifications regarding this Request for Qualification may be requested up to fifteen (15) days before the Request for Qualifications submission date. Any request for clarification must be sent in writing by paper mail or electronic mail to:

The Principal Secretary
Ministry of Defence
Ulinzi House
Lenana Road
P O Box 40668 – 00100
Nairobi, Kenya
ps@mod.go.ke
Cc: jchesoni@pppunit.go.ke

The MoD will conduct a Pre-Qualification and Investor Conference for the Prospective Bidders and Interested Lenders, the details of which are set out below. The purpose of the Pre-Qualification and Investor Conference will be to clarify any part of the RFQ or the bidding process and to answer any relevant questions that prospective Bidders may raise.

Date for the Investor Conference: 13th April, 2021

Time: 0900-1400hours

Venue: Nairobi Kenya [Exact Location to be confirmed through MoD Website www.mod.go.ke] Prospective Bidders are advised to refer to the website regularly for any additional information /clarifications/addenda. Parties interested to attend the Pre-Qualification and Investors Conference are requested to RSVP by sending the names of up to two (2) representatives to the emails above.

Any oral explanations or instructions given by any representatives of MoD, any authority of the Kenyan Government, or any other entity to prospective Bidders will not be binding. The MoD will promptly furnish any information or clarifications sought by a prospective Bidder in response to such clarifications concerning the RFQ to all prospective Bidders via the MoD website. This information will be provided as an addendum to the RFQ if that information is necessary for submitting bids or if the lack of such information would be prejudicial to other prospective Bidders. Bidders who download the RFQ are required to forward their particulars (firm name, postal address, telephone contact and contact persons) to facilitate any subsequent tender clarifications and addendum.

Any addendum or clarification issued by the MoD, prior to the opening of the RFQ submissions, for the purpose of changing the intent of the prequalification requirements or clarifying the meaning or changing any of the provisions of the RFQ, shall be binding to the same extent as if written in the originally issued RFQ documents. Any addendum or response to inquiries will be made available to all Bidders no later than 10 Days prior to the RFQ submission deadline.

Bidders shall bear all costs associated with the preparation and submission of their RFQ and RFP submissions. The MoD will not be responsible or liable for those costs, regardless of the outcome of the RFQ and RFP processes.

The response submittals must be dropped in the tender box located at the Main Gate to the Defence Headquarters, Ulinzi House, along Lenana Road and addressed to:

The Principal Secretary
Ministry of Defence
Ulinzi House

**Lenana Road
P O Box 40668 – 00100
Nairobi, Kenya**

Bidders should submit one (1) Original, four (4) copies and one (1) electronic copy of their response submittals to the Request for Qualification on or before 1200 hours East African Time on 27th April,2021. The information on the outer envelope of the submission should also include: Confidential, Bid No: MOD/INFRAS/024/20/21 REQUEST FOR QUALIFICATIONS FOR THE FINANCING, DESIGN, CONSTRUCTION AND COMMISSIONING OF RESIDENTIAL ACCOMODATION FOR THE KENYA DEFENCE FORCES ON A BUILD-LEASE-AND-TRANSFER(BLT) BASIS: Do not open before 27th April, 2021 at 1200 hrs. East African Time] The Request for Qualification response submittals will be opened immediately thereafter in the presence of bidder’s representative (if any) in attendance. Bidders wishing to witness the opening the RFQ submittals should assemble at the Main Gate to the Defence Headquarters, Ulinzi House, along Lenana Road from which point they will be directed to the designated tender opening room. Those intending to attend are required to submit their identification documents (Kenya National ID or passport) at least 72 hours before the closing of the RFQ submission via the email address ps@mod.go.ke

The Contracting Authority may at its discretion extend the deadline for the submission of proposals.

The indicative target timeline for the conclusion of the procurement process is set out below:

Date	Activity
18 th March,2021	Issuance of Request for Qualification (RFQ)
13 th April, 2021	Pre-bid meeting/investor Conference
27 th April,2021	Return of RFQ bids
4 th May,2021	Evaluation of RFQ bids
18 th May,2021	Notification/Publication of Shortlisted Bidders
2 nd June,2021	Issuance of Request for Proposals (RFP)
2 nd August,2021	Return of RFP bids
12 th August,2021	Evaluation of RFP bids
16 th August,2021	Appointment of Preferred Bidder
16 th September,2021	Conclusion of Contract Negotiations
1 st October,2021	Signing of contracts

1.3. Project Description and Bidder’s Scope

The proposed Project entails the design, construction and financing of an estimated 2,340 residential units for the Kenya Defence Forces (KDF) through a Public Private Partnership (PPP) arrangement. The Project will deliver an estimated 104,125sq.m in built-up areas and associated infrastructure as well as amenities across 5 project sites in various parts of the country. The Project housing will be made available for the use of Senior Non-commissioned Officers (SNCOs) and other Non-commissioned Officers (NCOs). To that end, the MoD has prepared reference designs, which provide a basis of the Project’s scope. A breakdown of the houses in terms of estimated number, type and size is set out in table 1 below:

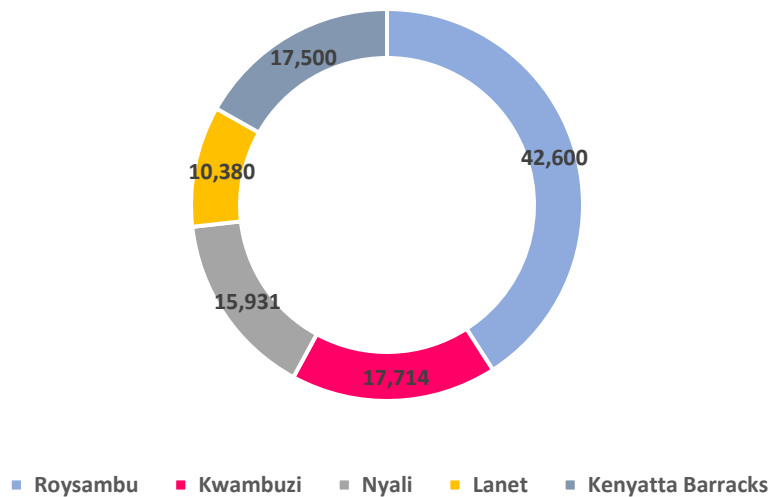
Table 1: Number, Type and Size of Residential Units

Type	No	Size (Sq.m)
Senior non-commissioned officers married quarters	655	96

Type	No	Size (Sq.m)
Senior non-commissioned officers' single quarters	630	15.5
Other non-commissioned officers married quarters	315	60
Other non-commissioned officers' single quarters	740	17
Total	2,340	

The Project housing will be built on 5 different sites. These include Roysambu; Kwambuzi-Nanyuki; Nyali-Mombasa; Lanet and Gilgil Kenyatta Barracks. The share of the development of each site in terms of the built-up area is shown in figure 1 below:

Figure 1: Distribution of Built-up Areas (Sq.m) by Project Site



The Project will be implemented under build, lease, transfer (BLT) arrangement as provided for by the Public Private Partnerships (PPP) Act, 2013. The Project will be awarded to a consortium or a single entity on a competitive tender basis to design, finance, construct and lease the Project for a period spanning 15 years from the date of the Project Agreement. From a contractual point of view, it is envisaged that a typical project finance structure where a special purpose vehicle (ProjectCo) is the single point of accountability in respect of the design, construction and financing of the Project assets will be adopted in line with the PPP Act. The Contracting Authority (CA) and primary counterparty to the ProjectCo is expected to be the Ministry of Defence (MoD). The CA will enter into the Project Agreement with the Preferred Bidder. This agreement will set out the obligations of the Developer to design, finance and construct the Project as well as those of the CA vis-à-vis the ProjectCo.

The Project will be required to meet all applicable standards and regulations in Kenya including those of Kenya's National Environment Management Authority (NEMA). In addition, the Project will be required to comply with all applicable guidelines of the International Finance Corporation and Equator Principles to safeguard environmental, natural and cultural resources. The awarded Bidder will be responsible for obtaining all permits, licenses, and approvals (environmental or otherwise) necessary to build and transfer the Project.

Additional information is provided in the Preliminary Information Memorandum which can be downloaded from the MoD website www.mod.go.ke

2. Bidder Qualification

For a Bidder to qualify for the BQL, the RFQ submission must contain information in sufficient detail to allow the Contracting Authority to assess the Bidder's eligibility and capability to develop the Project in compliance with the established requirements. Table 2 below sets forth the eligibility and capability criteria that will be used to evaluate Bidder qualifications. A Qualified Bidder is one, who meets or exceeds the mandatory qualification criteria listed in Table 2 below. The following table shall be filled in by each Bidder supported by sufficient evidence of its required capabilities. Bidders' qualifications will be evaluated on the basis of a PASS-FAIL approach. The Bidder can be a single entity (company, corporation, or unincorporated association) or can be a consortium comprised of multiple members ("Member/s") with joint and several responsibilities and liability. The following requirements and restrictions shall apply in the case of a consortium:

- a) The Bidder's RFQ submission shall be in the name of the consortium or entity(if single entity);
- b) The consortium shall submit, together with its RFQ submission, proof of agreement that each Member of the consortium has consented to join the consortium and participate in the bidding process;
- c) A person shall be appointed from among the consortium Members to represent the consortium in any discussions held with the Contracting Authority and shall submit, together with its RFQ submission, a notice of the appointment of the representative;
- d) Consortium Members shall be prohibited from participating in any other RFQ submission whether directly or indirectly or through another consortium or company participating in this procurement process;
- e) RFQ submissions by consortia that are not compliant with Section 46 of the PPP Act will be subject to disqualification;
- f) The Contracting Authority may, where a member of a consortium withdraws from the consortium, disqualify that consortium from participating in the bidding process or review the terms and conditions of a project agreement entered into with the consortium. A substitution of a Member may be authorized by the Contracting Authority so long as the replacement Member and the Bidder will continue to be compliant with the eligibility and qualification requirements of the RFQ after such substitution is made;
- g) Each member of a consortium which submits a bid shall be bound jointly and severally by the terms and conditions of the project agreement and shall be jointly responsible for the performance of the obligations under the agreement;
- h) The consortium shall designate a "Lead Member", which must meet the minimum Net Worth criterion set forth in Table 2 and hold not less than a 35% shareholding in the equity of the consortium. The departure of the Lead Member from the consortium will lead to disqualification and
- i) The Bidder will be expected to identify the Lead Member and other Members, define each Member's shareholding, and describe the role of each Member in the development, funding and construction of the Project. After a Bidder has qualified for the BQL, the membership structure used to qualify may not be changed without prior written approval of the MoD

The following parameters shall apply to Table 2 and the PASS-FAIL evaluation:

- a) For each qualification requirement, the Table specifies whether the requirement must be met by each Member, any single Member, the Lead Member, or by combining the qualifications of all Members;
- b) Members with an ownership of less than 5% of the SPV shall not be considered in determining whether a Bidder meets the minimum technical qualification criteria set forth in the RFQ. Notwithstanding the foregoing, all Members (including those with an ownership of less than 5%) must comply with the requirements applicable to "Each Member" as set forth in Table 2 below;

- c) The experience and resources of Bidder’s contractors shall not be considered in determining the Bidder’s compliance with the qualification criteria contained in this RFQ;
- d) In order for a project to qualify as a “Greenfield Project” within the Table below and therefore be considered in the Bidder’s RFQ evaluation the following criteria must apply:
 - i. The applicable Member must have (a) prepared the proposal/s to “build-Lease-transfer” or “build-own-operate-transfer” the project including its design, (b) been selected based on ranking during a competitive bidding process or direct award, and (c) directly negotiated the projects agreements and finalized them successfully;
 - ii. The project must have achieved financial close on a non-recourse or limited recourse basis. Non-recourse financing is defined as financing where lenders have recourse solely to the project company and its assets. Limited recourse financing is defined as financing where lenders have some limited recourse to the project owners. Projects where lenders have full recourse for the full (or majority of the) amount of the project debt via a guarantee, corporate indemnity, or other instrument will not be considered as non-recourse or limited-recourse financing and
 - iii. Existing projects or facilities that were acquired via purchase directly or indirectly, through a merger, or by other means will not be considered as Greenfield Projects
- e) “Lead Developer” means that the applicable Member/s led or co-led the majority of project development scope of work (e.g. project permitting, project structuring, negotiation of project agreements, and raising financing

Table 2: Bidder Qualification Criteria

No	Factor	Requirement	In the case of single entity Bidders, the sole Member shall be required to meet all of the criteria listed herein				Submission Requirements
			Any Member	All Parties Combined	Each Member	Lead Member	
1. Eligibility							
	Legal Requirements/Capacity to contract	Members shall demonstrate ability to contract and fulfilment of legal requirements			X		<p>Each member shall provide the certificate of incorporation/registration in its country of incorporation its Articles of Incorporation and bylaws evidencing that such Member has the capacity to submit a bid in the RFQ and RFP processes and to enter into the Project Agreements.</p> <p>In the case of a Consortium, in addition to the requirement that all Members provide certificates of incorporation, The Bidder shall also submit a Consortium/Joint Venture Agreement that has been duly executed and notarized by all of the Consortium Members and evidences the consent of each Member to join the Consortium and participate in the bidding process. In addition, the</p>

No	Factor	Requirement	In the case of single entity Bidders, the sole Member shall be required to meet all of the criteria listed herein				Submission Requirements
			Any Member	All Parties Combined	Each Member	Lead Member	
							<p>Consortium/Joint Venture Agreement should set out the specific roles each member is envisaged to play</p> <p>Each Member shall provide a duly notarized Power of Attorney and Board Resolution/s demonstrating that the necessary authorizations have been provided to the person signing the Consortium/Joint venture Agreement on its behalf.</p> <p>In the case of a single Bidder, the Bidder shall be expected to provide a duly notarized Power of Attorney and Board Resolution/s demonstrating the person to whom powers have been given to submit the bid, negotiate and possibly execute the Project Agreement.</p> <p>In the case of a Consortium arrangement, each Member shall submit a duly notarized Power of Attorney appointing the Lead Member and authorizing such Lead Member to, among other things, submit the bid, and negotiate the Project Agreements on behalf of the Consortium.</p> <p>In the case of a Consortium, the Bidder must provide a description of the shareholding structure including the percentage ownership and type of shares to be held by each Member in the SPV</p>
1.1	General	No Member (or any of its affiliates) shall be (a) listed on			X		Provide a signed declaration that neither it nor its affiliates are listed on either the World Bank

No	Factor	Requirement	In the case of single entity Bidders, the sole Member shall be required to meet all of the criteria listed herein				Submission Requirements
			Any Member	All Parties Combined	Each Member	Lead Member	
		the World Bank's list of ineligible firms and individuals ² or (b) designated by Kenya's Public Procurement Regulatory Authority as ineligible or in violation of material provisions of the Public Procurement and Asset Disposal Act of 2015 ³					or PPRA list of ineligible firms and individuals.
1.2	Conflict of Interest	No Member (or any of its affiliates) shall have a conflict of interest related to its participation in the RFQ or RFP process			X		Provide a signed declaration that no such conflict of interest exists or is foreseen.
1.3	No tax liability	No Member (or any of its affiliates) shall have any current overdue tax liability to the Kenya Revenue Authority or any other taxing authority within or outside of Kenya.			X		Tax compliance certificate issued by the Kenya Revenue Authority and a tax compliance certificate issued by the taxing authority with jurisdiction in the national domicile of such Member. In countries where a tax compliance certificate is not issued, a notarized declaration that no such liability exists.
2. Financial Capacity							
2.1	Financial capacity	Bidder's financial capacity will be judged on the basis of its net worth, working capital, profitability, and bonding capacity. The Bidder must demonstrate that it will be		X			Provide audited financial statements for the three (3) most recent years and any other information it deems relevant to demonstrate the Bidder's financial capacity.

² <https://www.worldbank.org/en/projects-operations/procurement/debarred-firms>

³ <http://ppra.go.ke>

No	Factor	Requirement	In the case of single entity Bidders, the sole Member shall be required to meet all of the criteria listed herein				Submission Requirements
			Any Member	All Parties Combined	Each Member	Lead Member	
		able to access and provide sufficient project equity and debt financing for the execution and construction of the Project, including security deposits to back performance guarantees during the construction period.					
2.2	Minimum net worth of US\$50 million	Members must have a minimum net worth of US\$50 million		X			Members to provide audited financial statements for the three (3) most recent years and calculation and supporting information regarding net worth.
2.3	Minimum net worth of US\$17.5 million	The Lead Member must have a net worth of at least US\$17.5 million and have a minimum of 35% of the equity shareholding of its consortium				X	Each Member to provide audited financial statements for three (3) most recent years along with a calculation and supporting information regarding net worth. In the case of a Consortium, the Consortium/Joint Venture Agreement must demonstrate that the Lead Member will have a minimum of 35% of the equity shareholding of the Consortium.
2.4	Positive net worth	All Members must have a positive net worth in excess of US\$ 1Million.			X		Each Member to provide audited financial statements for the three (3) most recent years and calculation and supporting information regarding net worth
3.Project Experience and Technical Capability							
3.1	Financial capability for project development	Within the last 15 years, demonstrated the financial capability to develop a Greenfield residential accommodation project in the order of 120,000sq.m of		X			Provide the name, location, level of member investment participation, total project value, and description of each relevant project. Bidders are to indicate current contact details of clients for the projects cited as part of their experience.

No	Factor	Requirement	In the case of single entity Bidders, the sole Member shall be required to meet all of the criteria listed herein				Submission Requirements
			Any Member	All Parties Combined	Each Member	Lead Member	
		space and a minimum project investment requirement of \$100 million					
3.2	Project financing experience	Within the last 15 years and as Lead Developer, successfully raised at least US\$ 100 million in nonrecourse or limited recourse debt and US\$50 million in equity for each of at least two Greenfield Projects.				X	Provide the name, location, and description of each relevant project and clearly supporting the claim that the relevant Member served in the role of Lead Developer.
3.3	EPC management experience	Successfully executed (or, as a project owner, supervised an EPC contractor's execution of) the construction of at least two Greenfield Residential Accommodation Projects from notice to proceed to achievement of commercial operation.	X				Provide the name, location, and description of each relevant project. Provide information demonstrating that each relevant project had a design and scope substantially similar to the one to be designed and implemented by the Bidder for this Project. Provide clear support to the claim that the relevant Member served in the role of EPC contractor or supervised the EPC contractor.

In addition to the failure to meet the qualification criteria set forth herein, a Bidder will be subject to immediate disqualification if such Bidder (i) submits false information in relation to its qualifications; (ii) colludes, connives or is involved in any corrupt or dishonest practice; or (iii) contravenes the provisions of Kenya's PPP Act or any other applicable law.

Shortly after completion of the evaluation of the RFQ submissions received by the M.o.D prior to the stated deadline, each Bidder will be informed by Email and written letter (to the mailing address provided by each Bidder) as to whether such Bidder has been included in the BQL. The M.o.D will also publish the list of Qualified Bidders in the Gazette, in at least two newspapers of national circulation, and on the M.o.D's website.

During the RFQ and RFP processes, participating Bidders are required to disclose any material information or changes related to any Member that, individually or in the aggregate, would reasonably be expected to result in a material adverse effect on the Bidder's qualifications and/or capacity to implement the Project in compliance with the terms and conditions of this RFQ and the RFP. Such information or change shall include, without limitation, change of control of a Member, change of the name of a Member, or impending bankruptcy

or receivership with respect to a Member. Each Member shall also make a disclosure of all infrastructure projects to which it has committed itself to as developer, owner, or EPC contractor. The aforementioned disclosure obligation shall be applicable to the RFQ submissions and be a continuing obligation for so long as the Bidder (i) is participating in this procurement process, (ii) has submitted a proposal with a validity period that has yet to expire, or (iii) has been declared a preferred bidder and is in discussions or contract negotiations with the Contracting Authority. Any Bidder that fails to comply with this disclosure obligation will be subject to disqualification.

3. Disclaimer

This RFQ has been prepared by the M.o.D in consultation with the PPP Directorate. The purpose of the RFQ is to provide prospective Bidders with general information regarding the Project and to specify the required criteria to qualify for participation in a subsequent RFP. This RFQ does not contain, and does not purport to contain, all the information that may be required to submit a bid in relation to the Project. Some of the information contained in this RFQ has been obtained from third parties. The M.o.D thus does not make any representation or warranty, express or implied, as to the accuracy, reliability or completeness of the information contained in this RFQ, or subsequently provided to Bidders. This includes without limitation, any technical and financial information, estimates and projections, and any technical and financial information derived therefrom, and nothing contained in this RFQ is, or shall be relied upon, as a promise or representation, whether as to the past or the future. The M.o.D does not accept any liability for any loss or damage suffered or incurred by any entity or person associated with this procurement process or any of their respective officers, employees, servants, agents, representatives or advisors or any other person howsoever caused (including negligence) arising in connection with or in respect of:

- 1) This RFQ including without limitation any statement, opinion or information contained in it or any error in or omission from this RFQ, or for any lack of accuracy, completeness, currency, reliability of any statement, opinion or information in this RFQ;
- 2) The Bidder or any other person placing any reliance on any statement, opinion or information set out in this RFQ, or the accuracy, completeness, currency, reliability of this RFQ.

The M.o.D may in its sole and absolute discretion, but without being under any obligation to do so, update or supplement this RFQ or correct any inaccuracies that become apparent. The M.o.D accepts no responsibility to inform the Bidders or any of their representatives of any matter arising or coming to their notice which may affect any matter referred to in this RFQ. Bidders are expected and will be deemed to have examined carefully all of the terms, conditions and specifications of this RFQ. Failure to do so is at the Bidder's risk, and no claim will be considered at any time for reimbursement of any expenses incurred as a result of any misunderstanding on the part of any Bidder with regard to the conditions contained in this RFQ. The M.o.D will not reimburse any Bidder for any cost or expenses incurred in the preparation or submission of a bid pursuant to this RFQ. The M.o.D has not authorized any person to make any statements or representations on its behalf which are not expressly contained in or contemplated by this RFQ.

Any liability of the M.o.D to a Bidder or any of its representatives or any other person or entity arising out of this RFQ is, to the maximum extent permitted by law, hereby expressly disclaimed and excluded. The M.o.D reserves the right to terminate the RFQ, at any time, without prior notice and without liability to compensate or reimburse any person pursuant to such termination or addendum. The M.o.D reserves the right, without qualification, to reject all RFQ submissions, or to waive any formality or technicality in respect of submissions received. Bidders who submit responses to this RFQ do so without recourse against the M.o.D for any reason whatsoever. No Bidder shall have any claim against the M.o.D, its officers, employees, servants, agents or Transaction Advisors arising out of any matter relating to the RFQ of any nature whatsoever where such claim is based on any act or omission by the M.o.D, or any of its officers, employees, servants, agents or Transaction Advisors of any nature whatsoever, under any circumstances whatsoever, or such claim is based on the content of, or any omission from, this document of any nature whatsoever. With its RFQ submission, each Bidder certifies that it understands, accepts and agrees to the disclaimers stated herein. Nothing contained in any other provision of this RFQ, nor any statements made orally or in writing by any person or party, shall have the effect of negating or superseding any of the disclaimers set forth herein