

**Government of the Republic of the Philippines
Public-Private Partnership Center**

TA-7796 PHI: Strengthening Public-Private Partnership in the Philippines (45515-001)

**Empanelment of Project Preparation and Transaction Support Consultants
under Indefinite Delivery Contracts**

Responses to Questions Received as of 20 March 2014

Date of Issuance: **21 March 2014**

NO.	QUESTION	ANSWER
1	<p>Can a firm join the panel as a member of more than one association?</p> <p>Can you confirm our understanding from Item 31 of the Q&A (posted 11 March 2014) is that we can only be a member of one association?</p>	<p>Item 21 (iv) of the REOI stipulates that each association (including individual member consulting firms) is encouraged to submit only one EOI.</p> <p>Additional references on Item 27, 31 and 32 of the Q&A posted 11 March 2014; and Item 16 of the Q&A posted 20 March 2014.</p> <p>Item 31 of the Q&A (posted on 11 March 2013) highlights the “only one proposal” rule specified in Clause 11 of Section 2 of the ADB’s Standard Request for Proposals (RFP), which will be used in call-down assignments at the second stage. The “only one proposal” rule does not however preclude a Sub-consultant or the Consultant’s staff from participating as Key Experts and Non-Key Experts in more than one proposal when circumstances justify and if stated in the Data Sheet of the RFP during the call-down assignments.</p>
2	<p>As a panel member, will a firm be prohibited from acting for bidders on specific projects, assuming that we are not acting for the PPP Center on that project?</p> <p>Can you confirm, given that a firm is acting for the PPP Center, the firm is prevented from acting for bidders on a specific project?</p>	<p>Please refer to paragraphs 1.10 and 1.11 of the ADB’s Guidelines on the Use of Consultants (March 2013).</p> <p>Additional references on Items 23, 24 and 25 of the Q&A posted 11 March 2014; and Item 8 of the Q&A posted 20 March 2014.</p>

NO.	QUESTION	ANSWER
3	<p>If we are a member of an empanelled consortium, but we are not nominated as an expert on a particular project, and our consortium is appointed to act for the relevant government department on a particular project, will we be prohibited from acting for a private bidder on that project?</p>	<p>Item 20 of the Q&A (posted on 11 March 2014) clarifies that regardless of the non-representation of a member-firm in the line-up of experts, the entire association/JV will be considered part of the proposal and will be bound by the call-down assignment, in case awarded. Thus regardless of the representation or non-representation of a JV partner during the call-down assignment, the entire JV will be bound by the “conflict-of-interest” (COI) restriction, should one arises.</p> <p>Please refer to paragraphs 1.10 and 1.11 of the ADB’s Guidelines on the Use of Consultants (March 2013).</p>
4	<p>As a law firm, are we required to team-up with a financial advisory firm in order to submit an EOI?</p>	<p>As stipulated in Item 13 of the REOI, a prospective association during the 1st stage/prequalification stage must be composed of at least 2 firms: one should have required experience providing PPP legal advice, and the other firm should have required experience providing project finance (financial modeling, analysis, structuring, risk assessment, and other relevant tasks) advice. However, if a single firm possesses both the necessary legal and project finance expertise, then such a single firm may also submit its EOI. The association may also include additional firms in the same areas or in technical or engineering areas.</p> <p>In view of the foregoing, a law firm must associate with at least 1 project finance firm to be considered.</p> <p>Additional references on Item 18 of the Q&A posted on 11 March 2014.</p>

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5	<p>Can the PPP Center consider the following:</p> <p>(a) that the “only one proposal” rule in the previous RFP, that is – <i>“the shortlisted consultants (including any firm/entity that is an associate firm or a partner in a joint venture) may only submit or participate in one Proposal, except where the Consultant is a national firm/entity participating as an associate firm or a partner in a joint venture”</i> - be maintained instead of the current “only one proposal” rule in Clause 11 Section 2 of the ADB’s Standard RFP.</p> <p>(b) that the certification requirements under the REOI (requiring nomination of experts only from the list of experts submitted during the 1st stage) be reconsidered and that firms be allowed flexibility to reconfigure the associations.</p> <p>(c) that the requirement to seek prior written approval from the PPP Center for associating with either non-shortlisted firms or short-listed firms if permitted in the Data Sheet, before submitting proposals at the second stage or call-down assignments, be removed.</p>	<p>The previous “only one proposal” rule where the national firm/entity can participate as an associate of more than one firm, and/or as partner of more than one joint venture, has been superseded by the current “only one proposal” rule under Clause 11.1 of the Instructions to Consultants (ITC) of the ADB’s Standard RFP. The current “only one proposal” rule is a standard requirement which cannot be modified in the Data Sheet of the RFP, which will be used in the call-down assignments at the second stage.</p> <p>We maintain the certification requirements.</p> <p>Additional references on Items 29 and 35 of the Q&A posted on 11 March 2014, and Item 18 of the Q&A posted on 20 March 2014.</p> <p>Said requirement for “prior written approval of the Client (PPP Center)” is required under Clause 14.1.1 of the Instructions to Consultants of the ADB’s RFP, and cannot be modified in the Data Sheet of the RFP. This RFP will be used in the call-down assignments at the second stage.</p>
6.	<p>Can a pre-proposal conference be arranged by the PPP Center?</p>	<p>The firms were given ample time to seek clarification. To date, two sets of <i>Responses to Questions</i> have been posted on the ADB CMS and PPP Center’s website.</p>
7.	<p>We request that the deadline for submission of EOJ documents be extended by 2 weeks.</p>	<p>We maintain the 31 March 2014 deadline for submission.</p>