

**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 by 03 March 2014

Date of Issuance: **11 March 2014**

NO.	QUESTION	ANSWER
1	Is there a deadline for submitting the Expression of Interest (EOI)?	New deadline for the submission of EOIs is on 31 March 2014.
2	<p>To whom should we address the EOI?</p> <p>In submitting EOIs through ADB's CMS, do firms need to submit to the address indicated in page 14 of the REOI?</p> <p>In submitting EOIs directly to PPP Center, can the submissions be sent through e-mail only?</p>	<p>Item 26 of the Request for Expression of Interest (REOI) specifies two modes of submission, online and offline. EOIs may be submitted online through ADB's Consultant Management System (CMS). PPP Center will have access to the documents submitted through CMS.</p> <p>Alternatively, firms may send their EOIs offline directly to PPP Center by way of:</p> <p>(a) mail at the following address:</p> <p style="text-align: center;">COSETTE V. CANILAO Executive Director Public-Private Partnership Center NEDA sa Quezon City EDSA, Diliman 1103 Quezon City Philippines</p> <p style="text-align: center;">or</p> <p>(b) email (in pdf) at: pdmf@ppp.gov.ph, indicating the addressee mentioned in (a) above.</p>
3	Are there any formal and substantive requirements for the EOI?	<p>Please refer to Items 22 and 26 of the REOI and see further clarifications below:</p> <p>In submitting the EOIs directly to the PPP Center (offline mode), firms shall use the Customized EOI Template attached to this document. Note that the Customized EOI Template generally follows the template provided in the link referred to in Item 22 of the REOI, but some modifications have been made to address the specific requirements of this empanelment/prequalification process and to allow firms without ADB's CMS registration to participate.</p>

NO.	QUESTION	ANSWER
		<p>Firms submitting EOIs through ADB's CMS shall use the EOI template of the CMS system. Firms are encouraged to refer to the Customized EOI Template used for the offline submission mode mentioned above to see the modifications/clarifications made to address the specific requirements of this empanelment/prequalification process.</p>
4	<p>Are there any particular documents that you require us to include with the expression of interest (e.g., CVs of lawyers, experience of the firm, etc.)?</p>	<p>Please refer to Section VIII. Submission of Expressions of Interest of the REOI and the answer in Question 3 above.</p>
5	<p>Could you advise about the registration process?</p>	<p>Please refer to http://cms.adb.org or email cmshelp@adb.org for registration to ADB's CMS if the firm intends to submit through the CMS.</p>
6	<p>For purpose of the ratings, do the project numbers (and related marks) refer to those of each firm, or to those of the association (i.e., combination) of the legal firm and the project finance firm(s)?</p>	<p>Both Criteria 1 and 2 of the evaluation criteria (Appendix 3 of the REOI) will be assessed based on the combined experience of the firms (legal & finance) constituting the association.</p>
7	<p>Is it correct that the consortia and/or firms in the current panel need not submit an EOI?</p>	<p>Item 21 (i) of the REOI stipulates that the ongoing prequalification exercise will dissolve the existing panel. Upon completion of this prequalification process, the existing panel members will be notified for pre-termination of the indefinite delivery contracts (IDCs). Termination will take effect 30 days after receipt of such notice.</p> <p>Further, Item 21 (iii) provides that existing panel members are allowed to participate in this ongoing prequalification/establishment of new panel.</p> <p>Consortia and/or firms in the current panel may consider submitting an EOI if it wishes to be considered for inclusion in the new panel.</p>
8	<p>Is an engineering firm ineligible to submit an EOI for empanelment, rather, it needs to seek an association with a legal or project finance firm that is interested in being the lead firm?</p>	<p>An engineering firm should associate with at least one legal firm and one project finance firm considering that only legal and project finance firms will be evaluated for empanelment purposes.</p>

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9	Is an engineering firm, with a dedicated PPP unit and was involved or is currently involved with transaction advisory projects involving project finance (financial modelling, analysis, structuring, risk assessment, and other relevant tasks) advice, be eligible to submit an EOI as a lead firm?	If the core competence/business of a firm is engineering as indicated in its business registration documents, and/or as will be assessed by the PPP Center based on its profile and experience, it should associate with at least one legal firm and one project finance firm considering that only legal and project finance firms will be evaluated for empanelment purposes.
10	What is the definition of “number of similar assignments completed (i.e., assignments/projects involving provision of PPP legal and/or commercial/finance advice)”?	The "number of similar assignments completed" refers to the number of completed assignments providing either (i) financial advice on PPP, or (ii) legal advice on PPP. If a firm has completed one (1) assignment in which it provided both financial and legal services, the number of similar assignment is two (2).
11	Does the “number of similar assignments completed” mean that the consortium must have completed the entire PPP transaction process from start to contract award? Or does this mean completion of a financial/legal transaction advisory assignment relevant to PPPs?	The firm or association shall be assessed based on the combined number of completed assignments providing finance and legal advice on PPPs. Completion of a transaction advisory assignment providing either (i) financial advice on PPP, or (ii) legal advice on PPP, will be considered.
12	What is the definition of “fixed-term consultant contract”?	Experts with "fixed-term consultant contracts" are those retained or contracted by the consulting firm within a certain period that covers the term of the IDC engagement.
13	Do we need to attach the CVs of the proposed experts to the EOI? If so, what is the max page number per CV?	Yes, with no prescribed number of pages per CV.
14	Could you define the following terms required for the key experts: <ul style="list-style-type: none"> • Consultant Status • Affiliation Type • Affiliation Status 	<p>Entries for Consultant Status, Affiliation Type and Affiliation Status are required for submissions through CMS Firms may click the drop-down buttons to choose the appropriate answers.</p> <p>For Consultant Status, you should indicate if the consultant CMS number is Active or Deactivated.</p> <p>For Affiliation Type, there are four options: Full Time Staff, Part Time Staff, Retainer, and Others.</p> <p>For Affiliation Status, there are three options: Confirmed, Pending, and Declined. Note that for empanelment/prequalification purposes, only employees of the consulting firm or those who have fixed-term consultant contracts with the firm will be considered. Therefore, firms should indicate in the Affiliation Type and Affiliation Status boxes appropriately.</p>

NO.	QUESTION	ANSWER
		Firms submitting EOIs directly to the PPP Center will not be required to provide information on Consultant Status, Affiliation Type and Affiliation Status since section VII (Key Experts) of the customized EOI template will only consider experts who (i) are employees of the consulting firm, or (ii) have fixed-term consultant contract with the consulting firm covering the term of the Indefinite Delivery Contract.
15	Is there a maximum page number for the entire document (EOI and attachments)?	None.
16	Do legal advisors need to team up with technical (etc.) in this round (for the first time) to be accredited?	No. As stipulated in Item 13 of the REOI, a prospective association during the 1 st 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. <u>However, if a single firm possesses both the necessary legal and project finance expertise, then such a single firm may also submit its EOI.</u>
17	Which firms (type/classification) can qualify as the “single firm” described in para. 1, Item 13 of the REOI?	Any firm that has experience in providing both legal and financial advice on PPP projects based on its business registration documents, and/or as will be assessed by the PPP Center based on its profile and experience.
18	Would a legal firm be at a disadvantage to associations/joint ventures with consultants of non-legal work or expertise (i.e., economic analysis, social sector expertise, environmental sustainability expertise) when it comes to the evaluation of submission?	<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>Item 13 also provides that only legal and project finance firms will be evaluated for empanelment purposes. Thus, the legal/law firm will not be at a disadvantage provided it has associated with at least one high-caliber project finance firm.</p>

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19	<p>A comprehensive list of experiences (to demonstrate expertise) had been compiled using deals done by the team while at the firm and prior to them joining the firm.</p> <p>In terms of experience, section A and B on the response template requires that firms refer back to the CMS profile projects on the ADB system. It is understood that only firm deals can be uploaded to the ADB system. Is there a way to maintain/use our deal list in its entirety?</p>	<p>For the purpose of evaluation of Criteria 1 and 2, only deals undertaken by the firms forming the association can be considered.</p> <p>For the purpose of evaluation of Criteria 3 (b) and 3 (c), qualifications/experience/credentials of experts as reflected in the individual CVs, will be considered.</p>
20	<p>If an association or joint venture (JV) of firms be prequalified and included in the panel, will the association/JV be obliged to nominate an expert from each of its member-firms during the second stage or call-down assignment?</p>	<p>No. The prequalified association or JV is not obliged to nominate an expert from each member-firm during the second stage or call-down assignment. However, regardless of the non-representation of a member-firm in the line-up of experts; the entire composition of the association or JV will be considered part of the proposal and will be bound by the call-down assignment contract, in case awarded.</p>
21	<p>Is it correct that the US\$90 million budget refers to the total budget for the Consultants' IDCs?</p>	<p>The US\$90 million refers to the indicative total budget that is available for the preparation of PPP projects, under the Project Development and Monitoring Facility (PDMF) fund. The PDMF fund is composed of contributions from the Government of the Philippines and the Government of Australia; and the expected PDMF reflows.</p> <p>No retainer fees or any amount shall be paid to the prequalified firms or associations under the IDCs (Stage 1: Empanelment).</p>
22	<p>What percentage of the budget could be paid upon award?</p>	<p>Item 7 of the REOI stipulates that no retainer fees or any other amount shall be payable to the firms under the IDC (Stage1: Empanelment) to be signed by the PPP Center with each of the prequalified firms. Should the firm be included in the panel, and later be selected for a particular assignment (Stage2: Call-down Assignment), payment of fees shall be released after acceptance/approval by the Client of the Consultant's deliverables.</p>
23	<p>What is Conflict of Interest?</p>	<p>Please refer to paragraphs 1.10 and 1.11 of the ADB's Guidelines on the Use of Consultants (March 2013).</p>

NO.	QUESTION	ANSWER
24	If a consortium is shortlisted by the PPP Center, is it barred from advising any private bidder on a specific PPP project where said consortium (a) has not bid for that specific project or (b) has not been selected by the PPP Center for said project?	Please refer to paragraphs 1.10 and 1.11 of the ADB's Guidelines on the Use of Consultants (March 2013).
25	Is there any conflict of interest if one of the consortium's members wants to advise a private prospector in a bidding process? In case, yes, can you specify in which cases?	Please refer to paragraphs 1.10 and 1.11 of the ADB's Guidelines on the Use of Consultants (March 2013).
26	Are firms required to have a Philippine partner or registered office in order to be eligible?	Since services of various national and international experts would be required for development of bankable PPP projects, consulting firms are encouraged to associate or form a JV of international and national consulting firms to complement areas of expertise and make available bigger pool of national and international experts to meet the requirements of the TOR. Please note that there is no specific requirement for a Philippine partner or registered office in the Philippines.
27	<p>Is a single firm allowed to associate with other firms in an arrangement where the former acts as the lead firm, and the other firms sub-contract with it?</p> <p>In such arrangement, would the sub-consultants/sub-contractors be jointly and severally liable with the lead/single firm?</p>	<p>Yes, sub-consultancy (sub-contract) arrangements between firms are allowed.</p> <p>No, sub-consultants (sub-contractors) are not jointly and severally liable with the lead firm in a sub-consultancy arrangement.</p> <p>Please refer to paragraph 1.14 of the ADB's Guidelines on the Use of Consultants (March 2013).</p>
28	Can the method of selection of consulting firm or association from the Panel during Stage 2 (Call-Down Assignment) be modified to Quality-Cost Based Selection (QCBS)?	<p>We maintain that the selection process during Stage 2 shall use the Fixed-Budget Selection (FBS) method, made on a competitive basis based on the evaluation of simplified technical proposals.</p> <p>Please note that at Stage 1: Empanelment, the principles of Quality-Based Selection (QBS) shall be used to prequalify firms.</p>
29	During the call-down assignment stage, can the requirement of proposing legal and/or project finance specialist among the association's list of experts submitted during Stage 1: Empanelment, be removed?	<p>No. As stipulated in Item 15 of the REOI, the specialists to be nominated at the call-down assignment stage shall be among the association's list of experts submitted during Stage 1.</p> <p>However, for reasons beyond the control of the association, nomination of other experts may be allowed provided that said experts have equal or better qualifications than the original experts included in the list during Stage 1.</p>

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30	Can a firm engage technical experts instead of associating with an engineering/technical firm during the 2 nd stage? Also, if the prequalified firm already possesses the technical expert, is there a need to associate with an engineering/technical firm?	<p>An engineering/technical firm, whether prequalified or associated at Stage 2, will be needed to sign off on all technical-related deliverables of the firm/association.</p> <p>The requirement that each prequalified firm or association must associate with an appropriate engineering/technical firm during the 2nd stage does not apply if the firm or association prequalified for the panel already possesses the required technical/engineering expertise for the call-down assignment. (Refer to footnote 11, page 8 of the REOI).</p> <p>Thus, if the prequalified firm or association already possesses the required expertise for the call-down assignment in question, (i) it may or may not associate with another engineering/technical firm, and (ii) it may or may not engage technical experts other than those already in its list of experts submitted during the empanelment stage.</p>
31	Can a member of an applicant consortium/association become a member of another applicant consortium/association?	<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>Firms should be aware of the “only one proposal” rule specified in Clause 11 of Section 2 of the ADB’s Standard Request for Proposals which will be used in call-down assignments at the second stage.</p>
32	Can a consortium/association formed at Stage 1 be modified/reorganized for the 2 nd stage (call-down assignment)	<p>The prequalified association, to which the Request for Proposal (RFP) is sent at Stage 2, may only be modified/reorganized in terms of associating with additional firms by way of forming a JV or sub-contracting (if permitted in the RFP and a written approval from the PPP Center for such association is obtained, prior to the submission of proposal).</p> <p>Note further that PPP Center will reject a Proposal of an association at Stage 2 if member(s) of the association is(are) changed/dropped without valid reasons after the association is prequalified/empaneled.</p>
33	During the call-down assignment stage, can a prequalified association exclude any of its member-firms (as prequalified) in participating/submitting proposals?	Please refer to answer to Question 32 above.
34	Can consulting firms be allowed to demonstrate their experience of successfully completed similar assignments in the last 15 years?	We maintain that firms demonstrate their experience by submitting list of successfully completed similar assignments in the last 10 years as indicated in Item 22.b.(ii).

NO.	QUESTION	ANSWER
		Note that Appendix 3, Criteria 1 is revised to read as "Number of similar assignments completed in the last 10 years."
35	Can we forego the certification indicating that the legal and project finance specialists to be nominated during the 2 nd stage shall be among the list of experts submitted during the 1 st stage?	No, the requirement for the certification is maintained for prequalification.
36	Should the legal and project finance experts be international or national (with reference to page 18, Appendix 3, No. 3 of the REOI)?	The legal and project finance experts can be international or national. However, please note that depending upon the project and the scope of services required during the call-down assignment stage, the requirement of various national and international experts will be prescribed.
37	Footnotes 22 and 23 in Appendix 3 of the REOI require that the legal and project finance experts should be employees of the firm or consultants having fixed-term contracts with the firm. Can this restriction be removed?	No, we maintain such requirement. The requirement of being employed or having a fixed-term contract with the firm will help ensure availability of the experts until Stage 2. Note that Item 15 of the REOI stipulates that the specialists to be nominated during the call-down assignment stage shall be among the association's list of experts submitted during Stage 1.
38	May the deadline for submission of EOI be extended for two weeks?	Deadline for the submission of EOIs is extended to 31 March 2014.