



**GOVERNMENT OF SINDH  
KARACHI DEVELOPMENT AUTHORITY**



**FEASIBILITY STUDY AND TRANSACTION ADVISORY SERVICES FOR  
BEAUTIFICATION AND ENHANCEMENT OF USAGE OF SHAHEED BENAZIR BHUTTO PARK  
UNDER PUBLIC-PRIVATE PARTNERSHIP OR ANY OTHER SUITABLE MODALITY**

**RESPONSE DOCUMENT NO. I**

**17<sup>th</sup> July 2023**

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## IMPORTANT NOTICE

The responses to prospective Bidders' queries document (**'Response Document No. I'**) is in furtherance to requests for queries/ clarifications received from the prospective Bidders in respect of Bidding Process relating to a feasibility study and transaction advisory services for beautification and enhancement of usage of Shaheed Benazir Bhutto Park under public-private partnership or any other suitable modality (**'Assignment'**), being conducted pursuant to the Request for Proposal document dated 09<sup>th</sup> June 2023 (**'RFP Document'**) floated by Karachi Development Authority, Government of Sindh (**'Procuring Agency'**) following the SPP Rules.

*Unless expressly specified otherwise, all **capitalized terms** used herein shall bear the meaning ascribed thereto under the RFP Document.*

This Response Document No. I is being circulated by the Procuring Agency, subsequent to its selection committee's approval, in pursuance of the Instructions to Consultant (ITC) Clause 10.1 of the RFP Document and SPP Rules. Neither any of these entities nor their employees, personnel, or agents make any representation (expressed or implied) or warranties as to the accuracy or completeness of the information contained herein or in any other document made available in connection with the Assignment's Bidding Process, and the same shall have no liability for this RFP Document or any other written or oral communication transmitted to the recipient in the course of the recipient's evaluation of Proposals. Neither any of these entities nor their employees, personnel, agents, consultants, advisors, contractors, etc., will be liable to reimburse or compensate the recipient any costs, fees, damages, or expenses incurred by the recipient in evaluating or acting upon the RFP Document or otherwise in connection with the Assignment as contemplated herein.

The Bids/ Proposals submitted in response to the RFP Document by any of the Bidders shall be upon the full understanding and agreement of all terms of the RFP Document and Response Document (**'RFP Documents'**) and such submission shall be deemed as an acceptance to all the terms and conditions stated in the RFP Documents. Any Bid submitted by a Bidder in response to the RFP Documents shall be construed based on the understanding that the Bidder has done a complete and careful examination of the RFP Documents and has independently verified all the information received (whether written or verbal) from the Procuring Agency (including from its employees, personnel, agents, Consultants, advisors, and contractors, etc.).

This Response Document is not an agreement; its sole purpose is to provide interested Bidders with information that may be useful in preparing their Bids or Proposals. The Procuring Agency reserves its right, in its full discretion, to modify the RFP Documents and/ or the Assignment at any time to the fullest extent permitted by law and shall not be liable to reimburse or compensate the recipient for any costs, taxes, expenses or damages incurred by the recipient in such an event.

## RESPONSE DOCUMENT NO. I

SR.	RFP REFERENCE	PROSPECTIVE BIDDER'S QUERY/ COMMENT	PROCURING AGENCY'S RESPONSE/ CLARIFICATION
<b>SECTION II – INSTRUCTIONS TO CONSULTANTS (ITC)/ BID DATA SHEET (BDS)</b>			
1.	ITC BDS Clause 16.4	The Bids Submission Deadline may be extended for three (3) weeks.	The Procuring Agency has extended the Bids Submission Deadline to 01 <sup>st</sup> August 2023. For further details, refer to Corrigendum No. I
2.	ITC BDS Clauses 18.1, 13.1, 6.1 & 2.2	<p><i>Eligibility Criteria: The global experience of a parent company or associated firms abroad is also not eligible for scoring until and unless the foreign company has itself participated as a Consortium member; the Procuring Agency shall consider the Bidder's experience to the extent of the contracts as directly awarded in its own or Bidder's title (but not their staff or any parent or subsidiary company).</i></p> <p>For accounting firms, all the member firms are part of a single network. Such network firms assist each other through Inter-Firm Agreements, thereby making it impractical for such firms to include member firms as consortium members. Clarity is required regarding the eligibility of experience of member firms and their staff to enable synergy amongst the bidding consortium and competitive pricing for the Project.</p>	The member firm(s) experience can be valid for ascertaining the eligibility or assigning points, provided that they qualify the conditions, which inter alia require their participation directly or through inter-firm agreement specifically for this Assignment, as further set out in the RFP Document.

3.	ITC BDS Clauses 18.1, 13.1, 6.1 & 2.2	<p><i>Eligibility Criteria (Mandatory Documents): Bid security financial instrument without disclosing the amount of it;</i></p> <p>The Procuring Agency is to clarify whether a redacted copy of the bid security instrument is to be included with the Technical Proposal.</p>	The Bidders must provide a photocopy of the bid security financial instrument without disclosing its amount annexed in the Technical Proposal as required under the RFP Document.
4.	ITC BDS Clauses 18.1, 13.1, 6.1 & 2.2	<p><i>Eligibility Criteria (Mandatory Documents): Work orders and contract agreements with completion certificates or any other substantial evidence relating to it suffice to prove the completion of claimed milestones;</i></p> <p>The Procuring Agency is requested to confirm whether invoices, proof of payment and/ or correspondence qualify as other substantial evidence.</p>	The Bidders may submit substantial evidence in the form of a client's released payments against submitted invoice or milestones reports accepted by a client or any other third-party credible source information as publicly available against claimed milestone completion to qualify the criteria or attain points. However, the Procuring Agency reserves the right to cross-verify or call further information/ documents, as deemed necessary, to ensure the reliability of information and the capability of Bidder. Bidder's non-submission of the required document(s) or information on time may result in disqualification or non-scoring of a particular credential, as the case may be.
5.	ITC BDS Clauses 18.1, 13.1, 6.1 & 2.2	<p><i>Eligibility Criteria (Mandatory Documents): CVs along with the last educational degree or certificate of the Key Professional Staff dedicated to this Assignment;</i></p> <p>In view of precedent procurements, the Procuring Agency is requested to omit the language "along with last educational degree or certificate" to dispense with the onerous</p>	The requirement for the Bidders to submit the Key Professional Staff last educational degree or certificate has been omitted, and the same will not be considered as part of the mandatory documents or its checklist.

		documentary requirement.	
6.	ITC BDS Clause 18.1	<p><i>Technical Evaluation Criteria: Key Professional Staff</i></p> <p>The technical evaluation criteria with respect to the Legal Team does not consider a law degree undertaken in the US known as the Juris Doctor (JD) degree. Note that in the US, a JD is a post-graduate degree being a three-year program undertaken after a four-year bachelor degree.</p>	The qualification criteria against all the Key Professional Staff positions mentioned in the RFP Document be read together with words 'or equivalent', and the same shall be considered during the Bids evaluation process.
<b>SECTION V – TERMS OF REFERENCE</b>			
7.	Assignment Scope 4.1 Phase I – Transaction Preparation	<p><i>Consultants shall collect relevant data from all concerned departments, other relevant authorities, utility agencies, records of ongoing litigations, and other relevant/ pertinent information which may become useable in later stages of the work.</i></p> <p>All the relevant documents should be provided by the Procuring Agency and the Consultants shall conduct work based upon the information provided by Procuring Agency. Kindly amend it accordingly.</p>	The Procuring Agency shall ensure the provision and accessibility of information/ documents, as readily available, to the Bidder. The information required for collection from other departments or agencies during the Assignment's Contract shall be the responsibility of the Bidder; however, the Procuring Agency shall ensure to extend reasonable coordination with the Bidder during such data collection from the relevant department/ agencies.
8.	Assignment Scope 4.1 Phase I – Transaction Preparation	<p><i>4.1.2 Unsolicited Proposal Preliminary Review:</i></p> <p>The legal viability assessment report is required to account for the queries on pages 70 and 71 of the RFP Document, hence the additional requirement of a separate legal opinion appears</p>	The Bidder/ Consortium shall be collectively responsible to furnish financial, technical, and legal opinions, as expressly covered in the RFP Document and subsequently required to the Procuring Agency or its TFEC or any other forum to the extent of Project, during the Assignment's

		to be redundant and may be deleted, or the term “legal opinion” may be replaced by a reference to the consulting consortiums' advisory support.	Contract.
9.	Assignment Scope 4.1 Phase I – Transaction Preparation	<p><i>4.1.2 Unsolicited Proposal Preliminary Review</i></p> <ul style="list-style-type: none"> <li>○ <i>Output of studies should also be to identify if the land needed for Project is available, with a clean title with the Government;</i></li> <li>○ <i>Identify what steps may be required for identifying land usage and securing the title of land for the Project.</i></li> </ul> <p>With reference to the legal scope of work, we understand that only a desktop review of the title documents (English translations) provided to us by the Procuring Agency will be required to be carried out by legal consultants. Please confirm.</p>	The Bidder shall be required to confirm and cross-verify (internal and external sources) the Project’s land availability with clear titles free from all encumbrances during the Assignment’s initial stage. In case of any issues relating to the land availability or additional land requirement, the Bidder shall propose a clear way forward to the Procuring Agency to resolve such issues or acquire the required land before entering the Assignment’s next phase.
10.	Assignment Scope 4.1 Phase I – Transaction Preparation	<p><i>4.1.3 Technical Due Diligence: Legal and Regulatory Assessment (in case of further additions only) - The Consultant shall review laws, policies, rules, and regulations related to forests, environment, climate change, carbon regimes and ascertain what laws, rules, regulations will be involved in the Projects implementation; (Emphasis added)</i></p> <p>(i) We understand that the “Legal and Regulatory Assessment” is expected to be a distinctly separate deliverable from the legal viability assessment report. Kindly confirm;</p>	<p>The Bidder shall require to undertake the Assignment’s various tasks, including legal viability assessment and technical due diligence, etc., in parallel before concluding the USP Preliminary Review Report. Some of the tasks may require the Bidder to reassess in case either side proposes further additions to the Project during the Project’s preparation phase.</p> <p>The Bidder shall be required to conduct some part of the Project’s Legal and Regulatory Assessment during the USP initial review assessment and may conclude the remaining part</p>

		<p>(ii) If yes, kindly specify which deliverable is expected to be provided under the legal viability assessment stage;</p> <p>(iii) Please clarify what is meant by the underlined portion in the reproduced excerpt.</p>	<p>of this report as deliverable at a later stage.</p> <p>The underlined words be treated as deleted, given the clarification provided above.</p>
11.	<p>Assignment Scope 4.1 Phase I – Transaction Preparation; and 4.2 Phase II – Bid Management</p>	<p><i>4.1.3 Technical Due Diligence - VI. Unsolicited Proposal Detailed Review: In case the Project documentation does not conform to the bankable global standards, then the Consultant will develop the head of terms and Project Agreements based on regional/ global precedents following the applicable laws. (Emphasis added);</i></p> <p><i>4.2.1 Marketing and Bidding Document: Preparing bidding documents, including RFQ (if applicable or found suitable) and RFP, concession agreement, Provincial Support Agreement and direct agreement and any other agreements required for the Project in compliance with the procurement laws, regulations, policy, and international best practice; (Emphasis added)</i></p> <p>Given the sequential nature of the work to be undertaken as per the terms of reference, there appears to be a significant overlap in relation to the drafting of bidding documents/ Project documentation between Phase I and Phase II. Kindly clarify.</p>	<p>The Bidder shall submit the Project's draft bidding documents to the Procuring Agency at the Assignment's second phase as mentioned in the RFP Document (refer to the Assignment's deliverables and payment schedule).</p> <p>The rationale requiring the Bidder to review the Project's documentation (head of terms and agreements submitted by the USP Developer) during the first phase is to check and confirm the document aligns with the applicable legal and the best practices/ standards/ precedents prevailing at regional/ global level; and in the case of any amendments required in it, seek the USP Developer's consent for such a change before proceeding to the Assignment's next phase.</p>

12.	Assignment Scope 4.2 Phase II – Bid Management	<p><i>4.2.2 Bidding Process</i></p> <p><i>viii. Assist the Procuring Agency in the issuance of a letter of award/acceptance to the preferred bidder against <u>the Proposed Concessions</u>; (Emphasis added)</i></p> <p>Kindly clarify whether multiple concessions (and consequently multiple procurement cycles) are contemplated under the project, to enable competitive pricing by bidders for the project.</p>	The Procuring Agency for this Project envisages a single concession only, which the Bidder is expected to consider while preparing its Bid.
13.	Assignment Scope 4.3 Phase III – Transaction Negotiation & Financial Closure	<p><i>The Bidder shall be required to provide the Services to the Procuring Agency for the Project’s Proposed Concession. At any stage or during any phase given above, the legal, technical, and financial consultants being members of the Consortium, on request of the Procuring Agency, shall require furnishing legal, technical, and financial opinions or assistance on any matter (<u>including litigation</u>)/ document/ agreement with regards to the Project. (Emphasis added)</i></p> <p>The scope of work may be limited to the deliverables assigned to each respective advisor and generic references to “any matter/ document/ agreement with regards to the Project” should be removed to ensure clarity on the scope required, leading to rationalized and competitive financial bids.</p>	The Assignment Services scope shall remain the same. As far as litigation matters are concerned, the Bidder is expected to provide its reasonable assistance to the Procuring Agency in relation to the Project’s related litigation matters (ongoing and arising), including reviewing and drafting comments/ replies, ancillary documents, and provide feedback on similar nature of documents in relation to the extent of the Project.



		<p>Further, kindly:</p> <p>(i) Clarify the extent of assistance required for litigation matters; and</p> <p>(ii) whether such assistance shall be required for ongoing litigation only or is expected to cover all potential litigation for the duration of the consultants' engagement; and</p> <p>(iii) In both cases (i) and (ii) above, it is assumed that litigation support shall be on a purely advisory basis and that any appearance in court, tribunal or any other forum shall constitute a separate engagement for the legal consultants. Please confirm this understanding.</p>	
<b>14.</b>	Assignment Deliverable & Payment Schedule	<p><i>USP Detailed Review</i></p> <p>Kindly confirm whether the payment milestone of the USP Detailed Review is triggered upon submission of the USP Feedback Report to the USP Developer.</p>	The Bidder shall submit the USP Feedback Report for the USP Developer to the Procuring Agency and its Technical Committee for its review and onward transmission to the USP Developer, if applicable. The Procuring Agency shall release the milestone payments to the Bidder after reviewing the revised submission of the USP Developer on the USP Feedback Report as further detailed under the heading ' <i>Unsolicited Proposal Detailed Review</i> '.
<b>15.</b>	Assignment Deliverable & Payment Schedule	<p><i>USP Detailed Review: In case the Project is found unviable or unfeasible, considering either USP or standalone basis, during the legal</i></p>	Refer to the response at Sr. # 10.

*viability assessment stage, as ascertained by the Consultant or decided by the Procuring Agency, then the Procuring Agency in such a case shall release the Consultant 15% of the Contract Price by terminating the Assignment's Contract. (Emphasis added)*

Kindly clarify whether the legal viability assessment stage is expected to conclude upon submission of the USP Preliminary Review Report and, if so, whether the Procuring Agency unilateral right of termination shall lapse upon submission of the said report.