



Rijkswaterstaat
*Ministry of Infrastructure and the
Environment*

New Limmel Lock Selection Instructions

Case no. 31033108

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1 Introduction

1.1 Selection Instructions

The tendering procedure for the New Limmel Lock project is set out in these Selection Instructions and the associated New Limmel Lock Tendering Instructions. The Selection Instructions cover the period from placing the announcement to the Invitation to participate in the First phase of Dialogue. The Tendering Instructions cover the period from Invitation to participate in the First phase of Dialogue to attaining the Contract Close and Financial Close. The Tendering Instructions will be provided along with the invitation to participate in the First Phase of Dialogue.

The Candidate is responsible for verifying proper receipt of the Tendering Documents. If the Tendering Documents have not (all) been received, then the Candidate must report this to the Contracting Authority by return by means of an e-mail to the e-mail address cited in Subsection 1.3.

The Tender Documents have been prepared with great care. However, should the Candidate have reservations about any alleged contradictions, inaccuracies or possible violations of the laws (or other irregularities), then the Candidate must notify the Contracting Authority of this in writing as soon as possible or seek further clarification by submitting a request for clarification (in accordance with Paragraph 2.10). By tendering a request to participate, the Candidate declares its full agreement with the provisions laid down in the Selection Instructions. If the Candidate fails to notify the Contracting Authority about the contradictions, inaccuracies or possible violations of the laws in time and in the manner stipulated above, the Candidate shall have forfeited its right to file a complaint about these issues in the future shall nevertheless be preserved.

1.2 Definitions

Terms that are capitalised in these Selection Instructions are defined in these Selection Instructions. A list of definitions is provided in Appendix 1 (Definitions).

1.3 Contracting Authority

The Contracting Authority is:

The State of the Netherlands
Ministry of Infrastructure and the Environment,
Rijkswaterstaat Construction and Maintenance Projects.

Project Organisation: New Limmel Lock
Contact: Mr W. Schat
Office address: Griffioenlaan 2
3526 LA Utrecht

The address where the request to participate must be submitted by the Candidate is:

Rijkswaterstaat Tendering Team RWS GPO
Contact: Mr E. Balkenende

Email address: aanbestedingsteam.rws-gpo@rws.nl
Office address: Griffioenlaan 2
3526 LA Utrecht

The address for all other items to be submitted by Candidates – i.e. items not to be communicated by electronic means – is:

Contact: Mr W. Schat
Office address: Griffioenlaan 2
3526 LA Utrecht

The delivery address for all items to be submitted by Candidates by electronic means is:

Contact: Mr W. Schat
Email address: nieuwekeersluislimmel@rws.nl

1.4 Project

The Project consists of all work, deliveries and services that need to be performed under the DBFM Agreement deriving from this tender. The following section includes a general description of the Project.

1.4.1 The New Limmel Lock Project

The lock complex at Limmel is one of the complexes that have to be upgraded for the Meuse Route. The aim of the Meuse Route Project is to make the Meuse and associated canals and waterways between Maastricht and Weurt navigable for navigation class Vb., enabling them to become parts of a full-fledged international waterway network and to function as important links in European inland navigation.

The current Limmel Lock is located at kilometre 1,000 on the Juliana Canal, near Limmel and Borgharen. A traffic bridge is connected to the hoist towers on the upper end of the lock. Additionally, the lower-end foundation contains a culvert to facilitate the flow of Kanjel Stream.

Upper and lower-end gates of the lock are closed during drainage of extreme high water. The lock then only services as a floodgate. In such circumstances, ships from the north moor in Beatrixhaven. Ships from the south come to moor south of Maastricht in the Albert Canal or at Ternaaien Lock.

The Project is multidisciplinary. The most important work involved in the Project is:

- Maintenance of the existing object's floodgate function during construction of the new lock but not its leveling function, as the latter will no longer have to be provided as of the commencement date;
- Demolition of the existing lock complex after the new means of flood control is constructed. This will include demolition of the upper and lower ends of the lock chamber, mooring poles, the existing Kanjel culvert and the fixed traffic bridge;
- Design and construction of the new lock suitable for navigation class Vb with clearance of 9.10 metres, this work including:
 - Construction of the lock structure;
 - Construction of waiting pontoons;
 - Construction of association installations;

- Realisation of level-separating functionality;
- Realisation of spillway functionality
- Construction of staging areas;
- Design and construction of dyke structures;
- Design and construction of the Kanjel culvert;
- Design and construction of road infrastructure, including construction of the new fixed traffic bridges, cycle paths and road on the lock property;
- Management and maintenance of the new lock, dyke structures, culvert and fixed bridge for a period of 30 years following the Availability Date.

1.5 DBFM Agreement

The draft DBFM Contract shall be sent to the Candidates that qualify as participants in the First Phase of the Dialogue.

1.6 Payment regime and project financing

During the term of the DBFM Agreement the Contractor shall receive a performance-dependent availability payment.

In addition, the Contractor shall receive a Lump-Sum Payment upon issue of the Completion Certificate.

The Contractor is responsible for the financing of the Project. The financing must be structured in such a way that financial institutions make external capital available to the contractor, or at least guarantee such, based on the basic principles of project financing.

Candidates shall be given the opportunity to attract the stated financing for the Project on the capital market. The Tendering Instructions will include a further specification of the terms.

At least 70% of the credit capital arranged for financing through financial institutions must be made available by:

- The financial institutions that have a Long-term Issue Credit Rating issued by Standard & Poor's of at least A- or by Moody's of at least A3 or by Fitch of at least A-, or a comparable credit rating issued by a similar internationally-recognised independent rating agency; or
- Institutional Investors.

A maximum of 30% of credit capital provided by financial institutions may be made available by financial institutions with a Long-Term Issue Credit Rating issued by Standard & Poor's of at least BBB or by Moody's of at least Baa2 or by Fitch of at least BBB or a comparable credit rating issued by a similar internationally recognised independent rating agency.

Notwithstanding the provisions of the previous paragraph, debt capital can also be provided by an entity that does not possess a Long-Term Issue Credit Rating as referred to above, if the obligations of such an entity are fully guaranteed by a financial institution that does possess a Long-Term Issue Credit Rating as referred to above (hereinafter referred to as "credit support"), as if they were its own obligations.

The requirement regarding the Long-term Issue Credit Rating of financial institutions that provide debt capital, included in that same paragraph, is applicable mutatis mutandis to the

financial institutions that provide credit support. For the sake of clarity, the debt capital made available by an entity to which credit support is granted by a financial institution with a Long-Term Issue Credit Rating of BBB (Standard & Poor's) or Baa2 (Moody's) or BBB (Fitch) or equivalent rating, is counted in the maximum of 30% referred to above.

The aforementioned requirements apply at Financial Close. In derogation to this, the aforementioned requirement applies to Financiers for whom the Candidate has submitted a supporting statement in relation to the quantitative part of a Final Submission on the date of submission of the qualitative part of the Final Submission instead of during the Financial Close.

The Contracting Authority shall enter into a Direct Agreement with the Contractor and the relevant Financiers and, if necessary, shall cooperate in pledging the net availability payment as collateral. A draft for the Direct Agreement shall be attached to the DBFM Agreement as a schedule.

The Candidates must submit a Financing Plan explaining how they intend to attract sufficient financing for the Project to fulfil all the obligations from the DBFM Agreement. The Tendering Instructions will include further details about the terms with regard to the Financing Plan. The Contracting Authority emphasises that due diligence must have taken place prior to the date of tendering the quantitative part of the Final Submission and assuming that the DBFM Agreement shall not be subject to further changes.

The interest rate risk for the period in-between the submission of the quantitative part of the Final Submission and Financial Close takes place shall remain under reservation at the Contracting Authority. The Selection Instructions shall explain what these conditions and the interest rate risk entail.

The Contracting Authority shall discuss the process of obtaining finance for the Project with Candidates and shall closely follow the situation on financial markets. The evolving situation may lead to certain adaptations in the Tender Documents. The Contracting Authority furthermore reserves the right to change the process for obtaining financing for the Project if prompted by circumstances on the financial markets.

1.7 Abridged description of tender procedure

1.7.1 Phasing of the tender procedure

The tendering procedure, as set out in the Selection Instructions and the following Tendering Instructions, shall take place in a number of phases. These phases are indicated in the table below. The dates are provisional and may be changed in the course of the tender procedure.

Limmel plan preparation – tender		
ACTIVITY	START	END
Selection phase (n Candidates)		
Publication of Announcement and dispatch of TED	11 July 2013	
Submission of requests for clarification	11 July 2013	11 September 2013
Submission of request to participate	25 September 2013	
Assessment of requests to participate	26 September 2013	11 October 2013

Drawing of lots (if necessary)	15 October 2013	
Selection	16 October 2013	
Term for safeguarding of legal rights of unselected Candidates	17 October 2013	5 November 2013
First Phase of Dialogue (5 Candidates)		
Invitation to First Phase of Dialogue	13 November 2013	
Opening of Data Room	20 November 2013	
Starting conference	27 November 2013	
Round 1 dialogue discussions	9 December 2013	13 December 2013
Round 2 dialogue discussions	13 January 2014	17 January 2014
Submission of Risk Management Plan outline	19 February 2014	
Assessment of Risk Management Plan outline	20 February 2014	12 March 2014
Decision on participation in Second Phase of Dialogue	13 March 2014	
Term for safeguarding of legal rights of unselected Candidates	14 March 2014	2 April 2014
Second Phase of Dialogue (3 Candidates)		
Invitation to Second Phase of Dialogue	April 2014	
Dialogue interviews (5)	April 2014	June 2014
Conclusion of Dialogue	July 2014	
Final Submission Phase (maximum three Tenderers)		
Invitation to make Final Submission	Q3 2014	
Tendering of Final Submission	Q3 2014	
Assessment of Final Submission	Q4 2014	Q4 2014
Designation of Selected Tenderer	Q4 2014	
Term for safeguarding the legal rights of unselected Tenderers	Q4 2014	
Completion (1 Selected Tenderer)		
Contract Close	Q4 2014	
Financial Close	Q1 2015	

1.7.2. Procedure Description

Selection Phase

The tender procedure starts with the Selection Phase. Selection takes place on the basis of an evaluation of grounds for exclusion and of suitability requirements. The Contracting Authority shall invite Candidates to participate in the Dialogue in the absence of any grounds for their exclusion and on condition that they have met the suitability requirements.

Should more than five Candidates come into consideration for an invitation to take part in the Dialogue then a further selection shall be carried out on the basis of an assessment of further experience criteria to arrive at five Candidates to be invited to take part in the Dialogue. The Selection Phase is described in more detail in Chapter 3 of these Selection Instructions.

Dialogue

The Contracting Authority avails itself of the option of conducting the Dialogue in successive phases as per Article 29, paragraph 4 of Directive 2004/18/EC. In the present tendering procedure, the Dialogue consists of the following two phases:

- First Phase of Dialogue:
- Second Phase of Dialogue:

First Phase of Dialogue

If more than three Candidates are invited to the First Phase of Dialogue, the number of Candidates invited for the continuation of the tendering procedure shall be reduced to three in the First Phase of Dialogue. This will be done through evaluation of the Risk Management Plan Outline.

If no short-listing needs to occur in the First Phase of Dialogue and this phase is undertaken with three Candidates or less, the Contracting Authority retains the right to modify the First Phase of Dialogue.

The three Candidates selected by the Contracting Authority on the basis of its assessment of the outline Risk Management Plan shall be invited to participate in the Second Phase of Dialogue.

The First phase Dialogue, including further investigation of the outline Risk Management Plan and the method for its assessment and evaluation, shall be described in more detail in the Tendering Instructions.

Second Phase of Dialogue

During the Second Phase of Dialogue, attention will be paid to the following products to be submitted as part of the Final Submission: EMAS products: Risk Management Plan, Reduced Impediment Shipping Plan, Sustainability Plan and other products: Basic Project Plan, Design Plan, Original Financial Model and the Financing Plan.

During the Second Phase of Dialogue, the Contracting Authority will also further coordinate the content of the DBFM Agreement with Candidates and, if need be, make adjustments. The Contracting Authority, together with Candidates, shall also prepare the DBFM Agreement in a manner that shall allow Candidates to tender a Final Submission based on the Agreement.

No selection shall take place during the Second Phase of Dialogue.

The Second phase Dialogue shall be described in more detail in the Tendering Instructions.

Final Submission Phase

The Final Submission phase follows the Contracting Authority's completion of the Second Phase of Dialogue. This phase shall be described in the Tendering Instructions.

The Project is awarded according to the criterion of the most economically advantageous tender.

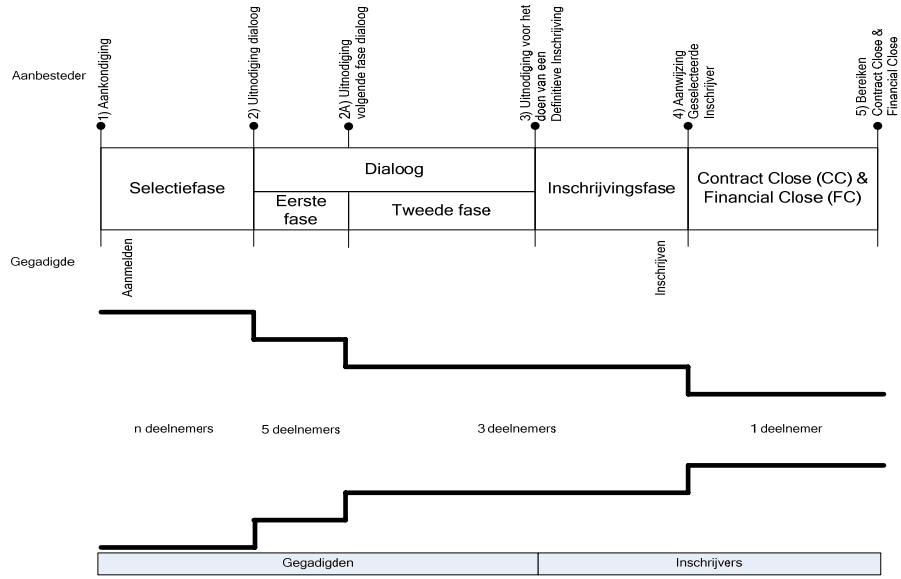


Figure 1. Schematic representation of the tender procedure for the New Limmel Lock

1.8 Planning procedure(s)

The Route Decision for the Meuse Route was adopted on 14 March 2002 (DLB/2002/6519). The adopted Route Decision became irrevocable in 2003. The construction for the Project is one element in this Route.

There are two zoning plans that apply to the area adjacent to the Route Decision: the Grensmaas zoning plan (2006, revision under Article 30 of the Dutch Spatial Planning Act 2007) and the Beartrixhaven zoning plan. The latter was adopted by the municipal council on 18 June 2013 and is not yet irrevocable.

1.9 Administrative agreement(s)

In preparation for this tendering process the Contracting Authority and a number of public parties entered into administrative or implementation agreements. The Requirements deriving from these agreements shall be included in the DBFM Contract. An administrative agreement has been concluded with the Municipality of Maastricht and an execution agreement is (will be) concluded. An execution agreement has been (will be) concluded with the Roer and Overmaas water board.

2 General information

2.1 Candidates' declaration of consent

In submitting a request to participate, the Candidates declare their unconditional consent with the tendering procedure described in these Selection Instructions.

2.2 Applicable regulations

The tender procedure shall be conducted as a competitive dialogue (see Article 29 of Directive 2004/18/EC, Articles 2.28 and 2.29 of Public Procurement Act and Section 4 of the Dutch Tender Regulations for Public Works 2012).

Unless otherwise stated in the Selection Instructions, the laws and regulations shall applicable to the tendering procedure shall include the following:

- Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 (OJ. L 134/114, 30 April 2004) on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts as last amended by Commission Regulation (EC) 1251/2011 of 30 November 2011 (OJ. L 319/43, 02 December 2011);
- Directive 89/665/EC of the European Parliament and of the Council of 21 December 1989 (OJ. L 395/33, 30 December 1989) on the coordination of laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, as last amended by Directive 2007/66/EC (OJ . L 335/31, 20 December 2007) of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts;
- Public Procurement Act 2012 (Bulletin of Acts and Decrees 2012, 542);
- Public Procurement Decree (Bulletin of Acts and Decrees 2013, No. 581);
- Dutch Tender Regulations for Public Works 2012;
- Dutch Public Administration Probity in Decision-Making Act (Wet BIBOB, as amended in Bulletin of Acts and Decrees 2012, 114).

2.3 Safeguarding of legal rights – choice of court

The Contracting Authority shall notify the Candidates in writing of decisions concerned with the observance of law, in the meaning of Article 1, paragraph 1 of Directive 89/665/EEC, with regard to the tender procedure.

If a Candidate opposes the decision he must initiate summary proceedings against such decision of the Contracting Authority within 20 calendar days of the decision's circulation by the Contracting Authority. Proceedings are pending starting on the day of the summons (Article 125 of the Code of Civil Procedure).

This term is a peremptory time limit. This means that if a Candidate does not actually file for preliminary injunction within 20 calendar days of a decision's circulation, the Candidate can no longer oppose the decision. In such a case the Contracting Authority would be free to (further) pursue the decision.

Any dispute between the parties involved in the tendering procedure arising on account of the tendering procedure, to which the Selection Instructions apply, is to be presented to the civil courts at The Hague.

2.4 Discontinuation of the procedure, Candidates' withdrawal

The Contracting Authority may prematurely discontinue the tender procedure.

Should the Contracting Authority discontinue the tendering procedure after the Selection Phase, the Contracting Authority shall pay Candidates reasonable compensation, to be determined by the Contracting Authority, for the (design) costs incurred by them, according to the stage of the tendering procedure reached and according to the efforts devoted by the Candidates up to that point.

Candidates may withdraw from the tender procedure prior to making their Final Submission without being liable for compensation with regard to the Contracting Authority.

Candidates that have been invited to participate in a subsequent phase of the tender procedure but that nonetheless withdraw of their own accord shall have no claim to any compensation for (preliminary) costs.

2.5 Notice and Announcement

The notice was announced on 11 July 2013 on www.tenderned.nl and sent to the Office for Official Publications of the European Communities

An advanced notice was published on 8 April 2013.

2.6 Language

This tender procedure is to be conducted in the Dutch language. Unless otherwise indicated by the Contracting Authority, documents to be submitted to the Contracting Authority by the Candidates must be in the Dutch language.

In derogation of the principle that all submitted documents must be written in Dutch, the Contracting Authority shall permit the following documents to be submitted in English, German, French or Spanish:

- Certificate of Procurement / Certificate of Good Conduct (CGC);
- Third-party declaration on grounds for exclusion;
- statement of economic and financial standing;
- power of attorney.

If the Candidate wishes to submit a Certificate of Procurement Integrity, Certificate of Good Conduct (CGC), or third-party declaration on grounds for exclusion in a language other than Dutch, English, German, French or Spanish, it must first obtain the Contracting Authority's consent.

In the event that certain statements originally formulated in a foreign language have to be submitted in Dutch, the Candidate is required to submit the statement in both the original (foreign) language and the its translation into Dutch.

2.7 Ceiling Price

The Ceiling Price for the execution of the DBFM Agreement shall be included in the Tendering Instructions.

2.8 Provision of information

2.8.1 Website

2.8.2 Data Room – Dissemination of information

For the purposes of this tender procedure, the Contracting Authority shall set up a Data Room as from the start of the First Phase of Dialogue. The Candidates shall sign an agreement with the Contracting Authority, on the basis of which they shall be granted access to this Data Room.

For the purposes of this tender procedure, the Contracting Authority will provide the data in digital format - primarily - as PDF¹ file and, in some cases, also in Word² format. In case of discrepancies between the two formats, the pdf version shall prevail.

2.8.3 Electronic communication

This tender procedure makes use of the possibility of communication between the Contract Authority and the Candidates by electronic means.

Information exchanged between the Contracting Authority and the Candidates by electronic means will primarily be communicated in pdf format and, in some cases, also in Word format. In case of discrepancies between the two formats, the pdf version shall prevail.

¹ Portable Document Format from Adobe Systems, the formal open standard for digital documents, known as ISO 32000.

² Microsoft Office Word 2003

2.9 Confidentiality and intellectual property rights

2.9.1 Confidentiality to be observed by the Candidates

By participating in the tender procedure, the Candidates place themselves under obligation to maintain the confidentiality of all the information they receive from the Contracting Authority, provided the information is not in the public domain, and not to disclose it to third parties. Candidates may, however, make such information available to subcontractors involved in the tender procedure, provided they subject them to this condition of confidentiality. This obligation is not valid if the Selection Instructions, or any other communications of the Contracting Authority, explicitly state otherwise.

The confidential information provided may only be used for the purpose for which it was intended.

2.9.2 Confidentiality to be observed by the Contracting Authority and intellectual property rights

The following are designated as being confidential:

- a) Reference materials, outline Risk Management Plans, Dialogue Products and Final Submissions;
- b) Confidential Clarification as referred to in 2.10.2;
- c) All other confidential information of any kind.

Confidential information shall be treated by the Contracting Authority as such. The Contracting Authority shall therefore not disclose confidential information to third parties (including other Candidates) unless the Contracting Authority is reasonably bound to disclosure on account of a legal obligation or within the context of a lawsuit. Before the Contracting Authority supplies third parties with confidential information in such situations, it shall consult with the respective Candidate concerning the form of disclosure least objectionable to the latter, without prejudice to the Contracting Authority's fulfilment of the aforementioned obligations.

By participating in the tender procedure, the Candidates contingent intellectual property rights are not transferred to the Contracting Authority, unless agreed otherwise.

2.10 General and Confidential Clarifications

During the tender procedure, Candidates may submit requests for clarification to the Contracting Authority regarding the Project and the Tender Documents. Requests for clarification may give cause to the Contracting Authority's issue of General and Confidential Clarification.

The Contracting Authority may also provide the Candidates with clarification at its discretion.

The Contracting Authority shall state the deadline date for each phase of the tender procedure for the submission of requests for clarification.

2.10.1 General Clarification

In principle, the Contracting Authority shall respond to requests for clarification by providing General Clarifications. General Clarifications are adaptations, consequences and explanatory

statements, or any other type of information about the Project or the Tendering Documents, which are identically worded and equally valid for all Candidates.

If the Contracting Authority responds to a Candidate's request for clarification by means of General Clarification then the Contracting Authority will publish this request anonymously and answer it in a way accessible to all Candidates.

2.10.2 Confidential Clarification

In principle, no Confidential Clarification shall be issued in the Selection Phase.

2.11 Assessment committees

During the various phases of the tender procedure, the Contracting Authority may set up one or more assessment committees. The members of these assessment committees may be different in each phase. When the Contracting Authority sets up an assessment committee then the names of the members shall be made known to the Candidates.

Within the context of this tender procedure, Candidates are barred from entering into contact with the members of assessment committees, just as members of assessment committees are prohibited from contacting Candidates about the invitation to tender. This prohibition does not apply to members of assessment committees who also participate in the Dialogue.

2.12 Tender Board

Not applicable.

2.13 Probity Officer

Not applicable.

2.14 Communication

The Candidates are not permitted to communicate about the call to tender and the Project with the employees of the Contracting Authority, advisors of the Contracting Authority or other persons or legal entities that are involved on the side of the Contracting Authority in the call to tender and the preparation of the Project, in a manner different from the one stipulated in these Selection Instructions, except after written permission from the Contracting Authority. Candidates should submit requests for the granting of such written permission as a request for clarification to the Contracting Authority.

Candidates who act in breach of the provisions of this paragraph can be excluded from (further) participation in the call to tender.

2.15 Conflicts of Interest

The Contracting Authority may exclude a Candidate from (further) participation in the Invitation to Tender if the latter is or has been involved with the Contracting Authority in preparing the Invitation to Tender or this Candidate makes use of companies, advisors, employees and other natural or (legal) persons that are or were involved the Invitation to Tender. The same applies if natural or legal persons affiliated with the Candidate have or had such involvement.

Contracting Authority must, on the basis of the memorandum "Separation of interest: the policy to prevent conflicts of interest in tendering" dated 14 September 2007 (see http://www.rijkswaterstaat.nl/kenniscentrum/contracten/scheiding_van_belang/) investigate if there are any conflicts of interest and subsequently determine the appropriate action. If a Candidate suspects that a conflict of interest has arisen, the Candidate must inform the Contracting Authority.

The Contracting Authority shall not exclude a Candidate if the latter demonstrates that, under the circumstances of the specific case, competition is not compromised by the involvement in question.

2.16 Complaints in relation to the tender procedure

Complaints regarding the tender procedure can be submitted to the Rijkswaterstaat Tender Complaints Committee at klachtenmeldpunt@rws.nl, nieuwekeersluislimmel@rws.nl and aanbestedingsteam.RWS-GPO@rws.nl.

Complaints may relate to non-compliance with statutory requirements or violation of the general tendering principles.

Complaints must be submitted in writing and must clearly state the specific aspect of the tender procedure to which the complaint relates, supported by reasoned arguments.

Complaints will be handled by expert officers who are not, nor will be, involved in the present tender procedure.

Complaints will be handled as soon as possible and the complainant informed accordingly.

2.17 Motivations in the context of the Public Procurement Act

The present tender procedure involves a contract in which different types of work and/or construction phases are integrated in accordance with the procurement strategy of Rijkswaterstaat. This offers the following advantages:

- The decision to apply the DBFM Agreement for the Project has been made on the basis of careful analysis using the Public Private Comparator (PPC), whereby the DBFM is chosen only if sufficient numbers of market parties can participate;
- The decision to apply the DBFM contract type for the project has been made on the basis of the PPC and thus meets the requirements of proportionality, transparency and objectivity;
- DBFM is in essence an integrated contract. The various components within the DBFM structure are inextricably linked and together form one unit within which the private financier frequently assumes management responsibility for the project;
- Due to its specific nature, DBFM does not lend itself to being split up into component parts for integrated projects which, by definition, have a logically coherent scope;
- Combining design, development, maintenance and financing:
 - o affords market parties more room for product and process innovations leading to better performance at lower costs;
 - o leads to more maintenance-friendly designs and higher quality;
 - o offers market parties optimal opportunities to reduce the construction and maintenance costs;
 - o leads to better project management, shorter lead times and higher quality of services;
 - o leads to a clear allocation of area responsibility to one party, promoting the safety and flow of traffic;

- leads to higher design quality as the (financial) consequences of errors in the design rest with the contractor.
- DBFM contracts have fewer interfaces, thereby requiring less coordination;
- The combination of an integrated contract and award on price and quality (MEAT) offers tenderers more opportunities to compete on quality;
- DBFM is a strategic tool used across government to facilitate the efficient use of government resources and achieve savings. As such, the Rutte II Cabinet also encourages the use of DBFM and this policy is not inconsistent with the objective that Article 1.5 of the Public Procurement Act seeks to achieve;

3 Selection Phase

3.1 General

It is during this phase that Candidates qualify as participants in the First Phase of Dialogue. For this purpose, the Contracting Authority shall evaluate Candidates that have submitted a request to participate based on the grounds for exclusion, suitability requirements and requirements for further selection described in this chapter.

The Candidate must fulfil the requirements set forth in this chapter and must completely fill out the forms stipulated in Appendix 2. Incompletely and/or incorrectly filled out forms may lead to exclusion from (further) participation in the tender procedure.

3.2 Registration

Interested parties must register for the tender procedure. Interested parties may register with the Contracting Authority until 3 p.m. on 19 September 2013 by sending an email to nieuwekeersluislimmel@rws.nl. The Contracting Authority shall send the General Clarifications to be provided in connection with the Selection Phase to all registered parties.

Registration of an SPV in the process of incorporation is not a condition for one or more natural or legal person(s) (joint parties) acting on behalf of the SPV in process of incorporation to make a request.

3.3 Requests to participate

Candidates must mark their request to participate:

*"Confidential Request to Participate in the
New Limmel Lock Tender Procedure Case Number 31033108"*

and submit it to the Contracting Authority between 10 a.m. and 3 p.m. on 25 September 2013 at the office address indicated in paragraph 1.3. The Contracting Authority shall afford Candidates the opportunity to submit the request to participate at an earlier time. To do so, Candidates are to reach agreement with the Contracting Authority via email.

A request to participate should consist of an original copy of all documents to be submitted in accordance with the overview of the tabs included in Appendix 2.1. One copy of all original documents must also be included, as well as a copy of all documents on CD-ROM or USB stick in PDF file format.

Requests to participate must entirely adhere to the model prescribed in Appendix 2.1 and must be signed by an authorised representative.

Requests to participate not received by the Contracting Authority within the time limit specified in this paragraph, are null and shall not be accepted by the Contracting Authority.

3.4 Single instance of involvement of (legal) persons

Natural or legal persons may only participate as Candidate once or may only be involved as a Significant Subcontractor via a single Candidate (other than the Candidate itself) or a Shareholder. In terms of the applicability of this condition, natural or legal persons that meet the conditions given below are considered as being one natural or legal person:

- a. natural or legal persons affiliated with each other in some manner as per Article 2: 24a of the Dutch Civil Code; or
- b. natural or legal persons associated with each other as a group as per Article 2: 24b of the Dutch Civil Code; or
- c. (legal) persons affiliated with each other in ways comparable to subsections a or b according to foreign laws.

3.5 Clarifications

Candidates may submit requests for clarification no later than 3 p.m. on 11 September 2013 by email to the email address cited in paragraph 1.3. The provisions of Subsection 2.10 are applicable to this clarification.

In principle, requests not submitted in time shall not be accepted by the Contracting Authority.

The Contracting Authority shall promptly supply General Clarifications for requests submitted no later than 17 September 2013.

3.6 Candidates: SPVs, SPVs in process of incorporation

The Contractor must be an SPV (Special Purpose Vehicle). The DBFM Agreement shall be signed with the SPV.

The following may apply as Candidates:

- (a) the SPV, when already incorporated or – if the SPV has not yet been incorporated,
- (b) one or more natural or legal person(s) (joint parties) acting on behalf of the SPV in process of incorporation.

Should the situation under b. above involve *two or more* legal persons (joint parties) applying on behalf of the SPV in process of incorporation then one of those parties must be designated as the SPVs representative in the model form for request to participate supplied in Schedule 2.1 under A. The lead party must be able to legally represent the other legal persons applying on behalf of the SPV in the process of incorporation as far as matters affected by this tender procedure are concerned. The Candidate vouches for said authorisation vis-à-vis the Contracting Authority.

In the case cited under (b) above, the SPV must be operational no later than the day prior to Contract Close and must by then have certified the legal procedures undertaken on account of it by the natural or legal person(s) cited under (b) above. The Contracting Authority must – without submitting any request to that effect, receive, immediately upon incorporation and certification, evidence of said incorporation and certification.

3.7 Article 6 of the Dutch Competitive Trading Act

The Contracting Authority makes Candidates abundantly aware that it is prohibited to enter into agreements having the aim or effect of reducing, restricting or disrupting competition on the Dutch market or any portion of it.

The Contracting Authority is authorised to report Candidates to the Dutch competition authorities if the Contracting authority suspects them to be in breach of the Dutch Competitive Trading Act with regard to the Project because they have entered into an Agreement, contributed to a decision by a business association or undertaken concerted practices in collaboration with one or more companies.

3.8 Demonstrating expertise

3.8.1 General

Candidates must provide proof that, either on their own or by availing themselves of the expertise (experience) of one (or more) third parties, they fulfil the suitability requirements cited in paragraphs 3.13.1 and 3.13.2.

Candidates can provide proof that, either on their own or by availing themselves of the expertise (experience) of one (or more) third parties, they fulfil the selection criteria cited in paragraphs 3.16.2, 3.16.3 and 3.16.4.

Should a Candidate avail itself of one or more third parties – the Significant Subcontractors – it must then provide proof when submitting its request to participate that and the manner in which it shall (or might) indeed avail itself of the experience of the third parties. It is for this purpose that the model statement supplied in Appendix 2.2 shall be completed and signed by the Significant Subcontractors.

If a Candidate invokes the experience of a natural or legal person allied with the Candidate, this experience shall be regarded as experience accumulated by the Candidate itself, providing the natural or legal person allied with the Candidate satisfies the following conditions:

- a. natural or legal persons affiliated with each other in some manner as per Article 2: 24a of the Dutch Civil Code; or
- b. natural or legal persons associated with each other as a group as per Article 2: 24b of the Dutch Civil Code; or
- c. natural or legal persons affiliated with each other in ways comparable to subsections a or b according to foreign laws.

Should a Candidate avail itself of a natural or legal person allied with the Candidate, then it must provide, at the same time as submitting its request to participate, proof that, and in which way, it shall (or might) indeed avail itself of the experience of the third parties, for which purpose the model statement supplied in Appendix 2.2 is to be filled out and signed by the relevant natural or legal person allied with the Candidate.

3.8.2 Use of third parties: Significant Subcontractors

A Significant Subcontractor is considered to be a natural or legal person whose expertise is employed by a Candidate to fulfil one or more requirements with regard to expertise.

Significant Subcontractors must actually be used in executing the Project.

3.8.3 Experience gained jointly

A Candidate may only make use of experience that it directly or indirectly (through a Significant Subcontractor) contracts jointly, if the Candidate or Significant Subcontractor is actually involved in the performance of work, as set out in the stated suitability requirements, such as those stipulated in paragraphs 3.13.1, 3.13.2, 3.16.2, 3.16.3 and 3.16.4.

3.9 Changes in the composition of Candidates, Significant Subcontractors, and Shareholders

The Candidates may propose changes in their composition, the designation of other Significant Contractors (other than the Candidates themselves) or the designation of Shareholders.

The Contracting Authority must give its explicit written consent to such changes, and certain conditions may be attached to said consent. The Contracting Authority shall not withhold its consent on unreasonable grounds.

In any event this consent requires that the Candidate demonstrate that after the changes all the requirements placed on Candidates, Significant Subcontractors (not themselves Candidates) or Shareholders arising in the context of this tender agreement up to that point shall be met.

If further selection has occurred, it is also necessary for the Candidates to demonstrate that they, in the new composition and in applying the criteria for further selection, shall achieve the same or higher total score. .

Consent shall only be given to changes after the end of the Second Phase of Dialogue if there is (very) special circumstances, such as a (potential) bankruptcy situation.

3.10 Information to be submitted

Along with a request to participate, Candidates must submit the following information regarding the Candidates themselves, Significant Subcontractors and Shareholders:

- Request to participate including all documents pertaining thereto (Appendix 2.1).
- Declaration(s) of availability of Significant Subcontractors (paragraph 3.8) including all documents pertaining thereto (Appendix 2.2).
- Self-Declaration (for tender procedures of contracting authorities)(paragraph 3.11) including all documents pertaining thereto (Appendix 2.3).
Third parties (including the significant subcontractors and shareholders) must instead submit "Third-party declaration on grounds for exclusion".
- A Supplementary Self-Declaration (subsection 3.11) (Appendix 2.3.B).
- Reference regarding project management experience (paragraph 3.13.1) including all documents pertaining thereto (Appendix 2.5).
- References regarding project financing experience (Paragraph 3.13.2) including all documents pertaining thereto (Appendix 2.5).

- Any reference(s) regarding additional selection criteria (paragraph 3.13.3.16) including all documents pertaining thereto (Appendix 2.6).

A list of documents to be submitted is included in the overview of the tabs in Appendix 2.1.

3.11 Grounds for Exclusion

3.11.1 Compulsory grounds for exclusion

The Contracting Authority shall exclude any Candidate, Significant Subcontractor or Shareholder from participation or involvement in the tender procedure to which one or more of the circumstances apply that are set forth in Article 45, paragraph 1 of Directive 2004/18/EC, more specifically described in Article 2.86, first paragraph of the Dutch Public Procurement Act (Article 4.5 of Public Procurement Act 2012) or more specifically described in the national laws of other states.

Thus, any Candidate, Significant Subcontractor, or Shareholder shall be excluded from participation or involvement in this tender procedure, if sentence has been passed on it with decree absolute under Articles 140; 177; 177a; 178; 225; 226; 227; 227a; 227b or 323a; 328, third subsection, second paragraph; 416; 417; 417, second subsection; 420, second subsection; 420, third subsection or 420 fourth subsection of the Dutch Penal Code or under the equivalent articles of the national laws of other states.

The Contracting Authority may make an exception to the aforementioned exclusion on account of compelling reasons of general interest.

3.11.2 Optional grounds for exclusion

The Contracting Authority may exclude any Candidate, Significant Subcontractor or Shareholder from participation or involvement in the tender procedure to whom one or more of the circumstances set forth in Article 45, Paragraph 2 of Directive 2004/18/EC as implemented in Article 2.87 of Public Procurement Act are applicable.

Thus Candidates, Significant Subcontractors, or Shareholders may be excluded from participation or involvement in the tender procedure on the following grounds:

- a. it is in a state of bankruptcy or liquidation, its business operations have ceased, it is subject to a suspension of payments, bankruptcy agreement or some other comparable situation as a result of an equivalent procedure according to the laws and regulations applicable to it;
- b. it has been subject to a conclusive judicial ruling according to the laws and regulations applicable to it, where an offence in breach of the rules of professional conduct was determined;
- c. it has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;
- d. it has not fulfilled its obligations relating to the payment of social security contributions and taxes in accordance with the legal provisions of the country in which it is established;
- e. it is guilty of misrepresentation in supplying the information required by the Contracting Authority or of failing to supply this information.

3.11.3 Self-Declaration (for tender procedure of contracting authorities), Supplementary Self-Declaration, Certificate of Procurement Integrity, Third-party declaration on grounds for exclusion.

Self-Declaration (for tender procedure of contracting entities) and Supplementary Self-Declaration:

As proof that there are no grounds for exclusion a Candidate must submit a Self-Declaration (for tender procedures of contracting parties) with the application, as well as completing and submitting the Supplementary Self-Declaration as Appendix 2.3.

It is sufficient for the time being for a Significant Subcontractor or Shareholder to complete and submit, in addition to the Self-Declaration (for tender procedures of contracting authorities), the Supplementary Self-Declaration. The Candidate, Major Shareholder or under the Contractor is required to provide the statement to continue meeting during the tender.

Third parties (including the significant subcontractors and shareholders) must instead submit "Third-party declaration on grounds for exclusion".

Items of proof as cited in the Self-Declaration must be promptly submitted when the Contracting Authority requests them. Contracting Authority shall not request items of proof before the First Phase of Dialogue is completed.

Certificate of Procurement Integrity/CGC:

As proof of non-existence of grounds for exclusion, Contracting Authority may ask the Candidate to provide a Certificate of Procurement Integrity, as referred to in Article 2.89, subsection 2 of Public Procurement Act 2012, which at the time of submission is not older than two years.

Until 1 April 2014, a Certificate of Good Conduct (CGC) may be submitted instead of the Certificate of Procurement Integrity.

A Certificate of Procurement Integrity or CGC must relate to the current situation of the Candidate.

Contracting Authority shall not request items of proof before the First Phase of Dialogue is completed.

If Candidate submits a CGC, the original copy of the CGC or the decision of refusal must be provided, or else a copy certified by a civil notary.

If a certificate comparable to the Certificate of Procurement Integrity or CGC is not issued in the country of origin, it may suffice to submit a statement under oath or a solemn declaration made before an authorised legal or administrative body, a civil notary or a qualified professional organisation in the country of origin.

Third-party declaration on grounds for exclusion

Where the Contracting Authority requires the Candidate to provide proof that no grounds for exclusion apply to the third parties and (Significant) Subcontractors of which the Candidate avails itself, Candidate shall have the responsibility to ensure that a Third-party declaration on grounds for exclusion, as included in Appendix 2.3.C, is provided by each such third party. Contracting Authority shall not request this statement until the First Phase of Dialogue is completed.

Failure to truthfully complete the Self-Declaration may result in exclusion of the Candidate from (further) participation in the tender procedure.

3.11.4 BIBOB Advisory Bureau

Should the Contracting Authority have reason to believe that a Candidate, Significant Subcontractor, or Shareholder is subject to the circumstances cited in Articles 2.86 and 2.87 of Public Procurement Act 2012, but should sufficient information for the exclusion from participation or further involvement not be available, then the Contracting Authority may seek the advice of the BIBOB Bureau (see Article 8 of the Public Administration Probity in Decision-Making Act (BIBOB)). The Candidate, Significant Subcontractor, or Shareholder concerning whom advice is solicited shall be informed of the contents of said advice by the Contracting Authority.

3.11.5 Exclusion

After the conclusion of the First Phase of Dialogue and award of contract, a Candidate may be requested to demonstrate that the grounds for exclusion referred to in paragraphs 3.11.1 and 3.11.2 do not apply to it, failing which the Candidate may be excluded from (further) participation in the tender and award. If, during the tender procedure, grounds for exclusion under paragraphs 3.11.1 and 3.11.2 become applicable with regard to a Candidate, this Candidate must immediately notify the Contracting Authority of this fact in writing.

Candidates who, in the view of the Contracting Authority, act in breach of the terms and requirements stipulated in the Tender Documents can be excluded from (further) participation in the invitation to tender.

If, at any time, it becomes evident that a Candidate has provided incorrect information, the Candidate may be excluded from (further) participation in the invitation to tender.

Should the Contracting Authority proceed with the exclusion of a Significant Subcontractor or Shareholder involved in this tender procedure, then the respective Candidate shall have the opportunity to submit a proposal for modification in the sense of Paragraph 3.9 for replacing the respective Significant Subcontractor or Shareholder.

Candidates that are excluded on the basis of the provisions in this paragraph shall not receive any compensation.

3.12 Financial and economic standing

3.12.1 Financial and economic standing requirement

Candidates must certify that the Shareholders are willing and able to provide the Candidate with a minimum amount of EUR 5,000,000 (five million euros) for funding the Project.

3.12.2 Proof of financial and economic standing requirement

Contracting Authority may ask the Candidate to provide proof that it meets the financial and economic standing requirement. To demonstrate that it meets the financial and economic standing requirement, the Candidate must submit a statement in full conformity with Appendix 2.4, signed by an authorised representative of a financial institution governed by the regulatory supervision of its county of origin.

In case of a request made by joint parties acting in the name of an SPV in the process of incorporation, multiple statements may be submitted on behalf of the SPV in the process of incorporation, providing the accumulated amounts involved in the statements meet the requirement. If multiple statements are submitted, [Name of Candidate] indicated in the 2nd paragraph of Appendix 2.4 must be read as [Name of Legal Entity/ies] and only the amount may be otherwise changed.

This financial institution must possess a Long-Term Issue Credit Rating issued by Standard & Poor's of at least A- or by Moody's of least A3 or by Fitch of at least A-, or a comparable credit rating issued by a similar internationally-recognised independent rating agency;

This declaration need only pertain to the Candidate itself and not to other parties whose experience the Candidate wishes to invoke for purposes of selection.

Contracting Authority will not request such proof until after conclusion of the First Phase of Dialogue.

3.13 Technical and organisational ability

3.13.1 Project management experience requirement

The Candidate is to show that it can indeed avail itself of the following experience in carrying out the Project:

In the preceding five years (to the deadline date for submitting a request to participate; see subsection 3.3), the Candidate has provided the project management for an infrastructure project.

This reference project must comply with the following requirements:

- i. integrated execution of at least design and construction work (D&C) carried out under certified quality assurance (based on Norm ISO-9001 or equivalent);
- ii. the total value of the design and construction work indicated in i above shall be at least EUR 18,000,000 (eighteen million euros) (in real euros, excluding VAT);
- iii. the construction works must at the time of submitting the request to participate be 25 % completed in the judgement of the respective principal.

In addition to ground, roads and water projects concerning (transportation) infrastructure, reference projects concerning civil and utility construction, water purification, water production, or water distribution are also considered infrastructure projects in the sense of the present suitability requirement.

Project management in the meaning of the present suitability requirement shall be understood to mean the assumption of responsibility at the level where the design and construction work was integrated or which required the involvement in an executive capacity with regard to the following tasks:

- i. the day-to-day execution of activities;
- ii. risk management;
- iii. quality management;
- iv. financial management;
- v. scheduling;

- vi. implementation of modifications.

3.13.2 Project management experience requirement

The Candidate is to show that it can indeed avail itself of the following experience in carrying out the Project:

The Candidate must have been involved to a significant extent in the signing of financial agreements between a project company and debt capital providers for purposes of financing a reference project having a contract value of at least EUR 18,000,000 (eighteen million euros) to be paid by the Contracting Authority (in real euros, VAT not included), where the facilities made available to the project company must have amounted to at least 50% of the contract value cited in this context. If applicable, a reference project presented in the context of 3.13.1 may also be presented.

The requisite experience may have been acquired on the part of the project company or on the part of the providers of external capital, also as financial advisers.

3.13.3 Information to be submitted

The Candidate must show that it meets the requirements cited in Paragraphs 3.13.1 and 3.13.2 with regard to experience in the areas of project management and project financing by means of the model statement enclosed as Schedule 2.5. A separate statement is to be submitted for each reference project.

3.14 Verification by the Contracting Authority

The Contracting Authority reserves the right to verify the reliability of all references presented. The Candidate is obliged to cooperate in this context.

3.15 Evaluation of request to participate - invitation to Dialogue

Candidates in respect of whom there are grounds for exclusion as referred to in Paragraph 3.11 or who do not meet the suitability requirements as referred to in Paragraphs 3.12 and 3.13 shall not be invited to participate in the Dialogue.

The Contracting Authority will invite Candidates to participate in the Dialogue according to the absence of any grounds for their exclusion under Subsection 3.11 and on condition that they meet the suitability requirements as specified in Subsections 3.12 and 3.13. However, should more than five Candidates come into consideration for an invitation to take part in the Dialogue, then a further selection shall be carried out in accordance with paragraph 3.16 to select five Candidates to be invited to take part in the Dialogue.

Article 4.14 of Public Procurement Act 2012 applies to Candidates not invited to the Dialogue. Subsection 2.3 of these Selection Instructions applies.

3.16 Further selection procedure

3.16.1 General

No more than five of the Candidates that, in view of paragraph 3.15, come into consideration for an invitation to participate in the First Phase of Dialogue, will actually be invited to participate in this phase.

If more than 5 Candidates come into consideration for an invitation to participate in the First Phase of Dialogue, the results of selection will then occur on the basis of the following further selection procedure.

For every Candidate that comes into consideration for an invitation, a total score is calculated in accordance with Appendix 2.7 based on the submitted reference projects (as specified in Appendix 2.6).

The three Candidates with the highest total scores will be invited to participate in the First Phase of Dialogue. If the total scores of two or more Candidates are the same and this affects the determination of the three Candidates with the highest total scores, lots will then be drawn with regard to these parties to determine which one may participate in the First Phase of Dialogue as one of the three Candidates with the highest total scores. Any party eliminated in this manner may still participate in the draw described in the following paragraph.

In addition to the three selected Candidates, another two of the remaining Candidates that come into consideration for an invitation are selected to receive an invitation to participate in the First Phase of Dialogue by means of the procedure for drawing lots.

During the further selection procedure, the Contracting Authority will evaluate no more than 3 reference projects from each Candidate for each selection criterion. This means that the Contracting Authority will evaluate no more than 9 reference projects from any individual Candidate. Candidates may therefore submit no more than 9 reference projects for the further selection procedure. Candidates may submit no more than 3 reference projects for each selection criterion.

Candidates must use the model included in Appendix 3.6 to demonstrate that a selection criterion is satisfied.

3.16.2 Additional selection criterion A. Experience in minimising navigational impediment during construction

During the preceding five years (to the final date for submitting a request to participate; see Subsection 3.3), the Candidate has accumulated demonstrable experience in minimising navigational impediment during the performance of work in and/or above a waterway of CEMT class IV or higher.

Work in the meaning of this additional selection criterion shall be understood not to include work only involving activity alongside a waterway, such as the placement of campsheets or mowing.

3.16.3 Additional selection criterion B. Experience with industrial automation

During the preceding five years (to the final date for submitting a request to participate; see Subsection 3.3), the Candidate has accumulated demonstrable experience with reliably functioning industrial automation for the operation and control of mechanical and electro-technical installations associated with the primary production process in which the following elements belonged to the Candidate's obligations:

- A. design, construction, testing and acceptance;

- B. local and integral system integration with an operational control centre or operator room in which organisational as well as technical integration was a part of the project;
- C. service management whereby the Candidate was at least responsible for incident management, configuration management and change management, in accordance with ITIL³.

Industrial automation in the meaning of this additional selection criterion concerning operation and control is understood to mean both the manually and software-assisted development and connection of mechanical and electro-technical installations to PLC, DCS and SCADA systems as a result of which an automated process is created that can be operated by operator from one position.

3.16.4 Additional selection criterion C. Experience with risk-based management and maintenance

During the preceding five years (to the final date for submitting a request to participate; see Subsection 3.3), the Candidate has accumulated demonstrable experience in:

- A. design and construction; or
- B. maintenance; or
- C. design, construction and maintenance

based on the RAMS methodology, risk-based management and maintenance and the associated model-based demonstration of performances.

RAMS in the meaning of this selection criterion shall be understood to mean Reliability, Availability, Maintainability and Safety.

Risk-based management and maintenance in the meaning of this selection criterion shall be understood to mean the risk-based management and maintenance of objects, during which it can be continuously demonstrated that the RAMS performance requirements are met.

3.16.5 Score to be obtained

A number of points are awarded for each selection criterion as indicated in Appendix 2.7.

Candidates may submit no more than 3 (three) reference projects for each selection criterion. The maximum number of reference project to be submitted for consideration during further selection is 9 (nine).

3.16.6 Procedure for drawing lots

1. If a procedure for drawing lots is implemented, the Candidates shall be invited to attend the draw.
2. A lot contains the name of a Candidate eligible for inclusion in the draw.
3. The draw occurs by blind drawing of lots, in which the drawing sequence is recorded and the first drawn regarded as the first selected.

³

ITIL: Information Technology Infrastructure Library

Appendix 1: Definitions**Availability Date**

The date on which the Contracting Authority has issued the Availability Certificate. If a time of day on the Availability Date is significant for a provision in this Agreement, this time of day shall be midnight (12 p.m.), unless explicitly stipulated otherwise.

Candidate

An SPV or one or more natural or legal persons acting on behalf of an SPV in process of incorporation that have applied to participate in the present tender procedure.

Ceiling Price

The amount determined by the Contracting Authority indicating uppermost limit under which the actual value of a Final Submission must remain in order to be valid.

Confidential Clarification

Confidential information supplied to Candidates by the Contracting Authority in accordance with paragraph 2.10 of the Selection Instructions.

Contract Close

The moment of signing the DBFM Contract.

Contracting Authority

The State of the Netherlands,
Ministry of Infrastructure and the Environment,
Rijkswaterstaat Construction and Maintenance Projects

Data Room

The digital information carrier(s) by means of which the Candidates, as of the First Phase of Dialogue, receive access to the digital archive in which documents and data related to the tender procedures for the Project are stored.

DBFM Agreement

The (draft) Design, Build, Finance and Maintain Contract for the purpose of executing the Project.

Dialogue

The First and Second Phases of Dialogue in combination.

Dialogue Output

The (draft) proposals solicited by the Contracting Authority and to be submitted to same by the Candidates during Dialogue.

Direct Agreement

The agreement signed on the date of Financial Close between the Contracting Authority, the Security Agent and the Contractor, which is attached as Schedule 6 (Direct Contract) to the Agreement.

Final Submission

The final submission tendered by the Candidates invited to do so according to Chapter 7 of the Tendering Instructions. In case of phased submission of parts of the Tender, the "date of Final Submission" is the date on which the last parts of the Tender are and have to be submitted.

Final Submission Phase

The phase of the tender procedure described in Chapter 7 of the Tendering Instructions.

Financial Close

The date on which the financial agreements are signed.

Financier

Every (legal) entity with which a Financing Agreement is concluded.

Financing Agreement

- (a) every agreement, bond, or other arrangement in terms whereof credit, including guarantee facilities and letters of credit, is made available to the Contractor for the purpose of financing the Works;
 - (b) other agreements, bonds, or arrangements from which (potential) amounts due, including rating agency fees and agency fees, in relation to the financing of the Works are evident;
 - (c) instruments for covering interest rate risk, exchange rate risk, inflation risk and other derivatives or related options entered into or taken out in connection with the (financing of the) Works;
 - (d) arrangements related to (a), (b) or (c), including inter-creditor agreements, securities, and monoline wraps; and
 - (e) letters of credit issued in connection with the Work,
- in all cases to the extent that they are not a Shareholder Loan.

First Phase of Dialogue

The phase of the tender procedure described in Chapter 4 of the Tendering Instructions.

General Clarification

Information supplied to Candidates by the Contracting Authority as per paragraph 2.10 of the Selection Instructions.

Institutional Investors.

Institutional Investors that are under supervision of a regulatory body or a regulatory agency of another member state, or a regulatory agency from a state that is not a member of the EU but imposes at least comparable requirements as a regulatory agency of a EU Member State (all the above as defined in Article 1:1 of the Dutch Financial Supervision Act).

Invitation to participate in the First Phase of Dialogue.

The document in which the Contracting Authority invites the Candidates selected for that purpose to participate in the First Phase of Dialogue.

Invitation to participate in the Second Phase of Dialogue

The document in which the Contracting Authority invites the Candidates selected for that purpose to participate in the Second Phase of Dialogue.

Invitation to Tender a Final Submission

The document in which the Contracting Authority invites the Candidates selected for that purpose to tender a Final Submission.

Project

All work, deliveries and services that must be carried out under the DBFM Agreement.

Risk Management Plan Outline

The item submitted by Candidates during the First Phase of Dialogue, evaluated and used as a basis for selecting Candidates to continue to the following phase of Dialogue.

Second Phase of Dialogue

The phase of the tender procedure described in Chapter 5 of the Tendering Instructions.

Selection Phase

The phase of the tendering procedure described in Chapter 3 of the Selection Instructions.

Selection Instructions

The separate instructions according to which the Contracting Authority selects the Candidates who participate in the Dialogue.

Self-Declaration for tender procedures of contracting authorities

The Self-Declaration as referred to in Article 2.84 of the Dutch Public Procurement Act 2012 and Article 2 of said act.

Shareholder

A natural or legal entity registered as a present or future shareholder of the Candidate.

Short-listing product

The item submitted by Candidates during the First Phase of Dialogue, evaluated on the basis of the quantitative criteria and used as a basis for selecting Candidates to continue to the Second Phase of Dialogue.

Significant Subcontractor

A Significant Subcontractor is considered to be a natural or legal person whose expertise is employed by a Candidate to fulfil the requirements with regard to expertise and/or the selection criteria.

SPV

Special Purpose Vehicle organised in the form of a private company with limited liability under Dutch law (besloten vennootschap).

Supplementary Self-Declaration

The Supplementary Self-Declaration in Appendix 2.3.B.

Successful Tenderer

The Tenderer with whom the Contracting Authority intends to sign the DBFM Agreement.

Tender Documents

The Tendering Instructions, the Selection Instructions, the DBFM Agreement, the General and Confidential Clarification, invitations to participate in another (subsequent) phase of the

tendering procedure, and all other documents supplied to Candidates by the Contracting Authority in the context of the tendering procedure and designated as such.

Tenderer

An SPV or one or more (legal) entities acting on behalf of an SPV in the process of incorporation by whom a Final Submission is tendered.

Tendering Instructions

The instructions that cover the period in the tendering procedure from Invitation to participation in the First phase of the Dialogue up to the submission of a Final Tender. The period prior to this is covered in the Selection Instructions.

Third-party declaration on grounds for exclusion

The declaration in Appendix 2.3.C.

Appendix 2: Model forms for request to participate

Appendix 2.1: Model form for request to participate

A. Candidate Information⁴

Name	
Legal form of the company	
Registered seat	
Office address	
E-mail	
Fax	
Telephone no.	
Name of designated representative (where applicable)	

B. Shareholder information (to be supplied by each Shareholder)

Name	
Legal form of the company	
Registered seat	
Office address	
E-mail	
Fax	
Telephone no.	
Percentage of current or future participation in SPV (approximate percentage may be indicated)	

⁴ In the case of an SPV, the information requested under A. must be supplied by the SPV. In the case of an SPV in process of incorporation, all the (legal) persons (joint parties) acting on behalf of the SPV in process of incorporation must supply the information requested under A. and one of them shall be designated as their representative (see paragraph 3.6 of the Selection Instructions).

C. Significant Subcontractor(s) information (to be supplied by each Significant Subcontractor)

Name	
Legal form of the company	
Registered seat	
Office address	
E-mail	
Fax	
Telephone no.	

D. Authorised representative information of the natural person that signs the request to participate on behalf of the Candidate⁵.

Name of natural person authorised as representative	
Date and place of birth	
Position	
Name of legal person represented	

E. Candidate's declaration regarding the procedure and accuracy of information

[name of Candidate] declares that:

1. It has read the Selection Instructions and is in unconditional agreement with the procedure set forth therein.
2. All information it has provided or shall provide the Contracting Authority within the context of this tender procedure is accurate.

⁵ 2 In the case of an SPV, the information requested under D. is to be supplied by the SPV and the designated natural person (or persons) is to sign this request to participate on behalf of the SPV. In the case of a SPV in process of incorporation, all (legal) persons (joint parties) acting on behalf of the SPV in process of incorporation are to supply the information requested under D. and the natural person designated by said legal persons (joint parties) is to sign this request to participate on their behalf.

Signed at [place] on [date]

Name [Candidate⁶]

On behalf of

[name of natural person or persons cited under D.]

[signature of natural person or persons cited under D.]

⁶ In the case of an SPV, the natural person (or persons) cited under D. are to sign this request to participate on behalf of the SPV.
In the case of an SPV in the process of incorporation, the natural persons referred to under D. need to sign this Application Form on behalf of the (legal) persons (joint parties) acting on behalf of the SPV in the process of incorporation. .

Appendices to request to participate:**Tab A:**

A request, completely filled out and validly signed by the Candidate, to participate in conformity with the model covered in Appendix 2.1, including:

- Contingent (special) power of attorney granted natural persons for the purpose of validly signing the request to participate. Said power of attorney is only required if the signatories' authorisation of representation cannot be demonstrated by the extracts from the trade register.
- If necessary a power of attorney from the other (legal) persons to the representative, if there is more than one legal person acting on behalf of the SPV in the process of incorporation.
- Where applicable, the secretary must be provided with proxies for the other natural or legal persons, if there is a request involving several entities.

Tab B: Statement of availability of Significant Subcontractors (paragraph 3.8)

A statement of availability, completely filled out and validly signed by each Significant Subcontractor, in conformity with the model supplied in Appendix 2.2, including:

- Contingent (special⁷) power of attorney granted natural persons for the purpose of validly signing the statement of availability of the Significant Subcontractor. Said power of attorney is only required if the signatories' authorisation of representation cannot be demonstrated by the extracts from the trade register.

Tab C: BIBOB Self-Declaration(s) (Subsection 3.11)

A Self-Declaration for tenders and a Supplementary Self-Declaration completely filled out and validly signed by the Candidate, each Significant Subcontractor and Shareholder, in conformity with the Questionnaire supplied in Appendix 2.3.

The Self-Declaration must be submitted along with:

- Contingent (special¹) power of attorney granted the aforementioned natural persons for the purpose of validly signing the Self-Declaration.. Said power of attorney is only required if the signatories' authorisation of representation cannot be demonstrated by the extracts from the trade register.

Tab D: Declaration of technical and organisational expertise (Subsection 3.13)

One reference per reference project, completely filled in and validly signed by the Candidate, in conformity with the model supplied in Appendix 2.5, including for each reference project:

- Contingent (special¹) power of attorney granted the aforementioned natural persons for the purpose of validly signing the declaration of technical and organisational expertise. Said power of attorney is only required if the signatories' authorisation of representation cannot be demonstrated by the extracts from the trade register.

⁷ A "(special)" power of attorney means a power of attorney demonstrating the authorisation of the natural person or person or persons who the sign(s) the declaration in the name of the Significant Subcontractor..

Appendix 2.2: Model statement for availability of Significant Subcontractor⁸

Significant Subcontractor information

Name

Legal form of the company

Address

E-mail

Telephone no.

[Name of Significant Subcontractor] declares:

1. that it is familiar with the Selection Instructions for this tendering procedure, and that it is in unconditional agreement with the procedure set forth therein;
2. that all information it has supplied and shall supply to the Contracting Authority in the context of this tender procedure is accurate, and that it is aware that possible inaccuracies detected by the Contracting Authority may lead to the exclusion of the Candidate from further participation in this tender procedure.
3. that, should the Project be awarded to [name of Candidate], the Candidate shall be able to call on the knowledge, experience and resources available to the signatory for the purpose of carrying out the Project. In this connection it agrees that the experience of the signatory shall be designated as being the experience of the Candidate.

Signed at [place] on [date]

[Significant Subcontractor],

[name of natural person authorised as representative]

[title]

[signature]

⁸

To be completed by each Significant Subcontractor on whose experience the Candidate draws

Appendix 2.3.A: Model Self-Declaration (for tender procedures of contracting authorities)

Attached separately as PDF file

Appendix 2.3.B: Model Supplementary Self-Declaration

This model must be fully completed and signed by the Candidate, as well as by each Shareholder and each Significant Subcontractor. In the case of an SPV in process of incorporation, all natural or legal persons (joint parties) requesting participation on behalf of the SPV in process of incorporation are to submit a completed and signed Supplementary Self-Declaration.

The Contracting Authority reserves the right to instigate a closer examination by the BIBOB Bureau of Candidates, Shareholders, Significant Subcontractors, or other subcontractors, to the extent that such is permissible under the limitations set forth in Directive 2004/18/EG.

Where applicable, the *company* shall be understood to mean the Candidate and each Shareholder Significant Subcontractor and other subcontractor if and to the extent that this follows from paragraph 3.11.6.

Contracting department in the Self-Declaration where applicable means the *Contracting Authority*.

SUPPLEMENTARY SELF-DECLARATION

Within the context of the New Limmel Lock contract tender procedure

Name and address of the company:

.....

Registration number in the Chamber of Commerce (registration number in the trade register or a similar registration from the country in which the company is established)

.....

Contact person of the organisation (name, email, telephone number):

.....

1. QUESTIONS REGARDING INSIDE INFORMATION AND CONFLICTS OF INTERESTS

1.1. Prior to this tendering procedure, has the company carried out work or services towards preparing the contract, or is/was the company in some other way directly or indirectly involved in the preparation of the contract?

Yes/no (please cross out the answer that does not apply)

If yes, please indicate the nature of the respective work or services or the nature of the involvement.

.....
.....
.....

1.2. Prior to this tendering procedure, have people working in the company carried out work or services towards preparing the order, or are there people working in the

company in some other way directly or indirectly involved in the preparation of the order?

Yes/no (please cross out the answer that does not apply)

If yes, please provide the following information for each person:

- a. the name and position within the organisation;
- b. the nature of the relevant work or services, or the involvement.

.....

- 1.3. With regard to this tendering procedure, has the company hired subcontractors who have carried out work or services in preparation of the order, or is/was the company in some other way directly or indirectly involved in the preparation of the order?

Yes/no (please cross out the answer that does not apply)

If yes, please provide the following information for each subcontractor:

- a. the name, address, legal form and registration number in the trade register (or a similar registration from the country in which the company is established);
- b. the nature of the respective work or services or the nature of the involvement.

.....

- 1.4. With regard to this tendering procedure, has the company hired advisers (both natural and legal persons) who have carried out work or services in preparation of the order, or is/was the company in some other way directly or indirectly involved in the preparation of the order?

Yes/no (please cross out the answer that does not apply)

If yes, please provide the following information for each consultant:

- a. the name, address, legal form and registration number in the trade register (or a similar registration from the country in which the company is established);
- b. the nature of the respective work or services or the nature of the involvement.

.....

- 1.5. Is the company allied to one or more other companies and/or does the company form part of a group, in the context of Articles 2: 24a, 2:24b and 2:24c of the Netherlands Civil Code, or comparable legal forms under foreign law?

Yes/no (delete as applicable))

If yes, have one or more of the affiliated or group companies performed work or services in preparation of the order prior to the tender procedure or has one or more of the companies been in some other way directly or indirectly involved (or is currently involved) in the preparation of the order?

Yes/no (delete as applicable)

If yes, specify for each company:

- a. the name, address, legal form and registration number in the trade register (or a similar registration from the country in which the company is established);
- b. the nature of the respective work or services or the nature of the involvement.

.....

2. QUESTIONS REGARDING THE FORMATION OF CONSORTIUMS FOR PLACING TENDERS OR APPLICATIONS BY MEANS OF JOINT ENTREPRENEURIAL VENTURES*)

**) These questions need only be answered if submission or applications are made by means of a joint business venture (a consortium), whether the latter is an ordinary partnership or not, or as a Special Purpose Vehicle (SPV).*

- 2.1. Please indicate which factors prevent the enterprise from being able to place a submission for the contract individually.

.....

- 2.2. Please indicate why the nature and scope of the joint entrepreneurial venture (consortium) formed is necessary with regard to the nature and scope of the contract to be executed, taking the significance and capacity of each operator in the joint venture into consideration.

.....

- 2.3. Please indicate which part(s) of the contract shall be executed by the enterprise itself.

.....

DECLARATION

The undersigned declares:

- the questions in this questionnaire have been answered in a complete and truthful manner;
- it has signed the completed questionnaire of its own free will, without the fear of threat, coercion, or undue influence being placed upon it; it understands that providing false or incomplete information may be regarded by the contracting authority as a misrepresentation and that this may result in outright exclusion from the remainder of this tender procedure;
- no changes have been made to the text of this questionnaire;

- this questionnaire is signed by a duly authorised representative, as revealed by the trade register or a similar registration from the country in which the company is established:

Name(s), authorised signatories:

.....

Date:

Signature:

Appendix 2.3.C: Third-party declaration on grounds for exclusion

Where the Contracting Authority requires the Candidate to provide proof that no grounds for exclusion apply to the third parties and (Significant) Subcontractors of which the Candidate avails itself, Candidate shall have the responsibility to ensure that the following declaration is provided by each such third party.

The Contracting Authority shall not request this statement until the First Phase of Dialogue is completed.

Name and address of the organisation:

.....

Registration number in the Chamber of Commerce (registration number in the trade register or a similar registration from the country in which the company is established):

.....

Contact person of the organisation (name, email, telephone number):

.....

The undersigned declares that:

1. neither it nor any of its directors has been convicted in a conclusive judicial ruling due to involvement in a criminal organisation in the four years preceding the submission of the request to participate or the submission; this includes:
conduct by any person who, with intent and with knowledge of either the aim and general criminal activity of the organisation or the intention of the organisation to commit the offences in question, actively takes part in:
activities of a criminal organisation, whereby a criminal organisation shall mean a structured association, established over a period of time, of more than two persons acting in concert with a view to committing offences that are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, whether such crimes or offences are an end in themselves or a means of obtaining material benefits and, if necessary, of improperly influencing the operation of public authorities, even where that person does not take part in the actual execution of the offences concerned and, subject to the general principles of the criminal law of the Member State concerned, even where the offences concerned are not actually committed;
the organisation's other activities in the further knowledge that his participation will contribute to the achievement of the organisation's criminal activities as set out above.
Conduct by any person consisting in an agreement with one or more persons that an activity should be pursued which, if carried out, would amount to the commission of the above-mentioned offences, even if that person does not take part in the actual execution of the activity.

2. within the four years preceding the submission of application for participation or the tender, neither it nor any of its directors has been the subject of a judgement which has the force of *res judicata* for corruption; whereby the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his function in breach of his official duties, shall constitute active corruption in the public sector; or the deliberate action of a person who, in the course of his business activities, directly or through an intermediary, requests or receives an undue advantage of any kind whatsoever, or accepts the promise of such an advantage, for himself or for a third party, for him to perform or refrain from performing an act, in breach of his duties, shall constitute passive corruption in the private sector;

3 within the four years preceding the submission of application for participation or the tender, neither it nor any of its directors has been the subject of a judgement which has the force of *res judicata* for fraud; fraud shall mean fraud in respect of expenditures and revenues. In other words, any intentional act or omission relating to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities, or, non-disclosure of information in violation of a specific obligation, with the same effect, or, the misapplication of such funds for purposes other than those for which they are originally granted.

4 within the four years preceding the submission of application for participation or the tender, neither it nor any of its directors has been the subject of a judgement which has the force of *res judicata* for money laundering, whereby money laundering shall mean: the conversion or transfer of property, with the knowledge that such property is derived from criminal activity or participation in such activity, for the purpose of concealing or disguising the origin of the property or assisting a person involved in criminal activity; concealing or disguising the true nature, source, location, disposal, movement, right over or the ownership of property with the knowledge that such property is derived from criminal activity or any participation therein; acquiring, possessing or using property with the knowledge that such property is derived from criminal activity or any participation therein; any attempt at or complicity in any of the above matters or activities.

5 it is not bankrupt or being wound up, under liquidation, subject to suspension of payments or a moratorium and has not ceased its business operations and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

6 within the four years preceding the submission of application for participation or the tender, neither it nor any of its directors has been convicted of an offence concerning its professional conduct by a judgement which has the force of *res judicata*;

7 neither it nor any of its directors has been guilty of grave professional misconduct within the four years preceding the submission of application for participation or the tender;

8 it has fulfilled all its obligations relating to the payment of social security contributions and taxes in accordance with the legal provisions of the country in which it is established;

9 it is not guilty of misrepresentation in supplying the information required by the contracting authority or of failing to supply this information during the tender procedures.

Description

The undersigned declares that:

it has signed this declaration of its own free will, without the fear of threat, coercion, or undue influence being placed upon it. it understands that providing false or incomplete information may be regarded by the contracting authority as a misrepresentation within the meaning of section 9 of this Self-Declaration and that this could lead to outright exclusion from the remainder of this tender procedure;

it has not made any changes to the text of this declaration;

the declaration is signed by a duly authorised signatory, as revealed by the trade register or a similar registration from the country in which the company is established:

Name(s), authorised signatories:

.....

Date:

Signature(s):

Appendix 2.4: Model declaration of financial and economic standing

If the Contracting Authority requires the Candidate to provide proof of financial and economic standing, the Candidate must submit the declaration below

The Contracting Authority shall not request this statement until the First Phase of Dialogue is completed.

This declaration must be signed by an authorised representative of a financial institution governed by the regulatory supervision of its country of origin. This financial institution must possess a Long-Term Issue Credit Rating issued by Standard & Poor's of at least A- or by Moody's of at least A3 or by Fitch of at least A-, or a comparable credit rating issued by a similar internationally-recognised independent rating agency;

The statement below must be issued on the financial institution's institutional stationary.

To the Contracting Authority

Ministry of Infrastructure and the Environment
Rijkswaterstaat Large Projects and Maintenance
New Limmel Lock Project Organisation
Attn. Mr W. Schat
Griffioenlaan 2
3526 LA Utrecht

The undersigned, [name of financial institution], with registered seat at [place], declares as follows in connection with the call to tender issued by the State of the Netherlands (Ministry of Infrastructure and the Environment, Rijkswaterstaat Construction and Maintenance Projects) for the New Limmel Lock Project, hereinafter referred to as "the Project".

The undersigned declares on the basis of facts known at the present time to [name of financial institution], that [name of legal entity] is to be considered capable of raising the sum of EUR [●●] as a capital base, available either from its own funds/share capital/share premium, or by way of a subordinated loan.

This statement does not constitute a guaranty on the part of [name of financial institution] vis-à-vis the Contracting Authority. This statement has been prepared on the basis of careful consideration on the part of [name of financial institution] of the information made available to [name of financial institution] by Candidate, in particular as regards the Project and the financial situation of [names of parties concerned at Candidate].

[Name of financial institution] is aware that this statement shall be used by the Contracting Authority to determine whether [name of the Candidate] meets the minimum financial and economic requirements placed upon it.

Signed at [place] on [date]

[name of financial institution]

[name of natural person authorised as representative]

[title]

[signature]

Appendix 2.5: Model declaration of technical and organisational ability and Project financing

This statement must be completed and signed by the Candidate. A separate statement must be completed, signed, and submitted for each reference project.

The Contracting Authority reserves the right to request further information from the contact person of the contractor as indicated on this form.

REFERENCE PROJECT FOR SELECTION		
Name of reference project		
Contract amount (in euros, not including VAT)		
Place of execution		
Time period of execution		
Client	Name	
	Address	
	Name of contact person	
	Telephone no.	
	E-mail	
Contractor ⁹		
Description of reference project (maximum 500 words)		
With this reference project Candidate proves that, for the purpose of executing the project, it can indeed avail itself of experience in the area of : Project management / Project financing ¹⁰ .		
A. Project management		
Infrastructure project	Is it a case of an infrastructure project in the meaning of paragraph 3.13.1 of the Selection Instructions?	Yes/no
Project management	In the preceding five years, counted as of the deadline date for submitting a request to participate, has the aforementioned contractor executed the project management – in the meaning of paragraph 3.13.1 of the Selection Instructions - for this project?	Yes/no
Integrated Execution	Does the reference project at least comprise an integrated execution of design and construction work (D&C) carried out under certified quality	

⁹ The Contractor must be (a joint party to) the Candidate or a Significant Subcontractor.

¹⁰ Cross out the inappropriate answer.

	assurance (based on standard ISO 9001 or equivalent)?	Yes/no
Value	Is the total value of the design and construction works at least EUR 18,000,000 (eighteen million) (in real euros, not including VAT)?	Yes/no If yes, what is the value of the design and construction work?
Completion of construction work	Has at least 25% of the construction in the reference project been completed at the time of submitting the request to participate?	Yes/no
B Project financing		
Infrastructure or analogous project	Is it a case of an infrastructure project in the meaning of paragraph 3.13.1 of the Selection Instructions?	Yes/no
Contract value	Is the contract value of the compensation to be paid by the contracting party at least EUR 18,000,000 (eighteen million) (in real euros, not including VAT)?	Yes/no
Project Financing	Was the contractor involved in a significant way in the signing of the financing agreement(s) for purposes of project financing between a project company and providers of external capital, whereby the facilities made available to the project company had a combined value of at least 50% of the contract value?	Yes/no

Signed at [place] on [date]

[Candidate / Significant Subcontractor],

[name of natural person authorised as representative]

[title]

[signature]

Appendix 2.6: Model statement for further selection

This statement must be completed and signed by the Candidate. A separate statement must be completed, signed, and submitted for each reference project. The Contracting Authority reserves the right to request further information from the contact person of the contractor as indicated on this form.

REFERENCE PROJECT FOR FURTHER SELECTION		
Name of reference project		
Contract amount (in euros, not including VAT)		
Place of execution		
Time period of execution		
Client	Name	
	Address	
	Name of contact person	
	Telephone no.	
	E-mail	
Contractor ¹¹		
Description of reference project (maximum 500 words)		
With this reference project Candidate proves that, for the purpose of executing the project, it can indeed avail itself of experience in the area of : navigation during construction / industrial automation / risk-based management and maintenance ¹² .		
Criterion A. Experience with navigation during construction		
Past five years	Reference from the past 5 years?	Yes/no
Minimise impediment to navigation	Navigational impediment minimised?	Yes/no
Experience with work on a main waterway of CEMT class 5 or higher	Does the above-mentioned contractor have experience with the performance of work on a main waterway with CEMT class V or higher?	Yes/no
Performance of work involving navigation	Was the above-mentioned contractor tasked with the construction or reconstruction work of a civil technical nature, while navigation had to continue?	Yes/no
Criterion B. Experience with industrial automation		

¹¹ The Contractor must be (a joint party to) the Candidate or a Significant Subcontractor.

¹² Cross out the inappropriate answer.

Past five years	Reference from the past 5 years?	Yes/no
Reliably functioning industrial automation	Does the above-mentioned contractor have demonstrable experience with industrial automation?	Yes/no
Operation and control	Does the reference project involve operation and control?	Yes/no
Primary production process	Does the reference project involve mechanical and electro-technical installations associated with the primary production process?	Yes/no
Element A/B/C	Does the reference project involve: design, construction, testing and acceptance? Local and integral system integration with an operational control centre or operator room in which organisational as well as technical integration was a part of the project? Service management, whereby the Candidate was at least responsible for incident management, configuration management and change management, in accordance with ITIL?	Yes/no Yes/no Yes/no
Criterion C. Experience with Risk-Based Management and Maintenance		
Past five years	Reference from the past 5 years?	Yes/no
RAMS methodology	Does the above-mentioned contractor use the RAMS methodology in this reference project?	Yes/no
Risk-based management and maintenance	Does the above-mentioned contractor use risk-based management and maintenance in this reference project?	Yes/no
Model-based demonstration of performances	Does the above-mentioned contractor demonstrate its performances based on models?	Yes/no
Construction phases A/B/C	Does the reference project involve: the design and construction phase the maintenance phase? the design, construction and maintenance phase?	Yes/no Yes/no Yes/no

Signed at [place] on [date]

[Candidate / Significant Subcontractor],

[name of natural person authorised as representative]

[title]

[signature]

Appendix 2.7: Score table for further selection

The score obtained by Candidates depends on the number of reference projects presented by them that satisfy the criterion.

Candidates may submit no more than 3 (three) reference projects for each criterion. A reference project may be cited for more than one criterion. The maximum number of reference project to be submitted for consideration during further selection is 9 (nine).

Candidate score table:		
Additional selection criteria for further selection	Maximum score <i>(Number of reference projects that each individual satisfy the criterion)</i>	Score obtained
A. Experience with minimising navigational impediment during construction	<i>Per project: 3 points</i> <i>Overall score</i> <i>Sum of the score per project</i>	
B. Experience with industrial automation	<i>Per project: Demonstrable experience with reliably functioning industrial automation for the operation and control of mechanical and electro-technical installations associated with the primary production process with the obligation of:</i> <ul style="list-style-type: none"> • <i>design, construction, testing and acceptance: 1 point</i> • <i>local and integral system integration with an operational control centre or operator room in which organisational as well as technical integration was a part of the project: 1 point</i> • <i>service management, whereby the Candidate was at least responsible for incident management, configuration management and change management, in accordance with ITIL: 1 point</i> <i>Overall score:</i> <i>Sum of the scores per project</i>	
C. Experience with Risk-Based Management and Maintenance	<i>Per project:</i> <ul style="list-style-type: none"> • <i>Demonstrable experience with a design and construction phase: 1 point, or</i> • <i>Demonstrable experience with a maintenance phase: 1 point, or</i> 	

	<ul style="list-style-type: none"> • <i>Demonstrable experience with a design, construction and maintenance phase: 3 points</i> <p><i>based on the RAMS methodology, risk-based management and maintenance and the associated model-based demonstration of performances.</i></p> <p><i>Overall score</i> <i>Sum of the score per project</i></p>	
Overall score		