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Ministerie van Infrastructuur en Milieu

IJmond Sea Lock Selection Instructions

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1 Introduction

1.1 Selection Instructions

The tendering procedure for the IJmond Sea Lock project is set out in these Selection Instructions and the associated IJmond Sea 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. Any Candidate who fails to receive (all) the Tender Documents must report this failure to the Contracting Authority by return e-mail sent to the e-mail address cited in paragraph 1.3.

The Tender Documents have been prepared with great care. If however, a Candidate has any reservations about any alleged contradictions, inaccuracies or possible violations of law or other irregularities, it should notify the Contracting Authority of these issues 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. Should a Candidate fail to notify the Contracting Authority about contradictions, inaccuracies or possible violations of law in time and in the manner stipulated above, 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 Large Projects and Maintenance

Project Organisation: IJmond Sea 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 W.J Mertens
Office address: Griffioenlaan 2
3526 LA Utrecht
Email address: Aanbestedingsteam-GWW@rws.nl

The address for all other items to be submitted by Candidates and not to be communicated by electronic means is:

Project Organisation: IJmond Sea Lock
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:

Project Organisation: IJmond Sea Lock
Contact: Mr W. Schat
Email address: zeetoegangijmond@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 1.4.2 includes a general description of the Project.

1.4.1 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. The integrated Work of this DBFM Agreement shall be performed for the following reasons:

- By engaging the market in collaboration with Financers, this DBFM Agreement makes it possible to accelerate construction (underlying premise: ready in 2019 instead of 2029). This will enable the desired expansion in capacity (scale increase), improved accessibility and continuity of the Amsterdam port region to occur at an earlier date. These improvements are laid down in the intergovernmental agreement concluded on 27 November 2009 between the then Minister of Transport, Public Works and Water Management, the Municipality of Amsterdam and the Province of North Holland.
- The Contracting Authority shall endeavour to reach an agreement with a Contractor for the performance of Work organised in such a manner that minimises the impediment to navigation and road traffic. The Contracting Authority also strives to achieve user satisfaction, as well as local satisfaction during construction. Nuisance and impediment shall predominantly be limited by physically and temporally linking the quantity of Work. The Contracting Authority will have a single Contractor to address with regard to the integration of Work. This will ensure optimum coordination in terms of logistics and phasing, and consequently limit any impediment.

In addition to the above reasons, Rijkswaterstaat encourages the performance of integrated Work, in this case under a DBFM Agreement, for the following reasons:

- 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 Agreement are inextricably interconnected and jointly comprise a single unit;
- 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;
 - o leads to higher design quality as the (financial) consequences of errors in the design rest with the contractor.
- DBFM Agreements 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.

1.4.2 The IJmond Sea Lock project

In connection with the approaching end of the technical lifespan and the arrival at the end of the economic life of the Noordersluis (North Lock), this lock is due for replacement. There is an explicit wish to construct the new lock earlier than scheduled (2019 instead of 2029) in the Multi-Year Programme for Infrastructure, Spatial Planning and Transport (Meerjarenprogramma Infrastructuur Ruimte en Transport, abbreviated MIRT). The scale increase in navigation makes it furthermore desirable to construct a new lock that is wider than the existing Noorderlsuis. This will simultaneously increase the locking capacity of the lock complex. The above was investigated in a study undertaken in 2007/2008 resulting in the conclusion that the solution may be found in the construction of a new and larger lock.

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

1. The design and construction of a new sea lock (with dimensions of at least 500x65x18m) to replace the existing Noordersluis (400x50x13m) and provision for road traffic in accordance with stated provisions;
2. The designer construction of other modifications in the project area (waiting pontoons and channel) to enable safe and easy navigation through the new lock;
3. To make the project area free of obstruction;
4. The planning and performance of maintenance on the new lock and constructed waiting pontoons for approximately twenty-six years;
5. The financing of the Work;
6. The upkeep of the primary water-retaining structure in accordance with the Dutch Water Act is an important element of the Work.

After the commissioning of the new sea lock, the Noordersluis shall be removed from service and, if necessary, used for emergencies.

1.5 DBFM Agreement

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

1.6 Payment regime and project financing

The contractor shall receive a Net Availability Payment from the Commencement Date until the Expiry Date of the DBFM agreement.

In addition, the Contractor will 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 a manner such that financial institutions make external capital available to the Contractor, or at least guarantee this capital, on the basis of the principles of project financing.

The Contracting Authority shall enter into a Direct Agreement with the Contractor and the respective financing parties and, if necessary, shall cooperate in pledging the net availability payment. A draft for the Direct Agreement shall be appended to the DBFM Agreement (appendix 6: Concept Direct Agreement).

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 Candidate will be asked to submit its Financing Plan (in draft form) during the Second Phase of Dialogue for the purpose of discussion with the Contracting Authority. The Financing Plan must then be submitted as part of the Final Submission, whereby the Contracting Authority stresses that due diligence for Final Submission must have taken place and that the DBFM Agreement shall not undergo any further changes after the tendering of the Final Submission.

The interest rate risk during the period between Final Submission and Financial Close remains under conditions with the Contracting Authority. Paragraph 7.4 of the tender guidelines sets out what these conditions are and what the interest rate risk entails.

The Contracting Authority will discuss the process of obtaining financing for the Project with Candidates and will closely monitor the situation in the 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.

For the time being the Contracting Authority assumes that Project financing with an inflation-linked component and / or Hard Mini Perm Financing will not be made applicable.

1.7 Abridged description of tender procedure

1.7.1 Phasing of the tender procedure

The tendering procedure, as set out in these 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.

IJmond Sea Lock planning tender		
ACTIVITY	START	END
Selection phase (n Candidates)		
Publication of Announcement and dispatch of TED	15 April 2014	
Submission of requests to participate	16 May 2014	
Meeting to explain selection criteria requirements	24 April 2014	
Submission of requests for clarification	15 April 2014	2 May 2014
Publication of the final information note	9 May 2014	
Assessment of requests to participate	16 May 2014	3 June 2014
Selection (based on ranking)	4 June 2014	
Appeal deadline	5 June 2014	24 June 2014
Draw among remaining participants	25 June 2014	
Announcement of draw	25 June 2014	
Period for objecting to draw	26 June 2014	28 June 2014
First Phase of Dialogue (maximum 5 Candidates)		
Invitation to Participate in the First Phase of Dialogue.	30 June 2014	
Opening of Data Room	30 June 2014	
Starting conference	08 July 2014	
Round 1 dialogue discussions	14 July 2014	18 July 2014
Round 2 dialogue discussions	01 September 2014	05 September 2014
Requests for clarification	30 June 2014	12 September 2014
Issue of the final clarification note	19 September 2014	
Submission of Short-Listing Output Risk Management Plan	01 October 2014	
Evaluation of Short-Listing Output Risk Management Plan	02 October 2014	22 October 2014

Short-List decision	27 October 2014	
Term for safeguarding of legal rights of unselected Candidates	28 October 2014	16 November 2014
Second Phase of Dialogue (3 Candidates)		
Invitation to participate in the Second Phase of Dialogue	17 November 2014	
Opening of Data Room	17 November 2014	
Starting conference	25 November 2014	
Dialogue discussions	08 December 2014	23 April 2015
Requests for clarification	25 November 2014	23 April 2015
Issue of the final clarification note	23 April 2015	
Conclusion of Dialogue	23 April 2015	
Final Submission Phase (maximum three Tenderers)		
Invitation to Tender a Final Submission	28 April 2015	
Tendering of Final Submission	Q2 2015	
Assessment of Final Submission	Q3 2015	
Designation of Successful Tenderer	Q3 2015	
Term for safeguarding the legal rights of unselected Tenderers	Q3 2015	
Completion (1 Selected Tenderer)		
Contract Close	Q3 2015	
Financial Close	Q3 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 selection criteria and a draw 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 Short-Listing Output Risk Management Plan.

If no short-listing needs to occur in the First Phase of Dialogue because three Candidates or less have been invited, the Contracting Authority retains the right to modify the Dialogue. It will only consist of a single phase.

The Contracting Authority shall select three Candidates to invite to participate in the Second Phase of Dialogue on the basis of its evaluation of their Short-Listing Output Risk Management Plan.

The First phase Dialogue, including further investigation of the Short-Listing Output 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, sustainability plan (CO2 performance scale, DuboCalc and social return) and a wider lock (to maximum 70 metres).

Other output: basic project planning, design plan, outline proposal for start-up phase, original financial model and a 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 economically most advantageous submission (EMAS).

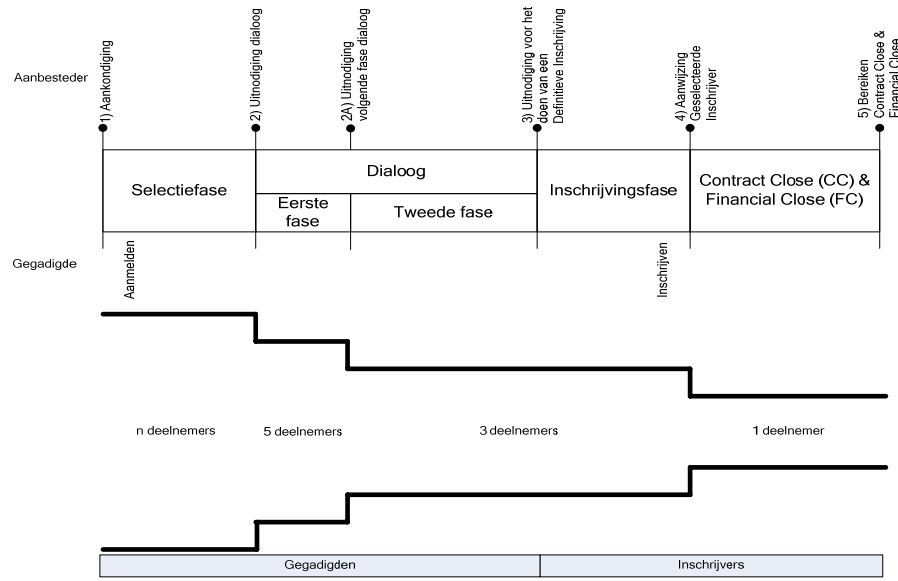


Figure 1. Schematic representation of tender procedure for IJmond Sea Lock

1.8 Planning procedure(s)

The final result of the planning procedure involved in "the Provincial Integration Plan" (*provinciaal inpassingsplan*, abbreviated PIP) could affect the further progress of the tender procedure and the precise contents of the Project. A delay may occur if the PIP is not irrevocably ratified on time. Candidates should take this into account.

The PIP will be available for perusal on 19 February 2014. The PIP is expected to be ratified in September 2014. The final PIP shall be subsequently made available for perusal, and parties that have submitted opinions can then lodge any objections that they might have. A Council of State procedure may then ensue. The PIP is expected to become irrevocable in mid May 2015.

1.9 Administrative agreement(s)

In preparation for this Tender Procedure the Contracting Authority and a number of public parties entered into administrative or implementation agreements. The Requirements deriving from these agreements about the Project shall be included in the DBFM Agreement. Candidates must make provision for the following agreements have been reached with the Municipality of Amsterdam and the Province of North Holland:

The IJmond Sea Lock Plan Study Intergovernmental Agreement (2009) states that the parties may discontinue their participation in the project if compelling reasons arise. A number of decision deadlines have been established to keep the administrative decision-making process on track. At such a moment of decision, an administrative deliberation process is carried out to determine if the project can be completed within the available budget and does not involve any unacceptable risks. In the worst case scenario, this

may mean that a "no go" decision can be made for reasons not attributable to the market. If the tender procedure is discontinued, paragraph 2.4 applies.

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,
- 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,
- The Public Procurement Act 2012 (Bulletin of Acts and Decrees 2012, 542);
- The Public Procurement Decree (Bulletin of Acts and Decrees 2013, No. 581);
- The Dutch Tender Regulations for Public Works 2012;
- The 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.

All the deadlines for submission of appeals a stated in the tender documents are expiry dates. This means that if a Candidate does not actually file an appeal against a decision within the stated period following issue of the decision then the Candidate can no longer lodge an appeal against the decision. In such a case the Contracting Authority would be free to (further) pursue the decision. If, no specific appeal period is indicated for decisions regarding legal matters, there is an appeal period of 20 calendar days following the date on which the Contracting Authority issues the decision. This is also an expiry date.

Regardless the appeal period stated in the tender documents, a Candidate that objects to a decision must initiate summary proceedings against said decision within 20 calendar days following the date on which the Contracting Authority issues the decision.

Proceedings are pending starting on the day of the summons (Article 125 of the Code of Civil Procedure). If a candidate has lodged an appeal against a decision on time but does not initiate summary proceedings within 20 days following issue of the decision, the appeal will be deemed to have been withdrawn and the Contracting Authority is free to further proceed with the execution of the decision.

Any dispute between the parties involved in the tender procedure arising on account of the tender procedure, to which the Tendering Instructions apply, must be submitted 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 15 April 2014 on www.tenderned.nl and sent to the Office for Official Publications of the European Communities.

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:

- Document(s) comparable to the Certificate of Procurement Integrity;
- 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 (or comparable document), 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 Deleted

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 and Excel format. In case of discrepancies between the two formats, the pdf version shall prevail.

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

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

² Microsoft Office Word

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, Short-Listing Output risk Management Plan, Dialogue Output 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 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, other persons or legal entities that are involved on the side of the Contracting Authority in the tender and the preparation of the Project, or other stakeholders concerned with 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.

2.12 Inside information and conflicts of interest

The issue of inside information arises whenever a Candidate has previously performed work or services to prepare for the Project or is (has been) otherwise involved in Project preparations.

There is also a question of insider information when there are persons working within the business(es) of the Candidate who performed the preparatory work or services referred to in the previous subparagraph.

Inside information is also in question when, in connection with this tender procedure, the Candidate engages independent agents (subcontractors) and/or advisors (both natural and legal persons) and one or more of these independent agents or advisor have performed preparatory work and services such as mentioned in the first subparagraph of this section.

There is probability of a conflict of interests if a Candidate is allied to one or more other companies or a Candidate's company is part of a group, this in the meaning of Articles 2:24a, 2:24b and 2:24c of the Dutch Civil Code or other legal form under foreign law in which one or more companies perform preparatory work and services such as referred to in the first subparagraph of this section.

A Candidate can be excluded from participation in the Project in the cases specified in the previous paragraphs.

If the cases specified in the first four subparagraphs relate to another natural person or legal entity by means of which the Candidate intends to comply with the suitability requirements and/or the selection criteria, the Contracting Authority can decide not to accept this other natural person or legal entity and can exclude the Candidate from participation in the Project.

The Contracting Authority shall provide the Candidate with the opportunity, to the Contracting Authority's satisfaction, to disprove the suspicions indicated in the first four subparagraphs and to demonstrate that competition is not harmed by the previous or continued involvement of the Candidate or the persons employed by it or the independent agents or advisors referred to in the third subparagraph, or else in the other companies mentioned in the fourth subparagraph.

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/zakelijk/zakendoen_met_rws/inkoopbeleid/scheiden_van_belang/) investigate if there are any conflicts of interest and subsequently determine the appropriate action.

2.13 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.

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.

A complaint will be settled as quickly as possible: The complaining party will be informed about the result.

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 may register with the Contracting Authority by sending an email before 3 p.m. on 14 May 2014 to zeetoeegangijmond@rws.nl. The Contracting Authority shall circulate the General Clarifications relevant to the Prequalification 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) 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
IJmond Sea Lock tender procedure. File number 31080535"*

and submit it to the Contracting Authority between 10 a.m. and 3 p.m. on 16 May 2014 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 Candidates once and may only be involved as a Significant Subcontractor or a Shareholder via a single Candidate. 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 2 May 2014 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 Clarification for requests submitted no later than 9 May 2014.

On 24 April 2014 between 09.30 and 12.00 a.m. the Contracting Authority is organising a meeting to provide clarification for the selection procedure.

There will be opportunity to pose questions. Interested parties have to sign up, stating name, company name, and function, till Tuesday 22 April 2014 15.00 p.m. through zeetoeegangijmond@rws.nl. Due to the limited room capacity it is possible that a selection will be made when there is too much response. No later than Tuesday 22 April 2014 at 17.00 p.m. the final invitations will be sent. Participants in the meeting are required to present an identification in advance.

3.6 Candidates: SPVs, SPVs in process of incorporation

The contractor must be a 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) acting on behalf of the SPV in process of incorporation.

Should the situation under (b). above involve *two or more* legal persons 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.

If Candidates make their request as an SPV in the process of incorporation, entry in the Commercial Register is not required at the time of request to participate.

All natural persons and legal entities that make a request to participate as an SPV in the process of incorporation must submit the required information.

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 Authority for Consumers & Markets 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 Subcontractor(s) – 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 relevant Significant Subcontractor.

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 Experience gained jointly

A Candidate may only make reference to shared experience that it has acquired directly or indirectly through one or more Significant Subcontractor(s) if the Candidate or Significant Subcontractor is actually involved in the performance of the relevant work mentioned in the suitability requirements 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 or Significant Subcontractors

Candidates may propose changes to their composition and/or the designation of Significant Subcontractors.

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 verify if the change in composition has consequences affecting, for example:

- applicability of grounds for exclusion;
- compliance with suitability requirements or further selection criteria;
- inside information or conflict of interests;
- other factors relating to competition law.

The Contracting Authority shall, however, 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 and Significant Subcontractors. 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 a higher total score.

Consent shall be given to changes after the end of the Dialogue solely in the event of (very) unusual circumstances, such as (the threat of) bankruptcy.

3.10 Information to be submitted

In requests to participate, Candidates must submit the following information about themselves (the SPV or all the participants in the SPV in the process of incorporation) and Significant Subcontractors:

- 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).
- From the SPV or every natural person or legal entity participating in the SPV in the process of incorporation: a Self-Declaration for Tender Procedures of contracting authorities (Schedule 2.3.A) and a Supplementary Self-Declaration (Schedule 2.3.B).
- From every Significant Subcontractor: a "Third-party declaration on grounds for exclusion" (Schedule 2.3.C) and a Supplementary Self-Declaration (Schedule 2.3.B).
- Statement of financial and economic standing (paragraph 3.12) including all documents pertaining thereto (Appendix 2.4).
- References regarding project management experience (paragraph 3.13.1) including all documents pertaining thereto (Appendix 2.5).
- Any reference(s) regarding project financing experience (paragraph 3.13.2) including all documents pertaining thereto (Appendix 2.5).
- Any reference(s) regarding the criteria for further selection (paragraph 3.16) including all documents pertaining thereto (Schedule 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 will exclude any Candidate or Significant Subcontractor from participation or involvement in the tender procedure if one of more of the circumstances mentioned in Article 45.1 of Directive 2004/18/EC, Article 2.86 of the Dutch Public Procurement Act 2012 and Article 4.5.1 of the Public Procurement Act 2012 apply to the party in question. Such circumstances undoubtedly arise if any judicial decision has been pronounced with decree absolute under Articles 140; 177; 177a; 178; 225; 226; 227; 227a; 227b or 323a; 328, third subsection, second Paragraph; 420, second subsection; 420, third subsection or 420, fourth subsection of the Dutch Penal Code (Article 2.86, paragraph 3 of the Dutch Public Procurement Act 2012) or analogous national legislation in 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 or Significant Subcontractor for participation or involvement in the tender procedures if one of the circumstances stipulated in in Article 4.5.4 of the Dutch Public Procurement Act 2012 applies to said

party, this furthermore without prejudice to the provisions in Article 4.5.7 of the Dutch Public Procurement Act 2012.

3.11.3 Self-Declaration for tender procedures of contracting authorities, Supplementary Self-Declaration and Third-party declaration on grounds for exclusion.

A Candidate shall append the following fully and truthfully completed declarations to its request to participate:

- From every natural person or legal entity participating in the SPV or SPV in the process of incorporation: A Self-Declaration for Tender Procedures of contracting authorities (Schedule 2.3.A) and a Supplementary Self-Declaration (Schedule 2.3.B).
- From every Significant Subcontractor: a "Third-party declaration on grounds for exclusion" (Schedule 2.3.C) and a Supplementary Self-Declaration (Schedule 2.3.B).

The above-mentioned parties are required to continue to comply with the declarations throughout the tender.

A completed Self-Declaration for tender procedures of contracting authorities, Third-party declaration on grounds for exclusion or Supplementary Self-Declaration functions as a self-declaration by the party that submitted the declaration. The supporting documentation specified in Article 2.89 of the Dutch Public Procurement Act 2012 must be submitted at the Contracting Authority's request. A Candidate must provide the Contracting Authority with the supporting evidence within two Working Days (N.B.: Acquisition of a Certificate of Procurement Integrity may take several weeks). Only the documents listed under Tab C in Appendix 2.1 have to be submitted along with the request to participate.

Failure to fully or truthfully complete the above-stated declarations 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 or Significant Subcontractor is subject to the circumstances cited in Articles 2.86 and 2.87 of the 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 or Significant Subcontractor concerning which 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 or its Significant Subcontractor 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 Candidate due to grounds for exclusion pertaining to a Significant Subcontractor or participant involved in the SPV in the process of incorporation, then the respective Candidate shall have the opportunity for 15 days to submit a proposal for modification in the sense of paragraph 3.9 for replacing the respective Significant Subcontractor or participant.

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 50,000,000 (fifty million euros) for funding the Project.

In case of a request as an SPV in the process of incorporation, the participants in the prospective SPV must individually declare the amount that they are making available to the Candidate for the Project, and the requirement is satisfied if the amounts of the provided declarations add up to the required EUR 50,000,000 (fifty million euros).

3.12.2 Proof of financial and economic standing

To demonstrate that a Candidate 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 that is:

- (a) not an institutional investor , and under the supervision of a supervisor or a supervisory authority of another Member State , or of a supervisory authority of a State which is not a Member State and at least set equivalent requirements as a supervisory authority of Member States (all as defined in Article 1.1 of the Financial Supervision Act) ; or
- (b) an institutional investor under the supervision of a supervisor or a supervisory authority of another Member State , or of a supervisory authority of a State which is not a Member State and at least set equivalent requirements as a supervisory authority of a Member State (all as defined in Article 1.1 of the Financial Supervision Act) .

In case of a request made by (the participants in) 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 declaration need only pertain to the Candidate itself and not to other parties whose experience the Candidate wishes to invoke for purposes of selection.

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 preliminary and construction works carried out under certified quality assurance (based on Norm ISO-9001 or equivalent);
the total value of the design and construction work indicated in i above shall be at least EUR 50,000,000 (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 providers of external capital for purposes of financing a reference project having a contract value of at least EUR 50,000,000 to be paid by the principal (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

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

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 shall receive invitations. If the score for two or more Candidates is the same and this has influence on the determination of the three Candidates with the highest total score, then the procedure for determining the Candidates to participate in the First Phase of Dialogue shall be as follows:

- a. The underlying principle is that three parties shall be admitted to the First Phase of Dialogue and then two additional parties by means of a draw. If, however, the results turn out in such a manner that parties finish with the same score and this result impacts on the determination of the three parties with the highest scores, the parties finishing with the same scores shall be awarded places originally intended for draw, with the understanding that no more than five parties may be admitted to the First Phase of Dialogue.
- b. All parties with the highest total score shall be admitted to the First Phase of Dialogue. If, however, more than five parties have the highest total score, a draw is held among these parties to determine the five parties that may participate in the First Phase of Dialogue, this draw conducted to the drawing of lots procedure in paragraph 3.16.6.
- c. The parties having the second highest total score will only be admitted to the First Phase of Dialogue on the basis of their score if less than three parties have the highest total score. If less than three parties have the highest total score and multiple parties have the next highest total score, all the parties with the second highest total score shall be admitted to the First Phase of Dialogue, providing a total of no more than five parties (including the parties with the highest score) qualify for the First Phase of Dialogue. If, on the basis of their total score, more than five parties qualify for the First Phase of Dialogue, the parties with the second highest score shall draw lots to determine which will be permitted to participate in the First Phase of Dialogue, this in accordance with the draw procedure in paragraph 3.16..6.
- d. The parties having the third highest total score will only be admitted to the First Phase of Dialogue on the basis of their score if less than three parties have the highest or second highest total scores. If less than three parties have the highest or second highest total scores and multiple parties have the next highest total score, all the parties with the third highest total score shall be admitted to the First Phase of Dialogue, providing a total of no more than five parties (including the parties with the highest and second highest total scores) qualify for the First Phase of Dialogue. If, on the basis of their total score, more than five parties qualify for the First Phase of Dialogue, the parties with the third highest score shall draw lots to determine which will be permitted to participate in the First Phase of Dialogue, this in accordance with the draw procedure in paragraph 3.16.6.

Paragraph 2.3 of these Tendering Instructions applies to Candidates not invited to the Dialogue. If a Candidate has objections against the decision determining the Candidates to be admitted to the First Phase of Dialogue on the basis of theirs scores, it must

indicate its objections to the Contracting Authority in writing within twenty calendar days following the date on which the decision was circulated.

After expiry of the appeal period of twenty calendar days for objecting to the decision on the selection of Candidates with the highest score and if five Candidates have not been selected on the basis of score, all remaining Candidates eligible for an invitation to participated shall be included in a draw to determine the parties to be invited to participate in the First Phase of Dialogue based on the drawing of lots procedure in paragraph 3.16.6 until there are five parties selected for participation in the First Phase of Dialogue. Given that the Candidates may be present when the draw occurs and that no evaluation is involved at this point, the decision based on the draw has an appeal period of three calendar days. If a Candidate has objections against the decision determining the Candidates to be admitted to the First Phase of Dialogue based on the draw, it must indicate its objections to the Contracting Authority in writing within three calendar days following the date on which the decision was circulated.

Candidates must use the model included in Schedule 2.6 to demonstrate that a further election criterion is satisfied.

3.16.2 Further selection criterion A: Experience with the integrated performance of design and construction work on a dike gate

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

During the preceding five years (prior to the final date for submitting a request to participate; see paragraph 3.3), the Candidate must have accumulated demonstrable experience with:

- A. Integrated performance of design and construction work on a dike gate that is an integral part of an existing primary dike, during which time there was uninterrupted compliance with water-retention requirements; or
- B. Integrated performance of design and construction work on a dike gate that is an integral part of an existing coastal defence structure, during which time there will be uninterrupted compliance with water-retention requirements.

A primary dike in the meaning of this further selection criterion is understood to mean a water-retaining structure that protects against flooding.

A coastal defence structure in the meaning of this further selection criterion is understood to mean a barrier that prevents the sea from flowing into land or a fresh water body lying below sea level.

3.16.3 Further selection criterion B: Experience with the integrated performance of design and construction work on a lock

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

During the preceding five years (prior to the final date for submitting a request to participate; see paragraph 3.3), the Candidate must have accumulated demonstrable experience with:

- A. Integrated performance of design and construction work of a lock suitable for CEMT class Va or larger; or
- B. Integrated performance of design and construction work of a sea lock

A sea lock in the meaning of this further selection criterion shall be understood as a lock allowing passage of maritime vessels from a sea subject to tides to a tide-free environment and vice versa.

3.16.4 Further selection criterion C: Experience with system integration and / or maintenance of an industrial automation system

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 (prior to the deadline date of submitting a request to participate; see paragraph 3.3), the Candidate has acquired demonstrable experience with system integration and/or maintenance of an industrial automation system.

System integration of an industrial automation system in the meaning of this further selection criterion shall be understood as:

- The defining of system architecture; and
- The design, construction and verification of the industrial automation system in accordance with the system architecture; and
- The technical integration of the industrial automation system with other industrial automation systems; and
- The organisational embedding of an industrial automation system in an operational organisation.

Maintenance of an industrial automation system in the meaning of this further selection criterion shall be understood as:

- the guaranteeing of the availability and reliability of an industrial automation system for at least two years during the operating phase; and
- The implementation of updates, configuration management and error management for an industrial automation system for at least two year during the operating phase, for example in accordance with ITIL³.

An industrial automation system in the meaning of this further selection criterion shall be understood as a system of mechanical and electro-technical equipment for executing and controlling a primary production process in which this equipment is linked through appropriate hardware and software to the PLC, DCS and SCADA systems. The link has the purpose of collecting and displaying dynamic information, and executing operations and controls from a central point in order to manipulate the above-mentioned process.

3.16.5 Score to be obtained

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

³ Information Technology Infrastructure Library

Candidates may submit no more than 3 (three) reference projects for each criterion. The maximum number of reference projects 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, all 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.

Schedule 1: Definitions

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 Large Projects and Maintenance

Data Room

The integrated system consisting of a connection to a server of the Contracting Authority and the operational software of said server, by means of which Candidates gain access to the digital archive containing documents and information in connection with the tender procedure of the Project.

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.

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 Work;
 - (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 Work is 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) Work;
 - (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.

Financer:

Any legal entity that has entered into a financing agreement and that is:

- (a) not an institutional investor, and under the supervision of a supervisor or a supervisory authority of another Member State, or of a supervisory authority of a State which is not a Member State and at least set equivalent requirements as a supervisory authority of Member States (all as defined in Article 1.1 of the Financial Supervision Act);
- (b) an Institutional Investor, or
- (c) an entity that is not a legal person as referred to under (a) or (b), but whose obligations are guaranteed by an entity who is a legal person referred to in subparagraph (a) or (b)'s own liability

First Phase of Dialogue

The phase in which Dialogue begins, which will be described in the Tender Procedures.

General Clarification

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

Institutional Investor

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 Contract.

Second Phase of Dialogue

The final phase of Dialogue, which will be described in the Tender Procedure.

Selection Instructions

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

Selection Phase

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

Self-Declaration

The Self Declaration for Tender Procedures of contracting authorities or the Third-party declaration on grounds for exclusion together with the Supplementary self-declaration, as indicated in paragraph 3.11.3.

Self-Declaration for tender procedures of contracting authorities

The declaration established in accordance with Article 2, paragraph 2 of the Dutch Public Procurement Decree of 11 February 2013.

Shareholder

A holder of shares in the capital of the SPV.

Short-Listing Output Risk Management Plan

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 natural or legal entity whose technical competence is employed by a Candidate for purposes of fulfilling technical expertise requirements or the criteria for further selection.

SPV

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

Successful Tenderer

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

Supplementary Self-Declaration

The Supplementary Self-Declaration in Appendix 2.3.B.

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.

Tender Documents

The Tendering Instructions, the Selection Instructions, the DBFM Contract, the General and Confidential Clarification, invitations to participate in another (subsequent) phase of the Tender Procedure, and all other documents supplied to Candidates by the Contracting Authority in the context of the Tender Procedure and designated as such.

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 that is included as Schedule 2.3.C and must be completed by the Significant Subcontractor in accordance with paragraph 3.11.3 of the Selection Instructions.

Schedule 2: Model forms for request to participate

Schedule 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. Information about participant(s) in the SPV (to be provided for each participant)

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 acting on behalf of the SPV in process of incorporation must supply the information requested under B. 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 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 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 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 acting on behalf of the SPV in the process of incorporation. .

Appendices to request to participate:

Tab A: Request to participate

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

- Contingent (special⁷) 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 (special) 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: Self-declarations (paragraph 3.11)

Fully completed and legally signed Self-declarations from every participant in the SPV in the process of incorporation and every Significant Subcontractor. For participants in the SPV in the process of incorporation, the Self-declarations consist of the Self-declaration of Tender Procedures of contracting authorities (Schedule 2.3.A) and the Supplementary self-declaration (Schedule 2.3.B). For Significant Subcontractors, the Self-declaration consists of the Third-party declaration on the grounds for exclusion (Schedule 2.3.c) (see paragraph 3.11.3 of the Tender Instructions) as well as the Supplementary self-declaration (Schedule 2.3.B).

The Self-Declaration must be submitted along with:

- A copy of a valid proof of identity of the natural person or persons acting as authorised representative in signing a Self-Declaration on behalf of the respective participants in the SPV in the process of incorporation and Significant Subcontractor;
- Contingent (special) power of attorney granted the aforementioned natural person for the purpose of validly signing a 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. In such a case a copy of a valid proof of identity of the person(s) signing the authorisation of the power(s) of attorney must also be submitted.

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

Tab D: Statement of economic and financial strength (paragraph 3.12)

A statement of economic and financial standing, completely filled out and validly signed by the financial institution – in the sense of Paragraph 3.12 of the Tendering Instructions – in conformity with the model supplied in Appendix 2.4, including:

- Extract from the register of companies for the financial institution.
- A copy of a valid proof of identity of the natural person or persons acting as authorised representative in signing the statement of economic and financial standing of availability of the Significant Subcontractor on behalf of the financial institution.
- Contingent (special) power of attorney granted the aforementioned natural person for the purpose of validly signing the statement of economic and financial standing. Said power of attorney is only required if the signatories' authorisation of representation is not already fully demonstrated by the extracts from the register of companies supplied. In such a case a copy of a valid proof of identity of the person(s) signing the authorisation of the power(s) of attorney must also be submitted.

Tab E: 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 Annex 2.5, including for each reference project:

- Contingent (special) 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.

Tab F: Declaration pertaining to further selection criteria (paragraph 3.16)

One reference completed and legally signed by the Candidate and any Significant Subcontractor, in conformity with the model supplied in Annex 2.6, including for each reference project:

- Contingent (special) 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.

Schedule 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],

[naam vertegenwoordigingsbevoegd natuurlijk persoon]

[functie]

[handtekening]

⁸ To be completed by each Significant Subcontractor on whose experience the Candidate draws.

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

Attached separately as PDF file

Schedule 2.3.B: Model Supplementary Self-Declaration

This model must be fully completed and signed by the Candidate and each Significant Subcontractor. In the case of an SPV in process of incorporation, all natural or legal persons 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, Significant Subcontractors, or other subcontractors, to the extent that such is permissible under the limitations set forth in Directive 2004/18/EC.

Where applicable, *company* shall be understood as the Candidate, each participant in an SPV in the process of incorporation, each Significant Subcontractor and each subcontractor.

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

SUPPLEMENTARY SELF-DECLARATION

Within the context of the tender procedure for the IJmond Sea Lock project

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 that:

- 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.

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, this being understood as fraud involving either expenditures or 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):

Schedule 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

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 Grote Projecten en Onderhoud
IJmond Sea 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 IJmond Sea 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]

[naam vertegenwoordigingsbevoegd natuurlijk persoon]

[functie]

[handtekening]

Schedule 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 carried out under certified quality assurance	Yes/no

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

¹⁰ Cross out the inappropriate answer.

	(based on standard ISO 9001 or equivalent)?	
Value	Is the total value of the design and construction works at least EUR 50,000,000 (fifty 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 3.13.2 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 50,000,000 (fifty 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],

[naam vertegenwoordigingsbevoegd natuurlijk persoon]

[functie]

[handtekening]

Schedule 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)		
The Candidate uses the reference project to demonstrate that, in executing the Project, it can avail itself of experience with the integrated performance of design and construction work on a dike gate, with the integrated performance of design and construction work on a lock and with system integration and/or maintenance of an industrial automation system.		
Criterion A: Experience with the integrated performance of design and construction work on a dike gate		
Past five years	Has the above-mentioned contractor submitted a reference pertaining to the last five years?	Yes/no
Integrated performance of design and construction work on a dike gate	Does the above-mentioned contractor have demonstrable experience with the integrated performance of design and construction work on a dike gate?	Yes/no
Mechanism constituting an integral part of primary dike	Does the work involve a dike gate that is an integral part of an existing primary dike?	Yes/no
Uninterrupted	Was it also necessary to ensure	Yes/no/n.a.

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

compliance with water-retaining requirements	uninterrupted compliance with water-retaining requirements?	
Mechanism constituting an integral part of coastal sea defences	Does the work involve a dike gate that is an integral part of existing coastal sea defences?	Yes/no
Uninterrupted compliance with water-retaining requirements	Was it also necessary to ensure uninterrupted compliance with water-retaining requirements?	Yes/no/n.a.
Criterion B: Experience with the integrated performance of design and construction work on a lock		
Past five years	Has the above-mentioned contractor submitted a reference pertaining to the last five years?	Yes/no
Integrated performance of design and construction work on a sea lock	Does the above-mentioned contractor have demonstrable experience with the integrated performance of design and construction work on a lock suitable for CEMT class Va or larger?	Yes/no
Integrated performance of design and construction work on a sea lock	Does the above-mentioned contractor have demonstrable experience with the integrated performance of design and construction work on a sea lock?	Yes/no
Criterion C: Experience with system integration and/or maintenance of an industrial automation system		
Past five years	Has the above-mentioned contractor submitted a reference pertaining to the last five years?	Yes/no
System integration of an industrial automation system	Does the above-mentioned contractor have demonstrable experience with the task of defining system architecture?	Yes/no
	Does the above-mentioned contractor have demonstrable experience with the design, construction and verification of an industrial automation system in accordance with system architecture?	Yes/no
	Does the above-mentioned contractor have demonstrable experience with the technical integration of an industrial automation system with other industrial automation systems?	Yes/no
	Does the above-mentioned contractor have demonstrable	Yes/no

	experience with the organisation embedding of an industrial automation system with other industrial automation systems?	
Maintenance of an industrial automation system	Does the above-mentioned contractor have demonstrable experience with the task of guaranteeing the availability and reliability of an industrial automation system for at least two years during the user phase?	Yes/no
	Does the above-mentioned contractor have demonstrable experience with the implementation of updates, configuration management and error management of an automation system for at least two years during the user phase?	Yes/no
Industrial automation system	Do(es) the reference(s) relate to an industrial automation system of mechanical and electro-technical equipment for executing and controlling a primary production process in which this equipment is linked through appropriate hardware and software to the PLC, DCS and SCADA systems?	Yes/no
	Does the link have the purpose of collecting and displaying dynamic information, and executing operations and controls from a central point in order to manipulate the above-mentioned process?	Yes/no

Signed at [place] on [date]

[Candidate / Significant Subcontractor],

[naam vertegenwoordigingsbevoegd natuurlijk persoon]

[functie]

[handtekening]

Schedule 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 projects to be submitted for consideration during further selection is 9 (nine).

Candidate score table:		
Additional selection criteria for further selection	Maximum score (Number of reference projects that each individual satisfy the criterion)	Score obtained
A: Experience with the integrated performance of design and construction work on a dike gate	<i>Per project:</i> <i>Demonstrated experience with integrated design and construction work on a dike gate that is an integral part of an existing primary dike, during which time there was uninterrupted compliance with water-retention requirements: 1 point</i> <i>Or</i> <i>Demonstrable experience with integrated design and construction work on a dike gate that is an integral part of an existing coastal defence structure, during which time there will be uninterrupted compliance with water-retention requirements: 3 points</i> <i>Overall score</i> <i>Sum of the scores per project</i>	
B: Experience with the integrated performance of design and construction work on a locks	<i>Per project:</i> <i>Demonstrable experience with the integrated performance of design and construction work on a lock suitable for CEMT class Va or larger: 1 point</i> <i>Or</i>	

	• <i>Demonstrable experience with the integrated performance of design and construction work on a sea lock: 3 points</i> <i>Overall score</i> <i>Sum of the scores per project</i>	
C: Experience with system integration and maintenance of an industrial automation system	<i>Per project:</i> • <i>Demonstrable experience with the system integration of an industrial automation system: 1 point</i> <i>Or</i> • <i>Demonstrable experience with the maintenance of an industrial automation system: 1 point</i> <i>Or</i> • <i>Demonstrable experience with the system integration and maintenance of an industrial automation system: 3 points</i> <i>Overall score</i> <i>Sum of the scores per project</i>	
Overall score		