

Selection Instructions
A27/A1 Utrecht North - Interchange Eemnes - Connection
Bunschoten-Spakenburg



Imprint

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Table of contents

1	Introduction	5
1.1	Selection Instructions	5
1.2	Definitions	5
1.3	Tender via TenderNed	5
1.4	Contracting Authority	6
1.5	Project and objectives	7
1.5.1	Provocation	7
1.5.2	Scope	7
1.6	DBFM Agreement	9
1.7	Payment regime and project financing	9
1.8	Abridged description of tender procedure	10
1.8.1	Phasing of the tender procedure	10
1.8.2	Procedure Description	11
1.8	Planning procedure(s)	13
1.9	Management contracts and implementation agreements	14
2	General information	15
2.1	Candidates' declaration of consent	15
2.2	Applicable regulations	15
2.3	Safeguarding of legal rights – choice of court	15
2.4	Discontinuation of the procedure, Candidates' withdrawal	16
2.5	Notice	16
2.6	Language	16
2.7	Ceiling Price	17
2.8	Provision of information	17
2.8.1	Website	17
2.8.2	Data Room – Dissemination of information	17
2.8.3	Electronic communication	17
2.9	Confidentiality and intellectual property rights	18
2.9.1	Confidentiality to be observed by the Candidates	18
2.9.2	Confidentiality to be observed by the Contracting Authority and intellectual property rights	18
2.10	General and Confidential Clarifications	18
2.10.1	General Clarification	19
2.10.2	Confidential Clarification	19
2.11	Communication	19
2.12	Inside information and conflicts of interest	19
2.13	Complaints regarding the tender procedure	20
2.14	Motivations in the context of the Public Procurement Act	20
3	Selection Phase	23
3.1	General	23
3.2	Registration	23
3.3	Clarifications	23
3.4	Requests to participate	23
3.5	Single instance of involvement of (legal) persons	25
3.6	Candidates: SPVs, SPVs in process of incorporation	25
3.7	Article 6 of the Dutch Competitive Trading Act	26
3.8	Demonstrating suitability	26
3.8.1	General	26
3.8.2	Use of third parties: Significant Subcontractors	26

3.8.3 Attribution of experience	26
3.9 Changes in the composition of Candidates, designation of Significant Subcontractors	26
3.10 Information to be submitted	27
3.11 Grounds for Exclusion	28
3.11.1 Compulsory grounds for exclusion	28
3.11.2 Optional grounds for exclusion	28
3.11.3 Declarations to be submitted.....	28
3.11.4 BIBOB Advisory Bureau	29
3.11.5 Exclusion	29
3.12 Financial and economic standing	30
3.12.1 Financial and economic standing requirement	30
3.12.2 Proof of financial and economic standing	30
3.13 Technical and organisational ability.....	31
3.13.1. Project management experience requirement	31
3.13.2 Project financing experience requirement	31
3.13.3 Information to be submitted	32
3.14 Verification by the Contracting Authority	32
3.15 Evaluation of request to participate - invitation to Dialogue	32
4 First Phase of Dialogue	32
schedule 1: Definitions.....	34
schedule 2: Model forms for request to participate	37
schedule 2.1: Model form for request to participate	37
schedules to request to participate:	41
schedule 2.2: Model statement for availability of Significant Subcontractor.....	44
Schedule 2.3 A: Self-Declaration for tender procedures of contracting authorities	45
schedule 2.3 B: Model of Supplementary Self-declaration (to be submitted with the Self-declaration for tender procedures of contracting authorities or with the Third-party Declaration on grounds for exclusion)	46
schedule 2.4: Model declaration of financial and economic standing.....	50
schedule 2.5: Model declaration of technical and organisational ability	52
schedule 2.6: Third-party Declaration on grounds for exclusion.....	54
schedule 3 DBFM Agreement Draft	57
schedule 4: abbreviated EMAS table.....	58
schedule 5: Policy Document on Separation of Interests	59

1 Introduction

1.1 Selection Instructions

The tender procedure for the A27/A1 Utrecht Noord - Interchange Eemnes - Connection Bunschoten-Spakenburg project is described in these Selection Instructions and the Tender and Assessment Instructions that shall follow from this.

The Selection Instructions cover the period from placing the announcement to the Invitation to participate in the First phase of Dialogue. The Tender and Assessment Instructions shall cover the period from the Invitation to Participate in the First phase of Dialogue up to and including Contract Close and Financial Close. The Tender and Assessment Instructions shall be provided at the time of the invitation to participate in the First Phase of Dialogue.

The Candidate is responsible for verifying proper receipt of the Tender Documents. If the Tender Documents have not (all) been received, the Candidate must report this fact to the Contracting Authority via a notification through the website detailed in paragraph 1.4.

The Tender Documents have been prepared with great care. However, if a Candidate has any reservations about any alleged contradictions, inaccuracies, possible violations of the law or (other) irregularities, the Candidate 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). If the Candidate fails to promptly notify the Contracting Authority of contradictions, inaccuracies or possible violations of law, the Candidate may not invoke them at a later date.

1.2 Definitions

Terms that are capitalised in these Selection Instructions are defined in schedule 1 to these Selection Instructions or in Schedule 1 to the (draft) DBFM Agreement. When a capitalised term is defined in schedule 1 to these Selection Instructions and in Schedule 1 to the DBFM Agreement, the definition in question applies only to the document to which it is appended. The Schedules linked to the DBFM Agreement are capitalised ("**S**chedule [.]"), while schedules for these Tender and Assessment Instructions are not capitalised ("**s**chedule [.]").

1.3 Tender via TenderNed

Part of the tender procedure shall be carried out digitally by means of TenderNed: www.tenderned.nl. This concerns, at least, the Selection Phase.

For participation in the tender procedure, a business person must be registered as a user in TenderNed. The "conditions of use TenderNed" are applicable.

Business persons are expected to have all the necessary knowledge of TenderNed in order to be able to tender.

Use of TenderNed is for the account and risk of the business person, subject to the provisions in paragraph 3.4.a.

Documents included in the digital submission of the request to participate must be signed by means of a certified electronic signature with security level IV (PKI certificate).

If signing **does not** involve an electronic signature with security level IV, original signed documents must be scanned.

Questions with regard to this tender procedure can only be asked by means of TenderNed.

1.4 Contracting Authority

The Contracting Authority is: The State of the Netherlands
Ministry of Infrastructure and the Environment
Rijkswaterstaat Major Projects and Maintenance

Project Organisation: A27/A1 Utrecht North - Interchange Eemnes - Connection
Bunschoten-Spakenburg

Contact: Mr. E.A. Floor
Office address: Griffioenlaan 2
3526 LA Utrecht

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

In writing

Rijkswaterstaat Tendering Team RWS GPO
Contact: Mr R. C. de Brabander
Office address: Griffioenlaan 2
3526 LA Utrecht

TenderNed

Rijkswaterstaat Tendering Team RWS GPO
Contact: Mr R. C. de Brabander
Website: www.tenderned.nl

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

Contact: Mr. E.A. Floor
Office address: Griffioenlaan 2
3526 LA Utrecht

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

Contact: Mr R. C. de Brabander
Email address: www.tenderned.nl

1.5 Project and objectives

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

1.5.1 Provocation

The region of Utrecht, with its central location, is one of the main links in the road infrastructure of the Netherlands. The Mobility Memorandum, below, sets out the government policy for traffic and transport until the year 2020. This shows that the roads are not only crucial to the region itself, but traffic from the south, east and north of the Netherlands must also be able to pass through the region of Utrecht in order to access the western parts of the Randstad. The Mobility Memorandum is encompassed within the Structure Vision Infrastructure and Space (SVIR). The Mobility Memorandum sets out that there are accessibility issues on the main road network in the Utrecht region. Standards for journey times, traffic flow and reliability are therefore not being fulfilled. The Memorandum predicts a further increase in traffic as a result of general traffic growth and the development of urban areas in the region. Problems will increase as a consequence. The SVIR includes the aim to expand the A1 and the A27 to 2x4 lanes by 2040. For this purpose, a planning study was drawn up for the project A27/A1. The result of the planning study is the Infrastructure Decree A27/A1 Utrecht North - Interchange Eemnes - Connection Bunschoten-Spakenburg that was signed by the minister on September 4, 2014. The Infrastructure Decree includes the construction of 2x4 traffic lanes on the A1 and is the first step towards the accessibility guarantee outlined in the SVIR. For the A27, this relates to the construction 2x3 lanes with a space reserved for a possible fourth traffic lane or HOV-connection; this adaptation also fits in with the aims of the SVIR. These measures are part of the overall package that is necessary to ensure that in the year 2020 the flow on the Utrecht ring road and the Utrecht - Hilversum - Amersfoort triangle meets the target values from the Mobility Memorandum. The measures on the A27/A1 also contribute towards raising the standard of living around these roads due to the improvement of integration/design.

1.5.2 Scope

The aim of the Project is to implement the measures from the Infrastructure Decree. The Infrastructure Decree relates to the adaptation of the A27 between Utrecht and Hilversum (interchange Eemnes) and the A1 between Hilversum (interchange Eemnes) and connection Bunschoten-Spakenburg in both directions. The project has been included in the Multi-Year Programme for Infrastructure, Spatial Planning and

Transport (Meerjarenprogramma Infrastructuur Ruimte en Transport, abbreviated MIRT). The road adaptations include:

- Expansion of the A27 motorway from 2x2 to 2x3 traffic lanes on the section Utrecht-Noord - interchange Eemnes, with a space in the central reservation for a future fourth traffic lane or an public transport lane;
- Establishment of a peak-lane on the hard shoulder between connection Utrecht-Noord and connection Bilthoven;
- Expansion of the A1 motorway from 2x2 to 2x4 lanes on the section interchange Eemnes - connection Bunschoten-Spakenburg ;
- Widening of the loop in interchange Eemnes from the A27 to the A1 from 1 to 2 traffic lanes;
- Replacement of the connection Hilversum on the A27 by a much smaller junction;
- Alteration of the connection Bilthoven.

The other measures relate mainly to the creation or relocation of noise screens, the installation of twin layered very porous asphalt and the establishment of the necessary measures for water management and nature compensation. Various structures will also be adapted or updated.

The Project consists of two phases: construction and maintenance for 25 years. The scope for each phase is indicated in the table below.

A27-A1 Connection Utrecht North - Interchange Eemnes - Connection Bunschoten-Spakenburg				
	Motorway	Route Section	Existing situation	Future situation
Construction	A27	Km 82.90 – 97.33	2x2	2x3, peak-lane as 4th lane
	A1	Km 30.10 – 39.30	2x2	2x4
Maintenance	A27	Km 86.10 – 98.70		
	A1	Km 28.88 – 37.50 (north lane) Km 28.88 – 38.60 (south lane)		

1.5.3 Outline project planning

Outlines of the Project Schedule	
Announcement	6 May 2015
Selection Phase	May-July 2015
Dialogue Phase	September 2015- May 2016
Expected Contract Close	Q3-2016
Expected Financial Close	Q4-2016
Expected Commencement Date	Q1 -2017
Expected Planned Availability Date	Q4-2018
Expected Completion Date	Q2 -2019

Expected End Date	Q4-2043
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This Appendix is indicative and no rights can be derived from it.

1.6 DBFM Agreement

The draft DBFM Agreement is attached as schedule 3.

At the end of the Dialogue, the draft DBFM Agreement shall be supplemented with the results of the Dialogue.

The [•] symbol in the DBFM Agreement and Schedules indicates that further details shall be added by the Contracting Authority in a manner that shall be identical for all Candidates.

The symbol [••] indicates where items for specific candidates are included in the DBFM Agreement.

1.7 Payment regime and project financing

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

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

The Contractor is responsible for the financing of the Project. The financing must be structured in such a way that Financiers make loan capital available to the Contractor, or at least guarantee such, based on the basic 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 of the Direct Agreement shall be attached to the DBFM Agreement as Schedule 6 (Direct Agreement).

The Tenderers must submit a Financing Plan with their Tender which specifies how they shall attract sufficient financing for the Project to fulfil all the obligations arising from the DBFM Agreement. The Candidate shall 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. Additionally, the Financing Plan must be submitted by the Tenderer as part of its Tender; the Contracting Authority stresses that *due diligence* must have taken place prior to the Tender, assuming that the DBFM Agreement shall not undergo any further changes.

The interest rate risk during the period between submission of Tender and Financial Close remains under conditions with the Contracting Authority. This specifically means that only changes in respect of the reference rates, with regard to the reference rates specified by the Contracting Authority for the purpose of the Tender, shall lead to the adjustment of the Gross Availability Payment.

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

For the time being, the Contracting Authority is assuming that financing with an inflation-related component and/or hard mini perm financing shall not be an available option for the Project.

1.8 Abridged description of tender procedure

1.8.1 Phasing of the tender procedure

The tender procedure shall proceed 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.

ACTIVITY	Start	End
Selection phase (n Candidates)		
Publication of Announcement and dispatch of TED		6 May 2015
Submission of requests for clarification	7 May 2015	04 June 2015
Publication of the (final) summary of additional information and changes		11 June 2015
Submission of requests to participate		19 June 2015
Assessment of requests to participate	19 June 2015	7 July 2015
Selection		7 July 2015
Appeal deadline	8 July 2015	17 July 2015
First phase of Dialogue (n Candidates)		
Invitation to Participate in the First Phase of Dialogue.		07 July 2015

Starting conference		21 September 2015
Submission of requests for clarification	22 September 2015	28 October 2015
Bilateral consultations (option)	12 October 2015	16 October 2015
Publication of the (final) summary of additional information and changes		6 November 2015
Submission of Short-listing Product		20 November 2015
Assessment of Short-Listing Product	20 November 2015	18 December 2015
Decision on participation in Second Phase of Dialogue		18 December 2015
Appeal period [10 calendar days]	19 December 2015	11 January 2016
Second Phase of Dialogue (3 Candidates)		
Dialogue discussions	January 2016	April 2016
Conclusion of Dialogue		April/ May 2016
Submission Phase (3 Tenderers)		
Invitation to Tender		April/May 2016
Submission of the qualitative part of the Tender		May 2016
Submission of the quantitative part of the Tender		June 2016
Assessment of Tenders	May 2016	June 2016
Designation of Selected Tenderer (intention)		July 2016
Legal Protection Period non-selected Tenderers [20 calendar days]		July 2016
Completion (1 Selected Tenderer)		
Contract Close (indicative date)		Q3-2016
Financial Close (indicative date)		Q4-2016

1.8.2. 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.

This Selection Phase is further described in Chapter 3.

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 phases:

- First Phase of Dialogue:

- Second Phase of Dialogue;

The First Phase of Dialogue, including further investigation of the Short-Listing Product and the method for its assessment and evaluation, shall be described in more detail in the Tender and Assessment Instructions. In the First phase Dialogue, the number of Candidates invited for the continuation of the tendering procedure is reduced to three insofar as more than three Candidates appear to meet the minimum requirements. This is done by an assessment of the Candidates' Short-Listing Products. The Contracting Authority shall invite three Candidates to participate in the Second Phase of Dialogue on the basis of assessment of their Short-Listing Products.

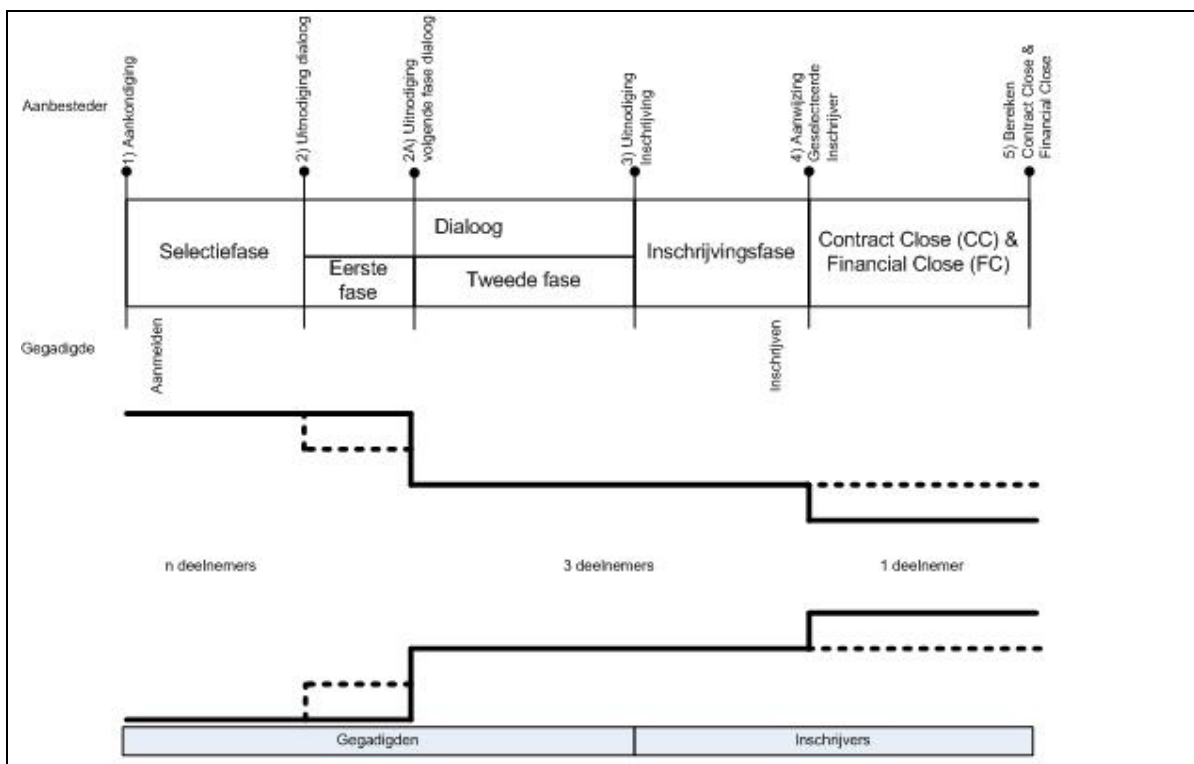
The Second Phase of Dialogue shall be described in more detail in the Tender and Assessment Instructions. During the Second Phase of Dialogue, the Contracting Authority shall further harmonise and, if required, adjust the contents of the DBFM Agreement with the Candidates. No selection shall take place during the Second Phase of Dialogue.

Based on the results of the Second Phase of Dialogue, the Contracting Authority shall be able to review the Tender Documents for all Candidates on an equal basis.

Submission Phase

The Submission phase follows the Contracting Authority's completion of the Second Phase of Dialogue. This phase shall be described in the Tender and Assessment Instructions. The Project is awarded according to the criterion of the most economically advantageous submission (EMAS). **The EMAS criteria are described in schedule 4.**

Schematic representation of tender procedure



1.8 Planning procedure(s)

The Minister signed the Infrastructure Decree on September 4, 2014. From 12 September up to and including 23 October 2014, the Infrastructure Decree was provided to the Council of State for inspection. Twenty-nine appeals were received, 1 of which was submitted on behalf of 39 appellants. In this context, this appeal shall be considered to be 1 appeal as a result of the similarities. One appellant has withdrawn his appeal and 6 have of the appellants have been declared inadmissible because of the non-payment of fee.

There are therefore 22 remaining appeals. The grounds largely correspond to future road traffic noise due to the A27 and are mainly from the municipality of De Bilt, more specifically the areas of Groenekan and Hollandsche Rading. The same appellants have also raised objections in relation to air quality and external safety. The 4 objections with respect to the A1 mainly concern impact upon visual quality and subsequent lost revenues.

The Council of State met on March 18, 2015. The judgement of the Council of State is expected in June-August 2015.

A statement of defence has been submitted on behalf of the minister. According to the Minister, the Infrastructure Decree fulfils the requirements placed upon it by law and regulations. The Minister is of the opinion that the objections - on substantive grounds - are not well founded, or are inadmissible for procedural reasons. According to the minister, the Infrastructure Decree can form a starting point for the development, in its current form.

If the judgement of the Council of State, however, sets out any deficiencies in the Infrastructure Decree, these shall be rectified on the basis of historical figures within a period of 12 to 24 weeks. In that case, it is likely that it will become irrevocable in the course of the fourth quarter of 2015. This, however, is an estimate and does not provide any guarantees. The Candidates shall therefore be kept informed of the most recent state of affairs with respect to the appeal procedure for the duration of the tendering procedure.

1.9 Management contracts and implementation agreements

In preparation for this tender procedure the Contracting Authority has entered into the administrative and implementation agreements listed below.

Party	Description of agreement
Province of Utrecht	Administrative agreement
	Implementation agreement
Province of Noord-Holland	Administrative agreement
	Implementation agreement
Municipality of De Bilt	Administrative agreement
	Implementation agreement
Municipality of Hilversum	Administrative agreement
	Implementation agreement
Municipality of Baarn	Administrative agreement
	Implementation agreement
Municipality of Eemnes	Administrative agreement
	Implementation agreement
Municipality of Amersfoort	Implementation agreement
Vallei en Eem Waterboard	Implementation agreement
De Stichtse Rijnlanden Water Authority	Implementation agreement
Goois Nature Reserve	Joint venture agreement
	Implementation agreement

Project Requirements arising from the administrative agreement shall be included in the DBFM Agreement.

2 General information

2.1 Candidates' declaration of consent

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

2.2 Applicable regulations

The tender procedure shall be conducted as a competitive Dialogue (Articles 2.28 and 2.29 of the Public Procurement Act and Chapter 4 of the Works Procurement Regulations 2012).

Unless otherwise stated in the Selection Instructions or the Tender and Assessment Instructions, the laws and regulations shall applicable to the tender procedure shall include the following:

- Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for awarding public works, supplies and service contracts;
- Directive 89/665/EC of the Council of 21 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;
- The Public Procurement Decree;
- The Dutch Tender Regulations for Public Works 2012 (ARW 2012);
- The Public Administration (Probity in Decision-Making) Act (BIBOB Act).

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 periods mentioned in the Tender Documents shall begin at 12:00 AM on the day following the issue of the decision and all deadlines 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) implement the decision. Should any legally valid decision fail to indicate a specific appeal period, the appeal period for said decision is then 20 Calendar Days.

A Candidate that has objected to any decision must also initiate interim injunction proceedings against the decision within 20 Calendar Days following the date on which Contracting Authority issued the decision. Proceedings are pending starting on the day of the summons (Article 125 of the Code of Civil Procedure).

Any dispute between the parties involved in the tender procedure arising on account of the tender procedure must be submitted to the civil courts in 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 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 submitting their Tender 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

The notice was announced on 6 May 2015 on the internet site www.tenderned.nl and sent to the Office for Official Publications of the European Communities

No advanced notice was published

2.6 Language

This tender procedure is to be conducted in the Dutch language. Insofar as the Contracting Authority does not specify otherwise, all documents to be submitted in Dutch. In the event that certain declarations originally formulated in a foreign language have to be submitted in Dutch, the Candidate is required to submit the declaration in both the original (foreign) language with a translation into Dutch.

The Contracting Authority permits the following documents to be submitted in English, German or French without a translation:

- Certificate of Conduct for Procurement (GVA) or equivalent certificate;
- Extract from a Trade Register;
- Copy of valid proof of identity;
- Statement of economic and financial standing;
- Power of attorney.

If the Candidate is asked to submit a Certificate of Conduct for Procurement, extract from a trade register or copy of valid proof of identity and the Candidate wishes to submit the document in a language other than Dutch, English, German or French without a translation, it must first obtain permission from the Contracting Authority.

The Contracting Authority permits the following documents to be submitted in English without a translation:

- Original Financial Model:
- Financing plan:
- Financial Advisor's supporting statement
- Supporting statement (external) credit capital provider (Mandated Lead Arranger)
- European Investment Bank supporting statement.

2.7 Ceiling Price

The Ceiling Price for the execution of the DBFM Agreement shall be indicated in the Tender and Assessment Instructions.

2.8 Provision of information

2.8.1 Website

The Contracting Authority has set up a project website with the URL http://www.rijkswaterstaat.nl/wegen/plannen_en_projecten/a_wegen/a27/a27_a1_planstudie_utrecht/index.aspx

2.8.2 Data Room – Dissemination of information

For the purposes of this tender procedure, the Contracting Authority shall set up a virtual Data Room on an extranet site at 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 the Data Room. To facilitate this tender procedure, the Contracting Authority shall disseminate the information digitally – as far as possible – in PDF file format and in Word and Excel format. In case of discrepancies between the two formats, the PDF version shall prevail. During the Dialogue, the Contracting Authority shall promptly determine which information in the Data Room is to be designated as being “Disseminated Information” in the meaning of the DBFM Agreement.

2.8.3 Electronic communication

This tender procedure allows the option of communications between the Contracting Authority and the Candidates occurring by electronic means.

Information exchanged between the Contracting Authority and the Candidates by electronic means will primarily be communicated in PDF format and also in Word or Excel format. In the case of discrepancies between 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 must protect information received from the Contracting Authority against unauthorised use. Candidates may, however, make such information available to subcontractors involved in the tender procedure, provided they subject them to this condition of confidentiality. This obligation is not valid if the Selection and Tender and Assessment 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 Products,, Dialogue products and Tenders;
- b) Confidential Clarifications 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 make confidential information known to third parties – under which other Candidates are included – 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 request the Contracting Authority for clarification of 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 each Candidate.

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

Candidates are not permitted to communicate about the tender procedure and the Project with the employees of the Contracting Authority, advisers from the Contracting Authority, other (legal) persons that are involved on the side of the Contracting Authority in the tender procedure and the preparation of the Project, or other stakeholders concerned with the Project, in a manner different from the one stipulated in the Selection Instructions or the Tender and Assessment Instructions, except after written permission from the Contracting Authority. A request for the granting of this written permission must be submitted to the Contracting Authority by a Candidate as a "request for clarification".

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

2.12 Inside information and conflicts of interest

The guidelines from the Rijkswaterstaat [Directorate-General for Public Works and Water Management] to prevent insider trading and conflicts of interest, as contained in the memorandum "Segregation of Interest: Policy Against Conflicts of Interest in

the Tender Procedure" dated 14 September 2007 (see schedule 5) are fully applicable to this tender procedure.

Every Candidate and Significant Subcontractor must indicate in the Supplementary Self-Declaration (schedule 2.3 B) whether there is (was) involvement in the preparation of the Project. If there was any involvement in the preparation of the Project, the Candidate is presumed to have advanced knowledge and/or a conflict of interest.

The Contracting Authority shall allow the Candidate the opportunity to refute, to the satisfaction of the Contracting Authority, the presumption referred to in the preceding paragraph and to show that fair competition is not affected by the (previous) involvement.

A Candidate may be excluded from participation in the tender procedure if the presumption referred to in the second subparagraph is not refuted.

2.13 Complaints regarding the tender procedure

In response to the report "Handling Complaints during Tender Procedures", the Contracting Authority has set up a complaints office.¹. Complaints regarding the tender procedure can be submitted to the Rijkswaterstaat Central Complaints Office for Tenders via the following e-mail address-: klachtenmeldpunt@rws.nl.

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

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

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

Complaints will be handled as soon as possible and the complainant informed accordingly. The filing of a complaint shall not have suspensive effect and shall not exempt the Candidate from having to submit a formal appeal on time or to initiate proceedings if and to the extent required (see paragraph 2.3).

2.14 Motivations in the context of the Public Procurement Act

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

- 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),

¹ For more information about the complaints office and the "Handling Complaints During Tender Procedures" report see the Rijkswaterstaat website. Go to: " www.rijkswaterstaat.nl/zakelijk", and make the following selections: Zakendoen met Rijkswaterstaat > Inkoopbeleid > Aanbesteden > Klachtenmeldpunt aanbesteden.

whereby the DBFM is chosen only if sufficient numbers of market parties can participate;

- The decision to apply the DBFM contract type for the project has been made on the basis of the PPC and thus meets the requirements of proportionality, transparency and objectivity;
- DBFM is in essence an integrated contract. The various components within the DBFM structure are inextricably linked and together form one unit within which the private financier assumes management responsibility for the project;
- Due to its specific nature, DBFM does not lend itself to being split up into component parts for integrated projects which, by definition, have a logically coherent scope;
- Combining design, development, maintenance and financing:
 - o affords market parties more room for product and process innovations leading to better performance at lower costs;
 - o leads to more maintenance-friendly designs and higher quality;
 - o offers market parties optimal opportunities to reduce the construction and maintenance costs;
 - o leads to better project management, shorter lead times and higher quality of services;
 - o leads to a clear allocation of area responsibility to one party, promoting the safety and flow of traffic;
 - o leads to higher design quality as the (financial) consequences of errors in the design rest with the contractor;
 - o makes it easier to limit the inconvenience for road users on the route and the underlying road network.
- DBFM contracts have fewer interfaces, thereby requiring less coordination;
- The combination of an integrated contract and award on price and quality (MEAT) offers tenderers more opportunities to compete on quality;
- DBFM is a strategic tool used across government to facilitate the efficient use of government resources and achieve savings. 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.

Regarding the scope of the Project, the following is stated.

The Project has a long history of planning procedures. The cabinet decided as long ago as 25 August 2006 that two sets of planning procedures should be worked out.

- Planning procedure package Ring Utrecht
- Planning procedure package Amersfoort-Hilversum-Utrecht.

The planning procedure package Amersfoort-Hilversum-Utrecht was divided into three separate planning procedures in 2008., These are:

- A27/A1 Utrecht – Eemnes – Bunschoten-Spakenburg
- A28 (Amersfoort – Utrecht)
- Knooppunt Hoevelaken

Traffic-management and environmental aspects played a key role in the division of planning procedure package Amersfoort-Hilversum-Utrecht,. The project A28 (Amersfoort-Utrecht) was included in the so-called Spoedwet.

A further division of Project A27/A1 Utrecht – Eemnes – Bunschoten-Spakenburg would have the following disadvantages:

- It would be undesirable for traffic management to divide the project because of the expected traffic hinder and coordination problems during the construction phases of divided sections of the project.
- Division of the project would create many organizational interfaces.
- It is necessary to complete the project all at one time in connection with the studies for the Infrastructure decree. Division of the project would bring extra time risks.

3 Selection Phase

3.1 General

During this phase the Candidates have the opportunity to qualify as participants in the First Phase of Dialogue. For this purpose, the Contracting Authority shall evaluate Candidates based on the grounds for exclusion and suitability requirements described in this chapter.

The Candidate must fulfil the requirements set forth in this chapter and must completely fill out the forms covered in Schedule 2. Forms that are filled out incompletely may lead to exclusion from (further) participation in the tender procedure.

3.2 Registration

Interested parties may register with the Contracting Authority, via the website indicated in paragraph 1.4, until 10 June 2015 (17:00).

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

3.3 Clarifications

Further information on the tender procedure, and on the documents relevant for the notification may be requested until 4 June, 2015 (15.00) via TenderNed, under the tab "Questions about the tender". 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 information given, which serves to clarify, supplement or change the Tender Documents, shall be used by the Contracting Authority to create a summary of additional information. This summary shall be published under the TenderNed tab "Summary of Additional Information" no later than 11 June, 2015.

3.4 Requests to participate

Interested parties must submit their request to participate both in writing and on TenderNed.¹

In writing

Candidates must mark their request to participate: "Confidential, request to participate in tender procedure A27/A1 Utrecht North - Interchange Eemnes - Connection Bunschoten-Spakenburg, file number 31090726" and submit it on June

¹ This is a transition to a fully digital tendering process.

19, 2015 between 10.00 and 15.00 to the Contracting Authority at the address given in paragraph 1.4 .

The Contracting Authority shall afford interested parties the opportunity to submit the request to participate at an earlier time. Interested parties shall make an arrangement with the Contracting Authority for this purpose via email.

Email address: aanbestedingsteam-gww@rws.nl

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 schedule 2.1. One copy of all original documents must also be included, as well as a copy of all documents on data carrier in PDF file format.

Requests to participate must entirely adhere to the model prescribed in schedule 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.

TenderNed

Interested parties must submit their request to participate by means of TenderNed, no later than June 19, 2015 at 15.00. The safe will close at that time. The date and time given shall be the final date and time for the receipt of requests to participate.

All of the documents that are required to be submitted with the request to participate should be submitted digitally by means of TenderNed.

Documents must be equipped with an electronically certified signature (security level IV), or be a scanned original document.

The original, signed paper copy of all documents that are scanned (and not provided with an electronically certified signature) must also be submitted to the Contracting Authority.

Paper documents must have been submitted to the Contracting Authority before the closure of the registration period.

3.4.a Force Majeure Event and delay with regard to TenderNed

Only in the event that TenderNed becomes inaccessible as a result of a reason that cannot be attributed to the business person/Candidate at the last moment for receipt of requests to participate, shall there be a case of a Force Majeure event.

In this event, the closure time of the registration period on TenderNed will be postponed by at least 24 hours. The changed time of closure shall be made known to the business persons/Candidates by the Contracting Authority.

3.5 Single instance of involvement of (legal) persons

(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, (legal) persons that meet the conditions given below are considered as being one (legal) person:

1. natural or legal persons affiliated with each other in some manner as per Article 2: 24a of the Dutch Civil Code; or
2. natural or legal persons associated with each other as a group as per Article 2: 24b of the Dutch Civil Code; or
3. (legal) persons affiliated with each other in a way comparable to subsection 1 or subsection 2 according to foreign laws.

3.6 Candidates: SPVs, SPVs in process of incorporation

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

The following may apply as Candidates:

- (a) an SPV, if already incorporated or (if the SPV has not yet been incorporated):
- (b) one or more (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 lead party 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 process of incorporation in all matters related to this tender procedure. 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 (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 process of incorporation, entry in the trade register is not required at the time of the request to participate. All (legal) persons (and/or future Shareholders) who will participate in the SPV in 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 reserves the right to report Candidates to the Dutch Authority for Consumers & Markets if the Contracting authority suspects they are 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 to the effect that, or with the result that, competition on the Dutch market or part of the market is hindered, limited or falsified.

3.8 Demonstrating suitability

3.8.1 General

Candidates must provide proof that, either on their own or by availing themselves of the technical expertise of one (or more) third parties, they fulfil the suitability requirements cited in Paragraphs 3.13.1 and 3.13.2. Should a Candidate avail itself of a third party (or several third parties), then it is to 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 schedule 2.2 is to be filled out and signed by the Significant Subcontractor(s).

3.8.2 Use of third parties: Significant Subcontractors

A Significant Subcontractor is considered to be a (legal) person whose technical competence is employed by a Candidate to fulfil one or more suitability requirements.

Significant Subcontractors must actually be used in activities that relate to the requirements for which the Significant Subcontractor is hired.

3.8.3 Attribution of experience

With regard to the suitability requirements laid down in paragraphs 3.13.1 and 3.13.2, a Candidate or Significant Subcontractor may only claim a particular type of experience if and to the extent that the Candidate or Significant Subcontractor has personally done the work pertaining to that type of experience.

3.9 Changes in the composition of Candidates, designation of Significant Subcontractors

In the event of unforeseen circumstances, such as the withdrawal of a participant in the SPV or a Significant Subcontractor due to events beyond the Candidate's control or for organisational reasons provided there are no additions to the parties involved, the Candidates may propose changes to their composition or to the designation of Significant Subcontractors. Candidates that propose a change of this nature must explain the reasons for this change in their proposal.

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 a selection has taken place, in order to obtain approval the Candidates must also demonstrate that they, in the new composition and in applying the criteria for selection, would achieve at least the same or a higher total score.

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 process of incorporation) and the Significant Subcontractors:

- a. Request to participate including all documents pertaining thereto (schedule 2.1).
- b. Declaration(s) of availability of Significant Subcontractors (paragraph 3.8) including all documents pertaining thereto (schedule 2.2).
- c. From the SPV or every (legal) person participating in the SPV in process of incorporation: a Self-declaration for tender procedures of contracting authorities (Schedule 2.3 A, that is, the standard declaration in accordance with the Public Procurement Act 2012¹) and a Supplementary Self-declaration (schedule 2.3 B).
- d. From every Significant Subcontractor: a "Third-party declaration on grounds for exclusion" (Schedule 2.6.) and a Supplementary Self-Declaration (Schedule 2.3.B).
- e. Statement of financial and economic standing (paragraph 3.12) including all documents pertaining thereto (schedule 2.4).

¹ see the website: <http://www.rijksoverheid.nl/documenten-en-publicaties/formulieren/2013/03/22/eigen-verklaring-aanbestedingsprocedure-aanbestedende-diensten.html>

- f. References regarding project management experience (paragraph 3.13.1) including all documents pertaining thereto (Schedule 2.5).
- g. Any reference(s) regarding project financing experience (paragraph 3.13.2) including all documents pertaining thereto (Appendix 2.5).

A list of documents to be submitted is included in the overview of the tabs in schedule 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 4.5.1 of the Works Procurement Regulation 2012 apply, without prejudice to the provisions in Article 4.5.7 of the Works Procurement Regulation 2012.

3.11.2 Optional grounds for exclusion

The Contracting Authority may exclude any Candidate or Significant Subcontractor from participation or involvement in the tender procedure if one of the circumstances as referred to in Article 4.5.4 of the Works Procurement Regulation 2012 applies, without prejudice to the provisions in Article 4.5.7 of the Works Procurement Regulation 2012.

3.11.3 Declarations to be submitted

A Candidate shall append the following complete and truthful declarations to its request to participate:

- From the SPV or every (legal) person participating in the SPV in 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 2.6.) 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 Articles 4.5.3 and 4.5.5 of the Works Procurement Regulation 2012 must be submitted at the Contracting Authority's request. A Candidate must provide the Contracting Authority with the supporting

evidence via TenderNed within two working days¹. The documents listed under Tab C in schedule 2.1 have to be submitted along with the request to participate.

Failure to truthfully complete a Self-declaration for tender procedures of contracting authorities or a Supplementary Self-declaration may result in exclusion of the Candidate from (further) participation in the tender procedure.

Certificate of conduct for procurement:

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

A certificate of conduct for procurement must pertain to the current situation of the Candidate

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

3.11.4 BIBOB Advisory Bureau

If the Contracting Authority has reason to believe that a Candidate or Significant Subcontractor is subject to one or more of the circumstances cited in Articles 2.86 or 2.87 of the Public Procurement Act 2012, but if sufficient information for justifying the exclusion from participation or further involvement is not available, 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 about which advice is solicited shall be informed of the contents of said advice by the Contracting Authority by means of the tab "Messages" on TenderNed.

3.11.5 Exclusion

During the selection, short-listing and awarding of the contract, a Candidate may be requested to demonstrate to the Contracting Authority that the grounds for exclusion referred to in paragraphs 3.11.1 and 3.11.2 do not apply to the Candidate or its Significant Subcontractors, failing which the Candidate may be excluded from (further) participation in the tender procedure. If, during the tender procedure, grounds for exclusion referred to in paragraphs 3.11.1 and 3.11.2 become applicable to a Candidate or one of its Significant Subcontractors, this Candidate must immediately notify the Contracting Authority in writing by means of the tab "Messages" on TenderNed.

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

¹ Note: It may take several weeks to obtain a certificate of conduct for procurement.

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

If the Contracting Authority proceeds with the exclusion of a Candidate due to grounds for exclusion pertaining to a participant involved in the SPV in process of incorporation or a Significant Subcontractor, the Candidate in question shall have the opportunity for fifteen calendar days to submit a proposal for modification in the sense of paragraph 3.9 for replacing the participant or Significant Subcontractor in question.

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 show that the Shareholders are willing and able to provide the Candidate with a minimum amount of EUR 20,000,000 (twenty million euros) for funding the Project.

In case of a request as an SPV in process of incorporation, the participants in the prospective SPV must individually declare the amount 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 at least the required EUR 20,000,000 (twenty million euros).

3.12.2 Proof of financial and economic standing

For the purpose of proving that it meets the financial and economic standing requirement, the Candidate must submit a statement in full conformity with schedule 2.4, signed by an authorised representative of a financial institution which:

- (a) is not an institutional investor and which is under the supervision of a regulatory body or a regulatory agency of another member state, or of a regulatory agency from a state that is not a member state but imposes at least comparable requirements as a regulatory agency of a member state (all the above as defined in Article 1.1 of the Dutch Financial Supervision Act); or
- (a) is an institutional investor under the supervision of a regulatory body or a regulatory agency of another member state, or of a regulatory agency from a state that is not a member state but imposes at least comparable requirements as a regulatory agency of a member state (all the above as defined in Article 1.1 of the Dutch 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 schedule 2.4 must be read as [Name of Legal Entity/ies] and only the amount may be otherwise changed.

This declaration only needs to be provided for the participants in the SPV (in the process of incorporation), not for the Significant Subcontractors.

3.13 Technical and organisational ability

3.13.1. Project management experience requirement

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

In the preceding five years (counted from the deadline for submitting a request to participate; see paragraph 3.4), the Candidate must have been responsible for the project management of a project. This project must comply with the following requirements:

- a. Infrastructure project in groundwork, road and hydraulic engineering (GWW) with regard to (line) infrastructure, or in residential and non-residential construction (B&U), water purification, water production or water distribution;
- b. integrated execution of (at least) design, construction and maintenance work, including environmental management, and traffic management carried out under certified quality assurance (based on the NEN-EN-ISO-9001 standard or equivalent);
- c. The total value of the design and construction work indicated in b. shall be at least EUR 30,000,000 (thirty million euros) (in real euros, excluding VAT);
- d. at the time of submitting the request to participate, the construction work must be at least 25% completed in the judgement of the commissioning party.

Project management in the sense of this suitability requirement is defined as the demonstrable assumption of responsibility at the level where the design and construction work was integrated or which required involvement in an executive capacity with regard to all of 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 financing experience requirement

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

The Candidate must have been involved in at least one significant capacity in the signing of financial agreement(s) between a project company and providers of external capital for purposes of financing a project having a contract value of at least EUR 30,000,000 (thirty million Euros) to be paid by the principal (in real Euros, VAT not included), and the facilities made available to the project company must have amounted to at least 50 % of the contract value specified above. If applicable, reference projects 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.

The Candidates may only indicate one project as a reference of each requirement. 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 references presented. The Candidate is obliged to cooperate in this regard.

3.15 Evaluation of request to participate - invitation to Dialogue

The Contracting Authority shall 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.

Paragraph 2.3 applies to decisions by the Contracting Authority to not invite Candidates to the Dialogue. If a Candidate objects to this decision, it must notify the Contracting Authority of these objections in writing within ten Calendar Days after the mailing date of the decision.

4 First Phase of Dialogue

The First Phase of Dialogue shall start with a general information meeting to which all selected Candidates shall be invited. In the course of this group meeting, the Contracting Authority shall provide information about the structure and procedure of the First Phase of Dialogue and the Short-Listing product to be submitted.

The objective of the First Phase of Dialogue is to select the three Candidates that achieve the best possible scores according to the EMAS criteria. For an (abbreviated) elaboration of the EMAS criteria, please refer to Schedule 4.

All Candidates that are permitted to the First Phase of Dialogue will be invited to provide a Short-Listing product during this phase.

In the First Phase of Dialogue, the Candidates are given an opportunity to confer bilaterally with the Contracting Authority. During discussions with the Contracting Authority, the focus is on the submitted Short-Listing product and fielding the Candidate's questions on this subject.

At the end of the First Phase of Dialogue, Candidates shall submit their Short-Listing Products. The number of Candidates allowed to participate in the tender shall be reduced to three based on the assessment of the Short-Listing Products. The three Candidates awarded the highest score for their Short-Listing Products shall be invited to take part in the Second Phase of Dialogue.

The elaboration of the Short-Listing Product is of significance to the further course of the tender procedure. Candidates must continue to elaborate this Short-Listing Product in their further proposals and Tender, as the number of Candidates will be limited on this basis.

schedule 1: Definitions

Candidate

An SPV, or one or more (legal) persons who will participate in, and act on behalf of, an SPV which is in the process of incorporation and which has registered for participating in the present tender procedure.

Ceiling Price

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

Confidential Clarification

Confidential information 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 Major Projects and Maintenance

Data Room

The digital archive containing documents and data related to the tender procedure for the Project.

Data Room Regulations

The regulations in which access to and use of the Data Room are set forth.

DBFM Agreement

The (draft) Design, Build, Finance and Maintain Agreement as enclosed in schedule 3, including all Schedules.

Dialogue

The First and Second Phases of Dialogue in combination.

First Phase of Dialogue

The phase of the Tender and Assessment Instructions, which starts the dialogue.

General Clarification

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

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.

Original Financial Model

The financial model to be submitted by Tenderers at the time of submission of the Tender.

Project

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

Second Phase of Dialogue

The final phase of Dialogue, described in the Tender and Assessment Instructions

Selection Instructions

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

Selection Phase

The phase of the tender 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 of the Selection Instructions.

Self-Declaration for tender procedures of contracting authorities

The self-declaration (schedule 2.3 A) established in accordance with Article 2, paragraph 2 of the Dutch Public Procurement Decree.¹

Shareholder

A (legal) person who has a holding in the Candidate.

Short-listing product

The product submitted by Candidates during the First Phase of Dialogue, evaluated on the basis of the Short-Listing Criteria and used as a basis for selecting Candidates to continue to the next phase of the Dialogue.

Significant Subcontractor

A (legal) person whose technical competence is employed by a Candidate for purposes of fulfilling technical expertise requirements.

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 schedule 2.3 B.

Tender

The submission tendered by the Candidates that are invited to do so upon conclusion of the Dialogue In case of phased submission of parts of the Tender, the "date of

¹ see the website: <http://www.rijksoverheid.nl/documenten-en-publicaties/formulieren/2013/03/22/eigen-verklaring-aanbestedingsprocedure-aanbestedende-diensten.html>

Tender" is the date on which the last parts of the Tender are and have to be submitted.

Tender and Assessment Instructions

The instructions that cover the tender procedure from Invitation to Participation in the First Phase of Dialogue up to and including the submission of a Final Tender. The period prior to this is covered in the Selection Instructions.

Tender Documents

The Selection Instructions, the Tender and Assessment Instructions, the DBFM Agreement, the General and Confidential Clarification, invitations to participate in a (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.

Tenderer

An SPV, or one or more (legal) persons who shall participate in, and act on behalf of, an SPV which is in the process of incorporation and which has submitted a Tender.

Third party declaration on grounds for exclusion

The declaration that is included as schedule 2.6 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 Information¹

Name	
Legal form of the company	
Location of registered seat	
Country of registered seat	
Office address	
E-mail	
Fax	
Telephone no.	
Name of lead party (where applicable)	

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

Name	
Legal form of the company	
Location of registered seat	
Country of registered seat	
Office address	
E-mail	
Fax	
Telephone no.	
Percentage of (future) holding in	

¹ If an SPV has already been incorporated, the information requested under A. must be provided by the SPV, and all the information requested under B. must be provided by the participants (or Shareholders) in the SPV. In the case of an SPV in process of incorporation, all the (legal) persons (joint parties) acting on behalf of the SPV in process of incorporation must supply the requested information and one of them shall be designated as the lead party. The lead party can be listed under A. as "acting on behalf of the SPV in process of incorporation".

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

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

D. Information on the authorised natural person that signs the request to participate on behalf of the Candidate¹.

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 to the Contracting Authority within the context of this tender procedure is accurate.

Signed at [place] on [date]

⁶ 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 (are) to sign this request to participate on behalf of the SPV. In the case of a SPV in process of incorporation, all (legal) persons (joint parties) acting on behalf of the SPV in process of incorporation are to supply the information requested under D. and the natural person designated by said legal persons (joint parties) is to sign this request to participate on their behalf.

Name [Candidate¹]

On behalf of

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

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

¹ In the case of an SPV, the natural person (or persons) cited under D. is to sign this request to participate on behalf of the SPV.

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

schedules to request to participate:

Tab A: Request to participate

A request, completely filled out and validly signed by the Candidate, to participate in accordance with the model enclosed in **schedule 2.1**, with:

- A copy of a valid proof of identity of the natural person or persons acting as authorised representative(s) in signing the request to participate on behalf of the Candidate.
- Contingent (special) power of attorney granted the aforementioned natural person for the purpose of validly signing the request to participate. Said power of attorney is only required if the signatories' authorisation of representation is not already integrally demonstrated from the register of companies. In such a case a copy of a valid proof of identity of the person(s) signing the authorisation for the power of attorney must also be submitted.
- If necessary a power of attorney from the other (legal) persons to the lead party, if the request is submitted by more than one legal person acting on behalf of the SPV in process of incorporation.

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 **schedule 2.2**, including:

- A copy of a valid proof of identity of the natural person or persons acting as authorised representative in signing the statement of availability of the Significant Subcontractor on behalf of that Significant Subcontractor.
- Contingent power of attorney granted the aforementioned natural person 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 is not already demonstrated by the register of companies. 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 C: Self-declarations (paragraph 3.11)

¹A Self-declaration which has been completed and validly signed by the Candidate and each Significant Subcontractor, consisting of the Self-declaration for tender procedures of contracting authorities (Candidate) (**schedule 2.3 A**) or a Third-party Declaration on grounds for exclusion (Significant Subcontractor) (**schedule 2.6**) (see paragraph 3.11.3 of the Selection Instructions) and 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 SPV, the relevant participant in the SPV in process of incorporation or the Significant Subcontractor.

¹ In the case of an SPV in process of incorporation, all (legal) persons (joint parties) acting on behalf of the SPV in process of incorporation and/or future shareholders of the SPV in process of incorporation, must fill in the Self-declaration for tender procedures of contracting authorities.

- Contingent power of attorney granted to the aforementioned natural persons for the purpose of validly signing a Self-declaration. Said power of attorney is only required if the signatories' authorisation of representation is not already demonstrated by the register of companies. 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 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 3.12.2 of the Selection Instructions – in conformity with the model supplied in **schedule 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 power of attorney granted to the aforementioned natural persons 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 demonstrated by the register of companies. 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 project, completely filled in and validly signed by the Candidate in accordance with the model enclosed in **schedule 2.5, subsections A and B**, including for each reference project:

- A copy of a valid proof of identity of the natural person or persons acting as authorised representative in signing the reference on behalf of the Candidate, should a copy of valid proof of identity of the natural person signing not already have been submitted.
- Contingent power of attorney granted to the aforementioned natural persons for the purpose of validly signing the reference. Said power of attorney is only required if the signatories' authorisation of representation is not already demonstrated by the register of companies. 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 F: Statement of Selection criteria (paragraph 3.16)

One reference project, completely filled in and validly signed by the Candidate in accordance with the model enclosed in **schedule 2.5, subsection C**, including for each reference project:

- A copy of a valid proof of identity of the natural person or persons acting as authorised representative in signing the reference on behalf of the Candidate,

should a copy of valid proof of identity of the natural person signing not already have been submitted.

- Contingent power of attorney granted to the aforementioned natural persons for the purpose of validly signing the reference. Said power of attorney is only required if the signatories' authorisation of representation is not already demonstrated by the register of companies. 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.

schedule 2.2: Model statement for availability of Significant Subcontractor¹

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 tender 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 connection with 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 [name of Candidate], if the Project is awarded to [name of Candidate], will have access, for the implementation of the Project, to the knowledge, experience and means that are available to the undersigned and that the work related to the requirements for which the undersigned has been hired, will be performed by the undersigned. In this connection it agrees that the experience of the signatory shall be designated as being the experience of the Candidate.

Signed at [place] on [date]

[Significant Subcontractor],

[name of natural person authorised as representative]

[position]

[signature]

¹ To be completed by each Significant Subcontractor on whose experience the Candidate draws.

Schedule 2.3 A: Self-Declaration for tender procedures of contracting authorities

The Self-declaration for tender procedures of contracting authorities shall be made available as a separate document in PDF format.

Note: The latest version of the statement should be downloaded by the project from the website:

<http://www.rijksoverheid.nl/documenten-en-publicaties/formulieren/2013/03/22/eigen-verklaring-aanbestedingsprocedure-aanbestedende-diensten.html>

The Contracting Authority must include the following details in the PDF file of the Self-declaration of tendering procedures for contracting authorities:

On page 1:

Name of contracting department

Name of tender (File description)

With reference number (file number)

Tick whether it is a tender procedure above or below the applicable European tendering threshold.

On page 3:

Tick all optional grounds for exclusion, 3.1 to 3.5 for a tender procedure above the applicable European tender threshold.

On pages 4 and 5:

Tick all optional grounds for exclusion, 4.1 to 4.9 and 4.10 if applicable, for a tender procedure below the applicable European tender threshold.

On pages 6 and 5:

5.1 tick and fill in: "the Selection Instructions" and "paragraph 3.12".

5.2 tick and fill in: "the Selection Instructions" and "paragraph 3.13".

5.3 Never tick (in very exceptional cases, involving services, there may be an issue of requirements with respect to professional competence).

On pages 6 and 6:

6.1 Do not tick.

On page 11, Schedule 1: Selection criteria.

If selection criteria are applicable to schedule 1 fill in: "For the selection criteria, you are referred to schedule 2.5 part C of the Selection Instructions."

Once the Contracting Authority has correctly completed all details, the red "Protect" button on the first page must be clicked. The details completed by the Contracting Authority cannot be changed thereafter (not by the Contracting Authority and not by the Candidates). This subsequently secure PDF file can then be sent as a schedule with the tender documents and can be further completed by the company.

schedule 2.3 B: Model of Supplementary Self-declaration (to be submitted with the Self-declaration for tender procedures of contracting authorities or with the Third-party Declaration on grounds for exclusion)

All participants in the SPV (in process of incorporation) must submit a completed and signed *Supplementary Self-declaration*.

Significant Subcontractors should only submit a completed and signed *Supplementary Self-declaration* for the section "Questions about insider trading and conflicts of interest".

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

Company refers to the Candidate or Significant Subcontractor that fills out the declaration.

SUPPLEMENTARY SELF-DECLARATION

within the context of the tender procedure for the contract [project name]

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 tender procedure, has the company carried out work or services in preparation of the Project, or is/was the company in some other way directly or indirectly involved in the preparation of the Project?

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 tender procedure, have people working in the company carried out work or services towards preparing the Project, or are there people working in the company in some other way directly or indirectly involved in the preparation of the Project?

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

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

- a. Name and position in the company
 - b. the nature of the respective work or services or the nature of the involvement.
-
.....
.....

- 1.3. With regard to this tender procedure, has the company hired subcontractors who have carried out work or services in preparation of the Project, 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 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 tender procedure, has the company hired advisers (both natural and legal persons) who have carried out work or services in preparation of the Project, 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 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 Project prior to the tender procedure, or has one or more of these companies been directly or indirectly involved

(or is currently involved) in some other way in the preparation of the Project?

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*3)

3) These questions need only be answered if Tenders or Applications are submitted as a joint business venture (a consortium), whether the latter is an ordinary partnership or not, or as a Special Purpose Vehicle (SPV). All (future) participants in the SPV (in process of incorporation) must answer these questions individually. Significant Subcontractors and other subcontractors do **not need to answer these questions.*

- 2.1 Please indicate which factors prevent the company from being able to place a submission for the Project 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:

schedule 2.4: Model declaration of financial and economic standing

This declaration must be signed by an authorised representative of a financial institution which:

(a) is not an institutional investor and which is under the supervision of a regulatory body or a regulatory agency of another member state, or of a regulatory agency from a state that is not a member state but imposes at least comparable requirements as a regulatory agency of a member state (all the above as defined in Article 1.1 of the Dutch Financial Supervision Act); or

(a) is an institutional investor under the supervision of a regulatory body or a regulatory agency of another member state, or of a regulatory agency from a state that is not a member state but imposes at least comparable requirements as a regulatory agency of a member state (all the above as defined in Article 1.1 of the Dutch Financial Supervision Act).

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

To Contracting Authority

Ministry [name of Ministry]

[name of service]

Attn. [name]

[address]

[postcode] [town]

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 [name of Ministry], [name of service]) for the Project [name of 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 Candidate] is to be considered capable of raising the sum of EUR 20,000,000 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 the Candidate, in particular as regards the Project and the financial situation of [names of parties involved with the Candidate].

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

Signed at [place] on [date]

[name of financial institution]

[name of natural person authorised as representative]
[position]
[signature]

schedule 2.5: Model declaration of technical and organisational ability

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		
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 ¹		
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 / Project management & Project financing ² .		
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	Yes/no

¹ The Contractor must be (a participant in (and/or (future)) Shareholder of) the Candidate or a Significant Subcontractor.

² Cross out the inappropriate answer.

	design, construction and maintenance work carried out under certified quality assurance (based on standard ISO 9001 or equivalent)?	
Value	Is the total value of the design, construction and maintenance works at least EUR 30,000,000 (not including VAT)?	Yes/no If yes, what is the value of the design, construction and maintenance work?
Completion of construction work	Has the 25 % of the construction work referred to in the reference project been completed at the time of submitting the request to participate?	Yes/no
Satisfactory execution	Has the construction work (as of the present) been executed to the satisfaction of the principal?	Yes/no
B Project financing		
Infrastructure or analogous project	Is it a case of an infrastructure project in the meaning of Article 3.13.1 of the Selection Instructions?	Yes/no
Contract value	Is the contract value at least EUR 30,000,000 (in real euros, excluding 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]

[Name of Candidate / Significant Subcontractor],

[name of natural person authorised as representative]

[position]

[signature]

schedule 2.6: Third-party Declaration on grounds for exclusion

(To be submitted by all parties who are not one of the Candidates (SPV or SPV in process of incorporation), but who are called on by the Candidate to meet the suitability requirements)

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):

...

The undersigned declares that:

1. Neither the company 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 this declaration; this includes the following actions:
 1. 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:
 - a. 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;
 - b. The organisation's other activities in the further knowledge that his participation shall contribute to the achievement of the organisation's criminal activities as set out above.
 2. 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 the application for participation or the Tender, neither the company nor any of its directors has been the subject of a judgement which has the force of res judicata for

corruption; corruption being defined as the deliberate action of promising or giving, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party, to act or refrain from acting in accordance with his duty or in the exercise of his function in breach of his official duties; or in the private sector, promising, offering or providing, directly or through an intermediary, an undue advantage of any kind whatsoever to an individual or a third party with regard to his business activities, for him to perform or refrain from performing an act, in breach of his duties;

- 3 Within the four years preceding the submission of application for participation or the Tender, neither the company nor any of its directors has been the subject of a judgement which has the force of *res judicata* for fraud; fraud shall mean fraud in respect of expenditures and revenues. In other words, any intentional act or omission relating to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities, or, non-disclosure of information in violation of a specific obligation, with the same effect, or, the misapplication of such funds for purposes other than those for which they are originally granted.
- 4 Within the four years preceding the submission of application for participation or the Tender, neither the company nor any of its directors has been the subject of a judgement which has the force of *res judicata* for money laundering, which is defined as:
 1. 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;
 2. 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;
 3. acquiring, possessing or using property with the knowledge that such property is derived from criminal activity or any participation therein;
 4. any attempt at or complicity in any of the above matters or activities.
- 5 The company 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 the company nor any of its directors has been convicted of a violation of an applicable law or regulation concerning its professional conduct by a judgement which has the force of *res judicata*;
- 7 Neither the company 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 The company 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 The company is not guilty of serious misrepresentation in supplying the information required by the contracting authority within the context of tender procedures or of failing to supply this information (in full).

Declaration

The undersigned declares that:

- It has signed this declaration without any conditions or reservations; it understands that providing false or incomplete information may be regarded by the contracting authority as a misrepresentation in the sense of section 9 of this self-declaration and that this could lead to outright exclusion from the remainder of this tender procedure or participation in the contract;
- 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 3 DBFM Agreement Draft

The project-specific DBFM Agreement including the Schedules shall be made available at the start of the first phase of the Dialogue. The standard DBFM Agreement including the Schedules can be downloaded from: www.ppsbijhetrijk.nl

schedule 4: abbreviated EMAS table

Criterion	Subcriterion
1 Minimum disruption road user	1.1 restriction of the duration and intensity of traffic disruption for users of the RWS Infrastructure <i>Performance criterion</i>
	1.2 restriction of the duration and intensity of traffic disruption to users of infrastructure Connection 32 Bilthoven and the Connection 33 Hilversum <i>Qualitative criterion</i>
	1.3 restriction of the duration and intensity of traffic disruption for users of RWS Infrastructure and Third Party Infrastructure by additional measures <i>Qualitative criterion</i>
2 Environmental awareness	2.1 stakeholder management <i>Qualitative criterion</i>
	2.2 restriction of the duration and intensity of inconvenience due to construction <i>Qualitative criterion</i>
	2.3 restricting the impact upon nature and enhancement of environmental quality <i>Qualitative criterion</i>
3 Durability	3.1 DuBoCalc <i>Performance criterion</i>

schedule 5: Policy Document on Separation of Interests