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**Odisha Urban Infrastructure Development
Fund (OUIDF)
Bhubaneswar
INDIA**

KfW Development Bank

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» **German Financial Cooperation with India
Sustainable Urban Infrastructure Development Odisha – Phase 2
EUR 55.0 million (“FC Development Loan” or “Loan”)
EUR 2.0 million (“Accompanying Measures Grant” or “Grant”)
BMZ No.: 2016 68 391 (Loan Agreement)
BMZ No.: 2016 70 306 (Financing Agreement)**

Separate Agreement to the Loan Agreement dated 1/12/2017, the Financing Agreement dated 1/12/2017 and the Project Agreement dated 19/12/2017

Dear Sirs,

In accordance with the Project Agreement entered into between the State of Odisha, the Odisha Urban Infrastructure Development Fund (OUIDF) (“Project Executing Agency” or the “PEA”) and KfW (“KfW”) dated 19/12/2017 pertaining to a Loan Agreement and a Financing Agreement dated 1/12/2017 entered into between India acting by its President (the “Borrower” and the “Recipient”) and KfW the following shall be determined by separate agreement between KfW, Government of Odisha and the Project Executing Agency:

Pursuant to Article 1.2 of the Loan Agreement and the Financing Agreement and Article 1.1 of the Project Agreement:

the details of the Project as well as the goods and services to be financed from the Loan;

Pursuant to Article 2.1 of the Loan Agreement and Article 3.1 of the Financing Agreement and the Project Agreement:

the disbursement procedure, in particular the evidence proving that the disbursed Loan amounts are used for the stipulated purpose;

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[Signature]

Pursuant to Article 10.2 of the Loan Agreement, Article 7.2 of the Financing Agreement and Article 5.2 of the Project Agreement:

the details pertaining to project implementation).

We propose that the following be agreed upon:

I. **Project Design**

1. **Details of the Project**

The Project **Sustainable Urban Infrastructure Development Odisha – Phase 2** (“Project”) will build on the successful ongoing operation of the Odisha Urban Infrastructure Development Fund (“OUIDF”) in the State of Odisha, and the funding of urban projects with positive environmental impact through this institution using a credit line by KfW.

The overall objective of the Project is to support the provision of urban infrastructure with a positive impact on the environment to the urban population of Odisha, with a special focus on poor segments of the population.

The objective of the Project is to support the sustainable operation and management of urban infrastructure financed through OUIDF by the Urban Local Bodies. To this end, the OUIDF acquires and develops bankable projects according to international standards and provides Loans and Grants to Urban Local Bodies (“ULBs”) for their financing. The active cooperation between OUIDF, experts and the municipalities involved in all phases of the project cycle will build up the planning and implementation capacities in the municipalities.

The criteria for reaching these objectives, the Project results and the required Project activities as well as the assumptions underlying the Project purpose and the Project results are contained in Annex 1.

The institutional framework of the OUIDF will consist of an Urban Loan Fund (the “Loan Fund”), a Grant Fund (the “Grant Fund”), as outlined in the Loan Agreement and a Project Development Fund (the “PDF”) as outlined in the accompanying Financing Agreement.

The PDF shall provide project development support and capacity building to the ULBs, development authorities, regional improvement trusts, special planning authorities, Odisha State Housing Board, and Statutory Boards in order to enable them to develop well-structured and bankable projects.

The design of the Project is based the Minutes of the Meeting signed on 9th March 2017 between KfW and the HUDD, Government of Odisha and OUIDF during the Project appraisal mission from 6th to 9th March 2017.

2. Time Schedule

The funds under the Loan shall be fully sanctioned and disbursed within 6 years after signing of the Loan Agreement. Disbursement shall be made in accordance with the disbursement schedule as set out below. By the end of each period indicated below, the Borrower will have requested disbursement of the Loan amount in the amounts indicated below for each period (figures in million EUR).

Year	2018	2019	2020	2021	2022	2023	Total
Amount	5	5	10	10	15	10	55

The fund under the Grant shall equally be disbursed within 6 years after signing of the Loan Agreement. The expected disbursement schedule (figures in '000 EUR) is:

Year	2018	2019	2020	2021	2022	2023	Total
Amount	200	200	500	500	400	200	2000

3. Total Cost and Financing

The estimated total Project cost ("**Total Cost**") underlying the Project appraisal is approximately EUR 62.5 million. Out of which EUR 55 million shall be financed by a Loan from KfW and EUR 5 million shall be Granted by equity contribution by the Government of Odisha to the Project Executing Agency. Additionally, a Grant of EUR 2.0 million shall be made available by KfW and EUR 0.5 million by the Government of Odisha, totalling EUR 2.5 million for technical assistance for project development and capacity building.

The Loan will be transferred by the Government of India ("**Borrower**") to the State of Odisha on a back-to-back basis. The Government of Odisha will transfer 50% of the Loan amount, namely EUR 27.5 million, to the Loan Fund of the Project Executing Agency on a back-to-back basis. The currency risk will be borne by the Project Executing Agency. The remaining 50% of the Loan, amounting to EUR 27.5 million, will be passed on as a capital Grant to the Grant Fund of the Project Executing Agency. The 50/50 distribution of the Loan between the Loan Fund and the Grant Fund may be revised during implementation based on the actual volume of reimbursements to the respective funds.

The Project Development Fund/Capacity Building component of EUR 2.5 million for technical assistance will be transferred as a Grant from the Borrower through the Government of Odisha to the Project-Executing Agency.

The composition of Total Costs and the financing plan are contained in Annex 2.

4. Changes in the Project Design

Any major changes in the Project design shall require KfW's prior consent, including any major change regarding the procurement procedures. The Borrower shall inform KfW thereof immediately, stating the reasons, the planned measures and the consequences of the change (including on Total Cost). Execution of such measures may commence only on the basis of revised planning and upon KfW's consent.

II. Project Implementation

1. Responsibilities and Time, Cost and Financing Schedule

- 1.1 The OUIDF (Project Executing Agency, "PEA") shall be responsible for the implementation of the Project. The OUIDF shall manage, administrate, monitor and document the credit line in its own responsibility of prudent banking and as per applicable rules of Government of India (GoI) or Government of Odisha and according to the implementation and performance criteria set out herein.
- 1.2 Supervisory Authority of the Project Executing Agency will be the Board of Trustees according to the Indian Trust Fund Charter or any other clause that may be deemed appropriate, which shall approve (or delegate authority to approve) sanctions and disbursements from the fund based on due diligence and recommendations by the OUIDF.
- 1.3 The audit of accounts will be conducted in accordance with International Standards on Auditing as published by the International Auditing and Assurance Standards Board of the International Federation of Accountants, with special reference to ISA 800 (Auditor's Report on Special Purpose Audit Engagements) and will include such tests and controls as the auditor considers necessary as well as on site-visits if also deemed necessary. The Audit will not only cover financial aspects but also assess if the ultimate borrowers have applied procurement procedures that are in accordance with the principles of the KfW Procurement Guidelines and that contracts have been awarded on the basis of economic principles, are transparent and justifiable. A checklist on points to be documented can be found in Annex 6.
- 1.4 The detailed time, cost, and financing schedule, regularly updated for the proper technical and financial implementation of the Project, shall be prepared as soon as possible by the OUIDF which in turn will furnish necessary information to KfW as per the Agreements. Such schedule is to show, by deadlines and amounts, the intended chronological interrelation of the Project activities and the resulting financial requirements. If any deviation from such schedule becomes necessary during the implementation of the Project, KfW shall be furnished with a revised schedule.

2. Guiding principles for the operation of the OUIDF

The OUIDF manages a Loan Fund, a Grant Fund and a Project Development Fund.

2.1 Guiding principles for the Loan Fund and the Grant Fund:

2.1.1 The Loan Fund will have the objective of providing Loans to the environment related urban infrastructure sub-projects ("Sub-Projects"). Max. 20% of the total assets of the Loan Fund may be invested in one sub-project. The Loan Fund will on-lend the funds of the Loan which it receives from the Government of Odisha to end borrowers (ULBs, development authorities, regional improvement trusts, special planning authorities, Odisha State Housing Board, Statutory Boards and private sector) with a margin over the rate it pays to the Government of Odisha. The margin should cover all its operational costs including provisions for non-performing Loans, and exchange rate risk.

The Loan Fund may offer short, medium, and long term Loans. Loan maturities and grace periods will be based on individual project needs. Depending on its ability to access additional long term funds, it should expand its Loan product portfolio to long term Loans of up to 20 years maturity.

2.1.2 The Capital Grant Fund will have the objective to enable the financing of projects that may not be financially viable, but whose development benefits justify its implementation. Max. 50% of the cost of one sub-project may be financed out of the Capital Grant Fund. In exceptional cases this Grant may go up to 70% depending on the viability of the project.

2.1.3 The OUIDF shall strive to use at least 10% of the total volume of the Loan Fund to finance sub-projects not requiring any capital Grant support. These would be commercially sustainable projects including Public Private Partnerships.

2.1.4 The Lending Policy of the OUIDF phase 1, adopted by its Board and approved by KfW, shall continue to determine the terms and conditions (maturities, interest rates, repayment schedules etc.) of the Loans from the Loan Fund to ultimate borrowers, the criteria for eligibility of ultimate borrowers and for determining co-financing eligibility from the Capital Grant Fund during Phase 2.

OUIDF will periodically review and revise the Lending Policy in order to adequately reflect the goal of long-term sustainability of the OUIDF, eligibility criteria, financial viability and development impact of projects and appropriate levels and incentives for ultimate borrowers to maintain and further improve financial management and debt capacity.

2.1.5 The following Project activities shall be financed from the Loan Fund and the Grant Fund:

- Provision of financial assistance to ULBs, development authorities, regional improvement trusts, special planning authorities, Odisha State Housing Board, Statutory Boards, Public Sector Undertakings and Private Investors, for setting up Infrastructure Projects in the State of Odisha having a positive impact on the environment;
- Provision of Loans or taking equity position in the Infrastructure Projects sponsored by Private Investors on a commercial basis when the Infrastructure Projects are considered strategically important;
- Measures to become financially self-sustainable and to mobilize sources (including private and capital market) to finance urban infrastructure development;
- Investment of only infrastructure Projects that at the time of the investment comply with all relevant KfW, State and Central Government legislation regarding environmental, climate, and social protection.

2.1.6 The surplus generated by the Loan Fund (net-income from lending activities to end borrowers minus debt service to the OUIDF) can be used to:

- Strengthen the capital base of the OUIDF via retained earnings;
- contribute to the cost of prolongation of the tenor to 20 years;
- cover the debt service on the portion which is passed on to the Grant Fund as a Grant;
- finance additional urban infrastructure Sub-Loans with positive environmental effects by the OUIDF;
- increase the budget of the PDF;

The OUIDF will confirm in the semi-annual reports that the funds have been used for those purposes.

2.2 Guiding principles for the Project Development Fund:

2.2.1 The Project Development Fund will have the objective to enhance the capacity and sustainability of projects through the help of consulting services to assist with feasibility studies, DPRs, procurement, construction, project monitoring and capacity building.

2.2.2 The following Project activities shall be financed from the Project Development Fund:

- Institutional development of the OUIDF;
- Update of the Environmental, Climate Change, and Social Framework (ECSF) of the OUIDF to comply with all relevant national standards and KfW's "Sustainability Guideline dated April 2016"
- Development of innovative financial products (pooled financing and capital market mechanisms) and public-private partnership (PPP-) structures;

- Project preparation support to the ULBs and state level agencies (detailed project reports, project design studies, tendering and implementation process etc.);
- Preparatory Environmental and Social Impact Assessment (ESIA) Studies for category A sub-projects
- Capacity building support to the ULBs, development authorities, regional improvement trusts, special planning authorities, Odisha State Housing Board, and Statutory Boards;
- Support of the ULBs in order to improve their income situation and to introduce cost-recovering tariffs-
- Construction supervision and monitoring of environmental/social risks associated to financed sub-projects.

2.2.3 The costs of Fund management through the Project Development Agency (PDA) shall not be fully covered from the PDF. The Financial Model (refer to Article 5) shall develop how costs of Fund management can be covered from OUIDF income. The objective is to have full cost coverage from own income by the end of phase 2.

2.3 Guiding principles for the Sub-Projects:

- 2.3.1 Min. 10% of the costs of each sub-project should be borne by the implementing agency (ULB, development authorities, regional improvement trusts, special planning authorities, Odisha State Housing Board, Statutory Boards, Private Investors) or other sources outside the OUIDF. However, efforts will be made to achieve more than 10% in each Sub-Project by the implementing agencies.
- 2.3.2 The OUIDF shall select the Sub-Projects refinanced from the Loan Fund and/or Grant Fund with the eligibility criteria as set out below.

Eligibility Criteria for the Sub-Projects

- a) Sub-projects shall comply with the ECSF which has to be updated and submitted to KFW for approval by the Project Executing Agency.
- b) Sub-projects shall be compatible with urban development plans of the State Government/ULBs and that there are possibilities for future extension/upgrading.
- c) The Loan and Grant Funds should be invested in the following sectors:

- Water Supply and Water Supply Improvement Schemes (WSIS);
- Underground Sewerage Schemes (UGSS);
- Solid Waste Management (including landfill sites, waste-to-energy, segregation, recycling and reuse, larger compost yards/dump areas);
- Climate Adaptation Measures (e. g. storm water and flood drains).
- Complete streets and urban transport
- Energy efficiency projects
- Renewable energy projects
- Reclamation of Water Bodies/ River Front Development
- Development of markets with positive environmental impact
- Sanitation projects

New construction projects of social housing as part of slum redevelopment activities for economically weaker sections (EWS) shall not be eligible.

- d) WSIS may only be financed out of the Loan and Grant Fund, in places where a sewerage system has been conceptualized as well.
- e) The sub-projects shall be operated in a technically sustainable manner and with the highest quality standards available at reasonable costs.
- f) Maximum 20% of KfW funding (i.e. EUR 11 million) may be invested in one single sub-project.
- g) Not more than 20% of KfW funding for phase 2 may be invested in Sub-Projects that already received funding under Phase 1.
- h) Land acquisition process is ongoing or completed. Cost of Land acquisition will not be financed from KfW Loan or Grant.

2.3.3 The following sanctioning procedure shall be applied:

Prior consent of KfW to the sub-projects to be financed out of the Loan Fund and the Grant Fund shall be required for the first three sub-projects in each sector. In order to enable KfW to appraise the sub-projects, the OUIDF shall furnish it with the completed checklist on compliance with eligibility criteria before Granting Sub-Loans/Grants for sub-projects.

For all following sub-projects the Project Executing Agency shall fill out a compliance checklist and submit to KfW for no-objection. OUIDF will confirm with each draw-down request that the financed sub-projects fully comply with the eligibility criteria of the Project.

KfW reserves the right to request further documents (appraisal report, detailed Project report ("DPR") or other) before giving its approval.

All projects categorized as A-projects according to prevailing ECSF categories need the prior approval of KfW independent of how many projects of similar type have been previously approved by KfW. For projects continued from Phase 1 under Phase 2, projects classified as Category A will require a short ESIA assessment including ESMP for approval by KfW before they can be taken up under Phase 2.

2.3.4 The following shall apply for the implementation of the sub-projects:

- a) The Sub-Loan/Grant agreements with the ULBs, development authorities, regional improvement trusts, special planning authorities, Odisha State Housing Board, Statutory Boards shall ensure that the Sub-Borrowers prepare, implement, operate and maintain the sub-projects in conformity with sound financial and high quality engineering practices.
- b) The project documents (e.g. DPRs, tender documents) shall be prepared in a professional manner. This can be done through qualified consulting firms accredited by the OUIDF and financed from the PDF (see clause 2.2.2). If these documents are prepared by the ULBs / development authorities / regional improvement trusts / special planning authorities / Odisha State Housing Board / Statutory Boards, the OUIDF will ensure that all provisions of this separate agreement are complied with.
- c) The ULBs or any other entities to be financed out of the Grant/Loan Fund shall have a financially adequate condition and shall be financially capable to complete and operate the relevant sub-project.
- d) The tariff structure of the sub-projects shall aim at cost recovery by user charges for operation and maintenance ("O&M") and debt service. If this is not feasible, financing of O&M and debt service by subsidies or otherwise has to be ensured. The Loan Agreements with the ULBs or any other entities shall therefore contain covenants with respect to implementation of appropriate user charges. Implementation may be supported from the PDF, if required (see clause 2.2.2).
- e) The entire or part of the O&M can be awarded to private contractors (e.g. service contracts). In that case, the contract documents and particularly the specifications have to be designed by the ULB, development authorities, regional improvement trusts, special planning authorities, Odisha State Housing Board, Statutory Boards to ensure a sustainable operation and a fair remuneration of the contractor.
- f) The Sub-Loan/Grant agreements with the ULBs, development authorities, regional improvement trusts, special planning authorities, Odisha State Housing Board, Statutory Boards shall contain covenants with respect to transparent accounting and reporting by the ultimate borrowers.

The relevant ULBs shall be fully involved in the planning, structuring, review of the monthly progress of the works etc. This shall be the case whether the ULB itself will borrow the funds from the OUIDF or whether a state level agency develops the sub-project and acts as end borrower. Furthermore the ULB should be involved in the monitoring of the project outcome and service level benchmarks.

3. Environmental, Social and Health & Safety Compliance

- 3.1 The OUIDF shall at all times carry out its business and operations in compliance with all applicable national environmental, occupational health & safety and social laws and regulations.
- 3.2 The OUIDF shall comply with the Core Labour Standards of the International Labour Organization (ILO) as set out in the ILO Fundamental Conventions. In case the ILO Fundamental Convention has not been fully implemented in India, the OUIDF shall take appropriate measures in the scope of the Project to safeguard the conditions for workers in the spirit of the said ILO declaration.
- 3.3 The OUIDF shall be responsible for the preparation, implementation and operation of the Project in compliance with International Finance Corporation (IFC) environmental and social standards and the World Bank Group EHS Guidelines.

In particular,

- a) The OUIDF shall develop and maintain, in conformance with IFC Performance Standard 1, an environmental and social management system commensurate with its business nature and the risks associated with the Project, and including to the satisfaction of KfW the key elements set out in Annex 8; for its operations it shall comply with Performance Standard 2.
- b) The OUIDF shall designate, before the first disbursement from this Loan, representative of its senior management to have overall responsibility for environmental and social issues and a suitably trained environmental and social compliance officer (or, for the interim phase, a retainer consultant at least in part-time) to be responsible for day-to-day implementation. The OUIDF shall notify KfW if the persons set forth are replaced.
- c) In case the OUIDF finances Category A and B Projects (see Annex 9) within the scope of the Project, these shall require an environmental and social impact assessment proportionate to the potential risks and impacts of the projects and shall meet the requirements of the IFC Performance Standards as applicable. Sample Terms of Reference for Environmental and Social Monitoring Experts are set out in Annex 10.
- d) The OUIDF shall not finance any of the activities listed in Annex 7 (IFC Exclusion List) within the Project.
- e) The OUIDF shall contractually bind its sub-borrowers to comply with the environmental and social requirements as set out in 3.1, 3.2 and 3.3. and accordingly change or revise their existing Sub-Loan Agreements / lending policy, if required. Copy of the revised Sub-Loan Agreements / lending policy shall be shared with KfW for formation and record.

4. Assignment of Consultants

4.1 Assignment of the fund manager / Project Development Agency

- 4.1.1 The OUIDF shall manage, administrate, monitor and document the credit line in its own responsibility of prudent banking and as per applicable rules of Government of India (GoI) or Government of Odisha and according to the implementation and performance criteria set out herein.
- 4.1.2 The OUIDF has decided to pass part of their responsibilities and duties to the consultant / fund manager / PDA. These comprise developing the Loan and Grant portfolio of the OUIDF and supporting the recipients of Sub-Loans/Grants/ULBs in designing and implementing the tender procedures and the award of contracts in conformity with KfW guidelines for tendering of goods and services and in compliance with the environmental and social standards as set out in Section II.3.
- 4.1.4 The Borrower has designated the consultant **Darashaw** for the rendering of the above mentioned services. The engagement of the consultant shall be based on the existing management agreement of 5th August 2014 which was entered into for eight years. Apart from the extension on Phase II of the project the management agreement shall remain unchanged. In the event of a necessary change of the fund manager during phase II the respective procurement has to comply with KfW's Procurement Guidelines.

4.2 Assignment of Consultants under the Project Development Fund

- 4.2.1 All procedure of tenders and procurement shall be abided by related Indian laws. The awarding procedure shall as minimum standard also comply with the KfW "Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries". For the current version please refer to:

<https://www.kfw-entwicklungsbank.de/Download-Center/PDF-Dokumente-Richtlinien/Consulting-E.pdf>
- 4.2.2 It is recommended to use standardised bidding documents - previously agreed with KfW - for the assignment of consultants.
- 4.2.3 The activities described in clause II.2.2.2 shall be executed by accredited consulting firms selected through international competitive bidding (GTAI-publication).
- 4.2.4 International Competitive Bidding (ICB):¹

For consultancy assignments above 200.000 Euro KfW's prior consent (no-objection) is necessary to all documents to be published for the declaration of Interest and the Invitation to Tender, the selection of the Consultant and the draft consulting contract. Similarly, any amendments to the contract require KfW's prior consent.

¹ At least the publication on the website of Germany trade and invest (gtai). Email has to be sent three days prior to publication to kfw-tender@gtai.de

To enable KfW to exercise its right of approval, OUIDF shall submit in due time to KfW for no-objection the following documents in English language in electronic format:

- (1) The invitation to expression of interest
- (2) Assessment report on the prequalification including the shortlist of prequalified bidders
- (3) The bidding documents for Request for Proposal ("RfP" = invitation to submit a bid, ToR for the consultancy assignment, tender conditions and conditions of contract for the bidders)
- (4) Deviations to the standardized bidding document (if applicable)
- (5) The technical bid evaluation report
- (6) The financial/final bid evaluation report
- (7) The draft contract

This applies to tenders above 200.000 EUR, to tenders which are not addressed to the "list of empanelled consultants" and to the empanelment.

4.2.5 Simplified Procedure / Empanelment:

For consultancy assignments below 200.000 Euro OUIDF shall prepare a "list of empanelled consultants" through international competitive bidding that shall be repeated as deemed necessary or at the latest after 4 years by the OUIDF in order to ensure appropriate competition.

For consultancy assignments below 200.000 Euro OUIDF shall apply the "simplified procedure", Granted that standardised bidding documents (see Clause 4.2.2) are used and the request for proposal is addressed to the "list of empanelled consultants". In this case, separate examination of the tender documents can be replaced by one-time examination of the standard tender documents, thus there is no need for further No-Objection to the full set of tender documents. Only the terms of reference (as part of the RfP) shall be coordinated with KfW for each subsequent tender.

To enable KfW to exercise its right of approval, OUIDF shall submit in due time to KfW for no-objection the following documents in English language in electronic format:

- (1) The standardized bidding documents (invitation to expression of interest and RfP) for the first tender below 200.000 EUR (one-time)
- (2) Deviations to the standardized bidding document (if applicable)
- (3) The terms of reference (ToR) for the consultancy assignment
- (4) The technical evaluation report
- (5) The financial evaluation report
- (6) The draft contract

If the "list of empanelled consultants" does not meet the specific requirements of a tender, notwithstanding the estimated amount of the tender, a regular ICB (see Clause 4.2.4) shall be undertaken.

- 4.2.6 For studies financed under the Project Development Fund, OUIDF will submit to KfW the final draft DPR or study as well as the final report submitted by the consultants for non-objection.

5. Award of Contracts for Goods and other Services

- 5.1 The contracts for works, supply and all other services for the sub-projects which shall be awarded shall follow the Odisha procurement guidelines as long as they are generally compatible with the KfW "Guidelines for Procurement of Goods, Works and associated Services in Financial Cooperation with Partner Countries" in their relevant versions.

- 5.2 Standardized bidding documents with consent of KfW shall be used where possible. OUIDF will require the ultimate borrowers to apply procurement procedures that are in accordance with the principles of the KfW Procurement Guidelines and that contracts are awarded on the basis of economic principles, are transparent and justifiable. OUIDF will supervise the award of the contracts in line with KfW guidelines.

The tender documents shall be submitted to OUIDF by the ULBs for comment in due course prior to publication of the invitation to tender.

- 5.3 The OUIDF will document the procurement procedure with the help of the checklist in Annex 6. Furthermore, a procurement auditor shall assess the compliance to the KfW procurement guidelines ex-post based on the OUIDF documentation on a yearly basis.

- 5.4 When concluding contracts for goods and services to be financed from the Loan Fund, the Grant Fund or the PDF, the Project Executing Agency shall also observe the following principles:

- a) As no import duties may be financed from Loan Fund, the Grant Fund or the PDF pursuant to Article 1.3 of the Loan Agreement and Article 1.3 from the Financing Agreement, such import duties, if part of the contract value, shall be stated separately in the contracts for the goods and services and in the invoices.
- b) If payments due under the contracts for goods and services are to be made from the Loan or the Grant, said contracts shall include a provision stipulating that any reimbursements, guarantee or similar claimable payments and any insurance payments shall be made for account of the Borrower to account no. 3800 0872 03 (IBAN: DE 53 5002 0400 3800 0872 03) at KfW, Frankfurt am Main (BIC: KFWIDEFF; BLZ 500 204 00), with KfW crediting such payments to the account of the Borrower. If such payments are made in local currency

they shall be remitted to a special account of the Borrower in the country of the Borrower, which may be drawn on only with the consent of KfW. Such funds may be re-utilized for the execution of the Project with KfW's consent.

- 5.5 Prior to the conclusion of a contract for goods and services OUIDF shall be furnished for comment with the draft contract as agreed upon. The same applies to any subsequent modifying or amending agreements.

6 Special Implementation Agreements

The following special implementation agreements apply:

- 6.1 The OUIDF shall present to KfW, prior to the first disbursement from the KfW Loan, a business model showing the long-term financial sustainability of OUIDF's operations including mechanisms of sustainable cost-coverage of Fund management costs from OUIDF income.
- 6.2 With a view to establishing the OUIDF as a permanent and professional institution and in line with common market practices, it is envisaged to transfer day to day management and administration of the Fund to a permanent structure, preferably not relying on renewed consultancy support of a PDA. To this aim, a study shall be commissioned during the first year after signing of this Agreement, assessing different institutional options and their respective strengths and weaknesses, as a basis for decision. This study can be funded from the PDF. This new structure shall be operational latest in the last year of implementation of the current Phase 2.
- 6.3 One year after the signing of the Loan Agreement, the PEA will provide KfW with the updated ECSF. In accordance with Clause II.3.3 b), it will furthermore designate, before the first disbursement of the Loan, a representative of its management to have overall responsibility for environmental and social issues, as well as a suitably trained environmental and social compliance officer.
- 6.4 On climate change related aspects, the OUIDF shall inform the pertinent national body for the coordination of India's Nationally Determined Contributions (NDC) on the contribution of the Project to the goals set out in India's NDC. The content, form and schedule of NDC reporting shall be reported to KfW with the first progress report.

7. Provisions for the Proper Operation of the Project

- 7.1 To secure the proper operation of the Project, the PEA shall follow the implementation principles as set out below and shall monitor the implementation of the Sub-Project and prepare detailed time, cost and financing schedules.
- 7.2 At the same time the end-borrower shall submit to KfW a budget forecast for the area of operation in which the Project is located. This forecast is to show that the financing of operation is ensured. The Borrower shall periodically update this forecast and ensure that any financing gaps shall be covered in due course. The

Borrower shall transmit such budget forecast and its revised versions to KfW without any delay.

- 7.3 Disbursements from the Loan and the Grant fund shall be made in line with the progress of the sub-projects. To this end, the end-borrower will submit 6-monthly budget forecasts for the sub-projects together with each Withdrawal Application indicating all sub-projects concerned in the Statement of Expenditures.

III. List of Goods and Services and Disbursement Procedure

1. List of Goods and Services

- 1.1 The list of the goods and services to be financed from the Loan and Grant shall be prepared on the basis of the contracts concluded for such goods and services. Accordingly, KfW shall be furnished with a list of all contracts concluded and signed by the consultant/fund manager / PDA / AMC containing the following data: contract date and value, designation of good/service, contractor, reference number, amount to be financed from the OUIDF.

2. Disbursement Procedure

- 2.1 Disbursement shall be governed by the regulations as stipulated in Annex No. 5 (Disbursement Procedure), which forms an integral part of this agreement.
- 2.2 Disbursements from the Loan Fund and the Grant Fund to end-borrowers shall be made in line with the progress of the sub-projects (see clause II.7.3).

IV. Reporting and Other Provisions

1. Reporting

- 1.1 Until further notice, the Project-Executing-Agency shall report to KfW semi-annually on the progress of the Project (progress reports) and on the development of all other important general conditions including environmental and social performance, topics of occupational health and safety and labour conditions. The Project Executing Agency will submit the following reports to KfW:
- Semi-annual progress reports, covering, inter alia, the status and performance of the Project (including sanctioning, disbursements, information on sub-projects and their performance, monitoring of developmental objectives, results and indicators, steps completed with regard to organisational transformation and repositioning including staffing) as well as an outlook on the planned activities for the future reporting periods;
 - Audited annual financial statements and semi-annual financial statements including reports on the development of the long term planning;
 - Annual procurement audit reports;

- Any information indicating that sub-projects financed under the Project are likely to become a non-performing asset (NPA) or face other substantial problems.

1.2 In addition, the Project Executing Agency shall report on all circumstances that might jeopardize the achievement of the overall objective, the Project purpose and the results. In particular, the PEA shall notify KfW promptly of any event in relation to environmental and social issues including occupational health & safety or labour issues as well as on adjacent populations

- (i) that has a direct or potential material adverse effect or
- (ii) that has attracted substantial adverse attention of outside parties, created substantial adverse media/press reports or
- (iii) gives rise to material potential liabilities.

The Project Executing-Agency shall also inform KfW of any measures taken to mitigate or remedy the effects or cause of such events.

1.3 At the time of the physical completion and commissioning of the Project, but before the expiry of the guarantee period pertaining to the project measures at the latest, the Borrower/Project Executing Agency shall submit a final report on the measures carried out. The first report on the state of affairs shall be submitted as of 6th June 2018. The reports must have been received by KfW not later than 4 weeks after the end of the period under review.

1.4 After completion of the Project, the Borrower shall report on its further development (see Annex 6 for details). KfW shall in due course inform the Borrower about the end of the reporting period.

2. Other Provisions

2.1 The PEA shall send KfW all such documents as are necessary for KfW to give the comments and approvals mentioned above or in the enclosed guidelines early enough to allow reasonable time for examination.

2.2 The PEA shall set up Project sign boards that will contain at least the following message:

"A development project of **India**, co-financed by the Federal Republic of Germany through KfW."

A project seal provided by the German Embassy shall be placed on the project sign board.

2.3 The above provisions may be amended or modified at any time by mutual consent if this should appear useful for the implementation of the Project or the execution of the Loan Agreement, the Financing Agreement and the Project Agreement. In all other respects, the provisions of Articles 12.2, 13 and 14 of the Loan Agreement, the provisions of Articles 6.2, 8 and 9 of the Financing Agreement and the

provisions of Articles 4.2 and 6 of the Project Agreement shall apply to this Agreement accordingly.

Please confirm your consent to the above Agreement by signing in a legally binding form and returning the enclosed copies.

Please forward a copy of the present letter in due course to the consultant/fund manager/PDA.

Yours sincerely,

KfW

Annexes

- Annex 1: Objectives and Results of the Project and Assumptions for their Achievement
- Annex 2: Total Cost and Financing
- Annex 3: Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries (FI037122)
- Annex 4: Guidelines for Procurement of Goods, Works and associated Services in Financial Cooperation with Partner Countries (FI037127)
- Annex 5: Disbursement Procedure including terms of reference for the auditor
- Annex 6: Content and Form of Reporting incl. checklist for procurement documentation
- Annex 7: IFC Exclusion List
- Annex 8: Key Elements of an Environmental and Social Management System for FI
- Annex 9: Illustrative List of Category A and B Projects
- Annex 10: ToR for E+S Monitoring Experts

Read and agreed:

BUBANESHWAR; this 19/12/2017

Annex 1: Logframe/Impact Matrix

Project Title Sustainable Urban Infrastructure Development Odisha – Phase 2	Project Number (BMZ): 2016.68.391/ 2016.70.306
Country Republic of India	Version 14.09.2017

Summary	Result Indicators	Verification sources	Assumptions/ Risks
<p>Program Objective (Impact)</p> <p><i>Urban infrastructure with a positive impact on the environment is provided to the urban population of Odisha, with a special focus on poor segments of the population.</i></p>	<p>Result Indicators</p> <ul style="list-style-type: none"> → Progress in a sustainable financing of water, waste water, solid waste and recycling infrastructure has been achieved → Living standards of target population are improved due to clean and healthy environment → Water and waste induced deceases have decreased → Citizens benefit from better access to communal services and infrastructure → Access to recreation and public green spaces areas for inhabitants are improved → Wastage of natural resources and emission levels in urban habitat is reduced 		<p>Not applicable</p>
Project Objective (Outcome)	Three years after sub-project	Reporting by end borrowers to	- Implementation is accompanied

Summary	Result Indicators	Verification sources	Assumptions/ Risks
<p>Urban Local Bodies sustainably manage and operate urban infrastructure financed through the OUIDF.</p>	<p>completion, utilization of capacity created is 70% <u>Target:</u> 70% <u>Baseline:</u> 0%</p> <p>At the time of commissioning of the financed infrastructure, 80% of operating costs are covered <u>Target:</u> 80% <u>Baseline:</u> NA</p> <p>3 years after commissioning, the financed urban infrastructure projects are well maintained and work as planned <u>Target:</u> yes <u>Baseline:</u> NA</p> <p>Number of urban population in Odisha benefitting from enhanced infrastructure <u>Target:</u> NA (<i>quantification to be defined at the end of the first year of project implementation</i>) <u>Baseline:</u> NA</p>	<p>OUIDF, progress and final technical review missions</p>	<p>by political reforms and the Indian government pursues set development goals.</p> <ul style="list-style-type: none"> - Population growth and urbanization are adequately controlled.

<p>Output</p> <p>1. <i>Professional and financially sustainable fund management</i></p>	<p>5 years after readiness for disbursement of the Loan Agreement, OUIDF fund management is financed through the fund's own revenues</p> <p><u>Target:</u> 100% (0% FC contribution) <u>Baseline:</u> 0% (100% FC contribution)</p> <p>OUIDF adheres to standards of international financiers, applies them and is suitable for future financing from FC and other donors.</p> <p>OUIDF continuously generates and develops high-quality project pipeline.</p> <p>FC funds are fully disbursed to end-borrowers within 6 years after readiness for disbursement of the Loan and financing agreements.</p> <p><u>Target:</u> 100%. <u>Baseline:</u> 0%.</p>	<p>OUIDF progress reports, progress review missions, withdrawal application documentation</p>	<ul style="list-style-type: none"> - Personnel benefitting from capacity building in the context of sub-projects financed through the FC contribution continues to work for ULBs after project completion - ULBs provide sufficient financial resources for operation - ULBs increase tariffs to cost-recovery levels or consolidate communal revenues elsewhere - Operation is outsourced to qualified companies or the appropriate staff is hired and/or trained - The Odisha government is increasingly committed to OUIDF as a central financing and implementation mechanisms for municipal infrastructure projects in the relevant sectors.
<p>2. <i>Fund provides Loans and Grants to eligible end-borrowers</i></p>	<p>At the time of commissioning, 100% of planned infrastructure capacities have been created.</p> <p><u>Target:</u> 100%. <u>Baseline:</u> 0%.</p>	<p>Disbursements to the fund based on the reimbursement procedure</p>	
<p>3. <i>Environmentally compatible infrastructure is created</i></p>	<p>ULBs are actively involved in the selection, planning and implementation of the FC financed projects.</p> <p><u>Target:</u> yes. <u>Baseline:</u> NA.</p>	<p>Planning and design documentation of sub-projects, ESCMF and definition of eligible sectors for assessment of ecological relevance, OUIDF progress reports</p>	
<p>4. <i>Planning capacities in ULBs are developed</i></p>		<p>Qualitative assessment based on planning documentation, interviews with fund management and sub-projects during progress review visits</p>	

Annex 1

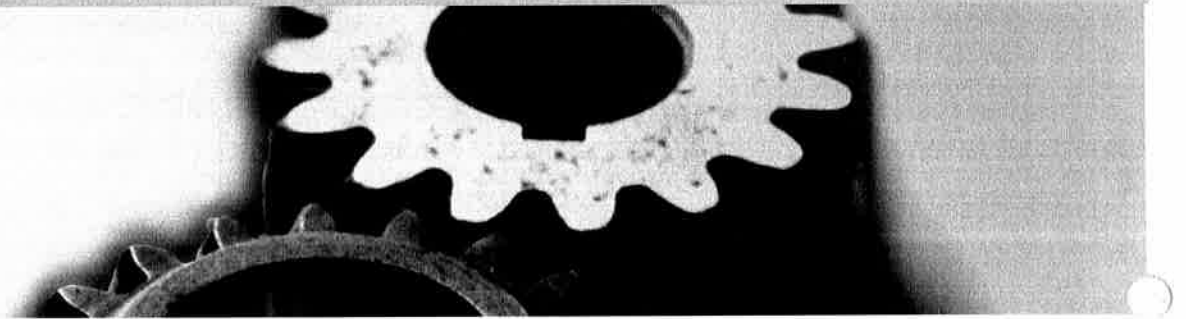
<p>(Main) Activities</p> <ol style="list-style-type: none"> 1. <i>Further development of fund management and development of financially sustainable business model</i> 2. <i>KfW disburses to fund</i> 3. <i>Fund supports ULBs and other end-borrowers in all phases of the project cycle as required</i> 4. <i>ULBs and other end-borrowers implement environmentally compatible infrastructure</i> 	<p>QUIDF cooperates actively with local decision-makers to improve the financial situation of the ULB (e.g., identification of necessary tariff reforms) and to ensure sustainable operation of the infrastructure (e.g. development of operating standards).</p>	<ul style="list-style-type: none"> - Real costs correspond to planned investment costs - Currency remains sufficiently stable so that contractually secured sums can be fully paid out - Project implementation without significant delays, also for larger projects - Quality of project development and of fund management remains high.
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Annex 2:
Sustainable Urban Infrastructure Development Odisha – Phase 2
Total Cost and Financing

Project activities	COST		FINANCING	
	Total outlay		KfW commitment	Government of Odisha commitment
	Local currency in 1,000	In million EUR	EUR in 1,000*)	EUR in 1,000*)
Investment Component				
1. Odisha Urban Infrastructure Development Fund (OUIDF)		32.5		5
Equity Contribution to OUIDF		5.0	--	5
Loans to ULBs		27.5	27.5	--
2. Capital Grant Fund		27.5		
Grants to ULBs		27.5	27.5	--
INTERMEDIATE SUM I (1. + 2.)		60.0	55	5
Project Development and Capacity Building component				
3. Project Development				
Project Development Fund		0.5	0.5	
4. Capacity Building TA				
Grants for Capacity Building		2.0	1.5	0.5
INTERMEDIATE SUM II (3. + 4.)		2.5	2.0	0.5
TOTAL COST		62.5	57	5.5

Financial Cooperation

»» Assignment of Consultants



August 2016

Guidelines for the Assignment of Consultants
in Financial Cooperation with Partner
Countries

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Introduction

The nature and scope of the projects supported by KfW normally mean that the Project Executing Agency avails itself of support from local or international Consultants in order to prepare, execute and where appropriate operate the projects concerned (for details on the areas of work for Consultants see Annex 1). Consultants may also be assigned independently of ongoing measures, e.g. to identify or evaluate projects, or conduct training measures.

These Guidelines provide information on the minimum requirements when contracting Consultants¹ in projects or programmes supported by KfW Development Bank using funds of German Financial Cooperation (FC), other German budget funds, KfW's own funds or funds of other donors. These Guidelines are based on standard international procedures and norms.

KfW has a responsibility for all of society and regards sustainability in the projects and programmes it supports as an overarching objective of its mission. The design, implementation and subsequent operation of the projects and programmes supported by the regional departments of KfW should take reasonable account of economic efficiency as well as ecological and social aspects. Within the possibilities of the partner systems, these aspects can be considered in different ways in the selection of firms and/or in the evaluation of tenders.

The frameworks for the delivery of services to support projects or programmes and for the selection of Consultants are agreed in the loan or financing agreement or other agreements between the Project Executing Agency and KfW. Details of the invitation to tender procedure are then laid down in the respective prequalification notice and request for tenders. This provides sufficient flexibility to take due account of the specific circumstances in each individual project. The rights and obligations of the Project Executing Agency and the Consultant are stated in the consulting contract to be concluded between the Project Executing Agency and the Consultant. To this end KfW provides a model contract based on standard international model contracts.

Contracts for consulting services are usually awarded by the institution responsible for project implementation (*Client* or *Project Executing Agency*)².

¹ The term "Consultant" refers to an individual consultant or consultancy firms; in these Guidelines it is also synonymous with a consultant engineer.

² The Project Executing Agency is usually also the Client. The terms are used synonymously here.

What is Financial Cooperation?

Financial Cooperation (FC) is a component of German Development Cooperation. Its function is to finance investments in economic and social infrastructure, poverty alleviation, environmental protection and the conservation of natural resources in partner countries by providing loans on favourable terms and grants, using federal budget funds. These funds may be supplemented with market funds raised by KfW. It also seeks to enable the partners to independently and sustainably operate the facilities through complementary basic and advanced training measures (capacity development). FC is carried out by KfW on behalf of the German Government and its Ministries, especially the Federal Ministry for Economic Cooperation and Development (BMZ). FC funds help inter alia to increase supplies of water and electricity, to improve health care and education systems, to expand transport networks and to promote agricultural production. They also finance loan programmes for small and medium-sized enterprises support, economic reforms and promote programmes for climate change and energy efficiency.

1 Basic Principles

1.1 Validity of the Guidelines

1.01 These Guidelines apply to the procurement of all advisory and consulting services that are financed in full or in part by KfW Development Bank using funds of German Financial Cooperation (FC), other German budget funds or KfW's own funds. They are also used when assuming delegated cooperation, except where otherwise agreed with the mandator. The Guidelines also apply in cases where KfW awards contracts in its own name³, unless German law provides otherwise.

1.02 Unless otherwise stipulated in individual cases, consulting services under Financial Cooperation are contracted in accordance with these Guidelines. If the law of the Client's country prohibits the application of these Guidelines in full or in part, the Client and KfW may agree to exceptions. Financing is only possible if the procedures and law on which the contracting is based do not infringe the basic principles of fairness, transparency, economic efficiency and equality of opportunity described in these Guidelines. The Client must make such arrangements with KfW in due course.

1.03 KfW supports the harmonisation of the principles and procedures that apply in international development cooperation. Therefore, in the interests of standardisation, in some cases the procedures of other competent bilateral and multilateral development organisations are used, provided that the Client is familiar with the application of these procedures and KfW has given its prior approval.

1.2 Responsibility for the assignment of Consultants

1.04 Responsibility for the preparation, execution and operation of all projects financed by KfW rests with the respective Client in the partner country – except where KfW has awarded

³ This also includes contracting procedures in which KfW acts as part of a consortium.

the contract in its own name. The Client normally conducts the entire contracting procedure, concludes the contract and supervises the Consultant's contractual performance independently. Responsibility also rests with the Client in those cases where by way of exception KfW under agency principles conducts the selection procedure in the Client's name and on the Client's behalf (See Paragraph 1.10).

1.05 The Client may, with KfW's approval, when implementing the contracting procedure be supported by a tender agent, and may delegate parts of the procedure (preparation of the tender documents, publication, assessment of bids, contractual negotiations) or the entire process to this agent. The tender agent is obliged to maintain confidentiality. This shall not affect the responsibility of the Client pursuant to Paragraph 1.04 or KfW's obligations to give its approval pursuant to Paragraph 1.08.

1.3 The role of KfW

1.06 KfW plays an active part in the preparation and implementation of the projects it finances. Its obligation to exercise due diligence requires it to influence the project in a manner that is appropriate to the case in hand, in order to avoid adverse developments that may arise during the planning, implementation or operation phases. This influence shall be exerted in the form of cooperative dialogue with the Client.

1.07 KfW shall ensure that the funds provided are spent as economically as possible. It will ensure that the contracts are awarded on the basis of fair and transparent competition that offers equal opportunities to all participating bidders. This is designed to identify the most suitable bidder according to performance and price. In addition, KfW will examine the tender documents, Assessment Reports, proposals for the award of contracts and draft contracts, which must all be presented to it as part of the contracting procedure, to ensure that they conform with the agreements made with the Project Executing Agency and with international practices, especially in regard to the description of the services, payment conditions, liabilities and guarantees, and to ensure that the drafts are free of serious defects and contradictions. Finally, KfW will appraise the Client's supervision of the fulfilment of the contracts by the contractor during the implementation phase.

1.08 All documents to be published for the Declaration of Interest and the Invitation to Tender⁴, the selection of the Consultant and the draft consulting contract shall require the prior approval of KfW⁵. Similarly, any amendments to the contract and the acceptance of consulting services by the Client must be presented to KfW for prior approval. A list of the procedures to be followed and the documents to be presented to KfW is included in Annex 2.

1.09 KfW may refuse to finance consulting services and even the entire FC project if a Consultant has not been selected in accordance with the agreed procedures, if the

⁴ If several invitations to tender of the same kind are planned using uniform documents previously agreed with KfW, separate examination of the documents can be replaced by one-time examination of the standard tender documents.

⁵ If a large number of highly detailed contracting procedures are envisaged prior approval may be waived, provided that the contracting rules, documentation obligations and where appropriate subsequent review by KfW or a representative have been agreed on with KfW in advance (e.g. in the case of disposition funds and local invitations to tender).

qualifications of the Consultant do not meet the tender specifications, if the terms of the consulting contract do not meet KfW's minimum requirements, if the selection procedure has been influenced by illegal payments, the granting or promise of other advantages, or if circumstances suggest that such influence has been exercised.

1.10 At the request of the Client KfW may, in individual cases, carry out part or all of the selection procedure and commission the Consultant on behalf and in the name of the Client. For this purpose KfW will sign an agency contract with the Client stating the extent and details of the services to be performed by KfW. The services rendered by KfW under such an agency contract are free of charge. It generally ends when the consulting contract is signed by KfW on behalf of and in the name of the Client. In such cases these Guidelines shall also apply.

1.11 Furthermore, in appropriate cases KfW may also award contracts for consulting services in its own name. In these cases these Guidelines shall apply, except where German public procurement law provisions preclude this.

1.4 Public, fair and transparent invitation to tender

1.12 Usually the Client will publish an international invitation to tender for consulting services. In this case, unless warranted restrictions exist in specific cases or unless the reasons for exclusion specified in Sections 1.6 and 1.7 apply, there shall be no restriction with regard to the bidder's country of origin.

1.13 Restrictions on the principle of international public invitation to tender described in Section 2.1 are only possible after KfW's prior approval in warranted cases or in the forms of procurement dealt with in Sections 3 and 4.

1.14 All participants in an invitation to tender for services to be financed in full or in part by KfW are required to ensure fair and transparent competition, and to comply with, at a minimum those ILO core labour standards that have been ratified by the partner country. This is to be documented through a corresponding Declaration of Undertaking (see Annex 4) by all participants in the tender process. The Declaration of Undertaking must be signed with legal effect by sufficiently authorised representatives of the bidder, and in the case of joint bids by all partners. Failure to submit this Declaration of Undertaking or to comply with the requirements contained in it shall lead to exclusion from the tender process.

1.5 Confidentiality

1.15 The selection procedure is confidential. Therefore, while the procedure is ongoing neither the Client nor KfW will release any information on the assessment of the bids or the recommendations on the award of contracts to bidders or to any other persons who are not officially involved in the selection procedure. Should confidentiality be infringed KfW may demand that the invitation to tender be terminated.

1.16 Discussions with bidders on their bids are not permitted between publication of the invitation to tender and award of the contract. Exceptions are on-site visits to obtain information, participation in a meeting of pre-selected bidders or inspection of the available documents. These contacts are exclusively intended to familiarise bidders with the local conditions and the available working documents. Beyond this only written enquiries requesting clarification are permitted. Such enquiries will be answered by the Client in writing, and a copy will be sent to all the bidders. Any other enquiries or interventions are prohibited and will lead to the exclusion of the bidder (see Section 2.8 concerning notification of the bidders after completion of the procedure).

1.6 Bidders entitled to take part in the procedure

1.17 Tenders from bidders will be admitted to the procedure provided that none of the following reasons for exclusion or conflicts of interest apply:

- a) Sanctions or embargoes of the Security Council of the United Nations, the EU or the German government preclude the participation of a bidder.
- b) The bidder is excluded from the tendering process with legal effect in the Client's country on the grounds of punishable offences, especially fraud, corruption or other economic crimes.
- c) The bidder is a state-controlled company in the partner country that is not legally or economically independent or that is not subject to commercial law, or that is a public authority dependent on the Client or the Project Executing Agency or the recipient of the loan/financial contribution.
- d) The bidder or individual members of the bidder's staff or a subcontractor has economic links or family ties with personnel of the Client who are involved in preparing the tender documents, awarding the contract or supervising the execution of the contract, insofar as the conflict of interests could not be resolved to KfW's satisfaction in advance of the contract award and execution phase.
- e) The bidder or individual members of the bidder's staff or a subcontractor were directly involved in drawing up the terms of reference and/or other information for the tendering procedure. This shall not apply to Consultants who have produced preparatory studies for the contract or who were involved in a preceding phase, insofar as the information they prepared in this connection, especially feasibility studies, was made available to all bidders and the preparation of the terms of reference for the invitation to tender was not part of the activity.
- f) The bidder or individual members of the bidder's staff or a subcontractor are or were during the last 12 months prior to publication of the invitation to tender indirectly or directly linked to the project in question through employment as a staff member or advisor to the Client, and are or were able in this connection to influence the award of

the contract for services, or the bidder is or was otherwise able to influence the award of the contract for services.

By signing the Declaration of Undertaking (see Annex 4), the bidder attests that none of these reasons for exclusion or conflicts of interest apply. In case of doubt, when tendering the bidder in question shall furnish proof to the satisfaction of the Client and KfW that the aforementioned reasons do not apply.

1.7 Independence of the Consultant

1.18 The Consultant must always be neutral and independent vis-à-vis potential suppliers for the project in question. Members of associated firms may participate in a project only as either Consultant or manufacturer/supplier/construction firm. When submitting proposals, Consultants must disclose any links with other firms and give a binding declaration that should they be awarded the contract, the firms with which they are associated do not intend to take part in the project in any other form. In a joint venture, this also applies to participating professionals and other consultancy firms. These regulations do not apply to Build-Operate-Transfer (BOT) projects or operator models.

1.19 Consultancy firms that belong to the same group of companies or affiliated companies or are linked in another way financially, organisationally or through personnel, can participate in the competitive tendering procedure individually only if no other member of the group or affiliation participates.

1.8 Cooperation between bidders

1.20 Consultants can participate in the competitive tendering procedure as companies in any legal form, and in conjunction with other Consultants. After the completion of the prequalification procedure, cooperation between the prequalified Consultants is permitted only with the approval of the Client and KfW, and only if sufficient competition continues to be guaranteed.

1.21 In projects financed by KfW, major importance is attached to cooperation with experts or companies with a background of local experience and those with international experience. Such cooperation can be made binding in the prequalification notification or in the request for tenders. The listing and selection of the experts and consultancy firms concerned is solely at the discretion of the bidder. The Client may not prescribe cooperation with specific local experts, firms or groups of firms.

1.22 Should such cooperation be proposed the documents submitted for the prequalification process must contain the necessary information on all the intended partners. In particular, they must include a binding description of their competences, fields of work, and the form the cooperation will take. The documents must include a declaration of intent signed by all the partners and naming the consultancy firm that will direct the work. If they are

awarded the contract, the partners undertake to take all the steps necessary to perform the work described in the documents as stated and in the form of cooperation as stated. Groups of bidders⁶ are required to enter into an agreement with joint and several liability. In particular cases (e.g. large projects), the request for tenders may require presentation of a detailed and binding agreement between the partners in a group (e. g. in the form of a preliminary contract).

1.9 The contract

1.23 KfW will provide a model contract⁷ which standardises the contents and formal requirements for consulting contracts, and which should be used wherever possible. Insofar as the parties to the contract deviate from this, the contract for consulting services shall be prepared on the basis of internationally recognised practices and standards. It shall include at least the provisions described in Annex 8. If no draft contract is enclosed with the tender documents, the main contractual arrangements that govern or affect costs shall be listed separately in the text of the invitation to tender.

1.24 The Client may, in concert with KfW, agree with the Consultant on remuneration based either on actual work performed or on a lump-sum basis. Remuneration based on actual work performed is recommended if the work to be carried out by the Consultant has not been conclusively defined by the time of the contractual negotiations, for instance construction management tasks. Lump-sum remuneration should be agreed on if the services to be rendered and the time frame within which they are to be rendered are clearly defined. Preference should be given to lump-sum remuneration for studies, detailed plans and other services that can be defined with a similar degree of clarity. For lump sum contracts, it is sufficient to contractually agree only on the key personnel (for further details on lump sum contracts see Annex 9).

2 Procedure for International Public Invitation to Tender

2.1 Basic principle, publication and deadlines

2.01 The procedure for procuring consulting services usually comprises an international, public and unrestricted invitation to tender conducted in two stages, namely prequalification and competitive tendering pursuant to Sections 2.2 and 2.3. In the first stage of the procedure the general suitability of the bidders⁸ is examined; in the second stage a competition among the prequalified bidders is held to select the bidder who has submitted the best bid in terms of the quality of services offered and the price for those services.

⁶ Consortia, joint ventures etc.

⁷ The model contract is available in the download center on KfW's website (www.kfw.de).

⁸ The term "bidder" is used synonymously with the term "applicant".

2.02 Deviation from this two-stage procedure is possible only with KfW's approval, especially in those cases specified in Paragraph 2.13. International publication of the invitation to tender may be waived in those cases specified in Section 3.

2.03 The international, public and unrestricted invitation to tender shall be published through media with an international reach, and in the partner country. Publication will be initiated by the Client. International publication of the invitation to tender shall include at least the channels of Germany Trade and Invest⁹ (GTAI). This publication will be free of charge. The Client shall supply GTAI with the text of the notice, plus one complete set of the tender documents free of charge. Publication in the partner country shall take place in accordance with the local regulations applicable to the Client. The invitation to tender may not be published in the partner country or elsewhere earlier than it is published through GTAI. The Client will send KfW the text of the notice and the description of the services required (the terms of reference) for approval in due time before publication.

2.04 The deadlines for preparation of the prequalification documents and for preparation of the bids must take due account of the particular circumstances of the project, its size and complexity, and ensure sufficient and transparent competition. Deadlines shall be at least 30 calendar days for prequalification procedures and 45 calendar days for bids. The deadlines may only be extended under special circumstances. All bidders must be notified of such an extension in writing after KfW has received advance notification, in good time prior to expiry of the deadline originally specified.

All bidders shall be notified in writing, simultaneously and in good time, no later than 14 calendar days prior to expiry of the deadline for submission of bids, of the Client's responses to queries raised by individual bidders prior to expiry of the deadline for submission.

2.05 Prequalification documents and bids are to be submitted on paper and in electronic form as PDF files on standard electronic media. The storage media have to be packed into the respective separated envelopes (see 2.12). The electronic files must not permit further manipulation of the content stored. The submission of documents in electronic form is possible with prior approval of KfW subject to the use of an e-tendering platform that safeguards the confidentiality of the tender procedure.

2.06 The documents submitted by the bidder should be opened as close as possible to the submission date and – unless otherwise specified in more detail - in the presence of at least one witness (dual control principle). Before opening the documents, a record, which is to be attached to the evaluation report, is to be prepared and signed by all persons present during the opening of the documents. If the tender procedure requires that documents are to be submitted in separate envelopes (e.g. separate technical proposal and price quotation) to be evaluated consecutively an opening protocol for each opening session shall be produced. The protocol shall report whether the document was sealed properly when opened and whether it was submitted in time, as well as the bid price without examination.

⁹ Full name: Germany Trade and Invest – Gesellschaft für Außenwirtschaft und Standortmarketing mbH; website: www.gtai.de, for full address details see Annex 3

2.2 Prequalification

2.07 The prequalification procedure involves reviewing, on the basis of the prequalification documents submitted in an informative, clear and concise form, whether the bidders are able to duly perform the required consulting services. The following basic criteria will be examined:

- a) absence of criteria for exclusion pursuant to Sections 1.6 and 1.7;
- b) experience with implementing comparable projects in the sector concerned, usually over no less than the last five years;
- c) experience in the partner country or similar countries, usually over no less than the last five years;
- d) financial and economic resources and expertise (in relation to the size of contract in question);
- e) human resources and capacities, including backstopping capacities, if necessary supplemented with external resources for the envisaged activities;
- f) submission of a Declaration of Undertaking by the bidder signed with legal effect pursuant to Annex 4.

2.08 The minimum requirements to qualify for the assignment as well as the prequalification evaluation scheme (for further details and explanations see Annexes 3 and 5) will be published in the prequalification notice.

2.09 Only those bidders will be selected who achieve at least 70% of the points to be allocated. If more than five bidders achieve that total the five with the highest number of points will be selected. The prequalification requires the approval of KfW. For this purpose, the Client will send KfW the Assessment Report on the prequalification and all the documents requested in connection with this in due time. The report shall include all clarifications and communication with bidders.

2.10 Once KfW has confirmed the prequalification result, the Client will inform the bidders of the results of the prequalification. Upon request by a bidder, the Client can briefly state the main reasons for the exclusion of the bid. However, no details on the evaluation procedure or information on competing offers will be disclosed. There is no right of appeal for the bidders beyond the rights provided for in the laws of the partner country. The selected bidders will also be informed of the other prequalified consulting firms.

2.3 The tendering phase

2.11 The Client will invite prequalified Consultants to submit an offer and send them a description of services to be performed (terms of reference), additional project related information bidders need to prepare sound technical and financial offers, as well as

financially relevant draft contract data (details on the invitation to tender are given in Annex 6). The terms of reference will state whether remuneration will be paid according to actual work performed or on a lump-sum basis. In the case of lump sum remuneration, the terms of reference will define which positions are considered key personnel and are to be described in detail in the technical proposal. The Client will submit the tender documents to KfW for approval in due time before publication.

2.12 The technical and the financial offer shall be submitted separately in two sealed envelopes. One original of each must be sent to the Client or to a representative designated by it, and one copy of each sent to KfW, to the addresses specified and by the deadline given in the request for tenders. After that date no amendments or additions may be made to the bids. Any attempt to do this will result in the bidder concerned being excluded from the remainder of the selection process. The bids for services will be opened immediately after expiry of the deadline for submission of bids. The envelopes containing the price quotations will remain sealed, and will only be opened with KfW's approval for those bidders who have achieved at least 75% of the points to be awarded in the assessment of the bids for services.

2.13 The two-stage procedure can be waived subject to approval by KfW, especially in the following cases:

- a) if the estimated net value of the contract does not exceed EUR 200,000, or
- b) if due to a slack market no more than five bids are to be expected, or
- c) due to time constraints, if application of the two-stage procedure is likely to adversely affect the project.

In this single-stage procedure (post-qualification) the qualification documents, the technical proposal and the price quotation are submitted simultaneously. The suitability of the bidders is assessed in accordance with the project-specific criteria specified in Section 2.2, while the technical proposal and price quotation are assessed in accordance with Section 2.4. Where the value of the contract is low and/or knowledge of the market is good, it is appropriate to confine the examination of the bidders' suitability to a few clearly defined exclusion criteria (e. g. minimum of project experience/references and minimum turnover) and to conduct this examination before assessing the technical proposal. The price quotation which is to be submitted in a separate envelope is opened and examined after KfW has given its consent to the assessment of the suitability and the technical proposal.

2.4 Evaluating the bids

2.14 Once opened the bids will be formally examined to establish whether they are complete, whether they meet the conditions of the invitation to tender, and whether the securities/guarantees and declarations provided by the bidder match the tender documents. The opening of the bids must take place in the presence of at least two people, and must be documented in writing to be signed by the individuals present.

2.15 Evaluation of the bids not rejected pursuant to Paragraph 2.14 and Section 2.5 is normally performed by the Client, possibly supported by a tender agent. For contracts advertised by KfW in its own name, the bids will be evaluated by KfW. The objective of the evaluation is to identify the most advantageous bid by assessing the relevant factors in each of the bids and comparing them with the other bids.

2.16 The bids for services will be assessed on the basis of a list of criteria established in advance (details and explanations are given in Annexes 6 and 7). To enable KfW to exercise its right of approval, the Client must send the Assessment Report on the bids for services to KfW in due time, together with all the documents requested by KfW.

2.17 In principle the price quotations will be assessed using the total price (not including customs and excise duties, taxes and levies in the Client's country), after correcting any arithmetical errors. Incidental costs and additional services that are paid for separately against proof in accordance with the terms of the invitation to tender can be adjusted for the purposes of the assessment or excluded from the assessment, if this is the only way to make price quotations comparable. Optional offers of services will only be included in the assessment of price quotations if all bidders were requested to submit such offers in accordance with the terms of the invitation to tender.

2.18 If in the course of the assessment discrepancies between the technical proposal and the price quotation become evident, this should be clarified together with the bidder, though this must not lead to any amendment or improvement of the original bid. Cost items that according to the wording of the invitation to tender are to be offered separately but are not shown separately in the bid will be assessed at the highest price of the corresponding cost item of the other bidders.

The steps taken to calculate the total adjusted price will be explained in detail by the Client in the Assessment Report.

2.19 The price quotation will generally account for 30% of the overall rating. A different weighting shall require the approval of KfW (e.g. a higher weighting in the case of construction supervision or a lower weighting in case of announcement of the available budget in the tender documents).

2.20 The price quotation with the lowest, possibly adjusted, total value will receive the maximum possible number of points (generally 30). The number of points awarded to the other price quotations opened is reached by dividing the total adjusted price in the lowest bid by the total adjusted price of each other bid and then multiplying by the maximum possible number of points.

2.21 The bid for services with the highest rating will receive the maximum possible number of points (generally 70). The number of points awarded to the other bids for services is reached by dividing the rating of each by the rating of the top bid for services, and then multiplying by the maximum possible number of points. The number of points given for the price quotation will be added to the number awarded for the services bid. The order of the

bidders will be determined by the total number of points awarded. The bid with the highest total number of points will be the best received.

2.22 After completion of the assessment KfW will receive from the Client a detailed, transparent report on the assessment and comparison of the bids ("Assessment Report") together with a reasoned proposal for the award of the contract that may have been discussed and agreed on with the government agencies of the partner country involved. The report shall include all clarifications and communication with bidders. This Assessment Report shall list in detail the important points for possible contractual negotiations at least for the three top placed bidders. If the Client is being supported by a tender agent (Paragraph 1.05), the Assessment Report shall be co-signed by the agent, or the agent's separate comments on the report shall be attached to it. The proposal for award of the contract will be presented to KfW for approval.

2.23 If an extension of the period of validity for the bids was necessary, the underlying reasons should be explained in the Assessment Report. An extension of the period of validity may not lead to any change in the prices quoted in the bids. KfW reserves the right to decline funding in case of inappropriate delay of the contracting procedure.

2.5 Rejection of bids

2.24 Bids will be in principle rejected if:

- a) the Consultant has influenced or attempted to influence the selection procedure with illegal payments or by granting or promising other advantages, or if circumstances suggest that such influence has been exercised;
- b) the bid has been received at the location specified in the announcement after expiry of the deadline for submission of bids, unless the bidder can prove that it is not responsible for the delay, which is due to force majeure (delays in delivery by courier services do not constitute force majeure);
- c) the bid does not fulfil the criteria in the invitation to tender in essential points, such as the prescribed conditions of contract or key specifications;
- d) the bid contains significant provisos or restrictions;
- e) the statement by the bidder that it is associated with other companies does not clearly show that the former or the latter will not apply to participate in the same project as manufacturers, suppliers or construction firms;
- f) the bidder has not submitted a Declaration of Undertaking signed with legal effect pursuant to Annex 4, insofar as this was not already obtained as part of the prequalification process.

2.6 Cancellation of the invitation to tender

2.25 The invitation to tender may be cancelled if:

- a) there was no adequate competition;
- b) none of the bids for services achieved the required minimum number of points;
- c) fundamental technical or financial aspects on which the invitation to tender was based have changed significantly prior to award of the contract; or
- d) the price quotations are obviously and clearly excessive.

2.26 Competition will normally be deemed to have been insufficient if significantly fewer bids reach the evaluation phase than would have been expected given the breadth of the market, or the prices quoted appear clearly excessive, or price-fixing arrangements have obviously been made. Where price quotes are clearly excessive it is possible to enter into price negotiations with the first ranked bidder subject to prior cancellation of the tender procedure.

2.27 If no bid for services has reached the required minimum number of points, a further pre-qualification procedure may be waived and a further tender procedure conducted among the bidders originally prequalified. This procedure is only appropriate if amending the conditions or the terms of reference is likely to enable the original bidders to submit suitable bids for services, and the original objectives of the invitation to tender are not called into question as a result of the amendment.

2.28 Cancellation of the invitation to tender and the further procedure shall require KfW's approval. The Client shall notify all bidders in writing that the invitation to tender has been cancelled, without explaining the reasons. If the invitation to tender is cancelled, where the options mentioned in 2.26 and 2.27 above are not available a further invitation to tender normally shall be published on different terms that guarantee greater competition, e.g. by amending the subject or the conditions of the invitation to tender.

2.7 Negotiating the contract

2.29 Once KfW has approved the proposal for award of the contract, the Client will promptly and efficiently negotiate the contract with the bidder who has topped the list. If these negotiations are not successful, the bidder who came second will be asked to negotiate, after KfW has given its approval. The resumption of negotiations with a bidder after negotiations have been broken off is not permissible.

2.30 The Client will carry out negotiations promptly and efficiently and generally limit them to the following points:

- a) clarifying the work and the methods to be used, where necessary adjusting the staffing schedule;

- b) any counterpart services to be provided by the Client and the level of customs and excise duties, taxes and levies in the Client's country, and the contractual obligation to pay these;
- c) contractual stipulations on other cost items that were not included in the assessment of the price quotation.

2.31 Fees and unit prices for incidental costs and services that were to be offered on a lump-sum basis pursuant to the invitation to tender, are in principle not subject to negotiation, as they were already taken into account in assessing the price quotation.

2.32 Insofar as lump sum remuneration was agreed, the payment schedule is to be fixed in accordance with the planned services to be rendered. As soon as 70% of the contract fee has been disbursed, the remaining instalments are to be disbursed against submission of documents linked to specific project milestones.

2.33 Once the bid has been submitted, the personnel or key personnel who form an integral part of the bid cannot be substituted without the approval of the Client and KfW. The substitution of personnel will lead to a reassessment of the entire bid, if the personnel subsequently offered are less qualified than the original personnel.

2.34 The result of the contract negotiations and the draft consulting contract require the approval of KfW.

2.8 Notification of the bidders and complaints

2.35 After conclusion of the contractual negotiations and after KfW has given its consent, the Client will notify all bidders of the award decision. On request by the bidders, the Client may inform them of the main weaknesses of their bids. No details on the award decision will be disclosed. The bidders who were not included in the assessment of the price quotations will have their price quotations returned unopened. There is no right of appeal for the bidders beyond the rights provided for in the laws of the partner country.

2.36 Complaints by individual bidders concerning the contracting procedure must always be submitted in writing to the Client/the responsible complaints authority in the partner country, and copies sent to KfW.

3 Other Forms of Procurement

3.1 Deviations from the principle of international public invitation to tender

3.01 With KfW's prior approval, the principle of international, public and unrestricted invitation to tender may be waived in the cases described below. The exceptions described in Section 3.2 (national invitations to tender) and Section 3.3 (solicitation of offers) are

applicable up to a net contract value of EUR 200,000¹⁰, provided that no other threshold values have been agreed with KfW. A division of contracts into several parts in order to fall below the threshold values is not permissible.

3.2 National invitations to tender

3.02 A publication of the invitation to tender that is confined to the partner country is possible below the aforementioned threshold, if the following conditions are met:

- a) for the envisaged tasks, sufficiently qualified bidders for a competitive bidding procedure are available on the local market, and
- b) given the nature and scope of the activity, international bidders are not likely to be interested.

In case of national publication of the invitation to tender, international bidders may not be prevented from participating in or be excluded from the procedure. The implementation of the invitation to tender as a single- or two-stage procedure will be determined by the circumstances of the project in question and the national regulations. The provisions governing international invitations to tender apply analogously.

3.3 Solicitation of offers¹¹

3.03 If the conditions for a national publication of the invitation to tender pursuant to Paragraph 3.02 are not met, offers may instead be solicited from at least three qualified bidders.

3.04 Only qualified bidders may be requested to submit offers. To this end, the Client will present to KfW a list of the proposed bidders from whom offers will be solicited plus a cost estimate, and will explain their general suitability for the envisaged activity (background experience, human resources, financial resources and expertise in relation to the subject of the contract). When selecting the proposed bidders, importance must be attached to a balanced blend of local and international experience in the relevant area of activity.

3.05 If the general suitability of all proposed bidders has been sufficiently demonstrated, no detailed examination of their suitability need be carried out in the course of obtaining the offers. Where insufficient information is available, this must be obtained from all bidders together with the offers solicited. Where appropriate the number of invited bidders should be increased, so that if bidders are excluded on the grounds of unsuitability a sufficient number of bids will remain for assessment.

3.06 Assessment of the documents submitted and the further contracting procedure will follow, insofar as applicable, the provisions laid down in Section 2 for tendering, subject to the following exceptions:

¹⁰ Contract value excluding VAT, but including all other integral parts of the contract, and where applicable options.

¹¹ If KfW is the client, the valid EU threshold shall apply, value as at 2016: EUR 200,900.

- a) the deadline for submission of offers may be reduced appropriately, but as a rule should be no less than 20 calendar days; and
- b) for offers that require only a minor amount of work to prepare, the submission of written offers may be waived with the prior approval of KfW. In this case the offers shall be submitted in electronic form as PDF that do not permit further manipulation of the content stored. The bidder bears the risk of exclusion should the files prove to be unreadable.

3.4 Direct award

3.07 With direct award only one offer is obtained, and the contract is awarded without a competitive procedure. Direct award is possible only in warranted exceptions, in particular

- a) when extending existing contracts, in cases where the nature and scope of the consulting services being contracted do not warrant a new invitation to tender;
- b) in follow-on phases in programme activities where the terms of reference are largely identical, provided that the first contract was awarded on a competitive basis, attention was drawn to this option in the invitation to tender, the Consultant's performance is satisfactory, and the technical proposal and price quotation are appropriate;
- c) following the cancellation of an invitation to tender pursuant to Section 2.6, insofar as a further competitive procedure is unlikely to produce appropriate results;
- d) where projects are especially urgent in cases of natural disaster, crisis or conflict;
- e) if only one bidder can be considered for implementing the activities for reasons of confidentiality, or the technical, systemic or context-sensitive knowledge required;
- f) for small contracts worth a maximum of EUR 20,000 (not including VAT but including all other contractual components and possibly options), provided that the particular or exclusive suitability of the Consultant to be contracted has been credibly demonstrated by the Client, and an invitation to tender would not bring any economic benefits.

3.08 In cases of direct award the Client will always verify the appropriateness of the technical proposal and price quotation, and any other components of the offer. The outcome of this verification procedure must be documented in writing, and shall require KfW's approval prior to the conclusion of the contract.

4 Projects Involving Financial Intermediaries and Private Sector Projects

4.1 Projects involving financial intermediaries

4.01 When funds are delivered through financial intermediaries, and these funds are used to finance several individual projects e.g. in the infrastructure sector, it is usually not possible to specify in advance the details of implementation of the projects in question. KfW will ensure that the financial intermediary requires the ultimate borrowers to apply procurement procedures that are in accordance with the principles of these Guidelines and that contracts are awarded on the basis of economic principles, are transparent and justifiable. Unless otherwise agreed, the financial intermediary will supervise the award of the contracts and subsequently report to KfW as part of its usual reporting procedures. The provisions under 4.02 and 4.03 below apply to private sector borrowers who implement major individual projects.

4.2 Private sector projects

4.02 Private sector projects are projects implemented by Clients that do not discharge a public mandate, are not under majority state control, and are normally not obliged to issue a public invitation to tender. These private sector Clients usually have their own procurement procedures. KfW will satisfy itself in advance that the procurement procedures applied by the respective Client ensures that the funds are used efficiently and that contract awards are transparent and justifiable.

4.03 For some projects such as public-private partnerships (PPP), a competition often takes place on a different level before the actual procurement, e.g. a minimum grant element (least-cost subsidy) determined in competition or maximum remunerations for the provision of infrastructure services (e.g. water price). Procurements made subsequently and to be financed by KfW may be made under the responsibility of and according to the regulations of the Client if the Client can demonstrate to KfW in advance that the decisions on contract awards are based on economic principles, are transparent and justifiable and if these procurements are part of the preceding competition.

4.04 KfW's involvement in the application of the relevant procurement procedures mentioned under 4.02 and 4.03 above will be agreed on a project-specific basis.

Annexes

Areas of Work for Consulting Services

In Financial Cooperation, the project executing agencies use the support and advisory services of Consultants primarily in the following areas. Which of these consulting services is used in a specific project will be determined by the Client and KfW on a case-by-case basis.

a) Preparation

- Sectoral and preliminary studies conducted before the decision is taken to proceed with the further preparations for a project. The purpose of such studies is to make an initial selection, at justifiable effort, from the existing options and work out the scope for proposals that are suitable in regard to technical, economic, institutional, socio-economic, socio-cultural and ecological considerations.
- Feasibility studies prepared as a basis for decision-making on a project to be properly prepared with regard to technical, economic, institutional, and socio-economic, socio-cultural and ecological aspects.

b) Execution

Support for the Project Executing Agency in the detailed design of the project as a basis for the tender (including the technical specifications and the draft contracts for supplies and services), carrying out the tender, assessing the bids and proposing a bidder to be awarded the contract, drafting the contract, drawing up the final design, including the architectural plans, supervising the execution of the project and monitoring its development. The Consultant's services also include examining and approving invoices and supporting the Project Executing Agency in foresighted cost and financial management of the project, in dealing with contractual issues, in accepting the project and in drawing up reports on the development of the project.

c) Operation

Support for the Project Executing Agency in developing operation and maintenance concepts, in advising and training skilled personnel to operate and maintain the facilities constructed under the project, and in carrying out flanking measures (e.g. hygiene advisory campaigns in connection with drinking water supply projects).

d) Other support and advisory measures

Support for the Project Executing Agency with advice on sector policy (e.g. tariff reform), on institutional reforms, on improving the organisational and management structures and/or in carrying out environmental audits.

KfW's Rights of Information and Approval

1. Planning the contracting procedure

The Client will present the following documents to KfW for approval in due time before starting the contracting procedure for the consulting services:

- description of any particular local features and statement of any local regulations that are applicable to contracting procedures
- draft list of services required (terms of reference)
- timetable for the contracting procedure
- cost estimate for the consulting services
- estimated timetable for the performance of consulting services
- draft consulting contract, covering *inter alia*
 - local specifics and binding law relating to the execution and performance of consulting contracts¹²
 - counterpart services offered free of charge by the Client (e.g. provision of office premises, vehicles, equipment and personnel)
 - possibility of and conditions for the exemption of consulting services from customs and excise duties, taxes and levies in the Client's country
 - type of contract (lump sum remuneration or based on work performed).

The Client will promptly inform KfW at all times of any delay and other changes in the course of the contracting procedure that could jeopardise the successful completion of the project in accordance with the timetable, and will agree steps to remedy this situation with KfW.

2. Implementing the contracting procedure

To enable KfW to exercise its right of approval, the Client will send KfW the following documents in due time for examination and comment. KfW's approval is required before each of the following activities commences:

- *before publication*: the draft of the prequalification notice (main components, see Annex 3) and any supplementary information for the Consultants interested;
- *before informing the bidders*: the Assessment Report on the prequalification and the draft list of prequalified bidders, with all the documents related to this as requested by KfW;
- *before dispatch to the prequalified bidders* previously approved by KfW: the draft documents for the tender (invitation to submit a bid, terms of reference, the tender conditions and the conditions of contract for the bidders; for details see Annex 6);
- *before opening the price quotations*: the Assessment Report on the services offered, which must state the reasons for any exclusions, and all the documents related to this as requested by KfW;

¹² Wherever possible KfW's model contract should be used.

- *before a possible cancellation of the tender:* the proposal by the Client that the tender should be cancelled, with reasons. This must follow the criteria in these Guidelines for cancellation and must be sent with all the relevant documents requested by KfW;
- *before commencing negotiations on the contract with the bidder who came first:* the proposal for the award of the contract together with the Assessment Report on the price quotations and on the final choice, and all the relevant documents requested by KfW;
- *before commencing negotiations on the contract with the bidder who came second:* the proposal to commence negotiations with this bidder, which must state the reasons why the negotiations with the first bidder failed;
- *before deciding on a proposal by the selected Consultant to substitute personnel:* the personnel proposal by the Consultant including full CV, the resultant reassessment of his bid and the statement of the Client's position on this proposal, with reasons;
- *before signing the consulting contract:* the result of the negotiations on the contract and the draft contract, with reference to any and every substitution of personnel and any and every amendment to the services or the draft contract;
- *before the first disbursement:* a copy of the signed version of the consulting contract.

3. Supervision of consulting services and amendments to the consulting contract

The Client is responsible for supervising the fulfilment of the contract and acceptance of the consulting services. The Client shall procure that the Consultant shall:

- send KfW on time the agreed number of progress reports and the other reports on performed work;
- inform KfW without delay of any unusual circumstances that occur during the performance of the services, and on all matters that require approval by KfW;
- permit KfW and its representatives to inspect the books which must be kept by the Consultant, and the documents on the services it has performed, and to make copies of these.
- in case of supervision of construction work, permit KfW and its representatives to examine the guarantees and securities submitted by entrepreneurs, to monitor the period of validity thereof, and where appropriate to call for extension of the same in good time.

Any prolongation, major addition or amendment to the contract or the description of the services which it contains, any annulment of a clause in the contract and any substitution of key personnel require the prior approval of KfW. For this purpose, the Client will inform KfW in reasonable time of the intended amendments, stating the reasons and submit a copy of the amendment to the contract.

Essential Items in the Prequalification Notice

The prequalification notice is designed to inform interested consultancy firms of the envisaged FC project and the consulting services that will be required. The publication must be brief and informative. Further information is to be made available. These documents must also state the weightings that will be attached to the individual sub-criteria. The prequalification must be advertised in local and international media, but at a minimum through the foreign trade and inward investment agency of the Federal Republic of Germany, Germany Trade and Invest (GTAI).

Address: Germany Trade and Invest, Villemombler Strasse 76, 53123 Bonn, Germany
Telephone +49 (228) 24933 - 374 or -377,
Fax +49 (228) 24933 - 446
Email kfw-tender@gtai.de

The prequalification notice must contain at least the following items:

- Reference to the prequalification
- Name of the Client and the country
- Sector(s) to be supported
- Brief description of the project
- Brief description of the consulting services required (with reference to phases of their performance if applicable)
- Type of bidder required (independent, qualified Consultants)
- Where appropriate, provisions concerning cooperation with international and local Consultants with local experience
- Finance for consulting services (source[s] and state of preparation)
- Reference to any further information available and where these documents can be obtained
- Application details (number of original/copies, language, address(es), stating communication links)
- Deadline for receipt (at least 30 calendar days after publication of notice)
- Documents to be submitted: corporate profile and status, evidence of financial resources and expertise in relation to the size of the contract (*inter alia* confirmation of guarantee line given by company's principal bank; legally binding signed Declaration of Undertaking from the bidder pursuant to Annex 4. Other evidence required will depend on the scope of services to be performed (e.g. balance sheets and profit and loss accounts for the last three years), relevant references to prove technical qualifications and experience abroad, in the region or country, details on the Consultant's own personnel who will provide monitoring and back-up services from the head office, details of personnel structure (number and qualifications), declaration of intent

regarding cooperation (name of lead company), declaration on associated firms, if appropriate specification of further documents to be submitted.

- Declaration of Undertaking pursuant to Annex 4.

Declaration of Undertaking

We underscore the importance of a free, fair and competitive contracting procedure that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our bid, nor will we offer or grant or accept any such incentives or conditions in the present tendering process or, in the event that we are awarded the contract, in the subsequent execution of the contract. We also declare that no conflict of interest exists in the meaning of the kind described in the corresponding Guidelines¹³.

We also underscore the importance of adhering to environmental and social standards in the implementation of the project. We undertake to comply with applicable labour laws and the Core Labour Standards of the International Labour Organization (ILO) as well as national and applicable international standards of environmental protection and health and safety standards.

We will inform our staff of their respective obligations and of their obligation to fulfil this declaration of undertaking and to obey the laws of the country of [●] (name of country).

We also declare that our company/all members of the consortium has/have not been included in the list of sanctions of the United Nations, nor of the EU, nor of the German Government, nor in any other list of sanctions and affirm that our company/all members of the consortium will immediately inform the Client and KfW if this situation occurs at a later stage.

We acknowledge that, in the event that our company (or a member of the consortium) is added to a list of sanctions that is legally binding on the Client and/or KfW, the Client shall be entitled to exclude us/the consortium or, if the contract is awarded to our company/the consortium, to immediately cancel such contract if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion from the tender procedure occurs after the Declaration of Undertaking has been issued.

.....
(Place)	(Date)	(Name of company)
	
		(Signature(s))

¹³ See "Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries" and "Guidelines for Procurement of Goods, Works and associated Services in Financial Cooperation with Partner Countries"

Information on the Prequalification Process

1. The following notes, explanations and criteria for prequalification serve as a basis for the prequalification of suitable applicants in the two-stage selection procedure. They are also used in the single-stage, or so-called post-qualification process, in which applicants submit their prequalification documents, technical proposals and price quotations simultaneously. Information and data on the qualifications of bidders who have already been assessed in the prequalification phase may not be assessed again during the tendering phase, unless a prequalified bidder has since been affected by economic, organisational, or staffing structure changes that require its qualifications to be reconsidered.
2. The requirements concerning the documents to be submitted and their scope should be adjusted to the specific project. As well as the volume of work to be performed, the nature of the services being requested should also be taken into account in the specific prequalification procedure (e.g. financial resources play a lesser role for studies of short duration and scope than for deployment of a team of long-term experts). The prequalification notice should indicate the weighting attached to project references. The minimum number of references required to qualify, if necessary also broken down into several areas of experience, should be stated in advance, as should the maximum number of references required to achieve full points.
3. When offers are solicited from a limited number of previously selected candidates, the review of these candidates' suitability may be waived entirely or partially only if sufficient information is available on the proposed candidates. If this is not the case, when soliciting offers the same procedure should be followed as with the post-qualification procedure, i.e. the suitability of the bidders should be assessed.
4. The application documents must give proof of the applicant's financial resources, experience and general ability to perform the services required, and of its sector and regional knowledge. They must also provide evidence of adequate personnel. The documents should be brief and comprehensible, covering the main areas of activity of the firm and the main services performed during the last five years that are relevant to the project, and summarising the availability of the required expertise.
5. If firms are bidding jointly, applicants must provide a binding declaration of which is the lead manager and what form the cooperation will take (joint venture, sub-contracting, other forms), including the envisaged division of labour. At this stage, unless any other provisions have been made (e.g. a preliminary contract), at least a declaration of intent shall be enclosed. Before the contract is awarded to a joint venture, such applicants will be required to enter into an agreement with joint and several liability.
6. If the bidder intends to use subcontractors, then where such are subcontracted it shall bear full responsibility for the services they perform. The assignment of all activities to one or several subcontractors is not permissible.

7. In the prequalified process only those applicants will be considered whose financial resources and expertise are judged by the Client and KfW to be appropriate for the volume of work to be performed. The assessment of these financial resources will be based on the applicant's liquidity and annual turnover in relation to the envisaged value of the contract. The applicant can prove its liquidity by presenting confirmation of a guarantee limit from its bank, which must not be more than six months old, and which is appropriate to the project (in case of doubt, the Client reserves the right to verify this). Annual turnover is usually confirmed by presenting certified balance sheets or profit and loss accounts for the last three years; for applicants who are not obliged to produce balance sheets, by presenting net income statements. Unless the prequalification notice stipulates any other project-specific figure, the bidder is required to demonstrate an annual turnover (calculated as the mean value for the last three years) that is equivalent to at least three times the envisaged maximum annual turnover arising from this contract. For joint ventures, unless otherwise stipulated in the notice, the cumulative annual turnover of the partners will be taken into consideration; for turnover generated by joint ventures only those portions that the bidder itself has generated will be included. Applicants who submit no documentation or largely incomplete documentation, on this will not be included in the prequalification.

8. In the case of new consultancy firms or firms wishing to add new sectors of operation and/or regions to their range of services, the experience of the key personnel available without restriction for the FC project will be used for the assessment, as otherwise the firm would be disadvantaged in competition with other applicants owing to the lack of reference projects.

9. Applicants that are part of a group of firms, and as such submit project or personnel references from other sections of the firm or sister companies, can only be recognised if they can convincingly demonstrate that if awarded the contract they would have unrestricted access to these resources (e.g. joint venture, subcontractors, secondments). This also applies to the proof of financial resources. In this case the bidder must demonstrate that the parent company or holding company is liable for it with legal effect (e.g. guarantee or a "hard" letter of comfort).

Criteria <i>(the weighting of the sub items provides only a rough indication and should be adjusted to suit the specific project)</i>	Points
1. Proof of experience	40
1.1 <i>Experience in handling similar projects:</i>	<i>about 25</i>
1.2 <i>Experience of the various working conditions in developing, transition or emerging countries</i>	<i>about 10</i>
1.3 <i>Experience in the region or country, preferably in the same sector</i>	<i>about 5</i>
2. Suitability for this specific project	60
2.1 <i>Assessment of available expertise specific to this project for implementation of the activities</i>	<i>about 25</i>
2.2 <i>Assessment of the bidder's own staffing levels with respect to the services required</i>	<i>about 20</i>
2.3 <i>Assessment of the key personnel permanently available to monitor and support the project team from the head office</i>	<i>about 10</i>
2.4 <i>Do the application documents meet the formal criteria, are they complete and are they specific to the project?</i>	<i>about 5</i>
Total	100

Notes on the criteria

1.1 Experience in handling similar projects

The main concern is to obtain evidence of the Consultant's experience in handling similar projects, normally over the last 5 years at least. The applicant must produce relevant project references proving that it has acquired sufficient experience in similar projects during the period specified. The presentation of the project references should indicate the full scope of each project (financial, human resources), what role the bidder performed in the project, how it was contractually integrated into the project (main contractor, subcontractor, partner etc.), and if appropriate what share of the total it was responsible for producing. If so requested, the bidder should specify contact persons working for the relevant Clients who can deal with queries concerning the project references.

Any existing negative experiences with a bidder from previous projects can only be included in the assessment if the bidder has been notified of them in writing, if the experiences are conclusive and if they do not predate the period over which proof of suitability must be provided.

1.2 Experience of the various working conditions in developing, transitional or emerging countries

This criterion covers experience both under comparable and under different working conditions in similar countries (range of experience), with the main emphasis being on comparable working conditions. The statements must make broad references to appropriate evidence.

1.3 Experience in the region or country, preferably in the same sector

The term "region" refers primarily to the country in which the project is located, but experience in comparable neighbouring countries or a large geographical region will be considered in the assessment. Knowledge of the sector (if appropriate several sectors¹⁴) should be shown in the form of brief project descriptions¹⁵, including a description of the services the Consultant has performed in each case.

2.1 Assessment of available expertise specific to this project for implementation of the activities

This criterion is designed to assess the bidder's professional expertise for performance of the planned tasks. The bidder must show that it can provide the requisite expertise in the specialist areas required for implementation of the activities, without restriction. The bidder is not required to name a team, but merely to present the existing expertise and experience in relation to the professional demands and thematic areas in the terms of reference that form part of the prequalification documents. If a firm does not have the necessary know-how and knowledge in all the fields required it can increase its potential by cooperating with other firms or skilled personnel, and provide proof or evidence of their technical knowledge. The Consultant should present its project-specific expertise and experience concisely and back this up with project descriptions, where appropriate supplemented with a brief description of the qualifications of its own staff members¹⁶ who were deployed for that purpose and remain available.

2.2 Assessment of the bidder's own staffing levels with respect to the services required

The assessment covers whether the bidder's in-house personnel is narrowly or broadly based in relation to the services required (total personnel, skilled areas, subject areas, special qualifications). Depending on the services to be performed, the ability to deal with topics that arise unexpectedly can be of particular importance. Here the assessment focuses on the scope of the available specialised human resources on the bidder's own staff.

¹⁴ If the services cover several sectors the descriptions of the project must be grouped by sector; if a reference project is listed several times under different sectors only the services relevant to the sector in question and performed by the firm should be given. Not more than ten cases should be given as evidence per sector.

¹⁵ The project page should be brief. It should give the following information: the firm (personnel as well in the case of young firms), country, name of project, client, Project Executing Agency, finance, brief outline of the project, services performed by the firm, brief description of the service(s), extent of the services (number of expert months and fee).

¹⁶ Freelance personnel who do not hold a permanent position of employment with the consultant but have worked with him for many years can be counted as permanent staff if this is clearly proven.

2.3 Assessment of the key personnel permanently available to monitor and support the project team from the head office

This criterion is about assessing the bidder's capacity for project steering and quality assurance. The bidder is required at this stage not to present a team for the task, but to demonstrate that the firm has its own qualified staff who are able to guarantee leadership, coordination and steering of the works performed by a project team. If key monitoring and steering functions are not covered by the bidder's own staff, points will be deducted in the assessment; this may lead to the bidder being excluded if these resources are entirely lacking. Detailed CVs are not required for the prequalification. It is sufficient to submit a table showing an overview of the human resources available for these functions¹⁷.

2.4 Do the application documents meet the formal criteria, are they complete and are they specific to the project?

Basically, the documents should be compiled and presented in a way that is specific to the project (not as a brochure), and that is clear and comprehensible. Very extensive and imprecise documentation may cost points.

¹⁷ Brief information consisting of: name, professional qualification, years of professional experience, with firm since, position in firm, technical field and area of specialisation, languages, experience abroad.

Essential Components of the Request for Tenders

The request for tenders should give the prequalified consultancy firms detailed information on the envisaged project and the consulting services required. The documents should be informative and they must provide all the data needed for the efficient compilation of bids for services and price quotations. This includes fixing the details of the assessment of the bids.

The request for tenders consists of the following documents in a language usual in international transactions¹⁸:

1. Letter of invitation to tender
2. Conditions of tender and conditions of contract (if no draft consulting contract is included, all information that is important for preparing the bid and that affects costs should be listed separately)
3. The terms of reference

Formats¹⁹ may also be prescribed for the presentation of the bid for services and the price quotation. If no formats are prescribed, the presentation of the bid for services and the price quotation should follow the presentation in the terms of reference and the information for bidders.

The essential components of the conditions of tender and the conditions of contract are listed briefly below. This list is not comprehensive. The tender documents should be adapted, elaborated in more detail and where appropriate supplemented in line with the requirements of the project.

1. General items

- Name of Client, and of Project Executing Agency if different
- Two-envelope procedure: the bid for services and the price quotations are to be sent separately, in two sealed envelopes
- The language of the bid
- On-site information visit (at the bidder's own expense and risk)
- Enquiries only permitted in writing, answers will be sent to all bidders, simultaneously and in good time, but no later than fourteen calendar days prior to the deadline for submission
- Prequalified bidders may form joint ventures only with the approval of the Client and KfW, provided that this does not prevent competition

¹⁸ If national regulations require publication in a national language that is not customarily used internationally, the documents should be prepared in two languages (international language, national language), preferably formatted in two columns alongside each other. In national invitations to tender this can be waived, provided that the key documents are presented to KfW in a language used internationally. The costs of translation shall be met by the client.

¹⁹ For example, formats for references, for comments by the bidder on the terms of reference and counterpart services provided by the client, for the personnel plan and the programme of work, for the CVs of the key personnel and to structure the price quotation.

- Reasons must be given for any amendments to the composition of prequalified joint ventures or mergers and these must be approved, otherwise the bidders will be excluded from the contracting procedure
- Names of preselected Consultants.

2. Submission of bids

- Bids to be submitted to the Client and KfW
- Submission date and time (in UTC/GMT); the bidders must be allowed at least 45 days to make their bids, and considerably longer if the work is complex
- Bids to be submitted to the Client and KfW
- Place where submission must be received by deadline is
- Address of the Client/body issuing the invitation to tender for receipt of bids, in one original and specified number of copies
- Address of KfW, specified number of copies
- Public submission meeting
- Binding deadline for bids for services and price quotations; no performance bond.

3. Contents of the bid for services

- Critical analysis of the terms of reference
- Concept and methods
- Organisation and logistics
- Timetable and staffing schedule
- Composition and CVs of project team including back-up personnel and for lump sum contracts only key personnel
- Explanation of the task of each member of the team
- Account of envisaged back-up services from head office
- Services to be performed by sub-contractors
- Declaration on associated firms
- Statement of other services or supplies provided by the Client (e.g. office premises, transport, equipment etc.).

Where the prequalification procedure has been held, neither the references nor the Declaration of Undertaking (see Annex 4) need be resubmitted.

4. Contents of the price quotation

- Structure of the price quotation (where appropriate, prescribed format)
- Currency to be used (foreign exchange costs in foreign currency, local costs in national currency)
- Fees (shown separately according to expert personnel monthly rates²⁰, foreign allowance, subsistence and accommodation costs at place of service)

²⁰ For example, the rate for a skilled staff member in the head office: basic salary, social insurance, general costs, personnel administration, holidays and sick leave, office services, communications costs for commission, back-up services and monitoring, data processing, insurance taken out by the firm, profit and loss. This covers the general back-up

- Transport costs between the home country and the country of service
- Local transport costs
- Office costs in the country of service
- Acquisitions
- Drawing up reports
- Other costs (generally these can only be costs for sub-contracting, leasing equipment, laboratory tests, drilling etc); reasons must be given for any other costs.

5. Payment terms

- Type of contract (lump sum remuneration or based on work performed).
- Currency
- Fixed prices/escalating prices; where appropriate, statement of formula for price escalation (price changes only on the basis of official statistics)
- Arrangements for the payment of customs and excise duties and taxes; it must be stated whether the Consultant is exempt from taxes, customs and excise duties, fees and levies in the Client's country (where appropriate, statement of any taxes and levies from which exemption cannot be given) or assurance that this expenditure will be reimbursed by the Client
- Method of payment; advance payment bond (see Appendix 1 to Annex 8); where appropriate, retention bond (see Appendix 2 to Annex 8), criteria for disbursement of intermediate/final payments
- If the Consultant requests a different method of payment he **must** give reasons for this.

6. Organisation of performance of services

- Expected total duration; expected date to start work; where appropriate, division into phases
- Designated contact person in Client's organisation
- If applicable, recommendation/requirement for cooperation with Consultant/experts with local experience
- Place where work is to be carried out; country of service/head office
- Request for presentation of Consultant's envisaged logistics for this work.

and monitoring tasks performed by management staff in the head office. The services of management staff or other employees from the head office can be charged separately only if they are performing tasks that are distinguished by subject area and in time from the agreed list of individual services.

7. Binding statement of services to be provided by the Client

- The Client will provide the Consultant with all the information, maps, aerial photographs in its possession, free of charge, for the duration of the commission.
- The Client will ensure that the Consultant has all the necessary permits to obtain further documents, maps and aerial photographs.
- The Client will support the Consultant in obtaining all the necessary working permits, residence permits and import licences.
- The Client will provide some items free of charge, e.g. office premises and equipment (furniture, air-conditioning, electricity, water, telephone, cleaning, security etc.), skilled personnel (type, number, qualifications, subordinate or assigned, duration), assistants, other back-up services.
- The Client will bear the taxes, customs and excise duties and other charges incurred in connection with the implementation of the project in the country of service.

8. Assessing the bids for services and the price quotations

- Criteria for bids for services: statements in accordance with Annex 5 of these Guidelines (and any agreed sub-criteria) with a fixed rating system of points and weightings
- Statement as to whether customs and excise duties, taxes and levies in the Client's country are to be included in the price comparison (the assessment normally does not include taxes or levies)
- Minimum quality of bids for services that will be taken into account in evaluating the price quotations and the overall rating (minimum score of 75% of the points to be awarded)
- Weighting of the bid for services (generally 70%) and weighting of the price quotation (generally 30%) in the total rating
- Reminder that contract negotiations serve only to clarify unclear items

9. Reports

- Reports by the Consultant (type of report, content, frequency of reporting, recipient, number of copies), including final report covering the contractual period after completion of the commission
- Prescribed contents and breakdown (main section, annex(es), type and length of any summary required)
- Form prescribed for reports (double-sided, maximum number of pages required).

Remarks on the Assessment of the Bids

1. The bid for services should show that the terms of reference and their objective have been fully comprehended, and that the methods and resources proposed are suitable and will be employed appropriately to fulfil the tasks required. In drawing up the bid for services the bidders should observe the terms of reference, any particular requirements in the request for tenders and the following assessment criteria.
2. When assessing the bids for services value will be attached to the brevity and precision of the bidder's statements. As the assessment is performed by professionals, bidders should refrain from textbook-like explanations. The documents should be complete, clear and arranged in a comprehensible way. Particularly in the case of more complex terms of reference, the presentation should include diagrams, tables and graphics.
3. Only the bidders who receive not less than the minimum number of points laid down in the request for tenders will be considered in the assessment of the price quotations.
4. The weighting of the criteria will be fixed in the request for tenders in accordance with the requirements of the project. The weighting for "concept and methods" will generally be 55%-60% in the study phase, and 40%-45% for construction supervision. The weighting for "critical analysis of the project objective and the terms of reference" can be reduced by up to half for terms of reference that involve little or no critical analysis of the terms of reference (e.g. construction supervision). Where sub-criteria have been agreed between the Client and KfW, these and their weighting will be indicated in the request for tenders.
5. The assessment of the bids for services will be based on the following criteria:

Criteria	Points
1. Concept and methods	40 - 60
1.1 Clarity and completeness of the bid	about 10 points
1.2 Critical analysis of the project objective and the terms of reference	about 30 points
1.3 Proposed concept and method, including the programme of work, the staffing schedule and monitoring and coordination mechanisms	about 60 points
2. Qualifications of definitely assigned personnel	60 - 40
2.1 Qualifications of key personnel to be employed on the project, especially the project manager	about 90 points
2.2 Qualifications of the personnel in the head office who will control and monitor the team, and provide back-up services	about 10 points
Total	100

Notes on the criteria

1.1 *Clarity and completeness of the bid*

The bid for services **must** take full account, in content and form, of the terms of reference and the conditions of the bid for services in the request for tenders. All the components of the bid for services that are required must be presented. Clarity in the bid means a clear structure, text statements supported with appropriate tables, lists and other editorial aids in accordance with the complexity of the terms of reference, and a balanced use of annexes to keep the main text clear and precise. If there are minor omissions in relation to the terms of reference, points will be deducted. Omissions that considerably restrict comparison with other bids can cause the bidder to be excluded.

1.2 *Critical analysis of the project objective and the terms of reference*

The bid for services must show that the Consultant has considered the project objectively and the terms of reference derived from it critically and in depth. Any doubts about the suitability, consistency and feasibility of individual aspects and the concept as a whole must be expressed. The methodological section must take constructive account of these while avoiding inadmissible restrictions.

1.3 *Proposed concept and method, including the programme of work, the staffing schedule and monitoring and coordination mechanisms*

The bid for services must present the methodological approach and the programme of work in such a way that their suitability in regard to the terms of reference can be assessed and they can be compared with other qualified bids. This includes a statement of the work organisation planned and the logistics. If in the professional judgement of the assessors and of KfW there is an evident and considerable discrepancy between the terms of reference and the quantities given the bid will not be considered. The text should state clearly how the task is to be solved and the resources used, how the work is to be divided between the team members, how the coordination with those involved and those affected is to be organised and how the quality of the work is to be assured. It must be supplemented with diagrams, tables and, in the case of complex work, appropriate graphics²¹.

²¹ At least as follows:

- summary of planned programme (bar graph: interdependent work stages, persons handling each stage, deadlines for meetings, decisions and submission of reports, etc.)
- staffing schedule (bar chart: times and places of assignment for each professional, continuous/ intermittent assignment, activity; including a table stating the precise periods of duty for each expert, by places of assignment)
- summary of quantities for all remaining items that affect costs (services, procurements, subcontracts, rentals, e.g. ancillary personnel, vehicles, flights, offices, equipment, additional studies) and are reflected in the price quotation.

2.1 Qualifications of key personnel to be employed on the project, especially the project manager

The curricula vitae of the expert personnel - for lump sum contracts the key personnel - should have a cover sheet containing a summary²² and include, here or in the text, a brief statement by the bidder on their suitability for the envisaged work and function under this particular project (in more detail for local experts). For lump sum contracts, the bidder must also state the composition of the entire project team – without listing any names – and the planned periods of assignment of the experts. These personal qualifications will not be assessed in absolute terms but in relation to the tasks to be performed, in accordance with the functions and technical fields required, and by comparison with the experience and requirements profile. The assessment of the formal criteria (training, professional experience, regional experience, language skills, management and training experience) will vary according to the terms of reference and the function.

The assessors will also consider whether all the necessary technical and functional areas are covered in accordance with project requirements. Particular weight will be attached to the project manager's qualifications, as he bears operational responsibility for the performance of the services. In his case management experience, language skills, knowledge of planning methods and experience in moderation will generally carry greater weight than for other skilled personnel.

2.2 Qualifications of the personnel in the head office who will control and monitor the team, and provide back-up services

The Consultant must show that it (alone or in conjunction with partner firms) can provide competent back-up services for the team working locally on all the technical questions that could arise, using experienced in-house personnel, and that it can control and monitor the work. Generally professional expertise and management experience carry greater weight here than a knowledge of languages or the region. In the case of long-term service and detailed studies, the support from the head office will carry greater weight than in the case of short studies, as here more responsibility has to be shifted to the project manager.

²² The curricula vitae must be up to date and signed by the expert and an authorised representative of the bidder. The cover sheet (one page) should contain: name of the firm, name of the person, professional qualifications and year in which these were obtained, technical specialisation and experience, nature of the experience (e.g. studies, project implementation, industry, research, administration etc.), management experience (e.g. team leader, department manager, business manager etc.), regional experience (country, nature of the activity, duration), mother tongue, foreign languages, relationship to the bidder (since...), brief timeline of professional work and employers (time, employer, activity, country of service), remarks.

General Conditions of Contract / Essential Components of the Consulting Contract

1 The contract

Where possible, the model contract developed by KfW should be used. If not, the contract should be worded on the basis of internationally accepted practices. The following contractual stipulations should be included at a minimum.

2 Services to be provided by the Consultant

2.1 Description

In signing the consulting contract, the Consultant undertakes to fulfil the task assigned to it. The detailed services agreed for this purpose, and the working methods to be used, result from the terms of reference, supplemented by the bid for services submitted by the Consultant. This detailed bid for services, on which the decision to award the contract was based, is an essential part of the consulting contract, with any additions or amendments resulting from the contract negotiations.

Generally the description of the services will include

- a statement of the objective of the consulting assignment, and the resultant terms of reference for the Consultant
- a detailed list of the minimum individual services needed to achieve that objective
- a list of the documents (studies, reports, plans) to be presented by the Consultant to show the progress and results of its work. The scope, frequency and quality requirements for the reports must be laid down in detail and are binding. Penalties may be imposed, to a maximum amount, for delays or defects in the reports.

2.2 Timetable

The timetable should document the chronological order in which the services will be performed and their contents, and will be binding. It should also show the main events in the project ("milestones") connected with the consulting services. Penalties may be imposed, up to a maximum amount, for delays.

2.3 Staffing schedule

The staffing schedule fixes the number and project-specific qualifications of the personnel to be employed in the various areas of service and the duration of their service, and clearly assigns them to the plan of activities. It should also document the cooperation with the Client's staff assigned to the project.

3 Services to be provided by the Project Executing Agency (as Client)²³

3.1 Obligation to provide information

The Client will provide the Consultant, for the duration of the service and free of charge, with all the data, documents and information to which it has access and that are necessary for the performance of the consulting contract.

3.2 Counterpart services

The Client undertakes to provide the Consultant, in due time and in full, with all the services necessary for the fulfilment of its obligations and that are detailed in the tender documents.

3.3 General obligation to provide support

The Client undertakes to obtain in due time the official permits needed by the Consultant for its work (visas, work permits etc.).

4 Remuneration

The Consultant's remuneration (fees and other incidental expenses) will be agreed on the basis of its detailed price quotation, where appropriate modified during the contract negotiations. Payment will be made for local and foreign currency components separately. The fee is calculated for the input of personnel proposed in the bid and appropriate for the services agreed, at the expert-month rates for the qualifications required. Payment will also be made for necessary expenditure on materials and travel costs and other incidental expenses. These costs are to be paid in a lump sum. The contract states whether the payment for the services will be made as a lump sum, against services performed or in instalments upon achievement of agreed objectives. In the case of studies preference will be given to a lump sum. An agreement on fees as a percentage of the project costs is not generally accepted by KfW.

5 Payment terms

The Client is responsible for executing the project and thus for making the payments under the consulting contract. In particular, the Client is responsible for ensuring that all the payments are made without delay and in accordance with the contractual stipulations. If the payments are not received at the proper time, for reasons for which the Client is responsible, the Consultant may require reimbursement of the costs incurred by the delay.

The Consultant has no rights of recourse, and in particular, no claim to payment against KfW under the loan or financing agreement concluded for the project. KfW makes payment under a loan or financing agreement only upon request by a person authorised under this contract.

²³ If by way of exception the executing agency is not the client, the principles below shall apply analogously to the actual client.

5.1 Advance payment

The advance payment is a preliminary service by the Client to cover the Consultant's mobilisation costs. It is made when the contract is signed or immediately thereafter against submission of an invoice. As a rule it should not exceed 15% of the total value of the contract or EUR 150,000 or the equivalent in other currency. The provision of an advance payment guarantee [Model Advance Payment Guarantee] is required if the advance payment exceeds 15 % of the Order Value, and in any case if it exceeds EUR 150,000 (or the equivalent value in another currency).²⁴

5.2 Interim payments

Further payments (instalments) will be made in accordance with the expected progress of the services, with not more than one payment made in each quarter against submission of an invoice. After disbursement of 70% of the contract fee any further interim payments will be made only against documents linked to specific project milestones (e.g. progress reports).

If by agreement part of the fee depends on results or success, this part of the fee must be invoiced separately. The payments will be made only against the agreed evidence of the results or the success.

5.3 Final payment

The final payment will be made after conclusion of the services and their acceptance by the Client and KfW. This will be at least 5% of the contracted fee (e.g. for final design and construction supervision). In the case of studies it is usually 10% (for work contracts 20%) of the contracted fee. In the case of final design and construction supervision the payment due on final acceptance can be disbursed already upon provisional acceptance against a bank guarantee for the appropriate amount that is valid until the date of final acceptance. This guarantee must be made payable to KfW²⁵.

5.4 Price escalation clause

Contracts for more than one year may include a price escalation clause. It must generally be oriented to the official wage and price level in the Consultant's country (foreign exchange costs) or the Client's country (local currency costs). The contract must state the price escalation formula and the basis for calculation in the form of indices based on the official statistics.

6 Disbursement procedure

One of the two following procedures for disbursement can be agreed:

- The Client may have the amounts invoiced by the Consultant paid directly to the Consultant by KfW upon the due date (direct payment method).

²⁴ A model advance payment bond is given in Appendix 1.

²⁵ A model retention guarantee is given in Appendix 2.

- The Client may make the payments for the consulting services rendered and be reimbursed by KfW (reimbursement procedure).

7 Further provisions

7.1 Independence of the Consultant

The Consultant and the firms with which it is associated undertake not to apply as manufacturers, suppliers or construction firms to the same project for which they are acting as Consultants. Infringement of this provision can result in immediate termination of the consulting contract and reimbursement of all the expenditure incurred by the Client to that date, and all the losses and damage incurred by the Client through termination of the contract.

7.2 Liability

The Consultant undertakes to the Client to perform the services agreed, in full, in accordance with the agreed time schedule and in accordance with recognised professional standards. Within this scope it is liable for any infringement of the contract attributable to him.

In cases of minor negligence the Consultant's liability is limited to the value of the contract or the corresponding insured sum, whichever is greater. Liability for deliberate and gross negligence is not affected by this.

The liability ends when the services agreed in the contract are accepted by the Client or upon expiry of the warranty period. Normally liability for consequential damage is excluded.

7.3 Force majeure

Force majeure is extraordinary events beyond the control of the parties to the contract and which prevent either or both of them from fulfilling the contract. They include crises which cause the Consultant to withdraw its personnel at the demand of the Government of the Federal Republic of Germany. Liability for damage during the absence of the Consultant caused by this is excluded. As long as such a case continues the party affected shall be released from his obligations under the contract. In principle, the Consultant has a claim to appropriate continuation of the contract and - generally - reimbursement for the losses and damage he suffers. If the force majeure continues without interruption for a longer period (e.g. 180 calendar days) either party may terminate the contract.

7.4 Termination of the contract

The Client may normally terminate the consulting contract at any time, giving at least 30 calendar days notice – with KfW's prior consent. The Consultant may also terminate the contract if payments due to it are not received within 60 calendar days of the due date. Termination is permitted only if the Consultant has submitted a written reminder within 30 days after the above deadline has expired and if the amounts owed are not paid within a further 30 days.

If the contract is terminated through no fault of the Consultant, it shall be entitled to its fee up to the date of termination. The Consultant may demand reimbursement of all costs incurred up to that date and compensation for all losses and damage incurred through the termination. If the contract is terminated through the fault of the Consultant the Client shall be entitled to claim damages. After termination the consulting services must be concluded speedily and with due care and diligence. The reports, drafts and other documents completed by that date must be handed over to the Client without delay.

7.5 Prevailing law and settlement of disputes

The consulting contract must state which law applies to the contract. It must also contain a clause on the settlement of disputes. If a dispute cannot be settled amicably the parties shall seek mediation before instituting arbitration proceedings. Such proceedings shall follow the rules of international arbitration courts.

7.6 Contract language

Consulting contracts may be drawn up in German, English, French, Spanish or Portuguese.

7.7 Insurance

The consulting contract must provide for the adequate insurance of the personnel and equipment used. The Consultant is normally required to take out adequate professional indemnity insurance, personal liability insurance and insurance against damage caused to equipment and machines procured under the project, and liability and comprehensive insurance for the vehicles acquired under the project.

7.8 Taxation of consulting services

The consulting contract must state whether the Consultant and the personnel employed by it are exempt from taxes, customs and other official charges in the Client's country. Generally the Consultant's fee is exempt from these taxes and charges, as are the salaries of the personnel employed by it. Equipment imported by the Consultant, and household goods and objects for personal use imported by his personnel (basic equipment) are usually exempt from customs duties. If exemption from taxes, customs duties and other official charges is not granted it must be agreed that the Client will reimburse the Consultant for all amounts paid out for these items.

7.9 Declaration of undertaking

The Declaration of Undertaking (see Annex 4) presented during the prequalification process or upon submission of the proposal by the successful bidder shall become an integral part of the consulting contract. In this Declaration the Consultant declares that it, its employees and any subcontractors have abstained and will abstain from any form of corruptive behaviour, that they will all comply with the minimum social standards ("core labour standards") adopted by the country and are not included in any sanctions list and that he will immediately report any such occurrence to the Client and KfW. If the declaration of undertaking is breached

during execution of the agreement, KfW shall be authorised to initiate the consequences stated in Paragraph 1.09.

Model Advance Payment Bond

Address of guarantor bank: ...

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

Address of beneficiary (Client):

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

On you concluded with (name and full address)

.....
.....
.....
("Contractor") a Contract for
(project, object of the Contract) at a price of

.....
According to the provisions of the contract, the Contractor receives an advance
payment in the amount of
.....equalling %
of the contract value, as an advance payment.

We, the undersigned
(bank), waiving all objections and defences under the aforementioned Contract, hereby
irrevocably and independently guarantee to pay on your first written demand any amount
advanced to the Contractor up to a total of

.....
(in words)

against your written declaration that the Contractor has failed to perform the aforementioned
Contract.

This guarantee shall come into force as soon as the advance payment has been credited
to the account of the Contractor. This guarantee shall be automatically reduced pro rata in
accordance with the payments performed.

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt
am Main, BIC: KFWIDEFF, account IBAN: DE53 5002 0400 3800 0000 00, for account of
(Client/Project Executing Agency/purchaser).

This guarantee shall expire not later than
by which date we must have received any claims by letter or coded telecommunication.

It is understood that you will return this guarantee to us on expiry or after settlement of the
total amount to be claimed hereunder.

.....
Place, date

.....
Guarantor

Model Retention Guarantee

Address of guarantor bank: ...

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

Address of beneficiary (Client):

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

On you concluded with (name and full address)
.....
..... ("Contractor") a Contract for
..... (project, object of the
Contract) at a price of

.....

According to the provisions of the Contract, the Contractor receives the amount of
.....
equalling % of the Contract value, as a final payment.

We, the undersigned
(bank), waiving all objections and defences under the aforementioned contract, hereby
irrevocably and independently guarantee to pay on your first written demand an amount up to
a total of

.....

(in words)

against your written declaration that the Contractor has failed to perform the aforementioned
contract.

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt
am Main, BIC: KFWIDEFF, account IBAN: DE53 5002 0400 3800 0000 00, for account of
(Client/Project Executing Agency/purchaser).

This guarantee shall expire not later than

by which date we must have received any claims by letter or coded telecommunication.

It is understood that you will return this guarantee to us on expiry or after settlement of the
total amount to be claimed hereunder.

.....
Place, date

.....
Guarantor

Information on Lump Sum Contracts

General items

1. The Client may, in concert with KfW, agree with the Consultant on remuneration based either on actual work performed or on a lump-sum basis. Remuneration based on actual work performed is recommended if the work to be carried out by the Consultant has not been conclusively defined by the time of the contractual negotiations, for instance construction management tasks. Lump sum remuneration should be agreed on if the services to be rendered and the time frame within which they are to be rendered are clearly defined.
2. The bidders should be notified in good time as to how the services will be remunerated, and no later than with the request for tenders.

Advantages of lump sum remuneration

3. Under a lump sum contract, remuneration and material expenses are settled in one lump sum. Separate vouchers verifying the term of assignment of the experts are no longer necessary. In addition to simplifying the settlement procedure, this stipulation is designed to offer the Consultants wider scope for carrying out the assignment, thereby encouraging their sense of responsibility and innovative creativity as well as underscoring the results-orientation of the contract.
4. The lump sum method should be applied if the service to be performed is clearly definable and the Consultant can decide largely on his own how to fulfil these tasks. The lump sum method is primarily suited for studies, detail planning and similar clearly definable tasks. The economic risk to the Consultant that is entailed by the lump sum method must not lead to inappropriately high risk premiums.

Particularities regarding the preparation of lump sum contracts

5. Under lump sum contracts it is no longer necessary to recommend personnel for every position and supply their curricula vitae; it is sufficient to require the curricula vitae of the key personnel in the technical proposal. Only these are assessed. Which key personnel are needed to carry out the assignment is to be specified in the terms of reference. Only the substitution of key personnel requires the approval of the Client and KfW. Changes in the assignment schedule do not require approval as long as they do not reduce the period of assignment of key personnel. The Consultant is responsible for keeping to the deadline and for performing the contractually agreed work.
6. Payments under the consulting contract should be made on the basis of the progress of the services; as soon as 70% of the contracted fee has been reached they should be made on the basis of documented services linked to specific project milestones.

7. The conclusion of a lump sum contract does not exclude payment of reimbursables for some ancillary work (such as geotechnical drilling), the scope of which is not known at the time of conclusion of the contract, against submission of a corresponding voucher.

List of Acronyms and Abbreviations, and Glossary

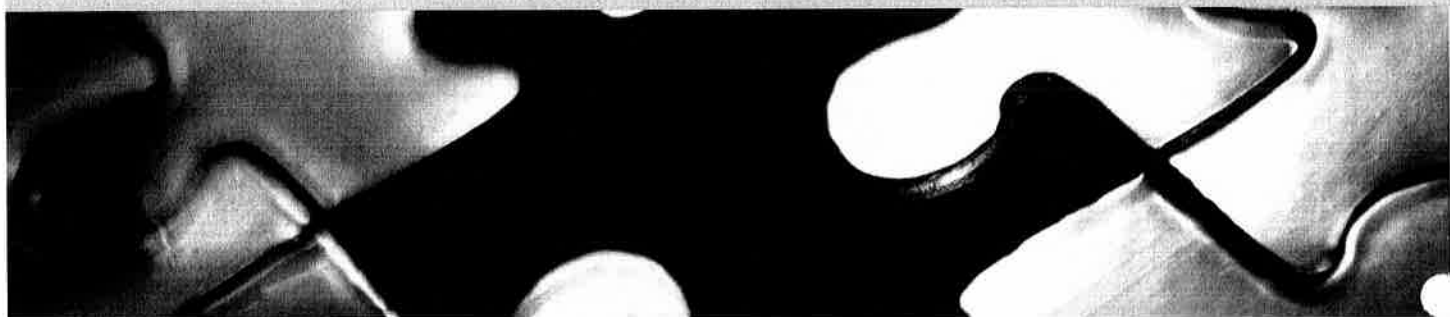
Assessment Report	See definitions in Paragraphs 2.12 and 2.32.
BOT	Build-Operate-Transfer; the term is used synonymously here with BOOT and BOO.
Client	See definition in Introduction.
Contracting	The procedures for awarding a contract and their outcome. The procedures encompass initial publication, qualification, preparation and assessment of bids, award of the contract and notification of the unsuccessful bidders.
Core labour standards	The core labour standards define internationally agreed minimum standards for workers' rights. They cover among other things forced labour and exploitative child labour, and seek to protect workers' freedom of association and freedom from discrimination. The lead agency is the International Labour Organization (ILO). For further details on core labour standards, and a list showing which countries have ratified which standards, go to http://www.ilo.org .
Deadline for submission of bids	Number of calendar days between the date of issue of the tender documents and the date by which bids must be submitted.
Development gateway	A list of current invitations to tender is available at http://www.dqmarket.com .
Direct award	Contracts are awarded directly, without competitive bidding.
FIDIC	Fédération Internationale des Ingénieurs-Conseils (http://www.fidic.org). The "red book" relates to building works, the "yellow book" covers electrical and mechanical plant and design-build projects, and the "green book" is used for small, e.g. locally advertised projects. The "silver book" for turnkey plants is of only minor significance for FC-financed projects due to the absence of an independent consultant.
Financial Cooperation (FC)	See definition in the Introduction (box)

GTAI	The Germany Government's agency to promote trade and investment. Address: Germany Trade and Invest ²⁶ Villemombler Strasse 76 53123 Bonn Germany Phone: +49 (228) 24993 - 374 or 377 Fax: +49 (228) 24993 - 446 Email: kfw-tender@gtai.de Internet: www.gtai.de
Guidelines for Procurement of Goods, Works and associated Services	Available in five languages at internet under Guidelines/Contracts: https://www.kfw-entwicklungsbank.de/International-financing/KfW-Development-Bank/Publications-Videos/Publication-series/
ICC	International Chamber of Commerce website: http://www.icc-deutschland.de
IFIs	International Financial Institutions, e.g. World Bank, Asian Development Bank, African Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, Caribbean Development Bank.
Leaflet for the Disbursement of Funds of Financial Cooperation with Developing Countries	Available in five languages at internet under Guidelines/Contracts: https://www.kfw-entwicklungsbank.de/International-financing/KfW-Development-Bank/Publications-Videos/Publication-series/
Partner country	State that is the recipient of the FC loan or grant, or state in which the non-governmental partner is domiciled.
Period of validity	Period during which bids remain binding; this covers the same period as the performance bond.
Project Executing Agency	Organisation in the partner country that is responsible for implementing the project; this organisation is usually also the Client.
Standard bidding documents	Standard bidding documents of the IFIs for publication of invitation to tender, contracting procedures and contracts. To download the documents go to http://www.worldbank.org/ or http://www.adb.org/

²⁶ Full name: Germany Trade and Invest – Gesellschaft für Außenwirtschaft und Standortmarketing mbH.

Financial Cooperation

»» Guidelines for Procurement



August 2016

Guidelines for Procurement of Goods, Works
and associated Services in Financial
Cooperation with Partner Countries

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Introduction

These guidelines give information on the minimum requirements for the award of contracts for goods, works and associated services in the implementation of projects and programmes financed under *German Financial Cooperation (FC)*¹. The guidelines are based on internationally acknowledged procedures and standards and apply to all supplies of goods, works and associated services² that are financed in full or in part from funds of German FC.

KfW has a responsibility for all of society and regards sustainability in the projects and programmes it supports as an overarching objective of its mission. The design, implementation and subsequent operation of the projects and programmes supported by KfW Development Bank should take reasonable account of economic efficiency as well as ecological and social aspects. Within the possibilities of the partner systems, these aspects can be considered in different ways in the selection of firms and/or in the evaluation of tenders.

Under FC, contracts for goods, works and associated services are always *awarded* by the agency ("project executing agency" or "client"³) in charge of project implementation, which in most cases is also the agency that calls for tender. It is usually subject to applicable national laws. KfW takes care that

- the funds applied under FC are used as a economically and efficiently as possible;
- the bidding process allows a fair competition that gives all bidders an equal opportunity and ensures the selection of the most favourable bid and, thus, the most efficient utilisation of scarce funds;
- the decision on the award of the contracts is taken in a comprehensible and transparent manner.

In addition, KfW reviews the draft contracts to be submitted to it to make sure that the international commercial practices applicable in the industry in question are observed, especially with regard to liability, payment terms and warranty, and that the drafts do not have any serious flaws or contain contradictions that might impede the execution of the project.⁴ Where these guidelines require a statement from KfW, its positive comment ("no objection") is a prerequisite for the contract to be financed from funds of FC.

KfW endorses the harmonization of the principles and procedures applied in the framework of international development cooperation. Therefore the harmonized standard documents for tenders and contracts, introduced by the international financing institutions (IFIs) as lead agencies, are generally to be utilized.

¹ Expressions written in italics are explained in Annex 6.

² Consulting services will be carried out in accordance with the "Guidelines for the Assignment of Consultants in German Financial Cooperation with Partner Countries".

³ In the following, the terms "project executing agency" and "client" will be used interchangeably unless otherwise specified.

⁴ A list of KfW's information and review requirements is contained in Annex 1.

In exceptional cases, for instance for specific programme lines, other awarding procedures may be applied. In appropriate cases KfW may also agree with the project-executing agency, following a general review of the executing agency's procurement system, on a simplified review procedure. For archiving purposes the documents are to be submitted on paper and in electronic format (PDF file).

Financial Cooperation – what is it?

Financial Cooperation (FC) is a component of German Development Cooperation. The purpose of FC is to finance investments in the economic and social infrastructure, poverty reduction, and environmental protection in partner countries with loans at favourable conditions and grants provided from the German federal budget and, where appropriate, complemented by market funds raised by KfW. FC is carried out by KfW on behalf of the German Ministry for Economic Cooperation and Development (BMZ). FC funds are used to expand water and electricity supplies, improve health and education systems, develop transport infrastructure and increase agricultural output, among others. They are also used to support loan programmes for small and medium-sized enterprises and economic reforms.

1 Principles

1.1 Competitive Bidding

1.01 In principle, supplies and services for projects financed from FC funds are to be procured by the *contracting agency* on the basis of international competitive bidding. Unless there are justified restrictions in individual cases or if none of the reasons for exclusion specified under para 1.04 apply, there are no restrictions regarding the bidder's country of domicile or the country of origin of supplies and services.

1.02 Restrictions to the principle of international competitive bidding described in Section 2 are admissible in justified cases only upon prior approval by KfW. The specific features of the alternative forms of procurement to be applied in these cases are described in Section 3. The provisions of Section 2 will apply to these cases accordingly.

1.2 Fair and Transparent Bidding Process, Core Labour Standards

1.03 All parties involved in a procurement process financed under FC must ensure a fair and transparent competition and observe the ILO Core Labour Standards. This must be documented by a corresponding declaration of undertaking (Annex 5) of all parties involved in the bidding process. The declaration of undertaking must be signed in a legally binding manner by duly authorized representatives of the bidder. Failure to submit this declaration and non-compliance with the requirements will lead to exclusion from the tender.

1.3 Eligible Bidders

1.04 Tenders from bidders will be admitted to the procedure provided that none of the following reasons for exclusion apply:

- Sanctions or embargoes issued by the Security Council of the United Nations, the EU or the German Government preclude the participation of a bidder;
- The bidder is excluded from the tendering process with legal effect of the country of the contracting agency on grounds of criminal offences, especially fraud, corruption or other economic crimes;
- The bidder is a state-controlled company in the partner country that is not legally or economically independent, or that is not subject to commercial law, or that is a public authority dependent on the contracting agency or the project executing agency or the recipient of the loan/financing amount;
- The bidder or individual members of the bidder's staff or a subcontractor has economic links or family ties with personnel of the contracting agency who are involved in preparing the tender documents, awarding the contract or supervising the execution of the contract, insofar as the conflict of interests could not be resolved to KfW's satisfaction in advance of the contract award and execution phase;
- The bidder is or was involved as a consultant in the preparation or implementation of the project. The same applies to an enterprise or an individual that is closely connected to the bidder under a company group or a similar business link, or to several enterprises or individuals associated correspondingly. (exception: In *BOT* projects or turnkey projects a participation of future suppliers or manufacturers may even be desirable);
- The bidder or individual members of the bidder's staff or a subcontractor are or were during the last 12 months prior to publication of the invitation to tender indirectly or directly linked to the project in question through employment as a staff member or advisor to the contracting agency, and are or were able in this connection to influence the award of the contract for services, or the bidder is or was otherwise able to influence the award of the contract for services.

By signing the Declaration of Undertaking (see Annex 5), the bidder attests that none of these reasons for exclusion or conflicts of interest apply. In case of doubt, when tendering the bidder in question shall furnish proof to the satisfaction of the contracting agency and KfW.

1.4 Engagement of a Consultant

1.05 During the awarding procedure the *contracting agency* is usually supported by an independent qualified consultant in the preparation of the bidding documents, the evaluation of the bids, the award of contract, the drafting of contract documents and contract negotiations.

2 Procedures in international competitive bidding

2.1 Submission of Documents to KfW, Publication of Procurement Notice and Bidding Period

2.01 As a rule, KfW must be furnished with the pre-qualification and bidding documents for comment in due time prior to the planned publication. It will examine whether the documents respond in form and substance to the requirements of the project, the loan and financing agreements concluded for the project and the provisions of these procurement guidelines. Among other things, it will ensure that the *bidding period* allows the bidders sufficient time to

thoroughly prepare their bids and that the conditions of the procurement process have a neutral effect on competition.

2.02 The purpose of publishing the invitation to submit bids is to draw the attention of all potential bidders to the intended procurement process and to the opportunity of participating. The procurement notice must be published in due time prior to issuing the prequalification and bidding documents and in an appropriate form specifying date and place of issue. The invitation to participate in an international competitive bidding process is usually published in the partner country and in Germany, if appropriate also in international media. It is commissioned by the *contracting agency*.

- The procurement notice must be published in Germany in the databases of Germany Trade and Invest⁵ (GTAI) before or at the same time as its publication elsewhere. To this end, the *contracting agency* will supply the GTAI with the text of the procurement notice and, free of charge, with a copy of the complete bidding documents, at its discretion either as a copy in the partner country or in electronic file format directly per e-mail. Publication is free of charge.
- Publication in the partner country will follow the rules and regulations applicable there to the *contracting agency*. Publication will in principle take place in the daily newspapers of the partner country.

2.03 The deadlines for preparation of the qualification documents and for preparation of the bids must consider the particular circumstances of the project, its size and complexity and ensure adequate and transparent competition. In principle, at least 30 calendar days should be allowed for pre-qualification procedures and 45 calendar days for submission of bids.

2.04 An extension of the *bidding period* may be granted in exceptional circumstances only. Following prior information to KfW, all bidders must be notified in writing and in due time before the expiration of the original period.

2.05 Comments of the *contracting agency* on inquiries from individual bidders during the *bidding period* will be communicated to all bidders in writing simultaneously and in due time, that is, at least 14 days before expiry of the *bidding period*.

2.2 Qualification Procedure

2.06 The qualification of the bidders will be assessed in consideration of the scope and complexity of the projects. In complex and technically complicated projects that require substantial effort from the bidders in the preparation of their bids or in bidding processes that are likely to draw an unreasonably large number of bids, the *contracting agency* usually conducts a pre-qualification in consultation with KfW prior to the actual bidding process. In all other bidding processes a post-qualification is to be carried out (see section 2.2.2).

2.2.1 Prequalification

2.07 In procurement processes with prequalification the bidding will be conducted in two stages. In the first stage, the pre-qualification stage, the submitted documents are examined

⁵ Full name: Germany Trade and Invest – Gesellschaft für Außenwirtschaft und Standortmarketing mbH

in order to establish whether the bidders are capable of delivering the required goods and works duly and properly. In the pre-qualification the following essential criteria are examined:

- absence of reasons for exclusion (see criteria under para 1.04);
- experience in the execution of comparable projects;
- experience in the partner country or in comparable countries;
- availability of qualified personnel and appropriate facilities and equipment in sufficient quantities;
- adequate financial capacity.

2.08 The invitation to the pre-qualification will specify the minimum requirements for the qualification, the evaluation matrix and the criteria for determining the number of bidders that are to be invited to submit their bids following the qualification. In appropriate cases, such as infrastructure projects, environmental and social standards will be taken into account. The maximum number of bidders depends on the nature of the project and the effort involved in preparing the bid.

2.2.2 Postqualification

2.09 In bidding procedures with post-qualification the qualification documents and the actual bid are usually submitted simultaneously in two separate envelopes (two-envelope procedure). In the first public session only the qualification documents will be opened and examined for completeness, inclusion of the required bid bond and fulfilment of the qualification criteria. The qualification will be evaluated according to the criteria specified under para 2.08.

2.10 The two-envelope procedure may be dispensed with in justified exceptions, for instance in the procurement of standardized commercial goods or when bidding is restricted to enterprises whose qualification has been verified as part of their registration with the *contracting agency*. In this case fulfilment of the necessary qualification criteria will be examined at the start of the evaluation of the bids.

2.2.3 Evaluation Report on Qualification, Information of the Bidders

2.11 The *contracting agency* will prepare a detailed evaluation report on the results of the qualification procedure. If the contracting agency is supported by a consultant (para 1.05) this report is to include his/her certificate or separate comment. In procedures with pre-qualification the *evaluation report* includes the *contracting agency's* recommendation on the bidders to be invited to tender. The report shall include all clarifications and communication with bidders. If more than the maximum number of candidates qualify (para 2.08) these will be selected according to the number of points scored.

2.12 The evaluation report is to be sent by the *contracting agency* to KfW. Financing of the supplies and works from FC funds will be conditional on KfW's no-objection to the recommendations contained in the *evaluation report* before the invitations to tender are sent out (in procedures with pre-qualification) and before the bids are opened in the case of the two-envelope procedure.

2.13 Following receipt of KfW's no-objection, the *contracting agency* will inform all bidders immediately on the outcome of the evaluation.

2.2.4 Further Steps following Conclusion of the Qualification Procedure

2.14 In procurement procedures with pre-qualification, the bidders selected in accordance with the findings of the *evaluation report* will be invited to submit their bids in the second stage. In bidding procedures with post-qualification only the bids of those bidders who have fulfilled the qualification criteria will be opened in the second public session. The procedure for opening the bids will be conducted in accordance with para 2.22. If the two-envelope procedure was dispensed with (see para 2.10), after appraisal of the qualification criteria only the bids of those bidders will be evaluated further who have met the qualification criteria.

2.3 Bidding Documents and Terms

2.15 The bidding documents inform the bidders about the nature and scope of the goods and works to be provided and about the conditions of the contract. They will be designed in a way that ensures fair and transparent competition with equal opportunities for all bidders. To this end the bidders will also have to be informed about the selection criteria and how these are weighted in the evaluation of the bids. As a general rule, the documents include:

- general information about the project and the supplies and services to be provided;
- information on the execution of the bidding process and evaluation procedures;
- sample form of tender;
- general and specific conditions of contract and, if appropriate, draft contract;
- general technical conditions of contract, neutral technical specifications with bill of quantities, specifications or performance criteria for performance-based contracts;
- clear and complete design documents;
- specification of standards and measuring system applied;
- specimen declaration of undertaking;
- standard forms of bid bond, advance payment bond and performance bond (see Section 4.6)
- preliminary cost estimates, unless there are serious reservations against their disclosure.

2.16 Wherever possible, the standard documents of the *IFIs* are to be utilized. These will be applied wherever possible without any modifications, particularly with regard to the distribution of risk between the contractual parties. Any deviations that may become necessary are to be listed clearly in an annex. The version of the Pink Book containing KfW-specific particular conditions, licenced by KfW, should be utilized instead of the FIDIC Red Book.

2.17 Implementation agreements and covenants of KfW, for instance with regard to the inclusion of HIV/AIDS prevention measures in construction projects in sub-Saharan Africa, to

the extent that they are relevant for the contracts, will usually be taken into consideration in the specific or technical conditions of contract but not in the general conditions of contract.

2.18 The procurement conditions clearly and unequivocally define the obligations to be entered into by the subsequent contractual parties. In particular, this applies to the scope of supplies and the place of delivery, liability and warranty obligations, and public charges and levies to be borne by the bidder. The distribution of risks resulting from geotechnical or hydrological conditions and from environmental protection requirements is to be settled. The *contracting agency* will make available studies accessible to all bidders.

2.19 The procurement conditions will also specify whether alternative bids are admissible and how they may be taken into consideration in the evaluation of bids.

2.4 Currency of Bid Price

2.20 The bidding documents specify the currencies in which the bid price is to be expressed. Usually the currencies of bids are commonly used international currencies (such as the US dollar or the Euro) and/or the national currency of the *contracting agency*.

2.21 With regard to possible changes in the exchange rates during the procurement process, the *contracting agency* specifies the relevant date for the conversion of bid prices. Such date should be as near the bid opening date as possible. The contracting agency also indicates the rate to be used for the conversion (usually the selling rate published by an official source on a specific date).

2.5 Bid Opening

2.22 The bids, which are to be submitted in a sealed envelope, must be opened at the place and time specified in the bidding documents. The bid opening will take place in public, with the name of the bidder and total amount of the bid and any alternative bids read aloud and recorded. A record of the bid opening session will be prepared, signed by the members of the bid opening commission and submitted to KfW immediately. If the documents are to be submitted in separate envelopes (e.g. separate technical proposal and price quotation), which will be evaluated consecutively, a record must be prepared from each opening session. At KfW's request a copy of the bid will be presented simultaneously to KfW in a sealed envelope.

2.6 Examination and Rejection of Bids

2.23 After opening of the bids they are examined for completeness, for compliance with the bidding documents and for conformity of the bonds submitted by the bidder with the specifications of the bidding documents.

2.24 Bids are generally rejected if

- a bid is received after the *closing date*;
- a bid fails to comply with the bidding documents in material respect, e.g. with the general conditions of contract or major technical specifications;
- a bid contains major reservations or restrictions; or

- a bid lacks the declaration of undertaking specified under para 1.03.

2.25 Negotiations between the *contracting agency* and a bidder as well as alterations of bids between the opening of the bids and the award of the contract are not admissible. However, the *contracting agency* may seek clarifications from the bidders that are necessary for the evaluation of the bids. Neither the clarifications demanded by the *contracting agency* nor the alterations made by the bidder may lead to any changes in the contents or price of the bid. Queries on the part of the *contracting agency* and responses from the bidder must be in writing.

2.26 The procurement procedure is confidential. Confidentiality enables the *contracting agency* and KfW to prevent inadmissible interference. The *contracting agency* and KfW as well as the persons in charge of the evaluation and preparation of the recommendation for the award of contract therefore will give no information on the evaluation of bids nor make any award recommendation to the bidders or to other persons who are not officially involved in the procurement procedure. In the case of breach of confidentiality KfW may demand cancellation of the tender procedure.

2.7 Evaluation of Bids

2.27 Bids that are not rejected are usually evaluated by the *contracting agency* in cooperation with the consultant or by the consultant. The purpose of the evaluation is to determine the most advantageous offer by assessing the relevant factors of the individual bids and by subsequently comparing all the bids submitted. If specified in the bidding documents (see para 2.15), the evaluation includes not only the price offered but also other factors that are relevant to the success of the project and its sustainability and that can be quantified, such as the delivery or construction period, personnel, equipment lists, environmental and social impacts, costs of operation and total useful life, supply of spare parts, service, and the qualification for training local personnel. If the evaluation was preceded by a prequalification, criteria that were already considered then may not be examined again unless doubts have subsequently emerged with regard to the fulfilment of the minimum qualification criteria.

2.28 The bids that have not been rejected are examined individually for technical and arithmetic correctness. Bids are evaluated and weighted in quantitative terms, in monetary units where possible and only according to the criteria stipulated in the bidding documents. The most advantageous bid determined on the basis of this procedure after correction of any arithmetic errors will win the contract. The lowest bid price alone is generally not decisive.

2.29 If a bid price appears to be unusually low in relation to the services to be rendered the bidder will be requested to submit a written breakdown of his price calculation. If after review of the notes submitted by the bidder reasonable doubts persist as to whether the required goods and works can be provided at the rates offered and if this is reasonably expected to pose a considerable risk to the performance of the contract, the bid in question will have to be excluded.

2.30 To enable a comparison of bids the evaluation of the bid prices will consider the import duties and taxes actually applicable. In cases where competition between qualified bidders would be seriously distorted as a result of local regulations or double taxation agreements, an appropriate procedure will be agreed between the *contracting agency* and KfW prior to the start of the tender to redress such distortion; a corresponding note will be included in the bidding documents.

2.31 On completion of the bid evaluation KfW is furnished with a detailed report on the evaluation and comparison of the bids ("*Evaluation Report*") and with a substantiated recommendation for award that must be coordinated with any government agencies of the partner country whose involvement may be required. The report shall include all clarifications and communication with bidders. If the *contracting agency* is supported by a consultant (para 1.05) this report is to include his/her certificate or separate comment.

2.32 If an extension of the *validity period* became necessary the reasons are to be stated in the *evaluation report*. An extension of the *validity period* may not lead to changes in the bid prices. The extension entitles the bidders to withdraw their bids upon expiry of the original binding period without allowing the bid bond to be drawn. KfW reserves the right to refrain from financing if the procurement procedure is unduly delayed.

2.33 The *contracting agency* will submit to KfW the *evaluation report* and award recommendation in such good time as to permit KfW's comment to be issued not later than three weeks before expiry of the *validity period*. KfW reserves the right to refrain from financing if the report is not submitted in due time.

2.34 KfW generally reserves the right to review the bids of all bidders or of specific bidders as well as all other documents in connection with the procurement process and award up to two years after completion of the project.

2.8 Cancellation of the Bidding Process

2.35 The bidding process may be cancelled if

- competition was inadequate;
- no bid was received that is considered as substantially responsive;
- the responsive bids substantially exceed the budget;
- the technical or financial bases of the procurement have changed materially prior to the award, or
- the rates of the bid are obviously and clearly unreasonably high.

2.36 Competition is usually inadequate if clearly fewer bids qualified for evaluation than could be expected from the size of the market, if the prices appear to be clearly excessive or if there is obvious price fixing.

2.37 If no substantially responsive bid was received a new qualification procedure may be dispensed with and a new bidding process may be initiated, or, under circumstances defined

in Section 3.6, the contract may be *awarded at the contracting agency's discretion* to one of the bidders that originally qualified.

2.38 If the lowest bid was higher than the estimated cost this alone is no reason for cancelling the bidding procedure.

2.39 If the lowest responsive bid is clearly higher than the cost estimate the *evaluation report* must discuss on the basis of an analysis of causes whether a reasonable price could be achieved through a new bidding process. If this is not to be expected, after KfW's no-objection and cancellation of the procurement process, negotiations may be conducted with the bidder who has submitted the most advantageous responsive bid in order to determine how a reasonable contract price can be reached by adjusting the scope of the contract and/or by altering the distribution of risks and burdens.

2.40 Any cancellation of the bidding process as well as the further steps require KfW's no-objection. The cancellation of the bidding process must be notified by the *contracting agency* to all bidders stating the reasons. If the bidding process is cancelled a new procurement process is usually conducted under different circumstances that ensure greater competition, for instance by changing the object or the terms of the procurement.

2.9 Information to the Bidders

2.41 After the award of the contract the other bidders will be informed by the *contracting agency* that their bid was not successful and whether their bid fulfilled the general and technical procurement conditions.

3 Other Forms of Procurement, Discretionary Award and Counterpart Measures

3.01 On the condition that KfW give its prior no-objection, a deviation from the principle of international competitive bidding is possible in specific cases. Particularly in the forms described in sections 3.2 to 3.4, KfW may admit less stringent review requirements than those specified in section 2, or it may permit conditions of contract that differ from those specified in section 4 if this does not violate the principles mentioned in section 1. The following forms of procurement may be applied in lieu of international competitive bidding.

3.1 Supplies and Services Limited to Germany or to the Member States of the European Union

3.02 When competition is adequate the procurement process may be limited to enterprises domiciled in, for example, Germany or the EU, that conduct a significant portion of their business there and that do not resort to supplies or services from third countries to provide the supplies and services to be contracted.

3.2 Local Competitive Bidding

3.03 If adequate competition is expected and if it is likely that international enterprises will not take part in the bidding process because of the moderate size of the project, for logistical reasons or because of the low local price level, the bidding process may be restricted to the

partner country in question. In this case it will be admissible to restrict publication of the tender exclusively to national media and to the official national language and to conduct it in accordance with payment and contractual procedures customary in the country. Enterprises not domiciled in the partner country are generally allowed to participate in the tender.

3.3 Limited Competitive Bidding

3.04 The procurement may be restricted from the beginning to a limited number of firms, for instance if they are the only firms that are capable of meeting the specifications or if the contract volume does not justify public bidding.

3.4 Price Quotation

3.05 In individual cases the procurement of commercially obtainable goods and services of a kind, value or scope that does not justify a competitive bidding process can be conducted on the basis of price quotations and of a sufficient number of (at least three) price quotations obtained from local or international dealers or manufacturers.

3.5 Multi-Stage Process

3.06 In complex technical projects, particularly in the procurement for turn-key projects (BOT, BOOT or similar) precise technical specifications often cannot be made in advance. In such cases a multi-stage procurement process may be used. Details of this process are agreed between the *project-executing agency* and KfW at project appraisal.

3.6 Discretionary Award

3.07 *Discretionary awards* of contracts are permitted in exceptional cases only. They are permitted

- in amending existing contracts if the additional scope is minor in comparison with the existing contract, the nature of the supplies and works is the same, and the award of these supplies and works does not justify a new bidding process;
- upon cancellation of a bidding process if a renewed bidding process is unlikely to yield reasonable results (see section 2.8);
- if for specific reasons only a particular enterprise is suitable for supplying the goods and services to be procured (for instance original spare parts, goods protected by copyright or patent registration, special experience or equipment);
- if supplies and services are so urgent that a bidding contest under these procurement guidelines is not possible, such as in the case of emergency measures.

3.08 In *discretionary awards* the *contracting agency* will examine in any case whether the bid price and the other elements of the bid are reasonable. The outcome of this verification procedure must be documented in writing, and shall require KfW's approval prior to the conclusion of the contract.

3.7 Force Account, Target Group-implemented Measures

3.09 Bidding procedures may be dispensed with if measures are to be carried out by the *contracting agency*, by units that report to it, or directly by the target group to achieve greater

sustainability or employment effectiveness because of specific circumstances (for instance emergency measures). In this case the contract is to be adapted to the particular requirements.

4 General Conditions of Contract

4.1 General

4.01 The General Conditions of Contract are an integral part of the tender documents. They define the obligations of the contract parties and the distribution of the risks.

4.02 The General Conditions of Contract may be drafted along the lines of internationally applied standard contracts in accordance with the nature and scope of the supplies and services to be awarded. For civil works projects these are usually the Conditions of Contract prepared by *FIDIC*. The *IFIs* have prepared *standard documents* for supply contracts. Other provisions, such as contractors' general terms and conditions or model forms of agreement should additionally be agreed only if this is inevitable. In such cases the order in which the individual arrangements are to be considered should be stated.

4.2 Liability

4.03 The liability between the contractual parties will be settled in such a manner as to prevent any gaps in liability. Especially in complex projects that are difficult to coordinate technically and on a time axis, and in which various enterprises are involved, the contract should stipulate that the overall liability for the execution and successful completion of the project be assumed by one of the parties to the contract in order to avoid gaps in liability. Where measures are to be carried out by a joint venture the contract is to stipulate joint and several liability of the participating firms.

4.3 Payment Terms

4.04 Payment terms will be in accordance with the usual international practice in the industry concerned and will provide for payments to be dependent on the delivery of supplies and performance of services and be in line with the progress of the project.

4.05 The advance payment represents an input by the *contracting agency* that is designed to cover mobilization expenses accruing to the contractor. As a rule, it should not exceed 20 % of the contract price and is to be paid immediately upon entry into force and effect of the contract and upon presentation of the required advance payment and performance guarantees.

4.06 Further payments will be effected in down-payments or instalments pro rata of the progress of the project.

4.07 Disbursement will be effected in the currencies specified in the contract. If necessary, exchange rate and currency risk agreements will be entered into that place none of the contractual parties at an unreasonable advantage or disadvantage.

4.08 The final payment, usually ten per cent of the contract value, is to be made upon preliminary acceptance. It is to be secured by a performance bond in the amount of the retention money for the services to be rendered during the warranty period (usually five per cent of the contract value). If the contractor fails to present this guarantee in due time, payment of the portion of the final payment representing the retention money will be made on final acceptance unless otherwise agreed in accordance with para 4.12.

4.09 The payment terms are to be in line with the Information leaflet "*Disbursement of Funds under Financial Cooperation with Partner Countries*". In particular, the necessary documentary evidence of the proper use of the funds must be provided for disbursement. As import duties and public charges to be borne by the *contracting agency* generally are not financed from funds of German Financial Cooperation they have to be shown separately by the contractor in the invoices. If the contractor pre-finances taxes and import duties, the deadlines for reimbursement and consequences of any breach of the obligation to reimburse must be agreed.

4.4 Price Adjustment

4.10 In cases where the supply of goods and works for a project may extend over a longer period of time, the bidding documents may contain price adjustment clauses that reasonably compensate cost changes that may occur during contract implementation. These clauses should take account of changes in the prices of the major cost constituents of the contract (such as labour, raw materials, supplies and equipment) according to a given system of index numbers or on other contractually agreed bases. Evidence of cost changes is to be furnished regularly by submission of official documents such as those issued by chambers of commerce or statistical offices. In order to prevent advantages or disadvantages to a contractual party, it must be ensured that the amounts for the price adjustment are disbursed in the currency that was contractually agreed for the cost subject to price adjustment (see section 4.3).

4.5 Warranty

4.11 The contractor's warranty obligations are defined in accordance with international industry practice. The warranty period is usually one to two years.

4.12 If the final acceptance towards the end of the warranty period is delayed by more than 90 days for reasons for which the contractor cannot be held accountable, the contracting agency may commission an international audit firm to determine whether and to what extent the services have been duly performed. Its vote will be binding for both parties. In particular cases it may be agreed that the contractor's warranty obligations will be considered fulfilled, if a contractually agreed latest date was exceeded for reasons beyond the contractor's control.

4.6 Guarantees

4.13 The contractor will provide abstract bid bonds, advance payment bonds and performance bonds. Advance payment bonds and performance bonds are to be made payable to KfW. The guarantor and the content of the bond (see specimens in Annexes 2 - 4)

will require KfW's no-objection. The *contracting agency* will return the bonds of its own accord and immediately after their expiry or after the total amount has been utilized.

4.14 The bid bond ensures that the bidder adheres to the bid for the duration of the *validity period*. It is to be returned to the unsuccessful bidders after the contract has been awarded or after the *validity period* has expired, whichever event occurs first.

4.15 The advance payment bond ensures that in case the services are not performed the contracting agency will be refunded the advance payment which it has made. The amount of the advance payment bond equals the amount of the advance payment. As a rule, the bond will decrease pro rata in accordance with the value of the supplies and works provided.

4.16 The performance bond guarantees that all contractual obligations will be duly fulfilled by the contractor. The performance bond is usually valid throughout the life of the contract and normally amounts to ten per cent of the order price up to preliminary acceptance and five per cent of the order price after preliminary acceptance.

4.7 Penalties

4.17 Contractual penalties will be agreed in case the contractor fails to perform the services within the agreed period for reasons for which the contractor is responsible and if this failure leads to a delay in acceptance and entry into operation of the project. The amount of the penalty is usually established in the bidding documents as a specific amount or portion in relation to a time unit (e.g. an amount of money or percentage of the contract price per week) with a ceiling (usually five to 10 per cent of the contract price). This penalty is a blanket compensation for the additional cost and loss of operation caused by the delay. Especially in the case of contracts for plant and machinery, performance penalties are also stipulated which are due in the event of failure to achieve certain contractually agreed parameters.

4.8 Insurance

4.18 Goods and works are to be insured adequately and to the customary extent against all risks that may occur up to the orderly completion and acceptance of the project so that replacement or rehabilitation is possible in the event of damage.

4.19 Transport insurance is to be provided for the duration of the entire transport. Insurance to be agreed upon must be for full coverage (All Risks) and, where necessary, should include War Clauses (Cargo) and clauses for strikes and disturbances in accordance with internationally acknowledged clauses such as the *Standard Clauses* of the German Insurance Association.

4.20 For civil works, plant and machinery the insurance provided must cover risks resulting from the operation of construction sites and the assembly of structures. Here the main insurance to be provided is Contractors All Risks Insurance as well as insurance against damage to persons.

4.21 Insurance is to be taken out against extraordinary events such as war, riot, terrorism or revolution to the extent possible at reasonable terms and conditions. Otherwise the

contracting agency and the contractor are to reach a settlement on the distribution of these risks in coordination with KfW.

4.22 In the case of financing of foreign currency costs, insurance is to be taken out in freely convertible currency and will provide for any payments due from the insurer to be made payable to KfW for account of the *contracting agency*. The payment clause corresponds to that of the advance payment bond and performance bond (Annex 3 and 4). If such insurance payments are rendered in national currency, they must be transferred to a special account of the *contracting agency* which cannot be accessed without KfW's consent.

4.9 Force Majeure

4.23 Force majeure means extraordinary circumstances that prevent the due performance of contractual obligations and are beyond the control of any of the parties to the contract, such as natural disasters, war, or disruption of public order.

4.24 It may be agreed that evidence of the existence of an event of force majeure and its being the cause for the contractor's failure to perform his contractual obligations is to be furnished in the form of a corresponding certificate issued by the local chamber of commerce or a similar institution.

4.25 An event of force majeure results in the suspension of contractual obligations and, thus, a postponement of the dates fixed for delivery of goods and provision of services and, accordingly, the warranty periods. As the case may be, the contractor is obligated to remove the obstacle, to take measures to eliminate damage, or to take any other extraordinary precautions (e.g. storage of goods) against reimbursement of costs. In the event of persistent force majeure the contract will be terminated; the General Conditions of Contract will contain provisions on the compensation of services rendered by the contractor in such a case.

4.10 Applicable Law, Settlement of Disputes

4.26 A clause will be included specifying the law applicable to the contract, and a provision on the settlement of disputes will be included. In larger or more complex projects the parties may agree on a Dispute Adjudication Board to accompany the project that will adjudicate on the disputed case upon failure of an attempt for an amicable settlement as first instance. In addition, an international court of arbitration will be appointed in any case, this means, in addition to the Dispute Adjudication Board, for instance a court of arbitration in accordance with the rules of arbitration of the International Chamber of Commerce (*ICC*). In case the parties agree on a Dispute Adjudication Board, the dispute should not be referred to the international court of arbitration until at least one of the parties to the contract has refused to accept the decision of the Dispute Adjudication Board. In principle, given the faster and less complex procedure, preference should be given to the Dispute Adjudication Board over an international court of arbitration or an ordinary court for the final settlement of a dispute.

Annexes

Information and Review Requirements of KfW

Prior to publication or invitation to pre-qualify or tender in procurement processes without pre-qualification, the following documents are to be submitted to KfW for comment:

- Invitation to tender
- Selection criteria for qualification (in detailed form)
- Tender documents, including specimen contract
- Draft notice specifying the fees for the purchase of the tender documents and their utilization, as well as list of the media in which the notice is to be published

In processes with **pre-qualification**, the following documents have to be submitted to KfW for comment prior to the **invitation to tender**:

- The *evaluation report* of the qualification, including the certificate or opinion of the consultant
- The recommendation on the list of bidders to be invited to tender

In processes with **post-qualification**, the following documents have to be submitted to KfW for comment prior to the **opening of the bids**:

- The *evaluation report* of the qualification, including the certificate or opinion of the consultant
- The recommendation on the list of bidders whose financial bids are to be opened.

Prior to the **award** of the contract, the following documents are to be submitted to KfW for comment:

- The signed record of the bid opening
- The *evaluation report*
- The recommendation on the award
- The certificate or opinion of the consultant on the recommendation of the award
- If applicable, an explanation why the *binding period* could not be observed
- At the request of KfW, if applicable, all or specific bids.

If a **suspension of the procurement process** is recommended instead of an award, KfW's no objection on the suspension and on the further steps must be obtained prior to suspension of the procurement process.

During the bidding process and *award*, **contacts between bidders and KfW** are undesirable unless KfW is the contracting agency in exceptional cases. Inquiries for clarifications are to be sent directly to the *contracting agency* or its representative.

If after notification of the result of the qualification or the award of contract a bidder files an **objection** or **protest**, KfW must be informed accordingly and on the subsequent decisions immediately.

Standard Form of a Bid Bond

Address of guarantor bank:

.....
.....

Address of beneficiary (contracting agency):

.....
.....

We, the undersigned (Guarantor), in order to enable to bid for (project, object of contract), hereby irrevocably and independently guarantee to pay to you an amount up to a total of

.....

waiving all objections and defences.

We shall effect payments under this guarantee on your first written demand, which must be accompanied by your confirmation that you have accepted the above-mentioned bid and that the firm is no longer prepared to abide by this bid.

This guarantee shall expire no later than

By this date we must have received any claims for payment by letter or encoded telecommunication.

It is understood that you will return this guarantee to us on expiry or after payment of the total amount to be claimed hereunder.

This guarantee is governed by the laws of

.....

Date

.....

Guarantor

Standard Form of an Advance Payment Bond

Address of guarantor bank:

.....
.....

Address of beneficiary (contracting agency):

.....
.....

On you concluded with ("Contractor")
a contract for (project, object of contract) at a price
of

In accordance with the provisions of the contract the Contractor receives an advance
payment in the amount of, which represents % of the order
value.

We, the undersigned (Guarantor), waiving all objections and defences
under the aforementioned contract, hereby irrevocably and independently guarantee to pay
on your first written demand any amount advanced to the Contractor up to a total of
..... (in words:
.....) against your written declaration that the
Contractor has failed to duly perform the aforementioned contract.

This guarantee shall come into force and effect as soon as the advance payment has been
credited to the account of the Contractor.

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt
am Main, BIC: KFWIDEFF, account IBAN: DE53 5002 0400 3800 0000 00, for account of
..... (contracting agency/project-executing agency).

This guarantee shall expire no later than

By this date we must have received any claims for payment by letter or encoded
telecommunication.

It is understood that you will return this guarantee to us on expiry or after payment of the total
amount to be claimed hereunder.

This guarantee is governed by the laws of

.....
Place, date

.....
Guarantor

Declaration of Undertaking

We underscore the importance of a free, fair and competitive procurement process that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our bid, nor will we offer or grant or accept any such incentives or conditions in the present procurement process or, in the event that we are awarded the contract, in the subsequent execution of the contract. We also declare that no conflict of interest exists in the meaning of the kind described in the corresponding Guidelines⁶.

We also underscore the importance of adhering to environmental and social standards in the implementation of the project. We undertake to comply with applicable labour laws and the Core Labour Standards of the International Labour Organization (ILO) as well as national and applicable international standards of environmental protection and health and safety standards.

We will inform our staff about their respective obligations and about their obligation to fulfil this declaration of undertaking and to obey the laws of the country of @ (name of country).

We also declare that our company/all members of the consortium has/have not been included in the list of sanctions of the United Nations, nor of the EU, nor of the German Government, nor in any other list of sanctions and affirm that our company/all members of the consortium will immediately inform the client and KfW if this situation should occur at a later stage.

We acknowledge that, in the event that our company (or a member of the consortium) is added to a list of sanctions that is legally binding on the client and/or KfW, the client is entitled to exclude our company/the consortium from the procurement procedure and, if the contract is awarded to our company/the consortium, to terminate the contract immediately if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion occurs after the Declaration of Undertaking has been issued.

.....

(Place)

.....

(Date)

.....

(Name of company)

.....

(Signature(s))

⁶ See "Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries" and "Guidelines for Procurement of Goods, Works and associated Services in Financial Cooperation with Partner Countries"

Standard Form of a Performance Bond

Address of guarantor bank:

.....
.....

Address of beneficiary (contracting agency):

.....
.....

On you concluded with ("Contractor")
a contract for (project, object of contract) at a price
of

In accordance with the provisions of the contract the Contractor is obligated to provide a
performance bond for ... % of the contract price.

We, the undersigned (Guarantor), waiving all objections and defences
under the aforementioned contract, hereby irrevocably and independently guarantee to pay
on your first written demand an amount up to a total of
..... (in words:
.....)

against your written declaration that the Contractor has failed to duly perform the
aforementioned contract.

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt
am Main, BIC: KFWIDEFF, account IBAN: DE53 5002 0400 3800 0000 00, for account of
..... (project-executing agency/purchaser).

This guarantee shall expire no later than

By this date we must have received any claims for payment by letter or encoded
telecommunication.

It is understood that you will return this guarantee to us on expiry or after payment of the total
amount to be claimed hereunder.

This guarantee is governed by the laws of

.....

Place, date

.....

Guarantor

Abbreviations and Glossary

Bidding period	Period between the date of issue of the bidding documents and the date of submission of bids
BOT	Build-Operate-Transfer; here the term is used synonymously with other terms like BOOT, BOO.
Contracting agency	See definition in the introduction
Core Labour Standards	The core labour standards define internationally agreed minimum standards for worker rights. They concern forced child labour and other forms of child exploitation, freedom of assembly and non-discrimination. They are established by the International Labour Organisation (ILO). Details on the Core Labour Standards and a list showing what countries have ratified which standards can be found in the Internet at http://www.ilo.org
Development Gateway	A list of ongoing procurement processes can be found at http://www.dgmarket.com .
Discretionary Award	The term is synonymous with "direct award"
Evaluation report	See definitions in para 2.12 and 2.32
FIDIC	Fédération Internationale des Ingénieurs-Conseils (http://fidic.org/). Civil works projects are covered by the so-called "Red Book", electronic and engineering equipment and design-build projects by the "Yellow Book" and small, e.g. locally awarded projects by the "Green Book". The "Silver Book" for turnkey plant and equipment is only of limited importance as it does not provide for an independent consultant for FC financed projects.
Financial Cooperation (FC)	See definition in the introduction (box)
GTAI	Foreign Trade and inward investment agency of the Federal Republic of Germany Address: Germany Trade and Invest GmbH ⁷ , Villemombler Str. 76, D-53123 Bonn, Telephone: +49 (228) 24993-374 or -377, Telefax: +49 (228) 24993-446, Email: kfw-tender@gtai.de , Internet: www.gtai.de
Guidelines for the Assignment of Consultants in German Financial Cooperation with Partner Countries.	Available in five languages at internet under Guidelines/Contracts: https://www.kfw-entwicklungsbank.de/International-financing/KfW-Development-Bank/Publications-Videos/Publication-series/

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Full name: Germany Trade and Invest – Gesellschaft für Außenwirtschaft und Standortmarketing mbH

ICC	International Chamber of Commerce Internet address http://www.iccgermany.de/ and others
IFI	International financing institutions such as the World Bank, Asian Development Bank, African Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, Caribbean Development Bank.
Leaflet for the Disbursement of Funds	Available in five languages at internet under Guidelines/Contracts: https://www.kfw-entwicklungsbank.de/International-financing/KfW-Development-Bank/Publications-Videos/Publication-series/
Project executing agency	Agency in the recipient country which is responsible for the implementation of the project, usually also <i>contracting agency</i> .
Procurement	Procedure to award a contract and its result. Procurement comprises preliminary information, qualification, preparation and evaluation of bids, contracting and information to unsuccessful bidders.
Recipient country	Country which is the recipient of the FC loan or grant or country in which the non-governmental recipient has its domicile.
Standard conditions of the German Insurance Association	http://www.tis-gdv.de/tis/bedingungen/inhalt2.htm
Standard documents	("Standard Bidding Documents") of the <i>IFIs</i> for tender, awarding and contractual documents are standardised specimen procurement documents of the <i>IFIs</i> . They are available in English, for instance, at http://www.worldbank.org/ or http://www.adb.org/ .
Validity period	Period within which the bids are binding; the binding period is identical to the term of the bid bond.

**Annex 5
to the Separate Agreement**

Officer in Charge: Schlüter Kevin
phone: +49 69 7431-8629
email: kevin.schlueter@kfw.de

Disbursement Procedure

**German Financial Cooperation with
Loan/Financing/Project/Programme Agreement of KfW
EUR 55.0 million (“FC Development Loan” or “Loan”) and EUR 2.0 million
 (“Accompanying Measures Grant” or “Grant”)
Project/Programme name: Sustainable Urban Infrastructure Development Odisha –
Phase 2
KfW-Reference No.: BMZ No. 2016 68 391 (Loan Agreement) and BMZ No. 2016 70 306
(Financing Agreement)**

1 INTRODUCTION

This annex stipulates the disbursement procedure for the above-mentioned project/programme. The Separate Agreement including this Annex shall be made available to all staff of the borrower, recipient, or project/programme-executing agency (“**Authorized Party**”) and any other party involved with disbursements.

KfW disburses loans and non-repayable financial contributions (“**Funds**”) upon request of the **Authorized Party** in accordance with the progress of the projects/programme financed. KfW supervises the contractual use of the Funds which it has reserved for specific goods and services on the basis of the “Separate Agreement” pertaining to the Loan/Financing/Project/Programme Agreement. The List of Goods and Services as well as the corresponding Funds reserved thus form the framework within which the Authorized Party may request disbursement from KfW once all contractual prerequisites for disbursement have been fulfilled.

2 GENERAL PROVISIONS

2.1 All withdrawal applications shall

- indicate the **KfW Reference Number**,
- be **numbered consecutively** and
- be signed by representatives of the Authorized Party who have been designated as authorized towards KfW and of whom KfW has received **specimen signatures** (example see **Attachment A**).

2.2 In general, KfW accepts only **original** withdrawal applications. If, in exceptional cases, a withdrawal application has been transmitted by fax, the original is to be sent by mail immediately afterwards marked as fax confirmation. KfW is released by the Authorized Party from liability for any damage resulting from false transmissions, due in particular to transmission errors, abuse, misunderstanding, or mistakes.

- 2.3 For payments made in a currency other than that committed ("**Foreign Currency**"), KfW will debit the borrower or recipient with such amount as was expended by KfW for the procurement of the foreign currency, inclusive of incidental expenses.
- 2.4 KfW will not be liable for delays caused by transferring banking institutions in the disbursement or remittance of Funds. If any delay is caused by KfW, its liability will be limited to the payment of interest accrued.
- 2.5 The disbursement advice will be distributed monthly by mail to the addressees of the Loan/Financing Agreement and to other parties involved as communicated to KfW by the Authorized Party. Provided that the Authorized Party or any other party has communicated an Email address to KfW, the disbursement advice will be sent automatically on the day of each disbursement to the respective Email address. For communication of an Email address please use the attached model for a letter requesting emailing of disbursement advice (example see **Attachment B**).

3 SPECIAL PROVISIONS

3.1 Authorized Party is the **Orissa Urban Infrastructure Development Fund (OUIDF)**.

3.2 Procedure to be applied

The Funds assigned to goods and services as specified in the Separate Agreement I.1. + I.3 shall be disbursed according to the **Simplified Reimbursement Procedure** (Encl. Statement of Expenditures - SOE).

3.3 Simplified Reimbursement Procedure (FC Development Loan)

The Authorized Party first pays in full the amounts due and KfW reimburses the expenditures for goods and services to the Authorized Party after a six months period has elapsed but as soon as the amount pre-financed has reached at least EUR 2.5 million, whatever happens earlier, but a maximum of four reimbursements per year.

The Authorized Party will send KfW a duly signed withdrawal application indicating the beneficiary's name and payment instructions (full bank details) (Form see Attachment C).

The Authorized Party will also prepare a Statement of Expenditures (SOE), drawn up in accordance with the items mentioned in Annex "Cost and Financing Schedule" of the Separate Agreement. The SOE, duly filled in, is to be attached to the Withdrawal Application (Form see Attachment D).

The Authorized Party shall assign an external auditor to examine annually (in compliance with KfW Terms of Reference for Auditors, Attachment E) whether the payments have been managed properly. An original of each auditor's report will be sent to KfW in due course after the end of the period under review. The final audit report will be presented together with the last Withdrawal Application as additional requirement for the final payment.

3.3.1 Documents

All original evidence of expenditures corresponding to the invoices is to be kept until at least five years after completion of the financed measures and will have to be accessible at all times for inspection by KfW or third parties so instructed by KfW (e.g. auditors). Such evidence includes invoices, shipping documents, acceptance protocols and all relevant documents necessary to evidence payment.

3.4 Simplified Reimbursement Procedure (Accompanying Measures Grant)

The Authorized Party first pays in full the amounts due and KfW reimburses the expenditures for goods and services to the Authorized Party after a six months period has elapsed but as soon as the amount pre-financed has reached at least EUR 150,000 whatever happens earlier.

The Authorized Party will send KfW a duly signed withdrawal application indicating the beneficiary's name and payment instructions (full bank details) (Form see Attachment C).

The Authorized Party will also prepare a Statement of Expenditures (SOE), drawn up in accordance with the items mentioned in Annex "Cost and Financing Schedule" of the

Separate Agreement. The SOE, duly filled in, is to be attached to the Withdrawal Application (Form see Attachment D).

The Authorized Party shall assign an external auditor to examine annually (in compliance with KfW Terms of Reference for Auditors, Attachment E) whether the payments have been managed properly. An original of each auditor's report will be sent to KfW in due course after the end of the period under review. The final audit report will be presented together with the last Withdrawal Application as additional requirement for the final payment.

Please contact the KfW-official mentioned above if you have any questions about the disbursement procedure, quoting the KfW-reference number.

Attachments

- A) Example of a Letter Designating Authorized Signatories
- B) Model for a letter requesting emailing of disbursement advices
- C) Withdrawal Application Form Reimbursement Procedure
- D) Statement of Expenditure
- E) Terms of Reference for the Auditor

EXAMPLE OF A LETTER DESIGNATING AUTHORIZED SIGNATORIES

From: _____
Party of the Authorized Representative according to the Loan/Financing/Project/Programme Agreement

To:
KfW Bankengruppe
Attn: LEB5
Postfach 11 11 41
60046 Frankfurt am Main

**German Financial Cooperation with
Loan/Financing/Project/Programme Agreement of KfW
EUR 55.0 million (“FC Development Loan” or “Loan”) and EUR 2.0 million
 (“Accompanying Measures Grant” or “Grant”)
Project/Programme name: Sustainable Urban Infrastructure Development Odisha –
Phase 2
KfW-Reference No.: BMZ No. 2016 68 391 (Loan Agreement) and BMZ No. 2016 70 306
(Financing Agreement)**

Dear Sir/Madam,

With reference to the Loan/Financing/Project/Programme Agreement for the project/programme mentioned above, we would like to inform you that any one of the persons whose authenticated specimen signatures appear in this letter is authorized to sign withdrawal applications on behalf of the Borrower/Recipient/Project/Programme Executing Agency

- a) Name: _____
Function: _____
Specimen Signature: _____

- b) Name: _____
Function: _____
Specimen Signature: _____

- c) Name: _____
Function: _____
Specimen Signature: _____

All previous notices (if any) providing signatures of officials authorized to sign applications for withdrawal under this loan/financial contribution are hereby revoked.

In compliance with KfW's identification requirements we hereby enclose readable copies of the passport of each person authorized to sign withdrawal applications in connection with this loan/financial contribution.

Yours sincerely,

Signature of the Authorized Representative of the Loan/Financing/Project/Programme Agreement *Date*

Note: In the event that each application is to be signed by more than one official, the authorization must state this clearly. If authorized signatories are divided into two groups, and joint signature is required, this must also be clearly stated.

MODEL FOR A LETTER REQUESTING EMAILING OF DISBURSEMENT ADVICE

From: _____
(Full name and address)

via fax to: ++49 69 7431 3514
KfW Bankengruppe
z.Hd.: TMa
Postfach 11 11 41
60046 Frankfurt am Main

Dear Sir/Madam,

We hereby kindly request the dispatch of disbursement advice to us via **Email¹** to:

.....
(ONE address only)

All previous requests (if any) providing an Email address for the dispatch of disbursement advices are hereby revoked.

Yours sincerely,

Signature of the Authorized Representative

Date

Note:

¹Email contains a scanned disbursement advice (PDF file) which will be sent to you automatically on the day of the disbursement

From:

(Address Authorized Party)

(date)

KfW Bankengruppe
TM a
Postfach 11 11 41
60046 Frankfurt am Main
Federal Republic of Germany

Re.: TM a – **German Financial Cooperation with
Loan/Financing/Project/Programme Agreement of KfW
EUR 55.0 million (“FC Development Loan” or “Loan”) and EUR 2.0 million
 (“Accompanying Measures Grant” or “Grant”)
Project/Programme name: Sustainable Urban Infrastructure Development Odisha –
Phase 2
KfW-Reference No.: BMZ No. 2016 68 391 (Loan Agreement) and BMZ No. 2016 70 306
(Financing Agreement)**

Withdrawal Application No.
Simplified Reimbursement Procedure

In conformity with the contracts/schedules of measures specified below, copies of which were forwarded to you, the following goods/services were duly supplied and have been paid by us:

**Statement of Expenditure
(Attachment)**

No.
dated

Currency/Amount

According to the "List of Goods and Services", the following amounts paid by us shall be reimbursed from the Loan/Financial Contribution:

Amounts paid	Amounts to be reimbursed
.....
.....
.....

Please remit the total amount to be reimbursed of..... to

Beneficiary (name and address of the company)

.....

Account No:.....IBAN (if applicable).

Bank name:.....BIC Code.....

Correspondent bank:*).....BIC code.....

As supporting evidence the Statement of Expenditure is enclosed.

We confirm that the goods and services have not already been financed from grants or long-term loans.

We hereby confirm that all the Loan Disbursement Conditions as stated in Article 2.4 of the Loan Agreement have been satisfied.

We hereby confirm that the above mentioned Loan Agreement is still in full force and effect and that with reference to the Loan Agreement no Event of Default and no Potential Event of Default exists.

We await your debit advices for the disbursements made by you.

.....
(Signature of the Authorized Party)

*) In addition, if the payee's bank is not located in the country of the currency of payment, the name and address of the bank's correspondent in that country should be provided. Separate applications are required for each currency requested

Withdrawal application No:.....(Simplified Reimbursement Procedure) dated.....

Statement of Expenditure (SOE)

KfW Reference No.....	Project/Programme Name:		Accounting Period:		
to.....		from.....to.....		
column 1	2	3	4	5	6
Consecutive No. and description of individual measures (if applicable, allocate contract no./purpose of contract)*	Amount of measure (as agreed)/ contract amount currency:	Expenditure in preceding accounting period currency:	Expenditure in current accounting period currency:	Total expenditures currency:	Still to be disbursed (column 2 less column 5) currency:
TOTAL					

We confirm that the goods and services have not already been financed from grants or long-term loans.

Date..... Date.....

Signature of Authorized Party / Authorized Third Party if applicable signature of Auditor

* please list the items according to those indicated in the Annex, "Total Cost and Financing", pertaining to article 1.1 to 1.3 (Annex 3) of the Separate Agreement. Allocate respective contracts concluded or force account works.

Terms of Reference

Assurance Engagement

Funds disbursed under the "Reimbursement Procedure/Simplified Reimbursement Procedure"

Introduction

1. The present assurance engagement shall cover all funds pre-financed in full by [Name of Authorized/Authorized Third Party, Project Executing Agency and/or other Project Implementation Unit involved] (the "Entity") which were later on reimbursed by KfW under the financial conditions of KfW loan/grant no. ... [KfW reference no.] for financing of ... [(part of) name of project/programme] (the "Project")

Objective

2. The objective of the assurance engagement ("subject matter") is to permit the auditor/practitioner to
 - express an opinion on the Project financial reports (the "Financial Reports"), statements of expenditures and withdrawal applications as far as the Reimbursement Procedure/Simplified Reimbursement Procedure is concerned and
 - to assure that the proceeds of the KfW's loan/grant have been utilized according to contractual provisions.
3. The preparation of the financial reports and the statements of expenditures is the responsibility of ... (The Entity).
4. The financial information has to be established in accordance with consistently applied accounting standards and the underlying Loan/Financing/Grant Agreement(s) and the corresponding Separate Agreement (or other Agreements if applicable).
5. The assurance engagement will be effected annually and the signed original(s) of the respective assurance engagement report(s) ("Report") should be presented not later than 3 months after the end of the reimbursement period covered.
6. The assurance engagement shall cover in one single Report all transactions in connection with the Reimbursement Procedure/Simplified Reimbursement Procedure as mentioned under section 1 above.
7. The present assurance engagement shall cover all expenditures reimbursed by KfW listed in the following statements of expenditures (SOE):
 - SOE no. **xy**, dated **xy**, amount **xy** EUR
 - SOE no. **ab**, dated **ab**, amount **ab** EUR
 - ...etc.

The total amount is **xx** EUR.

Scope

8. This assignment is a **reasonable assurance engagement** in accordance with International Standards on Assurance Engagements as published by the International Auditing and Assurance Standards Board of the International Federation of Accountants, with special reference to ISAE 3000 revised and will include such procedures as the auditor/practitioner considers necessary (including on-site visits).
9. In conducting the assurance engagement the auditor/practitioner will express his conclusion on the following items ("criteria") and other matters that the auditor/practitioner considers pertinent:
 - (a) Goods and services pre-financed are eligible for financing under the Loan/Financing/Grant Agreement(s) and the corresponding Separate Agreement (or other Agreements if applicable). Where ineligible expenditures are identified, these should be noted separately.
 - (b) The statements of expenditures can be relied upon to support the related withdrawal applications. Clear linkage should exist between the statements of expenditures, the withdrawal applications presented to KfW and accounting records.
 - (c) Expenditures are supported by relevant and reliable evidence.
 - (d) Goods and services reimbursed by KfW have been procured in accordance with the Loan/Financing/Grant Agreement(s) and the corresponding Separate Agreement (or other Agreements if applicable).
 - (e) There are no specific deficiencies and areas of weakness in the internal systems and controls of the Entity.
10. The auditor's/practitioner's conclusion will explicitly state whether the financial reports of the Entity, the statements of expenditures and the withdrawal applications presented to KfW are prepared, in all material respects, in accordance with the criteria mentioned above (section 9 a-e).

Reports

11. The **audit report(s)** shall
 - (a) be issued by the auditor/practitioner in the English language.
 - (b) provide a schedule showing the amounts mentioned above (section 7) pre-financed by The Entity and reimbursed by KfW. Particulars resulting from KfW-funds and from other donors – if any – should be shown separately.
 - (c) include at a minimum the following elements:
 - the Subject Matter
 - applied criteria to evaluate the Subject Matter

- identification of the level of assurance obtained
- description of significant limitations
- informative summary of the work performed (extent, locations ...)
- auditor's/practitioner's conclusion expressed as required under the reasonable assurance engagement according to ISAE 3000 revised.

(d) comprise the auditor's/practitioner's statement on the seriousness of observations noted including the consequences of specific deficiencies, if any.

(e) state whether a separate Statement on Internal Control has been issued or not.

(f) contain these Terms of Reference as Annex.

12. If considered pertinent, the auditor/practitioner shall prepare a "Statement on Internal Control" in which he will:

- (a) give comments and observations on the accounting records systems and controls examined during the course of the assurance engagement.
- (b) identify specific deficiencies and areas of weakness in systems and controls that have come to the auditor's/practitioner's attention, especially with regard to withdrawal, procurement, storage and payment transactions, and make recommendations for their improvement;
- (c) report on actions taken by the management to make improvements with respect to deficiencies and areas of weakness reported in the past;
- (d) bring to the management's attention any other matters that the auditor/practitioner considers pertinent.

Liability

13. The auditor/practitioner will provide KfW with evidence of professional liability insurance. The amount of the insurance shall be based on local/regional standards for audit companies.

Review

14. The auditor/practitioner shall keep documentation supporting his conclusion until at least five years after completion of the assurance engagement and shall have them accessible at all times for review by KfW or any third party commissioned by KfW.

Annex 6: Content and Form of Reporting

Semi-Annual Reporting Requirements:

OUIDF will report to KfW semi-annually on the progress of project implementation following the format below (see p. 2-3).

Annual Reporting requirements:

In addition to that, OUIDF will submit **annually**:

- An annual financial audit report as per the ToR for Audit of funds under Reimbursement Procedure included in Annex 7.
- An annual procurement audit answering the Procurement-Checklist laid out below:
 - (1) Have the tender documents been prepared according to the project description in the sub loan agreement with the Urban Local Bodies (ULBs) as well as the specific requirements of the respective assignment (adequate, objective project-related criteria for qualification and technical/financial evaluation)?
 - (2) Is the draft contract (as part of the tender documents) well balanced regarding the rights and duties of the parties and does it contain the essentialia negotii? Are potential contract risks duly covered (e.g. Declaration of Undertaking, bid security, insurance)?
 - (3) Did the tender procedure ensure a fair and transparent competition (e.g. participation of national and international bidders allowed; free access to the bidding documents; no discrimination; no local content; adequate bidding period; clarification procedure; communication with the bidders during the bidding period only in writing)?
 - (4) Did the empanelment process for consulting services follow the procedures agreed upon between OUIDF and KfW?
 - (5) In case international bidding applies: Have the tender notices been published on GTAI, if no exception applied? The procurement notice for international tenders must be published in Germany in the databases of "Germany Trade and Invest" (GTAI; www.gtai.de; kfw-tender@gtai.de).
 - (6) Have the bids been opened and evaluated by a competent and neutral committee?
 - (7) Was the bid evaluation based exclusively on the published evaluation criteria?
 - (8) No price negotiations shall be allowed/undertaken.
 - (9) Does the final draft contract correspond with the draft contract of the RfP (no major changes) and contain the declaration of undertaking (Annex 4 to KfW's Procurement Guidelines) and Bank guarantees following the forms in Annex 2- 4 to KfW's Procurement Guidelines?

- financial statements (profit and loss account, balance sheet, possibly attested annual financial statements or statements of income) of OUIDF

Structure for Semi-Annual reporting:

I. Consolidated overview of the Loan Fund, Grant Fund and Project Development Fund

- For Loan Fund
- For Grant Fund
- For Project Development Fund
- Other relevant cost/financing information: *e.g. is the total financing of the project ensured? How much of the total project funds and of the FC loan (in detail) have been utilised, accounted for and disbursed by the end of the period under review?*

II. Impact overview

- Overview of Projects
- Risks
- Mitigation measures to address risks
- Actions taken to mitigate risks
- Overview over commercially sustainable projects or PPPs under implementation (requiring no capital grant)
- Measures undertaken to mobilize additional sources of funding (incl. private and capital market) to enhance financial sustainability
- Overview over use of surplus generated by the Loan Fund
- Overview over progress made on Special Implementation Arrangements (*Updating ECMSF, E&S specialist as permanent staff, financial model for OUIDF, institutional set-up for OUIDF, NDC reporting, see Separate Agreement Article 5*)
- Other impact-related information (to be reported on at least once per year): *e.g. are the assumptions on the achievement of the output(s), the module objective(s) and the programme objective(s) being fulfilled (see Separate Agreement, Annex 1)? Can the output(s), the module objective(s) and the programme objective(s) be achieved? By when? Have any developments set in or can any be expected which jeopardise the sustainable success of the project (incl. the quality of the relation between the borrower on the one hand and the target group and any cooperating institutions or firms on the other hand)? Have any additional activities become necessary that should be included in the project design? Have any planned project activities become superfluous?*

III. Developments in urban infrastructure sector

- GoI Initiatives (e.g. AMRUT, Smart Cities etc.)
- GoO Initiatives
- Specific development regarding E&S: *e.g. have there been any changes in the environmental legislation relevant for the project? Have the approvals required by environmental legislation been given on a reliable basis? Are the environmental standards of authorisation, detailed engineering documents, operating concept, environmental management plan and covenants being met? Have there been any complaints or suits regarding environmental impacts? Are the intended controls being ensured? What other measures of environmental protection are planned? Status updation of ECMSF Framework*

- Infrastructure Investment Trusts
- Other donor initiatives

IV. Status of sub-projects

Information to be filled for each sub-project:

- Borrower
- Infrastructure sub-sector
- Amount Sanctioned
- Amount approved by KfW
- Amount Disbursed
- Project Overview
- ESIA Category
- ECSMF Overview & Project categorization under both potentially negative environmental and social impact
- Overview of consultancy contracts awarded
- Technical Information of the sub-project
- Size/volume
- Capacity
- Other relevant details (e.g. status of land acquisition, other partners involved...)
- Contract Information/Terms of Concession for the Sub-Project/Time schedule
- Major problems/ critical issues (such as land alienation, resettlement issues difficult and indicating if project might become an NPA) & Proposed solutions
- Cost recovery/tariff structure such as to enable O&M cost and debt service coverage/ FIRR estimates from DPR/expected level of operational cost coverage from revenues in %
- As relevant, key project features from DPR

»»» IFC Exclusion List for Financial Intermediaries of KfW Development Bank

The IFC Exclusion List defines the types of projects that IFC **does not** finance.

IFC does not finance the following projects through its FIs:

- Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements, or subject to international bans, such as pharmaceuticals, pesticides, herbicides, ozone depleting substances, PCBs, wildlife or products regulated under CITES.
- Production or trade in weapons and munitions.¹
- Production or trade in alcoholic beverages (excluding beer and wine).²
- Production or trade in tobacco.³
- Gambling, casinos and equivalent enterprises.⁴
- Production or trade in radioactive materials. This does not apply to the purchase of medical equipment, quality control (measurement) equipment and any equipment where IFC considers the radioactive source to be trivial and/or adequately shielded.
- Production or trade in unbonded asbestos fibers. This does not apply to purchase and use of bonded asbestos cement sheeting where the asbestos content is less than 20%.
- Drift net fishing in the marine environment using nets in excess of 2.5 km. in length.

A reasonableness test will be applied when the activities of the project company would have a significant development impact but circumstances of the country require adjustment to the Exclusion List.

All Financial Intermediaries (FIs), except those engaged in activities specified below*, must apply the following exclusions, in addition to IFC's Exclusion List:

- Production or activities involving harmful or exploitative forms of forced labor²/harmful child labor.³
- Commercial logging operations for use in primary tropical moist forest.
- Production or trade in wood or other forestry products other than from sustainably managed forests.

* When investing in **microfinance** activities, FIs will apply the following items in addition to the IFC Exclusion List:

- Production or activities involving harmful or exploitative forms of forced labor²/harmful child labor.³
- Production, trade, storage, or transport of significant volumes of hazardous chemicals, or commercial scale usage of hazardous chemicals. Hazardous chemicals include gasoline, kerosene, and other petroleum products.
- Production or activities that impinge on the lands owned, or claimed under adjudication, by Indigenous Peoples, without full documented consent of such peoples.

* **Trade finance projects**, given the nature of the transactions, FIs will apply the following items in addition to the IFC Exclusion List:

- Production or activities involving harmful or exploitative forms of forced labor²/harmful child labor.³

FOOTNOTES

¹ This does not apply to project sponsors who are not substantially involved in these activities. "Not substantially involved" means that the activity concerned is ancillary to a project sponsor's primary operations.

² Forced labor means all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.

³ Harmful child labor means the employment of children that is economically exploitive, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health, or physical, mental, spiritual, moral, or social development.

Key Elements of an ESMS for Financial Institutions

NOTE: This brief introduction spells out the key elements of a potential Environmental and Social Management System (ESMS) within a Financial Institution (FI). It intends to provide guidance on what should be considered as satisfactory to meet the contractual requirements of KfW.

What is an Environmental and Social Management System (ESMS)

An ESMS states a financial institution's **commitment to environmental and social (E&S) management** incl. **Health and Safety**, explains its **procedures** for identifying, **assessing and managing E&S risks** of financial transactions, defines the **decision-making process**, describes the **roles, responsibilities and capacity** needs of staff for doing so, and states the **documentation and recordkeeping requirements**. It also provides guidance on how to **screen** transactions, **categorize** transactions based on their E&S risk, conduct **Environmental and Social Due Diligence (ESDD)** and **monitor** the **borrower's E&S performance**.

The scope of financing activities of different types of financial

institutions varies greatly, and so do the associated E&S risks. The **management of these risks should also be tailored to the individual institutional characteristics** of each financial institution, which are different for banking institutions, leasing companies, microfinance institutions, and private equity funds.

The supporting **policies and procedures** of the ESMS should be **well documented, made available** to all staff with responsibilities for implementation and can be compiled into a stand-alone operations manual to formally document the process. This manual should be **updated regularly** through a simple but effective revision process to ensure

continuous improvement of the tailored processes.

Because the procedures and decision-making process of the ESMS are systematically incorporated at each stage of transaction appraisal and monitoring, the ESMS cannot function as a stand-alone system. The process for developing an ESMS needs to consider a financial institution's existing risk management framework and transaction cycle.

Last but not least, if required, **E&S appraisal results** shall be considered in the loan contract as **covenants**.

Key Elements of an ESMS

E&S Policy	The E&S Policy is a brief declaration of an organization's commitment to sustainable development and management of E&S issues including health and safety requirements. It is communicated at least internally and mostly disclosed publicly. The Policy - as frame of the ESMS - needs the full support of the management and shall be launched by them.
E&S Procedures	The Procedures detail how the organization addresses E&S and sustainability issues as part of its investment operations. They are normally step by step instructions focusing on what needs to be done and by whom at various stages of the investment cycle (including supervision). Reference is often made to guidelines (s. below). Procedures may be stand-alone or constitute part of the Credit or other Operational procedures of the institution. They should be documented and communicated to ensure that all existing and new staff are aware of the process. Regular trainings shall be performed to make responsible staff familiar with the respective procedures.
E&S Guidelines	These provide guidance to responsible staff on how to carry out the various steps outlined in the E&S Procedures and on what to look for when conducting an E&S review. They might encompass useful tools, e.g. Checklists or Questionnaires. The guidelines can be simple for low risk investments and more sophisticated for high risk investments.
Record Keeping	This is a vital aspect of an ESMS that ensures that the review and analysis conducted and the required mitigation or corrective measures as applicable according to the Procedure are recorded in the credit decision documents.
Capacity and resources and Training	Additional responsibilities for E&S risk management should be assigned to existing staff or new staff should be hired as required by the ESMS. A financial institution's staff with designated responsibilities under the ESMS shall be trained, and is then required to follow the necessary procedures in their day-to-day tasks related to risk management at all stages of the transaction appraisal and monitoring process.

Key Elements of an ESMS for Financial Institutions

Review and Continuous Improvement	<p>Throughout implementation and subsequent operation of the ESMS, the ESMS should be reviewed periodically to ensure that its procedures remain relevant to the level of E&S risk associated with the institution's portfolio. This will ensure that new and emerging E&S risks are detected and identified during the environmental and social due diligence (ESDD) process.</p> <p>Any potential difficulties and opportunities for improvement should be identified by staff and addressed in a timely manner by the ESMS Officer and concerned staff to ensure a smooth implementation and efficient operation.</p> <p>The operations manual (Procedures) for the ESMS should be updated regularly to reflect any changes and new requirements in the E&S regulations and/or international best practices that affect the business operations of an institution's clients/investees.</p>
Categorization	<p>To ensure that the extent of the review is commensurate with the nature of risk, categorization is a useful step in procedures: Based on basic information about a project such as sector and scale, the level of the project's possible E&S risk is determined. This also enables the bank/fund to determine the extent and sophistication of the subsequent E&S review. Examples of categorization are High, Medium, and Low risk for Projects.</p>
Exclusion List	<p>The Exclusion List provides a list of activities that cannot be financed by KfW. Therefore, as part of its procedures, institutions are required to verify that the activities of a commercial client are not on the Exclusion List.</p>

For additional information please also refer to Section III of IFC Interpretation Note on Financial Intermediaries (2012)
http://www.ifc.org/wps/wcm/connect/38d1a68049ddf966af3cbfda80c2ddf3/InterpretationNote_FIs_2012.pdf?MOD=AJPERES

»» Illustrative List of Category A and B Projects

Projects will be classified as **Category A**, if they may have diverse significant adverse impacts and risks on the environment and/or the social conditions of the affected population. Impacts and risks may potentially be significantly adverse because the complex nature of the Project, the scale (large to very large), the sensitivity of the location(s) of the Project or the impacts and risks are irreversible or unprecedented. Such impacts and risks may affect a larger area that is beyond the site of the facility under construction, the facility itself as well as any associated facilities or the Project area in a narrower sense. Therefore, Project will be classified as Category A if they, for example,

- adversely impact important features such as tropical forests, coral reefs, natural protection areas, wetlands, natural/near-natural forests, important cultural heritage sites);
- have significant transboundary impacts or relevance with regard to international treaties (such as conventions on international waste management regulations or on marine conservation, or agreements on the protection of biodiversity);
- lead to a high consumption of resources, in particular soil, land or water;
- are associated with high risks to human health or safety (e.g. industry or traffic facilities located adjacent to residential areas with considerable noise pollution and harmful emissions during construction and/or operation or handling hazardous substances);
- require large scale resettlement or lead to a significant loss of livelihood;
- have an adverse impact upon indigenous people.

Projects will be classified as **Category B** if they may have potentially adverse risks and impacts upon the environment and on the social conditions of those concerned. However, the impacts and risks may have a lesser extent than these of category A projects and can usually be mitigated through state-of-the-art mitigation measures or standard solutions. Typically, the potential impacts and risks of category B projects are limited to a local area, are in most cases reversible and are easier to mitigate through appropriate measures.

The following is an illustrative list of project types and measures that have the potential to cause significant adverse environmental and/or social impacts and can therefore be assigned to category A or B (where adverse impacts are less significant and reversible).

1. Extensive and significant changes to the use of natural resources (e.g. changes in the use of soils as farmland, as forest or pasture land, for rural development, commercial timber production, etc.) as well as extensive land reclamation.
2. Extensive and significant changes to management methods in agriculture and fishery (e.g. introduction of new plant species, large-scale mechanisation, introduction of new fish species) and extensive logging.
3. Use of water resources (e.g. large dams and other impoundments, pumped-storage systems/power stations, irrigation and drainage projects, deep wells, water resource management and management of catchment areas, water supply, sea water desalination plants).
4. Infrastructures (e.g. roads, bridges, airports, ports, transmission lines, pipelines, railroad networks, other rail transport, tourism).
5. Energy generation (e.g. large wind farms, extensive solar parks, biomass plants, geothermal plants, thermal power stations).
6. Industrial activities (e.g. metallurgic works, timber processing plants, chemical factories, cement factories, refineries and petrochemical plants, agro-industries).
7. Use of geological resources, mining etc. (e.g. mines, quarries, peat exploitation, oil and natural gas production).
8. Waste and wastewater management and removal (e.g. sewerage systems, wastewater treatment plants, landfills, treatment plants for domestic and hazardous waste).
9. Projects in which a significant number of affected persons have to be resettled involuntarily or lose their livelihood

Annex 10: Terms of Reference for the Independent Monitoring Consultant for ESMP issues

Objectives of the External Monitoring

In line with international standards, CMWSSB shall engage and retain external environmental and social monitoring experts during the construction period until the first year of Project operation. Such expert shall undertake independent periodic reviews to verify the implementation of the project is done in compliance with national and international laws and regulation (World Bank Performance Standards) and that established social and environmental management plans are implemented. The monitoring shall be based on the established Environmental Management and Social Management Plans (ESMPs) for the Desalination Plant and the Pipeline and related Sub-Plans. The experts are to report directly to CMWSSB (PEA) and KfW.

Monitoring will be performed against the requirements of KfW's Sustainability Guideline and hence comprise monitoring of conformity with

- World Bank Group EHS General Guideline,
- ILO Core Labour Standards,
- IFC Performance Standard 2 and measures set out in the ILO Convention C167 concerning Safety and Health in Construction,
- Local environmental, occupational health and safety and labour laws and regulations,
- Conditions of permit(s),
- Measures set out in the Environmental & Social Management Plans (ESMP),
- In case there are camps for construction workforce: Guidance "Workers' accommodation: processes and standards"

(http://www.ifc.org/wps/wcm/connect/9839db00488557d1bdfcff6a6515bb18/workers_accomodation.pdf?MOD=AJPERES)

Key Activities and Methodology

The main tasks of the External Monitoring Experts are to:

- a) Review the above mentioned ESMPs and related Sub-Plans,
- b) Review and verify the accuracy, breadth, depth, and relevance of environmental/ social monitoring information provided by the PMC/ CMWSSB in progress reports to KfW with regard to the implementation of ESMPs and their Sub-Plans,
- c) Undertake independent monitoring visits to verify on the ground compliance with the social and environmental management plans. Monitoring shall be undertaken through review of construction progress and environmental reports, site visit and interviews with workers, project affected people, local officials and other stakeholders.
- d) Determine whether provisions (mitigation, monitoring, reporting, functioning of the grievance redress mechanism, etc.) are being conducted in a thorough and timely

manner and in accordance with the budget identified in the respective management plans.

- e) prepare audit reports following each visit.

Qualification

The team shall consist of **two senior experts** with at least 15 years of experience in the relevant field. Profound experience with World Bank Performance Standards and relevant Indian national policies and guidelines are essential. Fluency in English (written/ spoken) is a requirement.

The experts to be engaged have not been and shall not be involved in day-to-day project implementation or supervision.

The external environmental monitoring will be undertaken by an **environmental expert**. The expert shall have relevant academic qualification in the field of environmental management, environmental science, environmental engineering or other related courses) and at least 15 years of experience in environmental management and monitoring and/or supervision of EMP for major infrastructure project.

The external social monitoring will be undertaken by a **social expert** with relevant academic qualification in the field of sociology, social geography or related areas and at least 15 years of experience in social management and monitoring and/or supervision of SMP for major urban infrastructure projects.

Schedule and Reporting Requirements

The external monitoring experts will be mobilized throughout the construction phase until the second year of Project operation, end of defect liability period. During the construction period, quarterly monitoring missions will be undertaken. Semi-annual monitoring missions are foreseen during defect liability period until full completion of the project.

The monitoring report to be prepared by the expert after each mission shall provide details of the methodology used; findings (results of desk review, site observations, and consultations/interviews); recommendations; and other relevant information to support the findings (minutes of meetings, photo-documentation, etc.). The experts will also report on the functioning of the grievance redress mechanism.

The reports shall be submitted to CMWSSB as the PEA and KfW simultaneously two weeks from completion of each monitoring activity. The experts will complete necessary revisions two weeks upon receipt of comments.

The following sample content shall guide the monitoring missions and the preparation of the reports.

Sample Table of Contents for the Report

1. Reporting Period and Context
pls provide reference to the requirement of the loan agreement and indicate the reporting period
2. Summary of Project Status:
pls. summarise for the reporting period (- depending on stage of implementation) without limitation, the Construction progress, trial/startup, Regular Operation, Non Regular Operation, Incidents, Accidents; for construction pls provide overview on percent complete of main units, timeline for completion, envisaged commissioning date etc; for operation pls . provide hours of operation, hours/days of maintenance and shutdown and brief explanation;
3. Regulatory Compliance:
[pls. summarise for the reporting period the status compliance with local laws and regulations, the status of Permits and Clearances (also new/renewed permits, changes in regulatory requirements etc.) inform about inspections by authorities or any audits, Main Observations or Findings and if applies any Fines and Corrective actions]
4. Compliance with International Standards
Pls. provide statement regarding compliance with World Bank Performance Standards (2012) and WORLD BANK EHS General and Sector Guidelines
5. Implementation Status of EMP, SMP, RAP, R&R Policy;
[The report shall make clear reference to the respective requirements and report on compliance with the conditions of permit, the environmental and social management plan requirements, incl. any changes or difficulties and corrective actions the Project Executing Agency may have taken; in case corrective actions were identified for the previous reporting period, pls. report on implementation progress / completion status]
6. Energy and Resource Usage and Product Output
[pls. provide key figures for the reporting period]
7. Air and Noise Emissions/Wastes/Effluents Monitoring
[Pls. provide monitoring results for the reporting period and Results and comparison against conditions of permit, local and relevant World Bank General EHS Guidelines,
8. Environmental Monitoring Program and Results of Ambient Monitoring
[pls. summarise results of ambient air, water, noise monitoring and compare against national standards and World Bank EHS guidelines; pls. indicate any non-compliances]
9. Human Resources Management status
[pls. provide a summary for the reporting period regarding number of project workforce, number of contractors and contractor workforce during construction / operation; and information about training and qualification, EHS supervision structure, certifications]
10. Occupational Health and Safety
[Pls. provide an overview of the health & safety performance during the reporting period; Pls. provide figures and summaries for events (accidents/incidents) resulting in fatalities, injuries, key indicator figures (work hours lost, accident frequency rate) (i) during Construction (Contractors incl. contractual and daily wage labourers) and (ii) ongoing/extended Operation and Maintenance (Project staff and Contractors, other contractual labourers ; pls. provide information about trainings, drills etc. undertaken]
11. Complaints and Grievances
[Pls. provide a summary of any complaints, grievances, or legal actions/claims related

*to environmental or social issues raised by:
(i) community, or
(ii) workforce (construction/operation/contractors)
and describe conflict resolution undertaken]*

Stakeholder Engagement Activities / CSR / Community Development Activities
[pls. provide a brief summary of activities (as applicable)]