

JAPAN INTERNATIONAL COOPERATION AGENCY (JICA)

MINISTRY OF SETTLEMENT AND REGIONAL DEVELOPMENT
THE REPUBLIC OF INDONESIA

**THE DETAILED DESIGN
OF
FLOOD CONTROL, URBAN DRAINAGE AND
WATER RESOURCES DEVELOPMENT IN
SEMARANG IN THE REPUBLIC OF INDONESIA**

FINAL REPORT

COMPONENT A:
URBAN FLOODWAY / CHANNEL DRAINAGE IMPROVEMENT

FINAL DESIGN DOCUMENT

PROJECT NO. 123
URBAN FLOODWAY / CHANNEL DRAINAGE IMPROVEMENT

DATE

AUGUST 2000

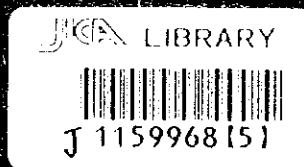
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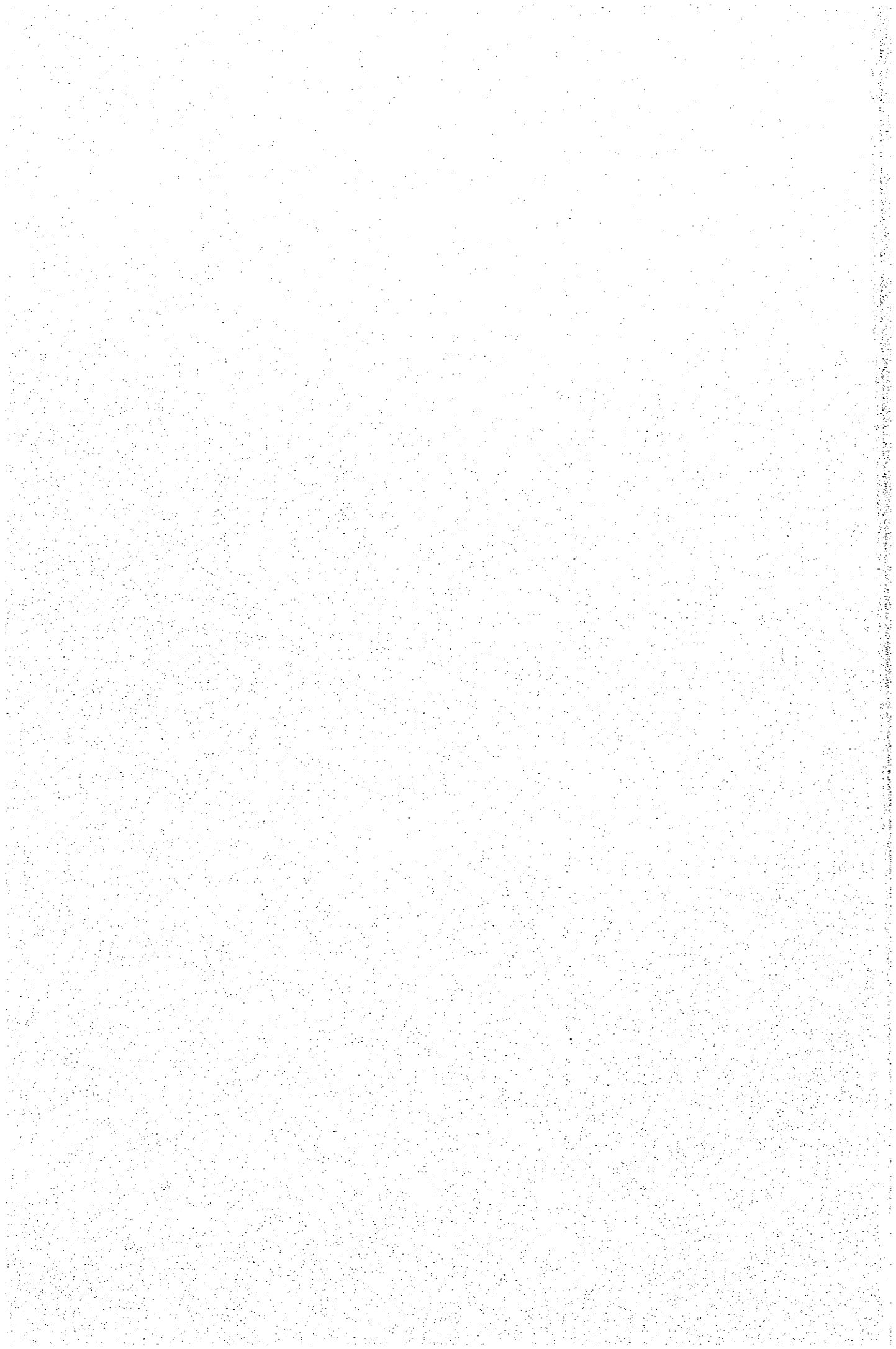
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AND

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**MINISTRY OF SETTLEMENT AND REGIONAL DEVELOPMENT
THE REPUBLIC OF INDONESIA**

**FLOOD CONTROL, URBAN DRAINAGE AND
WATER RESOURCES DEVELOPMENT IN SEMARANG**

**COMPONENT A:
WEST FLOODWAY / GARANG RIVER IMPROVEMENT**

BIDDING DOCUMENTS

**PACKAGE 2:
RECONSTRUCTION SIMONGAN WEIR**

VOLUME 1

**INVITATION FOR BIDS
INSTRUCTIONS TO BIDDERS
FORMS OF BID, QUALIFICATION INFORMATION,
LETTER OF ACCEPTANCE, AGREEMENT, APPENDICES
CONDITIONS OF CONTRACT
CONTRACT DATA
BILL OF QUANTITIES
SECURITY FORMS**

AUGUST 2000



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Note : Section 5, Specification, is included in Volume 2 and
Section 6, Drawings, is included in Volume 3 of the Bidding Documents

INVITATION FOR BIDS (IFB)

Date :
Contract Identification No. :
FA Loan/Credit No. :
FA Loan/Credit name :

1. The Government of Republic of Indonesia has received a loan from the OECF towards the cost of a project for Flood Control, Urban Drainage and Water Resources Development in Semarang and intends to apply part of the funds to cover eligible payments under the Contract for Component: West Floodway / Garang River Improvement; Package 2: Reconstruction of Simongan Weir. Bidding is open to all bidders from eligible source countries under the General Untying Scheme, as shown in Attachment VI-1 to the OECF Loan Handbook dated January 1999.
2. The Directorate General of Water Resources Development of the Ministry of Public Works representing the Government of the Republic of Indonesia invites sealed bids from eligible bidders for the construction.
3. Bidding documents (and additional copies) may be obtained at the office of JRATUNSELUNA River Basin Development Project, Jln. Brigjen Sudiarto No 375, Semarang 50191, Central Java, Indonesia upon showing a receipt for a non-refundable payment of Rp.....from Kantor Perbendaharaan dan Kas Negara (KPKN) Semarang, for each set. Interested bidders may obtain further information at the same address.
4. Bids shall be valid for a period of 150 days after Bid opening and must be accompanied by a security of two percent (2%) of the bid price or its equivalent in a convertible currency, and shall be delivered to

The Tender Committee
Flood Control, Urban Drainage and Water Resources in Semarang
Directorate General of Water Resources Development
Ministry of Public Works, Republic of Indonesia
JRATUNSELUNA River Basin Development Project
Jalan Brigjen Sudiarto No. 375
Semarang 50191
Central Java
INDONESIA

on or before [*time and date of Bid closing*],
at which time they will be opened in the presence of the bidders who wish to attend.

5. Please confirm receipt of this letter immediately in writing by cable, fax, or telex. If you do not intend to bid, we would appreciate being so notified also in writing at your earliest opportunity.

Yours Truly,
Authorized signature :
Name and title :
Employer :

SECTION 1

INSTRUCTIONS TO BIDDERS

SECTION 1

Instructions to Bidders

A. General

1. **Scope of Bid**
 - 1.1 The Employer as defined in the Contract Data, invites bids for the construction of Works, as described in the Contract Data.
The name and identification number of the contract is provided in the Contract Data.
 - 1.2 The successful Bidder will be expected to complete the Works by the Intended Completion Date specified in the Contract Data.
2. **Source of funds**
 - 2.1 The Government of The Republic of Indonesia (GOI) has received a loan from the Funding Agency (FA) named in the bidding data for the project named in the bidding data and intends to apply a portion of the proceeds of the loan to payments under this contract. Payments by the FA will be made only at the request of the GOI and upon approval by the FA in accordance with the Loan Agreement, and will be subject in all respect to the terms and conditions of that Agreement. Except as the FA may specifically otherwise agree, no party other than the GOI shall derive any rights from the Loan Agreement or have any rights to the loan/proceeds.
 - 2.2 The loan agreement prohibits a withdrawal from the loan account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the FA, is prohibited by a decision of the United Nations Security Council, taken under Chapter VII of the Charter of the United Nations.
3. **Eligible Bidders**
 - 3.1 This Invitation for Bids is open to all bidders from eligible countries as defined in the Procurement Guidelines. Any materials, equipment, and services to be used in the performance of the Contract shall have their origin in eligible source countries.

3.2 All bidders shall provide in Section 2, Forms of Bid and Qualification Information, a statement that the Bidder (including all members of a joint venture and subcontractors) is not associated, nor has been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or being proposed as Project Manager for the Contract. A firm that has been engaged by the GOI to provide consulting services for the preparation or supervision of the works, and any of its affiliates, shall not be eligible to bid.

3.3 Government owned enterprises may only participate if they are legally and financially autonomous, operate under commercial law, and are not a depend agency of the Employer.

3.4 Bidders shall not be under a declarations of ineligibility for corrupt and fraudulent practices issued by the Bank in accordance with sub-clause 37.1

4. Qualification of the Bidder

4.1 All bidders shall provide in section 2, Forms of Bid and Qualification Information, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.

4.2 In the event that pre-qualification of potential bidders has been undertaken, only bids from pre-qualified bidders will be considered for award of Contract. These qualified bidders should submit with their bids any information updating their original pre-qualification applications or, alternatively, confirm in their bids that the originally-submitted pre-qualification information remains essentially correct as of the date of bid submission. The update or confirmation should be provided in Section 2.

4.3 If the Employer has not undertaken pre-qualification of potential bidders, all bidders, shall include the following information and documents with their bids in Section 2, unless otherwise stated in the Bidding Data :

- (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder;
- (b) total monetary value of construction work performed for each of the last five years;
- (c) experience in works of a similar nature and size for each of the last five years, and details of work under way or contractually committed; and clients who may be contacted for further information on those contracts;

- (d) major items of construction equipment proposed to carry out the Contract;
- (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
- (f) report on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past five years;
- (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
- (h) authority to seek references from the Bidder's bankers;
- (i) information regarding any litigation, current or during the last five years, in which the Bidder is involved, the parties concerned, and disputed amount; and
- (j) proposals for subcontracting components of the Works amounting to more than ten percent (10%) of the Contract Price.

4.4 Bids submitted by a joint operation of two (2) or more firms as partners shall comply with the following requirements, unless otherwise stated in the Bidding Data;

- (a) the Bid shall include all the information listed in Sub-Clause 4.3 above for each joint operation partner;
- (b) the Bid shall be signed so as to be legally binding on all partners;
- (c) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- (d) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint operation; and

the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

4.5 To qualify for award of the Contract, Bidders shall meet the following minimum qualifying criteria:

- (a) annual volume of construction work of at least the amount specified in the Bidding Data;
- (b) experience as prime contractor in the construction of at least two works of a nature and complexity equivalent to the Works over the last ten (10) years (to comply with this requirement, works cited should be at least seventy percent (70%) complete
- (c) proposals for the timely acquisition (own lease, hire, etc.) of the essential equipment listed in the Bidding Data;
- (d) a Contract Manager with five years experience in works of an equivalent nature and volume, including no less than three years as Manager; and

(e) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contracts, of no less than the amount specified in the Bidding Data.

A consistent history of litigation or arbitration awards against the Applicant or any partner of a joint operation may result in disqualification.

4.6 The figures for each of the partners of a joint operation shall be added together to determine the Bidder's compliance with the minimum qualifying of Sub-Clause 4.5 (a) and (e); however, for a joint operation to qualify, each of its partners must meet at least twenty-five percent (25%) of minimum criteria 4.5 (a), (b), and (e) for an individual Bidder, and the partner in charge at least forty percent (40%) of those minimum criteria. Failure to comply with this requirement will result in rejection of the joint operation's Bid. Subcontractor's experience and resources will not be taken into account in determining the Bidder's compliance with the data qualifying criteria, unless otherwise stated in the Bidding Data.

4.7 Deleted

5. One Bid per Bidder

5.1 Each Bidder shall submit only one Bid, either individually or as a partner in a joint operation. A Bidder who submits or participates in more than one Bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the Bidder's participation to be disqualified.

6. Cost of Bidding

6.1 The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible or liable for those costs.

7. Site Visit

7.1 The Bidders, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of Works and its surrounding and obtain all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting Site shall be at the Bidder's own expense.

B. Bidding Documents

- 8. Content of Bidding Document**
- 8.1 The sets of bidding documents comprises the documents listed in the table below and addenda issued in accordance with Clause 10 :
- Section :
1. Instructions to Bidders
 2. Forms of Bid and Qualification information
 3. Conditions of Contract
 4. Contract Data
 5. Specifications
 6. Drawings
 7. Bill of Quantities
 8. Form of Securities
- 8.2 Three copies of Section 2, 4, and 7 are supplied to the prospective Bidder. The number of copies to be completed and returned with the Bid is specified in the Bidding Data.
- 9. Clarification of Bidding Documents**
- 9.1 A Prospective Bidder requiring any clarification of the bidding documents may notify the Employer in writing or by cable ("cable" includes telex and facsimile) at the Employer's address indicated in the invitation to bid. The Employer will respond to any request for clarification received earlier than twenty-eight (28) days prior to the deadline for submission of bids. Copies of the Employer's response will be forwarded to all purchasers of the bidding documents, including a description of the inquiry, but without identifying its source.
- 10. Amendment of Bidding Documents**
- 10.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by issuing addenda.
- 10.2 Any addendum thus issued shall be part of the bidding documents and shall be communicated in writing or by cable to all purchasers of the bidding documents. Prospective bidders shall acknowledge receipt of each addendum by cable to the Employer.
- 10.3 To give prospective bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer shall extend, as necessary, the deadline for submission of bids, in accordance with Sub-Clause 20.2 below.

14.2 The rates of exchange to be used by the Bidder in arriving at the local currency equivalent and the percentage(s) mentioned in paragraph 14.1 above shall be the selling rates for similar transactions established by the authority specified in the Contract Data prevailing on the 28 days prior to the latest deadline for submission of bids. These exchange rates shall apply for all payments so that no exchange risk will be borne by the Bidder. If the Bidder uses other rates of exchange, the provisions of Clause 28.1 shall apply. In any case, payments will be computed using the rates quoted in the Bid.

14.3 Bidders shall indicate details of their expected foreign currency requirements in the Bid.

14.4 Bidders may be required by the Employer to clarify their foreign currency requirements and to substantiate that the amounts included in the rates and prices and in the Contract Data are reasonable and responsive to Sub-Clause 14.1.

15. Bid Validity

15.1 Bid shall remain valid for the period specified in the Bidding data.

15.2 In exceptional circumstances, the Employer may request that the Bidder extend the period of validity for a specified additional period. The request and the bidder's responses shall be made in writing or by cable. A Bidder may refuse the request without forfeiting the Bid Security.

A bidder agreeing to the request will not be required or permitted to otherwise modify the Bid, but will be required to extend the validity of Bid Security for the period of the extension, and in compliance with Clause 16 in all respect.

15.3 In the case of contracts in which the Contract Price is fixed (not subject to price adjustment), if the period of bid validity is extended beyond 56 days, the amounts payable in local and foreign currency to the Bidder selected for award, shall be increased by applying to both the local and the foreign currency component of the payments, respectively, the factors specified in the Bidding Data or in the request for extension, for the period of delay beyond fifty-six (56) days after the expired of the initial bid validity, up to the notification of award. Bid evaluation will be based on the Bid prices without taking the above correction into consideration.

16. Bid Security

16.1 The Bidder shall furnish, as part of the Bid, a Bid Security in local currency or in a freely convertible currency, in the amount specified in the Bidding Data.

- 16.2 The Bid Security shall, at the Bidder's option, be in the form of a specified in the Bidding Data. The format of the Bid Security should be in accordance with the form of Bid Security included in Section 8 or another form acceptable to the Employer. Bid Security shall be valid for twenty-eight (28) days beyond the validity of the Bid.
- 16.3 Any bid not accompanied by an acceptable Bid Security shall be rejected by the Employer. The Bid Security of a joint operation must define as "bidder" all joint operation partners and list them in the following manner : a joint operation consisting of "..... and"
- 16.4 The Bid Security of unsuccessful bidders will be returned within twenty-eight (28) days of the end of the Bid validity period specified in Sub-Clause 15.1.
- 16.5 The Bid Security of the successful Bidder will be discharged when the Bidder has signed the Agreement and furnished the required Performance Security.
- 16.6 The Bid Security may be forfeited
 - (a) if the Bidder withdraws the Bid after Bid opening during the period of Bid validity;
 - (b) if the Bidder does not accept the correction of the Bid price, pursuant to Clause 27; or
 - (c) in the case of the successful Bidder, if the Bidder fails within the specified time limit to :
 - (i) sign the Agreement; or
 - (ii) furnish the required Performance Security.

17. Alternative proposals by Bidders

- 17.1 Bidders shall submit offers that comply with the requirements of the bidding documents, including the basic technical design as indicated in the drawings and specifications. Alternatives will not be considered, unless specifically allowed in the Bidding Data. If so allowed, Sub-Clause 17.2 shall govern.
- 17.2 If so allowed in the Bidding Data, bidders wishing to offer technical alternatives to the requirements of the bidding documents must also submit a Bid that complies with the requirement of the bidding documents, including the basic technical design as indicated in the drawings and specifications. In addition to submitting the basic Bid, the Bidder shall provide all information necessary for a complete evaluation of the alternative by the Employer, including design calculations, technical specifications, breakdown of prices, proposed construction methods and other relevant details. Technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical

requirements shall be considered by the Employer.

**18. Format and
Signing of Bid**

- 18.1 The Bidder shall prepare one original of the documents comprising the Bid as described in Clause 12 of these Instructions to Bidder, bound with the volume containing the Form of Bid, and clearly marked "ORIGINAL". In addition, the Bidder shall submit copies of the bid, in the number specified in the Bidding Data, and clearly marked as "COPIES". In the event of discrepancy between them, the original shall prevail.
- 18.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder, pursuant to Sub-Clause 4.3(a) or 4.4(b), as the case may be. All pages of the Bid where entries or amendments have been made shall be initialled by the person or persons signing the Bid.
- 18.3 The Bid shall contain no alternations or conditions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialled by the person or persons signing the Bid.
- 18.4 The Bidder shall furnish information as described in the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the contract.

D. Submission of Bids

19. Sealing and Marking of Bids

- 19.1 The Bidder shall seal the original and all copies of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as "ORIGINAL" and "COPIES".
- 19.2 The inner and outer envelope shall :
- (a) be addressed to the Employer at the address provided in the Bidding Data;
 - (b) bear the name and identification number of the Contract as defined in the Bidding and Contract Data; and
 - (c) provide a warning not to open before the specified time and date for Bid opening as defined in the Bidding Data.
- 19.3 In addition to the identification required in Sub-Clause 19.2, the inner envelopes shall indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared late, pursuant to Clause 21.
- 19.4 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.

20. Deadline for Submission of Bids

- 20.1 Bids shall be delivered to the Employer at the address specified above no later than the time and date specified in the Bidding data.
- 20.2 The Employer may extend the deadline for submission of bids by issuing an amendment in accordance with Clause 10, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subject to the new deadline.

21. Late Bids

- 21.1 Any Bid received by the Employer after the deadline prescribed in Clause 20 will be returned unopened to the Bidder.

22. Modification and Withdrawal of Bids

- 22.1 Bidders may modify or withdraw their bids by giving notice in writing before the deadline prescribed in Clause 20.
- 22.2 Each Bidder's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clauses 18 and 19, with the outer and inner envelopes additionally marked "MODIFICATION" or "WITHDRAWAL", as appropriate.

- 22.3 No bid may be modified after the deadline for submission of Bids.
- 22.4 Withdrawal of a Bid between the deadline for submission of bids and the expiration of the period of Bid validity specified in the Bidding Data or as extended pursuant to Sub-Clause 15.2 may result in the forfeiture of the Bid Security pursuant to Clause 16.
- 22.5 Bidders may only offer discounts to, or otherwise modify the prices of their bids by submitting Bid modifications in accordance with this clause, or included in the original Bid submission.

E. Bid Opening and Evaluation

23. Bid Opening

- 23.1 The Employer will open the bids, including modifications made pursuant to Clause 22, in the presence of the bidders representatives who choose to attend at the time and in the place specified in Bidding Data.
- 23.2 Envelopes marked "WITHDRAWAL" shall be opened and read first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to Clause 22 shall not be opened.
- 23.3 The bidder's names, the Bid prices, the total amount of each Bid and of any alternative Bid (if alternative have been requested or permitted), any discounts, Bid modifications and withdrawal, the presence or absence of Bid Security, and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening.
- 23.4 The Employer will prepare minutes of the Bid opening, including the information disclosed to those present in accordance with Sub-Clause 23.3.

24. Process to be Confidential

- 24.1 Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced. Any effort by a Bidder to influence the Employer's processing of bids or award decisions may result in the rejection of his Bid.

25. Clarification of Bids and Contracting the Employer

- 25.1 To assist in the examination, evaluation, and comparison of Bids, the Employer may, at the Employer's discretion, ask any Bidder for clarification of the Bidder's Bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex, or facsimile but no change in the price or substance of the bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids in accordance with Clause 27.
- 25.2 Subject to sub-clause 25.1, no Bidder shall contact the Employer on any matter relating to its bid from the time of the bidding opening to the time the contract is awarded. If the bidder wishes to bring additional information to the notice of the Employer, it should do so in writing.

- 25.3 Any effort by the Bidder to influence the Employer in the Employer's bid evaluation, bid comparison or contract award decisions may result in the rejection of the Bidder's bid.
- 26. Examination of Bids and Determination of Responsiveness**
- 26.1 Prior to the detailed evaluation of bids, the Employer will determine whether each Bid
- (a) meets the eligibility criteria defined in Clause 3;
 - (b) has been properly signed;
 - (c) is accompanied by the required securities; and
 - (d) is substantially responsive to the requirements of the bidding documents.
- 26.2 A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one
- (a) which affects in any substantial way the scope, quality, or performance of the works;
 - (b) which limits in any substantial way, inconsistent with the bidding documents, the Employer's rights or the Bidder's obligations under the Contract; or
 - (c) whose rectification would affect unfairly the competitive position of others bidders presenting substantially responsive bids.
- 26.3 If a Bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.
- 27. Correction of Errors**
- 27.1 Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follow :
- where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern, and the unit rate will be corrected.
- 27.2 The amount stated in the Bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount, the Bid will be rejected, and the Bid Security may be forfeited in accordance with Sub-Clause 16.6(b).

- 28. Currency for Bid Evaluation** 28.1 Bids will be evaluated as quoted in the currency of Rupiah as defined in the Contract Data in accordance with Sub-Clause 14.1, unless a Bidder has used different exchange rates than those prescribed in Sub-Clause 14.2, in which case the Bid will be first converted into amounts payable in different currencies using the rates quoted in the Bid and then reconverted to Rupiah using the exchange rates prescribed in Sub-Clause 14.2.
- 29. Evaluation and Comparison of Bids** 29.1 The Employer will evaluate and compare only the bids determined to be substantially responsive in accordance with Clause 26.
- 29.2 In evaluating the bids, the Employer will determine for each Bid the evaluated Bid price by adjusting the Bid price as follows :
- (a) making any correction for errors pursuant Clause 27;
 - (b) excluding provisional sums and the provision if any, for contingencies in the Bill of Quantities, and including Day works, where priced competitively;
 - (c) making appropriate adjustments for any other acceptable variations, deviations, or alternative offers submitted in accordance with Clause 22.5.
 - (d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with Sub-Clause 22.5.
- 29.3 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations and alternative offers and other factors which are in excess of the requirements of the bidding documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in Bid evaluation
- 29.4 The estimated effect of any price adjustment conditions under Clause 47 of the Conditions of Contract, during the period of implementation of the Contract, will not be taken into account in Bid evaluation.
- 29.5 In the case of more than one package pursuant to clause 29.2 (d), the Employer will determine the application of discounts so as to minimize the cost of the combined packages.
- 30. Preferences for Domestic Bidders** 30.1 If so indicated in the Bidding Data, domestic contractors may receive a margin of preference in Bid evaluation, for which this Clause shall apply.

30.2 Domestic bidders shall provide all evidence necessary to prove that they meet the following criteria to be eligible for a 7½ percent margin of preference in the comparison of their bids with those of bidders who do not qualify for the preference.

They should :

- (a) be registered within the country of the Employer;
- (b) have majority ownership by nationals of the country of the Employer;
- (c) not subcontract more than 50 percent of the Work measured in terms of value to foreign contractors; and
- (d) satisfy any other criteria specified for the purpose of domestic preference eligibility, as specified in the Bidding Data.

30.3 (a) demonstrate a beneficiary interest of no less than 50 percent in the joint operation, as demonstrated by the profit and loss sharing provisions of the joint venture agreement;

(b) will, under the arrangements proposed, carry out at least 50 percent of the works, measured in terms of value, which shall exclude any materials or plant which are to be directly imported by the domestic partner(s) (always provided that the domestic partner or partner are qualified to carry out that amount of work, in accordance with the criteria of Sub-Clause 4.3); and

(c) satisfy any other criteria specified for the purpose of domestic preference eligibility, as specified in the Bidding Data 30.4.

30.4 The following procedure will be used to apply the margin of preference :

1) Responsive bids will be classified into the following groups;

(i) Groups A : bids offered by domestic bidders and joint operations meeting the respective criteria of Sub-Clauses 30.2 and 30.3 above; and

(ii) Group B : all other bids

2) For the purpose of further evaluation and comparison of bids only, an amount equal to 7½ percent of the evaluated Bid prices determined in accordance with Clause 29.2(a), (b), and (d), will be added to all bids classified in Group B.

F. Award of Contract

- 31. Award Criteria** 31.1 Subject to Clause 32, the Employer will award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest evaluated Bid price, provided that such Bidder has been determined to be
- (a.) eligible in accordance with the provisions of Clause 3, and
(b.) qualified in accordance with the provisions of Clause 4.
- 32. Employer's Right to Accept any Bid and to Reject any or all Bids** 32.1 Notwithstanding Clause 31, the Employer reserves the right to accept or reject any Bid, and to cancel the bidding process and reject all bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Employer's action.
- 33. Notification of Award and Signing of Agreement** 33.1 The Bidder whose Bid has been accepted will be notified of the award by the Employer prior to expiration of the Bid validity period by cable, telex, or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").
- 33.2 The notification of award will constitute the formation of the Contract, subject to Bidder furnishing the Performance Security in accordance with Clause 34 and signing the Agreement in accordance with Sub-Clause 33.3.
- 33.3 The Agreement will incorporate all agreements between the Employer and the successful Bidder. It will be signed by the Employer and sent to the successful Bidder, within twenty-eight (28) days following the notification of award along with the Letter of Acceptance. Within twenty-one (21) days of receipt, the successful Bidder will sign the Agreement and deliver it to the Employer.
- 33.4 Upon the furnishing by the successful Bidder of the Performance Security, the Employer will promptly notify the other bidders that their bids have been unsuccessful.
- 34. Performance Security** 34.1 Within 21 days after receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Performance Security in the amount stipulated in the Contract Data and in the form (Bank Guarantee and/or Bond) stipulated in the Bidding Data, denominated in the type and proportions of currencies in the Letter of Acceptance and in Accordance with the Conditions of Contract.

- 34.2 If the Performance Security is provided by the successful Bidder in the form of a Bank Guarantee, it shall be issued either at the Bidder's option, by a Bank located in Indonesia or a foreign bank through a correspondent bank located in Indonesia, or with the agreement of the Employer directly by a foreign bank acceptable to the Employer.
- 34.3 If the Performance Security is to be provided by the successful Bidder in the form of a Bond, it shall issued by a surety which the Bidder has determined to be acceptable to the Employer.
- 34.4 Failure of the successful Bidder to comply with the requirements of Sub-Clause 34.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security.
- 35. Advance Payment and Security** 35.1 The Employer will provide an Advance Payment on the Contract Price as stipulated in the Conditions of Contract, subject to maximum amount, as stated in the Bidding Data.
- 36. Adjudicator** 36.1 The Employer proposes the person named in the Bidding Data to be appointed as Adjudicator under the Contract, at an hourly fee specified in the Bidding Data, plus reimbursable expenses. If the Bidder disagrees with this proposal, the Bidder should so state in the Bid. If, in the Letter of Acceptance, the Employer has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Contract Data at the request of their party.
- 37. Corrupt or Fraudulent Practices** 37.1 The FA requires that Borrowers (including beneficiaries of FA) as well as Bidders/Suppliers/Contractors under FA contracts, observe the highest standard of ethic during the procurement and execution of such contracts. In pursuance of this policy, the FA :
- a) Defines, for the purposes of this provision, the terms set forth below as follows :
 - (i) "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) "fraudulent practice" means a misrepresentation of fact in order to influence a procurement process or the execution of contract to the detriment of the Borrower, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competitions;

- b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- c) will declare a firm ineligible, after indefinitely or for a stated period of time, to be awarded a FA contract if it any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a FA contract.

37.2 Furthermore, Bidders shall be aware of the provision stated in sub-Clause 23.2 and sub-Clause 59.2 of the General Conditions of Contract.

G. Bidding Data

Instructions to Bidders

Clause Reference

- (2.1) The Borrower is the Government of the Republic of Indonesia.
- (2.1) OECF hereinafter called "Funding Agency (FA)" means The Overseas Economic Cooperation Fund, Japan and loan/grant refers to an OECF Loan. which, as of the date of issue of the bidding documents *had been* approved by the FA.
- (2.1) The Project is:
Flood Control, Urban Drainage and Water Resources Development in Semarang.
- The Works towards which a portion of the proceeds of the loan from the FA are to be applied are:
Component: West Floodway / Garang River Improvement,
Package 2: Reconstruction of Simongan Weir.
- The loan/grant number is
(insert number if available)
- (4.3) The information required from bidders in Sub-Clause 4.3 is modified as follows :
Pursuant to clause 4.2, Bidders shall update any changes to the information requested in clause 4.3 which is different from that submitted in their prequalification submission. If information is unchanged bidders shall indicate to this effect in the respective parts of section 2.
- (4.4) The qualification data required from bidders in Sub-Clause 4.4 are modified as follows :
This clause is not modified.
- (4.5) The qualification criteria in Sub-Clause 4.5 are modified as follows:
This clause is not modified.
- (4.5a) The minimum required annual volume of construction work for the successful Bidder in any of the five years shall be :
Deleted owing to pre-qualification having been conducted
- (4.5c) The essential equipment to be made available for the Contract by the successful Bidder shall be :
Deleted owing to pre-qualification having been conducted.

- (4.5e) The minimum amount of liquid assets and/or credit facilities net of other contractual commitments of the successful Bidder shall be Deleted owing to pre-qualification having been conducted.
- (8.2) The number of copies of the Bid to be completed and returned shall be:
4 (four) comprising 1(one) original plus 3 copies
- (12) The additional information required to be submitted by Bidders comprises the following documents in the format given in Section 2:
Appendix 1: General Time Schedule
Appendix 2: Unit Rate Analysis for Major Pay Items
Appendix 3: Basic Prices
Appendix 4: List of Bid Enclosures
Appendix 5: Execution Plan
- (13.4) The Contract is subject to price adjustment in accordance with Clause 47 of the Conditions of Contract.
- (13.5)
New Item A Unit Rate Analysis in the format shown in Appendix 2 of Section 2, excluding Indonesian VAT but including all other costs and charges, shall be provided by bidders to show a breakdown of materials, labour and construction plant and equipment needed for the execution of each Major Pay Item listed in Attachment 1 to Instructions to Bidders.
- (13.6)
New Item Basic Prices in the format shown in Appendix 3 of Section 2, shall be provided by bidders to show the bases of calculation of Unit Prices, excluding overhead and profit but including all other costs and charges such as transport to the site.
- (14.1) In Rupiah
- (15.1) The period of Bid validity shall be one hundred and fifty (150) days after the deadline for Bid submission specified in the Bidding Data.
- (15.3) This clause is not applicable as the Contract Price is subject to price adjustment.
- (16.1) The amount of Bid security shall be two percent (2%).
- (17) Alternative proposals to the requirements of the bidding documents will not be permitted with respect.

(19.2) The Employer's address for the purpose of Bid submission is:
The Tender Committee
Flood Control, Urban Drainage And Water Resources In Semarang
Directorate General Of Water Resources Development
Ministry Of Public Works, Republic Of Indonesia
JRATUNSELUNA River Basin Development Project
Jalan Brigjen Sudiarto No. 375
Semarang 50191
Central Java
Indonesia

(20.1) The deadline for submission of bids shall be
Day :
Date :
Time :

The date of the exchange rate is twenty-eight days before Bid opening

The authority for establishing the rates of exchange shall be the Bank of Indonesia.

(30) Not Applicable

(34.0) The Standard Form of Performance Security acceptable to the Employer shall be Bank Guarantee or Security Bond.

(35.0) The Advance Payment shall be limited to twenty percent (20%) of the Contract Price.

(36.1) The Adjudicator, the hourly and reimbursables shall be mutually decided by the Employer and the successful bidder, as and when necessary.

(36.1) The Appointing Authority shall be Badan Arbitrasi Nasional Indonesia (BANI).

ATTACHMENT 1 TO INSTRUCTIONS TO BIDDERS

LIST OF MAJOR PAY ITEMS

No	BQ No	Description	Unit
		To Be Completed To Identify Items For Unit Price Analysis	

ATTACHMENT 2 TO INSTRUCTIONS TO BIDDERS

SOURCE : OECF LOAN HANDBOOK DATED JANUARY, 1999

LIST OF ELIGIBLE SOURCE COUNTRIES (Subject to Change)

1. General Untying

Under general untying scheme, the eligible source countries are all countries and areas.

SECTION 2

**FORMS OF BID, QUALIFICATION INFORMATION, LETTER OF
ACCEPTANCE, AGREEMENT, AND APPENDICES**

SECTION 2

Standard Form : Contractor's Bid

..... *{date}*

To
{name of Employer}

Address
{insert address}

We offer to execute the..... *{name and identification number of contract}* in accordance with the Conditions of Contract accompanying this Bid for the Contract Price of *{amount in words}*
 (.....) *{amount in numbers}* *{name of currency}*

The Contract shall be paid in the following currencies :

Currency	Percentage payable in currency	Rate of exchange One foreign currency equals to {insert number in this column} {insert local currency}	Inputs for which Foreign currency is Required

The advance payment required is :

Amount	Currency

We accept the appointment of{name proposed in Bidding data} as the Adjudicator.

(OR)

We do not accept the appointment of{name proposed in Bidding Data} as the Adjudicator, and propose instead that{name} be appointed as Adjudicator, whose daily fees and biographical data are attached.

The Bid and your written acceptance of it shall constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Bid you receive.

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to Contract execution if we are awarded the contract are listed below.

We here by confirm that this Bid Complies with the Bid validity and Bid Security required by the bidding documents and specified in the Bidding Data.

Authorized Signature :

Name and Title of Signatory :

Name of Bidder :

Address :

Standard Form : Qualification Information

1. Individual Bidders or Individual Members of Joint Operation

1.1 Constitution or legal status of Bidder *{attach copy}*

Place of registration :

Principal place of business :

Power of attorney of signatory of Bid *{attach}*

- 1.2 Total annual volume of construction work performed in five years, in the internationally traded currency specified in the Bidding Data**
- | | |
|---------|---------|
| 19..... | 19..... |
| 19..... | 19..... |
| 19..... | 19..... |

- 1.3 Work performed as prime Contractor on works of a similar nature and volume over the last five years. The values should be indicated in the same currency used for Item 1.2 above. Also list details of work under way or committed, including expected completion date.**

Project name and country	Name of the Client and contact person	Type of work performed and year of completion	Value of the contract

- 1.4 Major items of Contractor's Equipment proposed for carrying out the Works. List all information requested below. Refer also to Sub-Clause 4.3(c) of the Instructions to Bidders. (Note: the equipment with over 5000 hours usage shall not be considered).**

Item of equipment	Description make, and age (years)	Condition (new, good, poor) and number available	Owned, leased (from whom?), or to purchased (from whom?)

- 1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer also to Sub-Clause 4.3(e) of the Instructions to Bidders and Sub-Clause 9.1 of the Conditions of Contract.**

Position	Name	Years of experience (general)	Years of experience in proposed position
Project manager			
Etc.			

- 1.6 Proposed subcontracts and firm involved. Refer to Clause 7 of Conditions of Contract.

Section of the works	Value of subcontract	Subcontractor (name and address)	Experience in similar work

- 1.7 Financial reports for the last five years : balance sheets, profit and loss statements, auditors, reports, etc.
List below and attach copies.

.....

- 1.8 Evidence of access to financial resources to meet the qualifications requirements : cash in hand, lines of credit, etc.
List below and attach copies of support documents.

.....

- 1.9 Name, address, and telephone, telex, and facsimile numbers of banks that may provide references if contacted by the Employer.

.....

- 1.10 Information on current litigation in which the Bidder is involved.

Other Parties	Cause of dispute	Amount involved

- 1.11 Statement of compliance with the requirements of Sub-Clause 3.2 of the Instructions to Bidders.

.....

1.12 Proposed Program (work method and schedule). Description, drawing, and charts, as necessary, to comply with the requirements of the bidding documents. Use the format given in Appendix 1 for the Schedule. Refer to Appendix 5 for guidelines regarding content of execution plan.

2. Joint Operation

2.1 The information listed in 1.1-1.11 above shall be provided for each partner of the joint venture.

2.2 The information in 1.12 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatories of the Bid authorizing signature of the Bid on behalf of the joint venture.

2.4 Attach the Agreement among all partners of the joint operation (and which is legally binding on all partners), which shows that:

(a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;

(b) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint ventures; and

(c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

3. Additional Requirements

3.1 Bidders should provide any additional information required in the Bidding Data or to fulfill the requirements of Sub-Clause 4.1 and Clause 30 of the Instructions to Bidders, if applicable.

Standard Form : Letter of Acceptance

{letterhead paper of the Employer}

.....*{date}*

To :
.....*{name of Contractor}*
.....
.....*{address of the Contractor}*

This is to notify you that your Bid datedfor execution of the*{name of the Contract and identification number, as given in the Contract Data}* for the Contract Price of the equivalent of
(.....) *{amount in numbers and words}*.....*{name of currency}*, as corrected and modified in accordance with the instructions to Bidders is hereby accepted by our Agency.

(a) We accept that
{name proposed by bidder} be appointed as the Adjudicator.

(b) We do not accept that
{name proposed by bidder} be appointed as Adjudicator, and by sending a copy of this letter of acceptance to
{insert the name of the Appointing Authority}, we are hereby requesting
the Appointing Authority, to appoint the Adjudicator in accordance with Clause 36.1 of the Instructions to Bidder.

You are hereby instructed to proceed with the execution of the said Works in accordance with the Contract documents.

Authorized Signature :

Name and title of Signatory :

Name of Agency :

Attachment : Agreement

Standard Form : Agreement

AGREEMENT

This Agreement, made the day of 19
.....between *name and address of Employer* (hereinafter called "the
Employer") and
.....
.....*{name and address of contractor}* (hereinafter called "the
Contractor") of the other part.

Whereas the Employer is desirous that the Contractor execute

.....
...
...*{name and identification number of contract}* (hereinafter called "the Works")
and the Employer has accepted the Bid by the Contractor for the execution and
completion of such Works and the remedying of any defect therein.

NOW THIS AGREEMENT WITNESSETH as follows :

1. In this Agreement, words and expression shall have the same meaning as are respectively assigned to them in the Conditions of contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this agreement.
2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
3. The Employer hereby confirms to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed the day and year first before written.

The common seal of
was hereunto affixed in the presence of
Signed, Sealed, and Delivered by said
in the presence of

:
:
:
:

Binding Signature of Employer
Binding Signature of Contractor

:
:

Flood Control, Urban Drainage and Water Resources Development in Semarang

Component : West Floodway / Garang River Improvement
 Package 2 : Reconstruction of Simongan Weir.

APPENDIX 2 - UNIT RATE ANALYSIS FOR MAJOR PAY ITEMS

NAME OF BIDDER :

ITEM NUMBER:
 DESCRIPTION OF WORK:
 UNIT OF WORK:
 QUANTITY OF WORK: *)
 DAILY/HOURLY OUTPUT: *)

NO.	DESCRIPTION	UNIT	QTY	UNIT COST		AMOUNT	
				Foreign	Local	Foreign	Local
I	MATERIALS						
	1						
	2						
II	LABOUR						
	1						
	2						
III	PLANT AND EQUIPMENT						
	1						
	2						
SUB-TOTALS							
IV	OVERHEAD AND PROFIT						
V	TOTAL PRICE						
VI	UNIT PRICE						

Note :

*) To be filled in where calculation is based on daily or hourly output.
 The Bidder is to complete one of these forms for every item included in Attachment 1 to the Instructions to Bidders and appended to his bid

Flood Control, Urban Drainage and Water Resources Development in Semarang

Component : West Floodway / Garang River Improvement
 Package 2 : Reconstruction of Simongan Weir.

APPENDIX 3 -BASIC PRICES

NAME OF BIDDER :

ITEM	DESCRIPTION	UNIT	UNIT COST	
			Foreign	Local
I	MATERIALS 1 2 3 and so on			
II	LABOUR 1 2 3 and so on			
III	EQUIPMENT 1 2 3 and so on			

Flood Control, Urban Drainage and Water Resources Development in Semarang

Component : West Floodway / Garang River Improvement
Package 2 : Reconstruction of Simongan Weir.

APPENDIX 4 - LIST OF BID ENCLOSURES

NAME OF BIDDER :

NO.*)	DESCRIPTION	REMARKS

Note :

*) = The Bidder is to give progressive numbers which correspond to the numbers marked on the relevant documents.

This form is to be completed by the Bidder and appended to his Bid

Flood Control, Urban Drainage and Water Resources Development in Semarang

Component : West Floodway / Garang River Improvement
Package 2 : Reconstruction of Simongan Weir.

APPENDIX 5 - EXECUTION PLAN

Instructions :

Each Bidder shall submit with his Bid, documents which contain sufficient data to demonstrate his ability to execute the Works. This shall include, but not be limited to :

- 1.0 *His proposal for human resources which shall contain the following :*
 - 1.1 *A list of supervisory personnel proposed to be assigned full time including details of their qualifications and experience.*
 - 1.2 *An organisation diagram of the Bidder's supervisory personnel as mentioned above.*
 - 1.3 *A labour schedule on quarterly basis showing his estimated number of personnel for various categories. In case of expatriate labour required, such expatriate labour shall be separately stated from the local labour.*
- 2.0 *His proposal for plant and equipment to be used including description, unit number, capacity or output, trade mark or type, year of manufacture, present condition (%) and ownership. Note that any item of equipment with more than 5000 (five thousand) working hours will not be accepted.*
- 3.0 *His plan for implementing the Works*
 - 3.1 *The plan shall take into account the following mandatory requirements.*
 - a) *The weir crest level of Elevation 5.200 m shall be maintained at all times during construction. This shall be achieved by maintaining operational portions of the existing weir while demolishing and constructing other portion(s) or by having completed and made operational a section of the reconstructed weir while demolition and reconstruction of the other portion(s) is in progress.*
 - b) *Inflows to the Simongan River intake on the right bank shall be maintained at all times.*
 - c) *Inflows to the irrigation channel on the left bank shall be maintained at all times.*
 - d) *The drainage channel on the left bank shall be diverted so as to be operational at all times.*
 - e) *Major work on the weir structure which constrict the waterway area shall not be carried out during the wet season.*
 - f) *Flow in the existing 500 mm dia water main in the main in the vicinity of the site must not be disrupted except for a brief period to allow for*

tie-in of the diversion pipeline. The duration and timing of shut-down shall be subject to the approval of the appropriate water authorities.

- 3.2 *The general plan presented in the form of method statement and sketches;*
- 3.3 *Specific details in the form of method statements (sketches and text) of the proposed construction method including the following :*
- 3.3.1 *Mobilisation and Demobilisation :*
Including site offices and facilities for the Contractor
- 3.3.2 *Preparatory and Temporary Works :*
- a) *Method and routes for transportation of equipment to the various parts of the site*
 - b) *Construction of workshops, warehouses, labour quarters and any other temporary facilities to be constructed. Details of the above shall include water supply, electric, telephone and sanitary services, locations, quantities, type and completion times*
 - c) *Construction of temporary access roads including the necessary reinforcement of existing bridges or culverts*
 - d) *Construction and removal of cofferdams*
 - e) *Construction of temporary works for:*
 - temporary diversion for intake to Semarang River*
 - temporary diversion for intake to irrigation channel on left bank including provision for pumping if necessary to maintain continuity of flow*
 - temporary diversion of drainage channel on left bank*
 - f) *Demolition of existing weir*
 - g) *Plan of re-routing and tying-in 500 mm dia water line (Note that this item is included in the scope of work and shall be paid as a variation in accordance with the Conditions of Contract.*
- 3.3.3 *Weir Works :*
- a) *Plan of sequence of weir works*
 - b) *Plan for dismantling and reconstruction of the portion of the weir to be preserved*
- 3.3.4 *Building Works :*
- a) *Plan for construction of Simongan Weir Management Complex*
- 3.3.5 *Other Works*
- 3.3.6 *Miscellaneous Works*
- 4.0 *Work to be Subcontracted :*
Bidders shall give details of portions of the work proposed to be subcontracted

5.0 Break-down of Lump-Sum Prices :

Bidders shall give a break-down of all lump-sum prices entered in their bids. Such break-downs shall include the costs of the various categories of cost, described in the General and Technical Specification, for the purpose of payment.

SECTION 3

CONDITIONS OF CONTRACT

SECTION 3

Conditions of Contract

A. General

1. Definitions

1.1 Boldface type used to identify defined terms.

The Adjudicator is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in Clauses 24 and 25 hereunder.

Bill of Quantities means the priced and completed bill of quantities forming part of the Bid.

Compensation Events are those defined in Clause 44 hereunder.

The Completion Date is the date of completion of the Works as certified by the Project manager, in accordance with Sub-Clause 55.1.

The Contract is the contract between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The Contractor is a person or corporate body whose Bid to carry out the Works has been accepted by the Employer.

The Contractor's Bid is the completed bidding document submitted by the Contractor to the Employer.

The Contract Price is the price stated in the letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

Days are calendar days : months are calendar months.

Day Works are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.

A Defect is any part of the Works not completed in accordance with the Contract.

The Defects Liability Certificate is the certificate issued by Project Manager upon correction of defects by the Contractor.

The Defects Liability Period is the period named in the Contract Data and calculated from the completion Date.

Drawings include calculation and other information provided or approved by the Project Manager for the execution of the Contract.

The Employer is the party who employs the Contractor to carry out the Works.

Equipment is the Contractor's machinery and vehicles brought temporarily on the site to construct the Works.

The Initial Contract Price is the Contract Price listed in the Employer's Letter of Acceptance.

The Intended Completion Date is the date on which it is intended that the Contractor shall complete the Works. The intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.

Materials are all supplies, including consumables, used by the Contractor for incorporation in the Works.

Plant is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.

The Project Manager is the person named in the Contract data (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.

The Site is the area defined as such in the Contract Data.

Site Investigation Reports are those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the site.

Specification means the specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.

The Start Date is given in the Contract Data. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession dates.

A **Subcontractor** is a person or corporate body who has a contract with the Contractor to carry out a part of the work in the Contract, which includes work on the site.

Temporary Works are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Project Manager which Varies the Works.

The Works are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the Contract Data.

2. Interpretation

2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way round. Headings have so significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.

2.2 If sectional completion is specified in the Contract Data, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion date apply to any section of the Works (other than references to the Completion date and Intended Completion Date for the whole of the Works).

2.3 The documents forming the Contract shall be interpreted in the following order or priority :

- (1) Agreement,
- (2) Letter of Acceptance,
- (3) Contractor's Bid,
- (4) Contract data,
- (5) Condition of Contract,
- (6) Specification,
- (7) Drawings,
- (8) Bill of Quantities, and
- (9) Any other document listed in the Contract Data as forming part of the Contract

3. Language and Law

3.1 The language of the Contract and the law governing the Contract are stated in the Contract Data.

4. Project Manager's Decisions

4.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

5. Delegation 5.1 The Project Manager may delegate any of this duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.
6. Communications 6.1 Communications between parties that are referred to in the conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.
7. Subcontracting 7.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations.
8. Other Contractors 8.1 The Contractor shall cooperate and share the site with other contractors, public authorities, and the Employer between the dates given in the schedule of other Contractors, as referred to in the Contract Data. The Contractor shall also provide facilities and services for them as described in the schedule. The Employer may modify the schedule of other contractors, and shall notify the Contractor of any such modification.
9. Personnel 9.1 The Contractor shall employ the key personnel named in the schedule of key Personnel, as referred to in the Contract Data, to carry out the functions stated in the Schedule or other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the schedule.
- 9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the site within seven days and has no further connection with the work in the Contract.
10. Employer's and Contractor's Risks 10.1 The Employer carries the risks which this Contract states are Employer's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.
11. Employer's Risks 11.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Employer's risks :
- (a) the risks of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to
 - (i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or
 - (ii) negligence, breach of statutory duty, or

interference with any legal right by the Employer or by any person employed by their contract to him except the Contractor.

- (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

11.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to

- (a) a Defect which existed on the Completion Date,
- (b) an event occurring before the Completion Date, which was not itself an Employer's risks, or
- (c) the activities of the Contractor on the site after the completion Date.

12. Contractor's Risks

12.1 From the starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Employer's risks are Contractor's risks.

13. Insurance

13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the Contract Data for the following events which are due to the Contractor's risks :

- (a) loss of or damage to the Works, Plant, and Materials;
- (b) loss of or damage to Equipment;
- (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- (d) personal injury or death.

13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

- 13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer had paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 13.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.
- 13.5 Both parties shall comply with any conditions of the insurance policies.
- 14. Site Investigation Reports** 14.1 The Contractor, in preparing the Bid, shall rely on any site Investigation Reports referred to in the Contract Data supplemented by any information available to the Bidder.
- 15. Queries about the Contract Data** 15.1 The Project Manager will clarify queries on the Contract Data.
- 16. Contractor to Construct the Works** 16.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
- 17. The Works to be Complete by the Intended Completion Date** 17.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.
- 18. Approval by the Project Manager** 18.1 The Contractor shall submit specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them if they comply with the Specifications and Drawings.
- 18.2 The Contractor shall be responsible for design of Temporary Works.
- 18.3 The Project Manager's approval shall not alter the Contract's responsibility for design of the Temporary Works.
- 18.4 The Contractor shall obtain approval of third parties for the design of the Temporary Works, where required.
- 18.5 All Drawings prepared by the Contractor for the execution of the Temporary or permanent Works, are subject to prior approval by the Project Manager before their use.
- 19. Safety** 19.1 The Contractor shall be responsible for the safety of all activities on the site.

**26. Replacement of
Adjudicator**

25.3 The Arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place shown in the Contract Data.

26.1 Should the Adjudicator resign or die, or should the Employer and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Employer and the Contractor. In case of disagreement between the Employer and the Contractor, within thirty (30) days, the Adjudicator shall be designated by the appointing authority designated in the Contract data at the request of either party, within fourteen (14) days of receipt of such request.