

INSTRUCTIONS TO BIDDERS – INVITATION FOR BIDS (WORKS)

Notes to Bidders: This section provides detailed information necessary for Bidders to prepare their Bids, in accordance with the requirements specified by the OSCE. It also provides information on Bid submission, opening, and evaluation, and on the award of contract. Bidders shall read these Instructions to Bidders in conjunction with Section II, Bidding Data Sheet, of the Bidding Documents. These Instructions to Bidders will not be part of the Contract.

1. SCOPE

1.1 The executive structure of the OSCE specified in the cover note of the Bidding Documents invites Bids for the Works, as described in the Bidding Documents.

1.2 The successful Bidder is expected to complete the Works by the Intended Completion Date specified in Section II, Bidding Data Sheet.

2. ELIGIBILITY OF BIDDERS

2.1 This bidding is open to all eligible companies as defined in ITB Article 2.

2.2 The OSCE may, in its sole unfettered discretion, disqualify or otherwise determine ineligible any potential Bidder that the OSCE believes is, has been or will be, whether directly or indirectly, engaged in criminal or unethical behavior, financially unsound, or otherwise unfit to participate in the bidding exercise. This provision shall also be a condition precedent to, and continuing condition of, any Contract between the OSCE and a successful Bidder.

2.3 A Bidder shall not be eligible to participate in this bidding or in the performance of the contract under consideration if such Bidder, or any employee, executive, manager or director thereof:

- participated in the preparation of the concerned procurement notice or Bidding Documents, or any part thereof, being used by the OSCE; or
- received assistance in the preparation of its Bid or request to participate from a party that participated in the preparation of the concerned procurement notice or Bidding Documents, or any part thereof.

2.4 Government-owned enterprises may be eligible only if they (i) are legally and financially autonomous from the beneficiary, (ii) operate under applicable commercial law, and (iii) are not a dependent agency of the beneficiary of the Works.

3. OSCE PRIVILEGES AND IMMUNITIES

3.1 Nothing in or relating to the Bidding Documents shall be deemed, or interpreted as a waiver of the privileges and immunities enjoyed by the OSCE.

4. ETHICS

4.1 In accordance with general OSCE procurement principles, it is a requirement of the OSCE that Bidders, and any executive, manager or director thereof, shall observe the highest standards of ethics during each phase of any procurement and the execution of contracts. The OSCE defines for this purpose:

- ‘coercive practice’ means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement or affect the execution of a contract;
- ‘collusive practice’ means a scheme or arrangement between two or more Bidders, designed to establish bid prices or other terms at artificial, non-competitive levels;
- ‘corrupt practice’ means the offering, giving, receiving, or soliciting, directly or indirectly, of anything, of value to influence the action of any OSCE official or any other person involved in any procurement or in contract execution;
- ‘fraudulent practice’ means a misrepresentation or omission of facts in order to influence a procurement or the execution of a contract.

4.2 The Bidder and all parties constituting the Bidder shall refrain from any conduct that could be detrimental to the goals of the OSCE. This includes but is not limited to an affiliation with any party who could be reasonably suspected of being involved in any activity that violates national or international law or accepted human rights standards.

4.3 Accordingly, the OSCE will:

- Reject a Bid if it determines that in competing for the contract the Bidder has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive and other practices described in ITB Articles 4.1 and 4.2;
- Terminate a contract if it determines that in competing for, and in executing, the contract the contractor has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or other practices described in ITB Articles 4.1 and 4.2;
- Declare the Bidder ineligible, either indefinitely or for a stated period of time, from being awarded any contract by the OSCE if it at any time determines that in competing for, or in executing, the contract the Bidder has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or other practices described in ITB Articles 4.1 and 4.2 .

5. BIDDER'S RESPONSIBILITIES

5.1 Bidders are expected to examine all instructions, forms, terms, specifications and drawings in the Bidding Documents. Failure to furnish all information required by the Bidding Documents or to submit a Bid substantially responsive to the Bidding Documents in every respect will be at the Bidder's risk and may result in the rejection of its Bid.

5.2 Bidders shall bear all costs associated with the preparation and submission of their Bids, including costs relating to contract award, and the OSCE will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

6. QUALIFICATIONS OF BIDDER

6.1 All Bidders shall duly complete the Qualification Information Form contained in Section III of the Bidding Documents.

6.2 The Bidder shall specify in the Qualification Information Form any proposals for subcontracting components of the Works amounting to more than 10 percent of the Contract Price. The total ceiling for all proposed sub-contractors' participation is stated in Section II, Bidding Data Sheet.

6.3 Bids submitted by a joint venture or consortium shall comply with the following requirements:

- (a) the Bid shall include all the information listed in the Qualification Information Form in Section III for each joint venture or consortium member;
- (b) the Bid shall be signed so as to be legally binding on all members;
- (c) all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- (d) one of the members shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all members of the joint venture; and
- (e) the execution of the entire Contract, including payment, shall be done exclusively with the member in charge.
- (f) a copy of the joint venture agreement entered into by the members shall be submitted with the Bid.

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

- (a) an average annual financial amount of construction work over the past three years of at least the value indicated in Section II, Bidding Data Sheet;
- (b) experience as prime contractor in the construction of at least the number of works specified in Section II, Bidding Data Sheet, of a nature and complexity equivalent to the Works over the past three years (to comply with this requirement, works cited should be at least 70 percent complete);
- (c) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed in Section II, Bidding Data Sheet;

(d) a contract manager with at least three years' experience in works of an equivalent nature and volume, including no less than one year 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 available under the Contract, of no less than the amount specified in Section II, Bidding Data Sheet.

6.5 The figures for each of the members of a joint venture shall be added together to determine the Bidder's compliance with the minimum qualifying criteria. Failure to comply with this requirement shall result in rejection of the joint venture's Bid. Subcontractors' experiences and resources shall not be taken into account in determining the Bidder's compliance with the qualifying criteria, unless specifically authorized by the OSCE in Section II, Bidding Data Sheet.

7. ONE BID PER BIDDER

7.1 Each Bidder shall submit only one Bid, either individually or as a member in a joint venture. A Bidder who submits or participates in more than one Bid (other than as a sub-contractor) shall cause all the proposals with the Bidder's participation to be disqualified.

8. SITE VISIT

8.1 The Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of Works and its surroundings 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 the Site shall be at the Bidder's own expense. The address, time and date of the visit of the Site shall be specified in Section II, Bidding Data Sheet.

9. LANGUAGE

9.1 Unless another governing language is specified in Section II, Bidding Data Sheet, the governing language of the Bid prepared by the Bidder and all correspondence and documents exchanged between the Bidder and the OSCE shall be English. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation in the English language, in which case, for purposes of interpretation of the Bid, the translation shall govern.

10. CLARIFICATION OF BIDDING DOCUMENTS

10.1 Any prospective Bidder wishing to clarify any contents in the Bidding Documents may notify in writing the contact person of the OSCE stated in the cover note to these Bidding Documents.

10.2 The OSCE will issue a clarification note in respect to any, in the opinion of the OSCE, reasonable request for clarification on the contents in the Bidding Documents, which is received no later than ten (10) calendar days prior to the deadline for the receipt of Bids.

10.3 Such clarification note, containing the OSCE's response and a description of the contents of the query but without identifying the source thereof, shall be at the same time uploaded under the relevant procurement notice on the OSCE's web-site at www.osce.org/tenders.

11. AMENDMENTS TO BIDDING DOCUMENTS

11.1 At any time prior but no less than seven (7) working days prior to the deadline for the receipt of Bids, the OSCE may for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the Bidding Documents by amendment which will be published on the OSCE web-site at <http://www.osce.org/tenders/>.

11.2 All prospective Bidders are advised to regularly visit the OSCE web-site to view any amendment made to the Bidding Documents. The clarifications and amendments pursuant to ITB Articles 10.3 and 11.1 will be binding on the Bidders. The OSCE will assume neither responsibility nor liability for the Bidder's non-familiarity with any amendment issued pursuant to any provision herein.

11.3 In order to allow prospective Bidders reasonable time in which to take the amendment into account in preparing their bids, the OSCE may extend the deadline for the receipt of Bids at any time but no less than five (5) working days prior to the original deadline of the receipt of Bids.

12. DOCUMENTS COMPRISING THE BID

12.1 The Bid prepared by the Bidder shall comprise the Forms contained in Section III, Bid Forms, duly completed and signed by the Bidder and any other documents and/or information specified in Section II, Bidding Data Sheet.

13. BID PRICES

13.1 The Contract shall be for the whole Works, based on the priced Bill of Quantities submitted by the Bidder.

13.2 The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the Bidder shall not be paid for by the OSCE when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities. Corrections, if any, shall be made by crossing out, initialling, dating and rewriting.

13.3 All non-exempt duties, taxes, and other levies payable under the Contract, or for any other cause shall be included in the prices submitted by the Bidder. Information on tax exemption contained in Section II, Bidding Data Sheet.

13.4 The rates and prices quoted by the Bidder shall not be subject to adjustment during the performance of the Contract.

14. BID CURRENCY

14.1 Unless otherwise specified in Section II, Bidding Data Sheet, the unit rates and prices shall be quoted by the Bidder entirely in EURO.

15. PERIOD OF VALIDITY OF BIDS

15.1 Bids shall remain valid for the time period after the deadline for the receipt of Bids as specified in Section II, Bidding Data Sheet. A Bid valid for a shorter period may be rejected by the OSCE as non-responsive.

15.2 In exceptional circumstances, the OSCE may request that the Bidders extend the period of validity for a specified additional period. The request and the Bidders' responses shall be made in writing. If a Bid Security is requested in accordance with ITB Article 16, it shall also be extended up to twenty eight (28) calendar days after the deadline of the extended bid validity period. A Bidder may refuse the request without forfeiting the Bid Security. A Bidder agreeing to the request shall not be required or permitted to modify its Bid.

16. BID SECURITY

16.1 If required in Section II, Bidding Data Sheet, the Bidder shall furnish as part of its Bid a Bid Security in original form. The Bid Security is required to protect the OSCE against the risk of Bidder's conduct, which would warrant the Bid Security's forfeiture, pursuant to ITB Article 16.5.

16.2 The Bid Security shall be in the amount specified in Section II, Bidding Data Sheet and denominated in the currency of the country where the Works shall be carried out or the currency of the Bid or in another freely convertible currency, and shall, at the Bidder's option, be in the form of an original bank guarantee issued by a reputable bank, by using the Bid Security Form provided in Section III or another original form acceptable to the OSCE and valid for thirty (30) calendar days beyond the bid validity period stipulated by the OSCE.

16.3 If relevant, any Bid not accompanied by a Bid Security shall be rejected by the OSCE as non-responsive.

16.4 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the Contract and/or furnishing of the Performance Security.

16.5 The Bid Security may be forfeited:

- (a) if the OSCE determines, on the basis of objectively verifiable evidence, that such Bidder has provided materially false or misleading information to the OSCE;
- (b) if a Bidder withdraws its Bid during the period of bid validity specified by the OSCE; or
- (c) if the Bidder does not accept the correction of its Bid Price pursuant to ITB Article 26; or
- (d) if the successful Bidder fails or refuses within the time specified by the OSCE to sign the Contract and/or to furnish the required Performance Security.

16.6 The successful Bidder's Bid Security will be discharged upon such Bidder signing the Contract and furnishing the Performance Security, if applicable, pursuant to ITB Article 32.

17. FORMAT AND SIGNING OF BID

17.1 The Bidder shall prepare one original and the number of copies of the Bid indicated in Section II, Bidding Data Sheet, clearly marking each "ORIGINAL" and "COPY", as appropriate. In the event of any discrepancy between them, the original shall govern.

17.2 The original and the copy or copies of the Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the Contract.

17.3 If the Bidder is a joint venture or consortium one member shall be appointed as being in charge with authority to bind the joint venture or consortium. Each member of such a joint venture or consortium will be jointly and severally liable for the Bid and any contract. The composition of the joint venture or the consortium must not be altered without the prior consent in writing of the OSCE.

17.4 Any interlineations, erasures, or overwriting shall be valid only if they are initialed by the person or persons signing the Bid.

18. SUBMISSION, SEALING AND MARKING OF BIDS

18.1 Bidders may always submit their Bids by mail or by hand. When so specified in Section II, Bidding Data Sheet, Bidders shall have the option of submitting their Bids electronically and/or by facsimile. Bidders submitting their Bids by email or facsimile shall follow the procedures specified in Section II, Bidding Data Sheet. The Bidder shall seal the original and each copy of the Bid, including any alternative Bid, in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." These envelopes shall then be sealed in a second sealed outer envelope.

18.2 The inner and outer envelopes shall bear only:

- (a) the bid submission address indicated in the cover note to these Bidding Documents; and
- (b) the OSCE Bidding Reference Number and Title indicated in the cover note to these Bidding Documents;
- (c) the statement "DO NOT OPEN BEFORE" to be completed with the deadline for the receipt of Bids pursuant to ITB Article 19;
- (d) the name and address of the Bidder.

18.3 All inner and outer envelopes shall also indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared "late" or the Bid is validly withdrawn by the Bidder.

18.4 If the outer envelope is not sealed and marked as required by ITB Article 18.2, the OSCE will assume no responsibility for the misplacement or premature opening of the Bid.

19. DEADLINE FOR RECEIPT OF BIDS

19.1 Bids must be received by the OSCE at the address and no later than the time and date specified in the cover note to the Bidding Documents.

19.2 The OSCE may, at its discretion, extend the deadline for the receipt of Bids by amending the Bidding Documents in accordance with ITB Article 11, in which case all rights and obligations of the OSCE and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended.

20. LATE BIDS

20.1 Any Bid received by the OSCE after the deadline for receipt of Bids prescribed by the OSCE pursuant to ITB Article 19 will be rejected and returned unopened to the Bidder.

21. WITHDRAWAL, MODIFICATION AND SUBSTITUTION OF BIDS

21.1 The Bidder may withdraw, substitute or modify its Bid after the Bid's submission, provided that written notice of the withdrawal, substitution or modification is received by the OSCE prior to the deadline prescribed for the receipt by the OSCE of Bids.

21.2 The Bidder's withdrawal, substitution, or modification notice shall be prepared, sealed, marked, and delivered in accordance with the provisions of ITB Articles 17 and 18, with the outer and inner envelopes additionally marked "WITHDRAWAL", "SUBSTITUTION" or "MODIFICATION", as appropriate.

21.3 No Bid may be substituted or modified after the deadline for the receipt by the OSCE of Bids.

21.4 No Bid may be withdrawn in the interval between the deadline for receipt by the OSCE of Bids and the expiration of the period of bid validity specified in the cover note of these Bidding Documents, or as extended pursuant to ITB Article 15.2. Withdrawal of a Bid during this interval may result in the Bidder's forfeiture of its Bid Security, pursuant to the ITB Article 16.5 (b).

22. OPENING OF BIDS

22.1 In general, the OSCE Bid Opening Board will open all Bids non-publicly. Only if specifically provided for in Section II, Bidding Data Sheet, the OSCE will open all Bids, including modifications and substitutions pursuant to ITB Article 21, in the presence of Bidders' representatives who choose to attend, at the time, on the date, and at the place specified in Section II, Bidding Data Sheet. Any specific opening procedures required if submission of Bids by email and/or by facsimile is permitted in accordance with ITB Article 18.1 shall be as specified in Section II, Bidding Data Sheet. The Bidders' representatives who are present shall sign a register evidencing their attendance.

22.2 First, envelopes marked "**WITHDRAWAL**" shall be opened and read out. Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Article 21 shall not be opened and shall be returned unopened. Next, envelopes marked "**SUBSTITUTION**" shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. Envelopes marked "**MODIFICATION**" shall be opened and read out with the corresponding Bid. Only envelopes that are opened and read out at Bid opening shall be considered further.

22.3 All other envelopes shall be opened one at a time, reading out: The Bidders' names, the Bid prices, the total amount of each Bid and of any alternative Bid (if alternatives have been requested or permitted), any discounts, Bid withdrawals, substitutions, or modifications, the presence or absence of Bid Security, if required, and such other details as the OSCE, at its discretion, may consider appropriate, shall be announced by the OSCE at the opening. No Bid shall be rejected at bid opening except for late bids pursuant to ITB Article 20. Substitution Bids and modifications submitted pursuant to ITB Article 21 that are not opened and read out at bid opening shall not be considered for further evaluation regardless of the circumstances.

23. CONFIDENTIALITY

23.1 If any Bidder wishes to contact the OSCE on any matter related to its Bid, it should do so in writing. Information relating to the examination, clarification, evaluation and comparison of Bids, and recommendation for Contract Award, shall not be disclosed prior to the date of formation of the Contract pursuant to ITB Article 32.

23.2 Any effort by a Bidder to influence the OSCE in its decisions on bid evaluation, bid comparison, or Contract Award may result in the rejection of such Bidder's Bid.

24. CLARIFICATION OF BIDS

24.1 To assist in the examination, evaluation, and comparison of Bids, the OSCE may ask any Bidder for clarification of its Bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing, 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 arithmetical errors discovered by the OSCE in the evaluation of the Bids in accordance with ITB Article 26. Failure by any Bidder to timely and duly respond to a request for clarification may result in the rejection of its Bid.

25. PRELIMINARY EXAMINATION AND DETERMINATION OF RESPONSIVENESS

25.1 Prior to the detailed evaluation of Bids, the OSCE shall determine whether each Bid (a) meets the eligibility criteria defined in ITB Article 2, (b) has been properly signed; (c) is accompanied by a Bid Security, if required; and (d) is substantially responsive to the requirements of the Bidding Documents, and whether the Bid in general is in order.

25.2 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 OSCE's rights or the Bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other Bidders presenting substantially responsive Bids.

25.3 If a Bid is not substantially responsive, it shall be rejected by the OSCE, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

26. CORRECTION OF ERRORS

26.1 Bids determined to be substantially responsive shall be checked by the OSCE for any arithmetical errors. Errors shall be corrected by the OSCE as follows:

- (a) where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern; and
- (b) 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 shall govern, unless in the opinion of the OSCE there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted shall govern, and the unit rate shall be corrected;
- (c) where there is an error in a total corresponding to the addition or subtraction of sub-totals, the sub-totals shall prevail and the total shall be corrected.
- 26.2 The amount stated in the Bid shall be adjusted by the OSCE 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 shall be rejected, and the Bid Security may be forfeited, accordance with ITB Article 16.5.

27. CURRENCY FOR BID EVALUATION

27.1 Unless otherwise specified in accordance with ITB Article 14.1, Bids shall be evaluated as quoted in EURO. In the event, the OSCE has permitted bid prices in several currencies, the OSCE shall convert all bid prices expressed into the amounts in EURO, using the exchange rates established by the source specified in Section II, Bidding Data Sheet, for the date in which the deadline for the receipt of Bids was set by the OSCE.

28. EVALUATION AND COMPARISON OF BIDS

28.1 The OSCE shall evaluate and compare Bids, which have been determined to be substantially responsive.

28.2 In evaluating the Bids, the OSCE shall determine for each Bid the evaluated Bid price by adjusting the Bid price as follows:

- (a) making any correction for errors pursuant to ITB Article 26; and
- (b) excluding provisional sums and the provision, if any, for contingencies in the Bill of Quantities, but including Daywork, where priced competitively. For the purpose of this Article, "Daywork" is work carried out following instructions of the OSCE Programme Manager and paid for on the basis of time spent by workers, and the use of materials and the Contractor's equipment, at the rates quoted in the Bid. For Daywork to be priced competitively for Bid evaluation purposes, the OSCE must list tentative quantities for individual items to be costed against Daywork (e.g., a specific number of tractor driver staff-days, or a specific tonnage of Portland cement), to be multiplied by the Bidder's quoted rates and included in the total Bid price.

28.3 The OSCE 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 OSCE shall not be taken into account in Bid evaluation.

29. POST-QUALIFICATION

29.1 In the absence of prequalification, the OSCE will determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated responsive Bid is qualified to perform the contract satisfactorily, in accordance with the criteria established in the Bidding Documents.

29.2 The determination will take into account the Bidder's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, as well as such other information as the OSCE deems necessary and appropriate.

29.3 An affirmative determination will be a prerequisite for award of the contract to the Bidder. A negative determination will result in rejection of the Bidder's Bid, in which event the OSCE will proceed to the next lowest evaluated Bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

30. AWARD CRITERIA

30.1 Subject to ITB Articles 32 and 33, the OSCE shall 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 qualified to perform the Contract satisfactorily.

31. OSCE'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS

31.1 The OSCE 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 OSCE's action.

32. CONTRACT FORMATION

32.1 At the same time as or after the OSCE notifies the successful Bidder that its Bid has been accepted, the OSCE will send the successful Bidder two original signed and stamped sets of the Contract, incorporating all agreements between the parties.

32.2 Within the period specified in Section II, Bidding Data Sheet, the successful Bidder shall sign, date, stamp and return one original set to the OSCE.

32.3 Upon receipt by the OSCE of one original set of signed and stamped Contract and the furnishing of a Performance Security (if one is required), in form and content acceptable to the OSCE in accordance with ITB Article 33, the OSCE shall notify the unsuccessful Bidders, and shall promptly discharge the Bid Securities, if any, of the winning Bidder and the unsuccessful Bidders, in accordance with ITB Article 16.

33. PERFORMANCE SECURITY

33.1 Within twenty (20) calendar days of the date of notification of award by the OSCE, the successful Bidder shall furnish a Performance Security in an amount, form and format as provided for in Section II, Bidding Data Sheet.

33.2 Failure of the successful Bidder to comply with the requirements of ITB Article 33.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security.

34. ADVANCE PAYMENT

34.1 If specified in Section II, Bidding Data Sheet, the OSCE may provide an advance payment on the Contract Price up to the percentage of the total price as stipulated in Section II, Bidding Data Sheet. The advance payment is subject to provision of an unconditional bank guarantee in a form and by a bank acceptable to the OSCE in amount equal to the advance payment. The guarantee shall remain effective until the advance payment has been repaid. Interest shall not be charged on the advance payment.

35. ADJUDICATOR

35.1 The OSCE proposes the person named in Section II, Bidding Data Sheet, to be appointed as Adjudicator under the Contract, at an hourly fee specified in Section II, Bidding Data Sheet. If the Bidder disagrees with this proposal, the Bidder should state so in its Bid. If, in the notice of Contract Award, the OSCE has not agreed on the appointment of the Adjudicator proposed by the winning Bidder and no agreement can be reached by the Parties, the Adjudicator shall be appointed by the Appointing Authority designated in the Contract at the request of either Party.