

**PS REVISED VERSION OF INVITATION TO BID TERMS AND CONDITIONS**  
**13 March 2006**

Annex B

Terms and Conditions to Bid

Submission of bids

Bids must be submitted in the English language on the Requirement specified in this Invitation to Bid (ITB). Bidders must provide all requisite information under this ITB and clearly and concisely respond to all points set out in this ITB. However, unnecessarily elaborate brochures and other presentations beyond those sufficient to present complete and effective Bids, are not encouraged.

Technical Specification of Requirement

No changes, substitutions or other alterations to the technical specifications of requirement stipulated in this ITB document will be accepted unless approved in writing by the United Nations (UN).

Performance Bond

Within 5 business days of the signature of contract, the successful contractor, unless expressly waived by the UN, shall at its own cost and expense, furnish to the UN a Performance Bond in the form attached as Annex F, or a similar guarantee, such as a letter of credit, acceptable to the UN in a sum equal to [\_\_\_%] \_percent of the total contract price. The Performance Bond shall be valid for the entire period of the contract and for at least 90 days after the expiration date of the contract.

Liquidated Damages

The Contract or Purchase Order concluded with the only successful contractor will provide that if the successful contractor fails to supply the specified goods/services within the lead time stipulated by his or her Bid, or within a period specified by a Purchase Order or a Contract, the UN shall, without prejudice to its other remedies under the Purchase Order or Contract, deduct from the Purchase Order or Contract price, as liquidated damages a sum equivalent to point five percent (0.5%) per week of delay calculated on the value of the Purchase Order or Contract until actual delivery, up to a maximum deduction of ten percent (10%) of the value of the Purchase Order or Contract.

Bid Bond

The UN reserves the right to request Bidders to submit a Bid Bond in the form attached as Annex xx, at their own cost, or a similar guarantee, such as a certified check, acceptable to the UN, in a sum equal to [insert<sup>1</sup> %] percent of the total proposed cost. The Bid Bond shall be valid for the same period as the Bid, plus ninety (90) days after the validity date of the bid. The UN reserves the right to extend the validity of the Bid Bond if the contractual instrument is not yet in place.

### No Commitment

This ITB does not commit the UN to award a contract or to pay any costs incurred in the preparation or submission of bids, or costs incurred in making necessary studies for the preparation thereof, or to procure or contract for services or goods. Any bid submitted will be regarded as an offer made by the bidder and not as an acceptance by the bidder of the offer made by the UN. No contractual relationship will exist except pursuant to a written contract document signed by the duly authorized official of the UN Procurement Division and by the selected bidder. This ITB does not commit the UN to consider any bid or to award a contract. If the bid is submitted on a “all or none” basis, it should clearly state so.

### Criteria for Evaluation

All bids will be evaluated in accordance with the provisions of the UN Financial Regulations and Rules and established procedures of the UN, as well as the requirements of this ITB. The following criteria will be considered in evaluating the bids:

- a. compliance with technical requirement;
- b. earliest delivery time;
- c. discounts offered; and
- d. Lowest cost to the UN.

### Payment Terms

The UN Financial Regulations and Rules preclude advance payments or payments by letter of credit. Such provisions in a bid will be prejudicial to its evaluation by the UN. The normal terms of payment by the UN are 30 (thirty) days (or similarly discounted payment terms if offered by bidders) upon satisfactory delivery of goods or performance of services, acceptance thereof by the UN and certification by the UN of the Contractor's invoice. Bidders must therefore clearly specify in their bids the payment terms being offered.

### GSA Clause (for USA vendors only)

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<sup>1</sup> INTERNAL NOTE: ranging from 5% up to 20%

The UN is eligible under the United States Foreign Assistance Act of 1961 to receive full benefits under General Services Administration (GSA) Contracts. Accordingly, all bid must specify whether or not items quoted by the bidder are currently subject to GSA Federal Supply pricing and indicate the GSA Contract Number and Expiration Date, wherever applicable.

#### Validity of Bids

Bids shall remain open and valid for acceptance for a period of at least \_\_\_\_\_ days from the date of opening specified in this ITB.

#### Rejection of Bids and Split Awards

The UN reserves the right to reject any and all bids if they, inter alia:

- i. are received after the deadline stipulated in the ITB;
- ii. are not properly marked or addressed as required in the ITB;
- iii. are delivered to another UN office location than the one required in the ITB;
- iv. are transmitted by facsimile unless specifically indicated in the ITB;
- v. are unsolicited;
- vi. contain an alternate bid; or
- vii. are not otherwise in compliance with this ITB.

The UN also reserves the right to split an award between any bidders in any combination as it may deem appropriate and the bidders must be willing to accept partial awards.

#### Withdrawal and Modification of Bids

Bids may be modified or withdrawn in writing, prior to the bid closing time specified therein. Bids may not be modified or withdrawn after that time.

#### Errors in Bids

Bidders or their authorized agents are expected to examine any maps, drawings, specifications, circulars, schedules and other instructions pertaining to the work, made available by the UN to the bidders for inspection. Failure to do so will be at the bidder's own risk. In case of error in the totaling of prices, the unit price will govern.

#### Public Opening

Public opening of bids will take place at the address and time specified in this ITB. Bidders may send one (1) representative with proper authorization to observe the opening of bids at the time and location specified in the ITB.

#### Confidentiality

This ITB or any part thereof, and all copies thereof must be returned to the UN upon request. It is understood that this ITB is confidential and proprietary to the UN, contains privileged information, part of which may be copyrighted, and is communicated to and received by bidders on the condition that no part thereof, or any information concerning it may be copied, exhibited, or furnished to others without the prior written consent of the UN, except that bidder may exhibit the specifications to prospective sub-contractors for the sole purpose of obtaining offers from them. Notwithstanding the other provisions of the ITB, bidders will be bound by the contents of this paragraph whether or not their company submits a bid or responds in any other way to this ITB.

#### Non-Disclosure Agreement

The UN may require bidders to execute a Non-Disclosure Agreement in the form of Annex G before being provided with some or all of the information included in the ITB.

#### Collusive Bidding and other Anti-competitive Conduct

Bidders and their employees, officers, advisers, agents or sub-contractors must not engage in any collusive bidding or other anti-competitive conduct, or any other similar conduct, in relation to:

- a. the preparation or submission of Bids;
- b. the clarification of Bids; and
- c. the conduct and content of negotiations, including final contract negotiations,

in respect of this ITB or procurement process, or any other procurement process being conducted by the UN in respect of any of its requirements.

For the purposes of this clause, collusive bidding, other anti-competitive conduct, or any other similar conduct may include, among other things, the disclosure to, exchange or clarification with, any other Bidder, person or entity, of information (in any form), whether or not such information is commercial information confidential to the UN, any other Bidder, person or entity in order to alter the results of a solicitation exercise in such a way that would lead to an outcome other than that which would have been obtained through a competitive process.

In addition to any other remedies available to it, the UN may, at its sole discretion, immediately reject any Bid submitted by a Bidder that, in the UN's sole opinion, has engaged in any collusive bidding, other anti-competitive conduct, or any other similar conduct with any other Bidder, person or entity in relation to the preparation or lodgment of Bids, whether in respect of this ITB or procurement process, or any other procurement process being conducted by the UN in respect of any of its Requirements.

#### Improper Assistance

Bids that, in the sole opinion of the UN, have been compiled:

- a. with the assistance of current or former employees of the UN, or current or former contractors of the UN in violation of confidentiality obligations or by using information not otherwise available to the general public or which would provide a non-competitive benefit;
- b. with the utilization of confidential and/or internal UN information not made available to the public;
- c. in breach of an obligation of confidentiality to the UN; or
- d. contrary to these terms and conditions for submission of a Bid,

shall be excluded from further consideration.

#### Use of former UN employee in the preparation of Bids and process

Without limiting the operation of the above clause, a Bidder must not, in the absence of prior written approval from the UN, permit a person to contribute to, or participate in, any process relating to the preparation of a Bid or the procurement process, if the person:

- a. at any time during the six months immediately preceding the date of issue of this ITB was an official, agent, servant or employee of, or otherwise engaged by, the UN;
- b. at any time during the 12 months immediately preceding the date of issue of this ITB was an employee of the UN personally engaged, directly or indirectly, in the planning or performance of the requirement, project or activity to which the ITB relates; or
- c. at any time, was an employee of the UN involved, directly or indirectly, in the preparation of this ITB including any earlier versions or the management of this procurement process.

#### Corrupt Practices

All UN vendors shall adhere to the highest ethical standards, both during the procurement process and throughout the performance of a contract.

#### Conflict of Interest

A Bidder must not, and must ensure that its employees, officers, advisers, agents or sub-contractors do not, place themselves in a position that may, or does, give rise to an actual, potential or perceived conflict of interest between the interests of the UN and the Bidder's interests during the procurement process.

If during any stage of the procurement process or performance of any UN contract a conflict of interest arises, or appears likely to arise, the Bidder must notify the UN immediately in writing, setting out all relevant details of the situation, including those cases in which the interests of the Bidder conflict with the interests of the UN, or cases in which any UN official, employee or person under contract with the UN may have, or

appear to have, an interest of any kind in the Bidder's business or any kind of economic ties with the Bidder. The Bidder must take such steps as the UN may reasonably require to resolve or otherwise deal with the conflict to the satisfaction of the UN.

### Vendor Registration

UN vendors shall keep current the information required for them to be registered as a UN vendor via the UN Global Marketplace (UNGM) at [www.ungm.org](http://www.ungm.org) by means of electronic updates. UN vendors shall inform the UN immediately and in writing, setting out all relevant details, about any material change in the information provided to the UN in their vendor application, including, but not limited to, change of name due to merger, acquisition or otherwise; change of address; material claims against the vendor, or any litigation or arbitration in which the vendor is a party; any investigation or inquiry by any governmental regulatory, licensing or other authority into the conduct of the vendor or any officer or employee thereof that could materially adversely affect the financial or other standing of the vendor, or the ability of the vendor to provide to the UN any goods or services the subject of this ITB; criminal convictions of any employee, officer, adviser or agent of the vendor; civil judgments; the most recent financial statements or financial standing of the vendor including any filing for bankruptcy, or entry into receivership, by the vendor; abusive, unethical or unprofessional conduct of the vendor including corrupt practices and submission of false information; any assignment of assets by the vendor or other financial acts, and any acts of financial impropriety committed or suffered by the vendor; any of the aforementioned factors in relation to a holding, parent, subsidiary, or affiliated company of the vendor which could materially adversely affect the financial or other standing of the vendor, or the ability of the vendor to provide to the UN any goods or services the subject of this ITB. The submission, which may be in the form of a letter, fax or other electronic means, shall include all relevant documentation with regard to the changes. Upon receipt of such information, the UN will make an assessment and determine whether the changes require a re-evaluation of the vendor's status as a registered UN vendor. Vendors which fail to so inform the UN about such material changes or fail to submit their latest financial statements may risk suspension or removal from the UN vendor database.

### Rights of the UN

If the UN determines that a vendor has engaged in collusive bidding, has received improper assistance, engaged in corrupt practices, or conflict of interest situations, then notwithstanding any other legal rights or remedies it may have, the UN reserves the right, at its sole option, to:

i. reject any bid or recommendation to award a contract to such vendor; and/or

- ii. declare a company or firm or ineligible, either indefinitely or for a stated period of time, to become a UN registered vendor; and/or
- iii. terminate any contract entered into with such vendor.

### Contract

All firms responding to this ITB shall acknowledge in their Bid that the UN's General Conditions on Contract (Annex E) are acceptable. In addition, all firms responding to this ITB are required to acknowledge in their Bid, by submission of Annex B-1, that the above terms and conditions are acceptable. However, if any of the UN's General Conditions of Contract or any of the above terms and conditions is not acceptable, the Bidder is required to indicate in the Bid with specificity any reservation(s) it has in respect of any of them and must provide alternative language to the particular clause.. Please note, however, that such reservation(s) or deviation(s) will be taken into account, in the sole discretion of the UN, in the evaluation of the Bid, including the comparative evaluation with other Bids.

Annex B-1  
Declaration by Bidder and Disclosure Requirement

The undersigned represents to the UN as follows (check as appropriate)<sup>2</sup>:

- ? 1. Bidder accepts the Terms and Conditions in Annex B and agrees to do all acts required in Annex B.
- ? 2. Bids. Bidder also acknowledges that Bids may be partially awarded between different Bidders, in accordance with Annex B.
- ? 3. Bidder shall submit a performance bond as stated in Annex B if required in the ITB.
- ? 4. Bidder, if awarded a contract, may be liable for liquidated damages if provided for in this ITB or the contract
- ? 5. Bidder is aware that the UN is not committed to award a contract, or to reimburse any costs incurred by the Bidder in connection with the ITB process, as stated in Annex B.
- ? 6. Bidder is aware that neither the ITB, nor any of its annexes, including this Annex B-1, constitutes any agreement or contractual relationship between the UN, or any of its entities, and the Bidder. Bidder acknowledges that the sole purpose of the ITB and its annexes is to enable vendors to submit a Bid; Bidder will not regard or seek to rely upon the ITB or any of its annexes as an offer on the part of the UN capable of acceptance by the Bidder.
- ? 7. Bidder acknowledges that Bids are evaluated according to the UN Financial Regulations and Rules.
- ? 8. Bidder is familiar with and accepts the payment terms in Annex B.
- ? 9. In the event the Bidder is a U.S. entity, Bidder will indicate in its Proposal whether or not the prices specified therein are currently subject to GSA Federal Supply pricing and state the GSA Contract Number and Expiration Date.
- ? 10. Bidder's Bid will be valid for the period stipulated in Annex B.
- ? 11. Bidder is familiar with and accepts the UN's conditions for the withdrawal and modification of Bids and the UN's rules governing errors in Bids and public opening of Bids.

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<sup>2</sup> **Terms used in this declaration shall have the meanings ascribed to them in the Terms and Conditions in Annex B.**

- ? 12. Bidder accepts the Confidentiality terms stated in Annex B; and is aware that in the event the UN requires Bidders to execute a non-disclosure agreement, as stated in Annex B, and Bidder refuses to sign, Bidder will not be invited to participate further in the ITB.
- ? 13. Bidder accepts the Collusive Bidding and other Anti-competitive Conduct terms stated in Annex B and represents that the Bid has been compiled without the improper assistance of employees or former employees of the UN, in accordance with Annex B.
- ? 14. Bidder has not, and is not, engaged in any corrupt practices.
- ? 15. Bidder is not aware of any existing or potential conflict of interest as specified in Annex B. If during the procurement process a conflict of interest arises, or appears likely to arise, Bidder will notify the UN immediately in accordance with Annex B.
- ? 16. Bidder agrees to immediately update its vendor profile in UNGM ([www.ungm.org](http://www.ungm.org)) with new information in accordance with Annex B.
- ? 17. Bidder acknowledges that any costs it may incur in connection with the submission of a Bid to the UN are at the sole expense of the Bidder.
- ? 18. Bidder shall promptly inform the UN in writing of any bid submitted, or likely to be submitted, by a holding, parent, subsidiary, or affiliated company of the Bidder in response to this ITB of which it is aware, or ought reasonably to be aware.
- ? 19. Bidder shall submit a bid bond as stated in Annex B if required in the RFP.

REGISTERED OFFICE  
OR OTHER ADDRESS  
OF BIDDER:

POSTAL ADDRESS:

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TELEPHONE NUMBERS:

FACSIMILE NUMBERS

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Signature of authorized official of Bidder or person otherwise authorized to sign the bid on behalf of the Bidder

SIGNATURE:

DATE OF SIGNATURE:

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NAME (Block Letters):

POSITION HELD: