Tender documents Enabel
RWA19011-10006 of August 2020

Public services contract to

“ELABORATION OF NATIONAL IMPLEMENTATION PLAN FOR THE MiR CONSTRUCTION SECTOR IN RWANDA”

Country: RWANDA

Navision code: RWA1901111
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1  General point

1.1 Deviations from the General Implementing Rules

Point 4 “Specific contractual provisions” of these tender documents includes the administrative and contractual terms that apply to this public contract as a deviation of the ‘General Implementing Rules of public contracts’ (Royal Decree of 14 January 2013) or as a complement or an elaboration thereof.

1.2 Contracting authority

The contracting authority of this public contract is Enabel, Belgian development agency, further called “Enabel”, public-law Company with social purposes, with its registered office at Rue Haute 147, 1000 Brussels in Belgium (enterprise number 0264.814.354, RPM/RPR Brussels).

Enabel, supports the developing countries in the fight against poverty on behalf of the Belgian government. In addition to this public service mission, Enabel also performs services for other national and international organisations contributing to sustainable human development. Moreover, Enabel can also perform other development cooperation missions at the request of public interest organisations, and it can develop its own activities to contribute towards realization of its objectives.

For this public contract, Enabel is represented by Mr. Dirk DEPREZ, Resident Representative of Enabel in RWANDA.

1.3 Institutional framework of Enabel

The general reference framework under which Enabel operates is the Belgian Law of 19 March 2013 on Development Cooperation, the Belgian Law of 21 December 1998 establishing the Belgian Technical Cooperation as a public-law company as well as the Belgian Law of 23 November 2017 changing the name of the Belgian Technical Cooperation and defining the missions and functioning of Enabel, the Belgian development agency.

The following developments are also a leitmotiv in Enabel operations: We mention as main examples:

- In the field of international cooperation: The United Nations Sustainable Development Goals and the Paris Declaration on the harmonisation and alignment of aid are important touchstones;


- In the field of Human Rights: The United Nations’ Universal Declaration of Human Rights (1948) as well as the 8 basic conventions of the International Labour Organisation on Freedom of Association (C. n°87), on the Right to Organise and Collective Bargaining (C. n°98), on Forced Labour (C. n°29 and 105), on Equal Remuneration and on Discrimination in Respect of Employment (C. n°100 and 111), on Minimum Age for Admission to Employment (C. n°138), on the Prohibition of the Worst Forms of Child Labour (C. n°182);

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1 Belgian Official Gazette of 26 March 2013
2 Belgian Gazette of 30 December 1998
3 Belgian Official Gazette of 11 December 2017
• In the field of respecting the environment: The Climate Change Framework Convention in Paris, 12 December 2015;

• The first Management Contract concluded between Enabel and the Belgian Federal State, approved by the Royal Decree of 17 December 2017, which sets out the rules and the special conditions for the execution of public service tasks by Enabel on behalf of the Belgian State.

1.4 Rules governing the public contract

This public contract shall be governed by the Belgian law, among others:

• The Law of 17 June 2016 on public procurement⁶;

• The Law of 17 June 2013 on motivation, information and remedies in respect of public contracts and certain works, supply and service contracts⁷;

• The Royal Decree of 18 April 2017 concerning the award of public works, supply and service contracts in the classical sector⁸;

• The Royal Decree of 14 January 2013 establishing the General Implementing Rules of public contracts⁹;

• Circulars of the Prime Minister with regards to public contracts⁶.

1.5 Definitions

The following definitions shall be used for the purposes of this contract:

• Tenderer: The economic operator that submits a tender;

• Contractor / service provider: The tenderer to whom the contract is awarded;

• Contracting authority: Enabel, represented by the Resident Representative of Enabel in RWANDA;

• Tender: The commitment of the tenderer to perform the public contract under the conditions that he has submitted;

• Tender documents: This document and its annexes and the documents it refers to;

• Technical specifications: A specification in a document defining the characteristics of a product or a service, such as the quality levels, the environmental and climate performance levels, the design for all kinds of needs, including access for people with disabilities, and the evaluation of conformity, the product performance, the use of the product, the safety or dimensions, as well as requirements applicable to the product as regards the name under which it is sold, the terminology, symbols, the testing and test methods, the packaging, the marking or labelling, instructions for use, the production processes and methods at any stage of the life cycle of the supply or service, as well as the evaluation and conformity procedures;

• General Implementing Rules: Rules given in the Royal Decree of 14 January 2013 establishing the general rules for the performance of public contracts;

• Variant: An alternative method for the design or the performance that is introduced either at the demand of the contracting authority, or at the initiative of the tenderer;

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⁷ Belgian Official Gazette of 21 June 2013.
⁹ Belgian Official Gazette of 14 February 2013.
• **Option**: an accessory element which is not strictly necessary to the performance of the contract but which has been introduced on demand of the contracting authority or on the initiative of the tenderer;

• **Corrupt practices**: The offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the contracting authority;

• **Litigation**: Court action.

### 1.6 Confidentiality

The tenderer or contractor and Enabel are bound to secrecy vis-à-vis third parties with regards to any confidential information obtained within the framework of this contract and will only divulge such information to third parties after receiving the prior written consent of the other party.

They will disseminate this confidential information only among appointed parties involved in the assignment. They guarantee that said appointed parties will be adequately informed of their obligations in respect of the confidential nature of the information and that they will comply therewith.

### 1.7 Deontological obligations

Any failure to conform with one or more of the deontological terms may lead to the exclusion of the candidate, the tenderer or the contractor from other public contracts concluded with Enabel.

For the duration of the contract, the contractor and its staff respect human rights and undertake not to go against political, cultural or religious customs of the beneficiary country. The tenderer or contractor is bound to respect fundamental labour standards, which are internationally agreed upon by the International Labour Organisation (ILO), namely the conventions on union freedom and collective bargaining, on the elimination of forced and obligatory labour, on the elimination of employment and professional discrimination and on the abolition of child labour.

Any attempt of a candidate or a tenderer to obtain confidential information, to proceed to illicit arrangements with competitors or to influence the evaluation committee or the contracting authority during the investigation, the clarification, evaluation of tenders and applicants comparison procedures will lead to the rejection of the application or the tender.

Moreover, in order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the contract, it is strictly forbidden to the contractor to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.

Any tender will be rejected and any (public) contract will be cancelled once it appears that the contract awarding or its performance was related to the transfer of 'extraordinary commercial expenditure'. Extraordinary commercial expenditure is any commission that is not mentioned in the main contract or that does not result from a contract in good and due form referring to that contract, any commission that is paid for no actual legal service, any commission transferred into a fiscal paradise, any commission transferred to a beneficiary that is not clearly identified or to a company that obviously merely serves as a façade.

The contractor of the public contract commits to supply, upon the demand of the contracting authority, any supporting documents related to the performance conditions of the contract. The contracting authority will be allowed to proceed to any control, on paperwork or on the
site, which it considers necessary to collect evidence to support the presumption of unusual commercial expenditure. Depending on the gravity of the facts observed, the contractor having paid unusual commercial expenditure is liable to have his contract cancelled or to be permanently excluded.

1.8  Applicable law and competent court

The public contract must be performed and interpreted according to Belgian law. The parties commit to sincerely perform their engagements to ensure the good performance of this contract. In case of litigation or divergence of opinion between the contracting authority and the contractor, the parties will consult each other to find a solution. If agreement is lacking, the Brussels courts are the only courts competent to resolve the matter. See also point 4.17 “Litigation (Art. 73)”. 
2 Object and scope of the contract

2.1 Type of contract
Public contract for services.

2.2 Object and scope of the contract
This public services contract consists of “Elaboration of national implementation plan for the MiR construction sector in Rwanda”- RWA19011-10006 in conformity with the conditions of these tender documents.

2.3 Lots
This contract is a contract with one lot.

2.4 Items
The contract consists of item 1 with tasks described in ToRs below (point 5).

The tenderer must submit price for this only item.

2.5 Duration
The contract starts upon award notification and expires at the final acceptance (see point 4.14.2 “Implementation period (Art. 147)”).

This contract begins upon award notification and has an overall duration of maximum of 50 man-days (including 35 days reserved to the review of protocols by the Rwanda National Ethics Committee) to be covered during September and December 2020 (see details in point 5 “Terms of Reference”).

2.6 Variants
Each tenderer may submit only one tender. Variants are forbidden.

2.7 Option
NA

2.8 Quantities
The public contract is a price schedule contract. Only unit cost are lump sum. The payment are based on deliverables. The number of maximum person-days are estimated at 50 man-days. The contractor must therefore be able to perform all required deliverables for the period that is covered within the duration of the public contract.
3 Procedure

3.1 Award procedure

This contract is awarded in accordance with art 42, 1°, d) of the Law of 17 June 2016 pursuant to a negotiated procedure without Prior publication.

3.2 Publication

This tender document is published on the Enabel website (www.enabel.be).

3.3 Information

The awarding of this contract is coordinated by Mrs. Françoise MUSHIMIYIMANA, Procurement Specialist at Enabel Rwanda – francoise.mushimiyimana@enabel.be

Throughout this procedure, all contacts between the contracting authority and the (possible) tenderers about the present contract will exclusively pass through this person. (Possible) tenderers are prohibited to contact the contracting authority any other way with regards to this contract, unless otherwise stipulated in these tender documents.

At the latest 11 calendar days before the final date for receipt of tenders, tenderers may ask questions about the tender documents and the contract in accordance with Art. 64 of the Law of 17 June 2016. Questions shall be addressed in writing to:

François MUSHIMIYIMANA, Procurement Specialist (francoise.mushimiyimana@enabel.be), with copy to

GEERTS, Sofie, (sofie.geerts@enabel.be)

Evariste SIBOMANA, (evariste.sibomana@enabel.be)

They shall be answered in the order received. The complete overview of questions asked shall be available as of at the latest 5 calendar days before the final date for receipt of tender at the address mentioned above.

The tenderer is required to report immediately any gap, error or omission in the tender documents that precludes him from establishing his price or compare tenders, within ten days at the latest before the deadline for receipt of tenders.

3.4 Tender

3.4.1 Data to be included in the tender

The tender of the tenderer will consist, but not limited, to the physically separated sections mentioned below (see point 6 “Forms”):

- The identification form;
- The power of attorney;
- The integrity statement for the tenderers;
- The access right and qualitative selection documents;
- The financial offer & tender form;
- The technical offer.

The tenderer is strongly advised to use all the tender forms in annexe (see point 6 “Forms”). When not using these forms, he is fully responsible for the perfect concordance between the documents he has used and the form.

The tender and the annexes to the tender form are drawn up in English.
By submitting a tender, the tenderer automatically renounces to his own general or specific sales conditions.

The tenderer clearly designates in his tender which information is confidential and/or relates to technical or business secrets and may therefore not be disseminated by the contracting authority.

3.4.2 Price determination

All prices shall be given in EUR (euros) and rounded off to two figures after the decimal point. Prices given are WHT & VAT inclusive.

This contract is a lump-sum price contract, i.e. the global price is an all-in price, which covers all the services concerned by the contract. The all-in price will, if necessary, be calculated based on a breakdown of the lump-sum price.

According to Art. 37 of the Royal Decree of 18 April 2017, the contracting authority may, for the purpose of verifying the prices carry out an audit involving any and all accounting documents and an on-site audit to check the correctness of the indications supplied.

3.4.3 Elements included in the price

The lump-sum price includes all costs, taxes, duties and contributions of any kind, and namely:

- **Expert cost** including: fees, the per diems, accommodation costs, local travel costs, insurance costs, security costs, communication costs (including the internet), administrative and secretariat costs, photocopy and printing costs, costs for documentation of the services that can be required by the contracting authority, the production and delivery of documents or records linked to the performance of the services, the customs and excise duties for materials and products used, the packaging costs, the acceptance costs, all costs, staff and material expenses needed to perform the present contract, the copyright fees, the purchase or leasing of third party services needed for the performance of the contract, Transport outside Kigali, Accommodation, and all of the applicable taxes.

- **Reimbursable** (paid upon presentation of justification documents, up to the maximum budget set and accepted in financial proposal): International transport and visa costs,

- International travel days are not reimbursed by Enabel.

3.4.4 Period of validity

Tenderers will be bound by their tenders for a period of 120 calendar days from the deadline for the submission of tenders.

### 3.5 Submission of tenders

The tender will be drawn up in **3 copies**, one of them being the original and **two copies**.

A soft Copies (exactly identical to the hard copy) **must be submitted in one or more PDF files** on a CD-ROM or a USB stick.

**Bidders who do not submit the required copies (hard and the soft copy), might be rejected.**

The tender and all accompanying documents have to be numbered and signed (original handwritten signature) by the tenderer or his/her representative. The same applies to any alteration, deletion or note made to this document.

The representative must clearly state that he/she is authorised to commit the tenderer. If the tenderer is a company / association without legal body status, formed by separate natural or
legal persons (temporary group or temporary partnership), the tender must be signed by each of these persons.

The signed and dated original (including the soft copy on the key) will be sent in a sealed enveloped mentioning: “TENDER”, the tender documents number RWA190111-10006 and the Navision code RWA1901111.

The tender must be received before 14/09/2020 at 4.00 PM, Kigali time. It must be sent to:

The Attention of Françoise MUSHIMIYIMANA
Belgian development agency
KN 67 Street, plot N° 10
SORAS Towers, Wing B, 7th Floor
Opposite St Michel Catholic Church
B.P. 6089 KIYOVU
KIGALI- RWANDA

a) Either by Post (standard mail or registered mail): In this case, the sealed envelope is put in a second closed envelope. The delivery record makes proof of compliance with the time-limit for receipt.

b) Or by hand delivered or dispatch by private courier service, directly to the contracting authority against a signed and dated receipt: In this case, the acknowledgment of receipt makes proof of compliance with the time-limit for receipt.

Offices can be reached on working days during office hours: from 8:00 AM to 05:00 PM. All times are in the time zone of the country of the Contracting Authority (Rwanda time).

3.6 Amending or withdrawing tenders

To change or withdraw a tender already sent or submitted, a written statement is required, which shall be correctly signed by the tenderer or his/her representative. The object and the scope of the changes must be described in detail. Any withdrawal shall be unconditional.

The withdrawal may also be communicated by fax or electronic means, provided that it is confirmed by registered letter deposited at the post office or against acknowledgement of receipt at the latest the day before the tender acceptance deadline.

3.7 Opening of tenders

The tender must be in the possession of the contracting authority before the final submission date and time specified in point 3.5 “Submission of tenders”. The tenders shall be opened behind closed doors.

3.8 Evaluation of tenders

The tenderers’ attention is drawn to Art. 52 of the Law of 17 June 2016 (Prior participation of tenderers) and Art. 51 of the Royal Decree of 18 April 2017 (Conflicts of Interest - Tourniquet).

Any infringement of these measures which may be likely to distort the normal conditions of competition is punishable in accordance with the provisions of Art. 5 of the Law of 17 June 2016 on public procurement. In practice, this penalty consists, as the case may be, either of rejecting the offer or of terminating the contract.
3.8.1 Access rights and selection criteria

Art. 61 and seq. of the Royal Decree of 18 April 2017 and 67 and seq. of the Law of 17 June 2016

By submitting this tender, the tenderer certifies that he is not in any of the cases of exclusion listed in point 6.3 “Declaration on access rights and exclusion criteria”.

The tenderer will provide the required supporting document(s) with regard to the exclusion criteria mentioned under point 6 “Forms” to the contracting authority at the latest upon contract awarding.

Pursuant to section 70 of the Law of 17 June 2016, any tenderer who is in one of the situations referred to in sections 67 or 69 of the Law of 17 June 2016 may provide evidence to show that the actions taken by him are sufficient to demonstrate his reliability despite the existence of a relevant ground for exclusion. If this evidence is considered sufficient by the contracting authority, the tenderer concerned is not excluded from the award procedure.

The contracting authority may also check whether there are grounds for exclusion for subcontractor(s) within the meaning of Articles 67 to 69 of the Law of 17 June 2016.

Selection criteria

Art. 67 and seq. of the Royal Decree of 18 April 2017

Before the contracting authority can start investigating the regularity of the tenders and evaluating them on the basis of the award criterion/criteria, tenderers that do not meet certain minimum quality conditions shall be excluded from the procedure and their tender shall not be evaluated.

In view of the qualitative selection of tenderers and in conformity with Art. 67 to 74 of the Royal Decree of 18 April 2017, for this contract the tenderer must add to his tender documents a selection file with the information requested in point 6 “Forms” with regards to his economic and financial capacity as well as his technical capacity.

A tenderer may, if necessary and for a specific contract, submit the capacities of other entities, whatever the legal nature of the relations existing between himself and these entities. In that case, he must prove to the contracting authority that, for the performance of the contract, he shall have the necessary resources by presenting the commitment of these entities to make such resources available to the service provider. Under the same conditions, a group of candidates or of tenderers can submit the capacities of the group’s participants or those of other entities.

3.8.2 Regularity of tenders

Art. 75 and seq. of the Royal Decree of 18 April 2017

Before proceeding to the evaluation and the comparison of the tenders, the contracting authority examines their regularity.

Tenders that have reservations about the tender documents, that are incomplete, unclear or ambiguous, or that contain elements that do not correspond to reality, may be rejected from the procedure.

3.8.3 Negotiations

Art. 90 and seq. of the Royal Decree of 18 April 2017 (for NPWithoutP)

The formally and materially regular tenders shall be evaluated as to content by an evaluation commission. This evaluation shall be conducted on the basis of the award criteria mentioned below.

The contracting authority may decide to conduct negotiations with the most advantageous tenderers. After these negotiations, the tenderers can submit a best and final offer (BAFO).
The tenderer whose tender is regular and the most advantageous on the basis of the award criteria mentioned below shall be designated the successful tenderer for this contract.

### 3.8.4 Award criteria

The contracting authority will evaluate the technical proposal based on following criteria:

**a) Technical Proposal: 70%**

- **Methodology and technical approach:**
  
  The tenderer present the detailed methodology to perform the requested services showing the suitability with Terms of Reference and comments made on it, activity schedule, staff schedule and work organization between team members based on the instructions given in the Terms of Reference. They are subject to evaluation according to the following sub-criteria:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Presentation of detailed methodology to perform the requested services showing approaches to use</td>
<td>30</td>
</tr>
<tr>
<td>2</td>
<td>Understanding of Terms of reference</td>
<td>20</td>
</tr>
<tr>
<td>3</td>
<td>Activity schedule, staff schedule, and detailed work plan</td>
<td>10</td>
</tr>
<tr>
<td>4</td>
<td>Work organization and distribution between team members</td>
<td>10</td>
</tr>
</tbody>
</table>

For the technical award criteria, average score has to be at least 60% to qualify for the Negotiation stage.

**b) Financial proposal 30%**

With regards to the ‘price’ criterion, the following formula will be used:

\[
\text{Points tender } A = \frac{\text{amount of lowest tender } \times 30}{\text{Amount of tender } A}
\]

### 3.8.5 Awarding the public contract

*Art. 77 and seq. of the Royal Decree of 18 April 2017 (for DNPWithP) & Art. 90 and seq. of the Royal Decree of 18 April 2017 (for NPWithoutP)*

The contract will be awarded to the (selected) tenderer who submitted the most advantageous, possibly improved tender on the basis of the criteria mentioned above.

We need to point out though, that in conformity with Art. 85 of the Law of 17 June 2016, there is no obligation for the contracting authority to award the contract.

The contracting authority can either renounce to award the contract, either redo the procedure, if necessary through another awarding procedure.

### 3.9 Concluding the contract

Pursuant to Art. 95 (NPWithoutP) of the Royal Decree of 18 April 2017, the contract is formalized by the notification to the chosen tenderer of the approval of his tender.
Notification is done by registered letter, by fax or by any other electronic means in as far, in the latter two cases, the content of the notification be confirmed within five calendar days by registered letter.

So, the full contract agreement consists of a public contract awarded by Enabel to the chosen tenderer in accordance with the following documents, in the order of precedence:

- the registered letter of notification of the award decision,
- these tender documents and the annexes,
- if any, minutes of the information session and/or clarifications and/or the addendum,
- the bidder proposal and all its annexes,
- any later documents that are accepted and signed by both parties.
4 Specific contractual provisions

This chapter contains the specific contractual provisions that apply to this public contract as a deviation of the ‘General Implementing Rules of public contracts’ of the Royal Decree of 14 January 2013, or as a complement or an elaboration thereof. The numbering of the articles below (in parenthesis) follows the numbering of the General Implementing Rules articles. Unless indicated, the relevant provisions of the General Implementing Rules shall apply in full.

4.1 Definitions (Art. 2)

- **Contract manager**: The official or any other person who manages and controls the performance of the contract;
- **Performance bond**: Financial guarantee given by the successful tenderer to cover its obligations until final and good performance of the contract;
- **Acceptance**: Observation by the contracting authority that the performance of all or part of the works, supplies or services is in compliance with good practice and with the terms and conditions of the contract;
- **Progress payment**: Payment of an instalment under the contract after service delivery is accepted;
- **Advance**: Payment of part of the contract before service delivery (if accepted);
- **Amendment**: Agreement established between the contracting parties during contract performance in view of changing documents applicable to the contract.

4.2 Correspondence with the service provider (Art. 10)

Notifications by the contracting authority are addressed to the domicile or to the registered office mentioned in the tender, except if the tender documents require the service provider to elect domicile elsewhere after conclusion of the contract.

4.3 Contract manager (Art. 11)

For the management of this contract, Enabel designates **Mattias Piani, Intervention Manager of Urbanization project, e-mail: mattias.piani@enabel.be**, and NIRDA designates the Director General of NIRDA to be the contract Managers.

Once the contract is concluded, the contract manager is the main contact point for the service provider. Any correspondence or any questions with regards to the performance of the contract shall be addressed to him/her, unless explicitly mentioned otherwise in these tender documents (see namely, "Payment” below).

The contract manager is fully competent for the follow-up of the satisfactory performance of the contract, including issuing service orders, drawing up reports and states of affairs, approving the services and signing acceptance and failure report(s).

However, the signing of amendments or any other decision or agreement implying a deviation from the essential terms and conditions of the contract are not part of the competence of the contract manager. For such decisions the contracting authority is represented as stipulated under point 1.2 “Contracting authority”.

Under no circumstances is the contract manager allowed to modify the terms and conditions (e.g., performance deadline, etc.) of the contract, even if the financial impact is nil or negative. Any commitment, change or agreement that deviates from the conditions in the tender documents and that has not been notified by the contracting authority, shall be considered null and void.
4.4 Subcontractors (Art. 12-15)

The fact that the contractor entrusts all or part of his commitments to subcontractors does not release him of his responsibility towards the contracting authority. The latter does not recognize any contractual relation with these third parties.

The contractor remains, in any case, the only person liable towards the contracting authority. The contractor commits to having the contract performed by the persons indicated in the tender, except for force majeure. The persons mentioned or their replacements are all deemed to effectively be involved in the performance of the contract. Any replacements must be approved by the contracting authority.

4.5 Confidentiality (Art. 18)

The tenderer commits to not advertising about this contract without the preliminary written agreement of the contracting authority. He may, however, mention this contract as a reference in the context of a public contract, provided that he is true in the presentation of the status (e.g. ‘in performance’) and in as far that the contracting authority has not withdrawn this permission for cause of poor performance of the contract.

4.6 Intellectual property (Art. 19-23)

The contracting authority acquires the intellectual property rights created, developed or used during performance of the contract.

Without prejudice to paragraph 1 and unless otherwise stipulated in the contract documents, when the object of the contract consists of the creation, manufacture or the development of drawings and models or of logos, the contracting authority acquires the intellectual property thereof, as well as the right to trademark them, to have them registered and to have them protected.

For domain names created under the contract, the contracting authority also acquires the right to register and protect them, unless otherwise stipulated in the contract documents.

When the contracting authority does not acquire the intellectual property rights, it obtains a patent licence of the results protected by intellectual property law for the exploitation modes that are mentioned in the contract documents.

4.7 Performance bond (Art. 25-33)

4.7.1 Provision of a bond

The performance bond is set at 5% of the total amount, excluding VAT, of the contract. The amount thus obtained shall be rounded up to the nearest 10th euros.

In accordance with the legal and regulatory provisions, the performance bond may be constituted either of cash or of public funds or may take the form of a collective performance bond. The performance bond may also take the form of a guarantee (see “Model of Proof of posting bond”) issued by a credit institution meeting the requirements of the law relating to the status and control of credit institutions (Bank guarantees).

The successful tenderer must, within 15 calendar days, as from the day of the awarding of the contract, furnish proof that he or a third party has posted the bond in one of the ways set out below:

As a deviation from Art. 26, the performance bond may be:

- Posted through an establishment that has its registered office in one of the countries of destination of the services. The contracting authority maintains the right to accept or refuse the posting of the bond through that institution. The tenderer shall mention the name and address of this institution in the tender.
Constituted by a one-off deduction from payment of the first invoice as payments will be made in instalments.

These deviations are founded on the idea of providing possible local tenderers with an opportunity to submit a tender.

The successful tenderer must, within 30 calendar days, as from the day of the awarding of the contract, furnish proof that he or a third party has posted the bond in one of the ways set out below:

1. In the case of cash, by transfer of the amount to the bpost account number of the Caisse des Dépôts et Consignations; Fill out the form https://finances.belgium.be/sites/default/files/01_marche_public.pdf as completely as possible and return it to the e-mail address: info.cddck@minfin.fed.be

After reception and validation of said form, an agent of Belgium’s Deposit and Consignment Office (Caisse des Dépôts et Consignations) will communicate to you the payment instructions (account number + communication) for posting the bond in cash

2. in the case of public funds, by depositing such funds, for the account of the Deposit and Consignment Office, with the State Cashier at the head office of the National Bank in Brussels or at one of its provincial agencies or with a public institution with an equivalent function;

3. in the case of a collective performance bond, through the depositing, by a company lawfully practising this profession, of a joint and several performance bond with the Caisse des Dépôts et Consignations or a public body fulfilling a similar function;

4. in the case of a surety, by the written undertaking of the credit institution.

This proof must be provided as applicable by submission to the contracting authority of:

1. the deposit receipt of the Caisse des Dépôts et Consignations or a public body fulfilling a similar function; or

2. a debit notice issued by the credit institution or the insurance company; or

3. the deposit acknowledgement issued by the government cashier or public body fulfilling a similar function; or

4. the original of the joint and several performance bond stamped by the Caisse des Dépôts et Consignations or a public body fulfilling a similar function; or

5. the original of the written undertaking issued by the credit institution or the insurance company granting a surety.

These documents, signed by the depositor, must state for whom the performance bond has been constituted, its precise allocation through a brief statement of the purpose of the contract and the reference number of the contract documents, together with the name, first name and full address of the successful tenderer and, if applicable, of the third party making the deposit, with the words "lender" or "representative" as applicable.

The period of 30 calendar days specified above shall be suspended during the period of closure of the successful tenderer’s business during paid annual holidays and the days off in lieu stipulated by regulation or by a compulsory collective labour agreement.

Proof that the required performance bond has been posted must be sent to the address that shall be mentioned in the contract award notification.

4.7.2 Failure to post the performance bond (Art. 29)

When the contractor fails to prove that the performance bond has been posted within 30 calendar days, he will be set in default by registered mail. This notification will be considered
as a ‘failure report’ as mentioned in art. 44, § 2 of the General Implementing Rules (see below).

When, after notification of this failure by registered letter, the contractor has still failed to produce proof that the performance bond has been posted within a further period of 15 calendar days dating from the date of dispatch of the registered letter, the contracting authority may:

- 1° Post the performance bond itself by deduction from amounts due under the contract in question; in this case, the penalty shall be fixed at a flat rate of 2% of the initial amount of the contract; or
- 2° Apply the measures taken as of right. In any event, termination of the contract for this reason shall preclude the application of penalties or fines for delay.

4.7.3 Release of the Bond (Art. 33)
At the request of the contractor, the bond will be released after final acceptance and at the latest at the expiry of 18 months after the implementation period of the contract.

4.8 Conformity of performance (Art. 34)
The services must comply in all respects with the contract documents. Even in the absence of terms of references in contract documents, the services must comply in all respects with good practice.

4.9 Changes to the public contract (Art. 37 to 38/19 and 151)

4.9.1 Replacement of the contractor (Art. 38/3)
Provided that he meets the selection and exclusion criteria set out in this document, a new contractor may replace the contractor with whom the initial contract was agreed in cases other than those provided for in Art. 38/3 of the General Implementing Rules (GIR).

The contractor submits his request as quickly as possible by registered post, stating the reasons for this replacement and providing a detailed inventory of the state of the supplies and services already delivered, the new contractor's contact details and the documents and certificates which the contracting authority cannot access free of charge.

The replacement will be recorded in an amendment dated and signed by all three parties. The initial contractor remains liable to the contracting authority for the performance of the remainder of the contract.

4.9.2 Revision of prices (Art. 38/7)
For this contract, price revisions are not permitted.

4.9.3 Indemnities following the suspensions ordered by the contracting authority during performance (Art. 38/12)
The contracting authority reserves the right to suspend the performance of the contract for a given period, mainly when it considers that the procurement contract cannot be performed without inconvenience at that time.

The performance period is extended by the period of delay caused by this suspension, provided that the contractual performance period has not expired. If it has expired, the return of fines for late performance will be agreed.

When activities are suspended, based on this clause, the contractor is required to take all necessary precautions, at his expense, to protect the services already performed and the materials from potential damage caused by unfavourable weather conditions, theft or other malicious acts.
The contractor has a right to damages for suspensions ordered by the contracting authority when:

- The suspension lasts in total longer than one twentieth of the performance period and at least ten working days or two calendar weeks, depending on whether the performance period is expressed in working days or calendar days;
- The suspension is not owing to unfavourable weather conditions;
- The suspension occurred during the contract performance period.

Within thirty days of their occurrence or the date on which the contractor or the contracting authority would normally have become aware of them, the contractor reports the facts or circumstances succinctly to the contracting authority and describes precisely their impact on the progress and cost of the contract.

**4.9.4 Unforeseen circumstances**

As a rule, the contractor is not entitled to any modification of the contractual terms due to circumstances of which the contracting authority was unaware.

A decision of the Belgian State to suspend cooperation with a partner country is deemed to be unforeseeable circumstances within the meaning of this article. Should the Belgian State break off or cease activities which implies therefore the financing of this public contract, Enabel will do everything reasonable to agree a maximum compensation figure.

**4.10 Preliminary technical acceptance (Art. 41-42)**

The contracting authority reserves the right to demand an activity report at any time of the mission to the service provider (meetings held, persons met, institutions visited, summary of results, problems encountered and problems solved, deviation from the planning and deviations from the ToR...).

**4.11 Inspection of the services (Art. 150)**

If during contract performance irregularities are found, the contractor will be notified about this immediately by post or e-mail, which will be confirmed consequently by registered letter. The contractor is bound to perform the non-complying services again.

The service provider advises the managing official by registered post or e-mail showing the exact date of dispatch, at which date the services can be controlled.

**4.12 Liability of the service provider (Art. 152-153)**

The service provider takes the full responsibility for mistakes and deficiencies in the services provided.

Moreover, the service provider indemnifies the contracting authority against damages for which it is liable towards third parties due to late performance of the services or due to failure of the service provider.

**4.13 Means of action of the contracting authority (Art. 44-51 and 154-155)**

Failure of the contractor is not only related to services themselves but also to the whole of his obligations.

In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the contract, it is strictly forbidden to the contractor to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of the contracting authority who are concerned, directly or indirectly,
by the follow-up and/or control of the performance of the contract, regardless of their hierarchical position.

In case of violation, the contracting authority can impose a set fine to the contractor for each violation, which can be up to three times the amount obtained by adding up the (estimated) values of the advantage offered to the employee and of the advantage that the successful tenderer hoped to obtain by offering the advantage to the employee. The contracting authority can decide independently about the application and the amount of this fine.

This term is without prejudice to the possible application of other measures as of right provided in the General Implementing Rules, namely the unilateral termination of the contract and/or the exclusion of contracts of the contracting authority for a determined duration.

4.13.1 Failure of performance (Art. 44)

The contractor is considered to be in failure of performance of the contract:

- When services are not performed in accordance with the conditions defined by the contract documents;
- At any time, when the performance is not conducted in such a way that it can be fully completed at the dates set;
- When the successful tenderer does not follow written orders, which are given in due form by the contracting authority.

Any failure to comply with the provisions of the contract, including the non-observance of orders of the contracting authority, shall be recorded in a ‘failure report’, a copy of which shall be sent immediately to the successful tenderer by registered letter.

The contractor shall repair the deficiencies without any delay. He can assert his right of defence by registered letter addressed to the contracting authority within fifteen calendar days from the date of dispatch of the ‘failure report’. His silence is considered, after this period, as an acknowledgement of the facts recorded.

Any deficiencies found on his part render the contractor liable for one or more of the measures provided for in Art. 45 to 49 and 154 and 155.

4.13.2 Fines for delay (Art. 46-154)

Fines for delay are not related to penalties provided under Art. 45. They shall be due, without the need for notice, simply by the expiry of the performance period without the issuing of a report, and they shall be automatically applied for the total number of days of delay.

Notwithstanding the application of fines for delay, the contractor shall continue to guarantee the contracting authority against any claims for compensation for which it may be liable to third parties due to the delay in performance of the contract.

4.13.3 Measures as of right (Art. 47-155)

§ 1 when upon the expiration of the deadline given in Art. 44, § 2 for asserting his right of defence the successful tenderer has remained inactive or has presented means that are considered unjustified by the contracting authority, the latter may apply the measures as of right described in paragraph 2.

However, the contracting authority may apply measures as of right without waiting for the expiration of the deadline given in Art. 44, § 2, when the successful tenderer has explicitly recognized the deficiencies found.

§ 2 the measures as of right are:
1° Unilateral termination of the contract. In this case the entire bond, or if no bond has been posted an equivalent amount, is acquired as of right by the contracting authority as lump sum damages. This measure excludes the application of any fine for delay in performance in respect of the terminated part of the contract;

2° Performance under own management of all or part of the non-performed contract;

3° Conclusion of one or more replacement contracts with one or more third parties for all or part of the contract remaining to be performed.

The measures referred to in 1°, 2° and 3° shall be taken at the expense and risk of the defaulting contractor. However, any fines or penalties imposed during the performance of a replacement contract shall be borne by the new successful tenderer.

4.14 Performance modalities (Art. 146 and seq.)

4.14.1 Partial orders

NA

4.14.2 Implementation period (Art. 147)

The services shall be performed within a period of 100 days. This period starts as from the day following the date on which the service provider received the contract award notification letter.

4.14.3 Place where the services shall be performed (Art. 149)

See details in the ToRs (point 5)

4.14.4 Evaluation of the services performed

If during contract performance irregularities are found, the contractor shall be notified about this immediately by fax or e-mail, which shall be confirmed consequently. The contractor is bound to perform the non-complying services again.

When the services have been performed, the quality and conformity of the services shall be evaluated. A report of this evaluation shall be drawn up. The original copy of this report will be sent to the contractor. Any services that have not been performed correctly or in conformity shall be started again.

4.14.5 Liability of the service provider (Art. 152-153)

The service provider takes the full responsibility for mistakes and deficiencies in the services provided.

Moreover, the service provider shall guarantee the contracting authority against any claims for compensation for which he is liable towards third parties due to late performance of the services or due to failure of the service provider.

4.15 End of the public contract

A representative of the contracting authority shall closely follow up the contract during performance (see point 4.3 “Contract manager (Art. 11)”).

4.15.1 Acceptance of the services performed (Art. 64-65 and 156)

The services will not be accepted until after fulfilling audit checks, technical acceptance and prescribed tests.

The contracting authority disposes of a verification term of thirty days starting on the final or partial end date of the services, set in conformity with the modalities in the procurement documents, to carry out the acceptance formalities and to notify the result to the service
provider. This term commences provided that the contracting authority possesses, at the same time, the list of services delivered or the invoice. Upon expiry of the thirty-day term following the date stipulated for completion of the entirety of the services, depending on the case, an acceptance report or a refusal of acceptance report will be drawn up.

Where the services are completed before or after this date, it is the responsibility of the service provider to notify the managing official by registered letter, and at the same time to ask for the acceptance procedure to be carried out. Within thirty days after the date of receipt of the service provider’s request, an acceptance or a refusal of acceptance report will be drawn up, depending on the case.

The acceptance specified above is final.

4.15.2 Acceptance costs

Travel costs and costs for the stay of the managing official will be borne by the service provider.

When drawing up his tender, the tenderer shall take into account the following acceptance costs:

In-depth overview of acceptance costs that shall be borne by the service provider.

4.15.3 Invoicing and payment of services (Art. 66 to 72 – 160)

The amount owed to the contractor must be paid within 30 calendar days with effect from the expiry of the verification period (see point Erreur ! Source du renvoi introuvable. “Erreur ! Source du renvoi introuvable.”), and provided that the contracting authority possesses, at the same time, the duly established invoice.

The contractor shall send one copy of the invoice with a copy of the contract acceptance report to the following address:

To the Attention of Mattias Piani, Intervention Manager-Urbanization project
Belgian development agency
KN 67 Street, plot N° 10
SORAS Towers, Wing B, 7th Floor
Opposite St Michel Catholic Church
B.P. 6089 KIYOVU
KIGALI- RWANDA

The invoice will mention:

- “Enabel, public-law company with social purposes, with its registered office at Rue Haute 147, 1000 Brussels in Belgium (enterprise number 0264.814.354, RPM/RPR Brussels);
- the name of the contract: “Elaboration of national implementation plan for the MiR construction sector in Rwanda”;
- The reference of the tender documents: “RWA190111-10006”;
- The Navision code: “RWA1901111”;

The name of the contract manager: “Mattias Piani”;

The invoice shall be in euros.
No advance may be asked by the contractor. Payment shall be made in instalments (progress payment) as follows:

<table>
<thead>
<tr>
<th>Deliverable N°</th>
<th>Deliverable description</th>
<th>Report and payment Instalment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Upon Approval of inception report on methodology and work plan/ Designed and validated detailed interview guide that will guide all aspects data collection from sector stakeholders (see content in ToRs)</td>
<td>Install 1: 20% experts costs</td>
</tr>
<tr>
<td>2</td>
<td>Upon approval of draft action plan for validation by stakeholders Facilitate national action plan validation and dissemination workshops with key stakeholders in the sector (see content in ToRs)</td>
<td>Install 2: 40% experts costs + reimbursable up-to-date</td>
</tr>
<tr>
<td>3</td>
<td>Upon approval of the final action plan and budget after integration of national workshop comments ; Facilitation of plan once approved. (see content in ToRs)</td>
<td>Install 3: 40% experts costs + reimbursable up-to-date</td>
</tr>
</tbody>
</table>

**4.16 Modifications to the contract (Art. 37-38 and 151)**

The contracting authority has the right to change the initial tender unilaterally, if the following conditions are respected:

1° the scope of the contract remains unaltered;

2° the modification is limited to 10 % of the initial awarded amount.

The essential terms and conditions can only be modified with reasons, to be mentioned in an amendment.

**4.17 Litigation (Art. 73)**

This contract and all legal consequence that might ensue fall fully within the scope of Belgian law. In case of litigation or divergence of opinion between the contracting authority and the contractor, the parties will consult each other to find a solution.

If agreement is lacking, the competent courts of Brussels shall have exclusive jurisdiction over any dispute arising from the performance of this contract. French or Dutch are the languages of proceedings.

The contracting authority shall in no case be held liable for any damage caused to persons or property as a direct or indirect consequence of the activities required for the performance of this contract. The contractor guarantees the contracting authority against any claims for compensation by third parties in this respect.

In case of “litigation”, i.e. court actions, correspondence must (also) be sent to the following address:

Enabel, Public-law Company with social purposes
Legal unit of the Logistics and Acquisitions service (L&A)
To the attention of Mrs Inge Janssens
Rue Haute 147, 1000 Brussels, Belgium.
5 Terms of reference

CONSULTANCY SERVICES: “Elaboration of national implementation plan for the MiR construction sector in Rwanda"

5.1 INTRODUCTION

In its vision to become a middle-income country by 2020, the Government of Rwanda has identified off-farm job creation and urbanisation as key drivers for economic growth and national development. To turn this vision into reality, the National Strategy for Transformation (NST-1, 2018-2024) and the Sector Strategy Plans focus on the transformation of Rwanda’s economic geography by facilitating urbanisation and supporting secondary cities as poles of growth, as a key objective. While urbanisation of people has happened at an accelerated pace, urbanisation of the economy has lagged behind at the cost of the benefits of agglomeration economies. Social and economic infrastructure does not follow the pace of urbanisation. Hence, there is an urban infrastructure deficit as well as a lack of strongly developed private sector in the provision of Made in Rwanda construction materials.

The urbanisation rate is rapidly increasing at an average of 6.7% per year (World Bank) which at its turn is pushing the construction sector. Affordable housing and basic infrastructure is needed more and more with an anticipated demand of 1 billion bricks annually and 200 new houses per day (Swiss Development).

The Rwandan government has now put policies and strategies in place to support urbanisation, like the National Urbanisation Policy, the Made in Rwanda (MiR) Policy and many others. Enabel, the Belgian Development Agency, is supporting its Rwandan partners to implement these policies through an Urbanisation Programme that will support the development of economic infrastructure in urban areas as well as private sector development in the Made in Rwandan construction materials value chain.

A mapping of the MiR construction materials value chain conducted in July 2019 recommended to develop a MiR construction materials action plan. This action plan will bring together different policies and strategies focusing on MiR with concrete actions for the construction materials sector.

To this end, Enabel, in collaboration with MINICOM and NIRDA wishes to engage an experienced consultant to conduct this assignment of elaboration of the national action plan for the MiR construction sector which will identify and compile the sector initiatives for more effectiveness, harmonization and synergy.

Based on existing policies, studies and ongoing institutional activities, develop a comprehensive, cross-cutting implementation plan to realise the implementation of various policies and activities. This should not be another long document but a comprehensive concise logical framework of what should be done, how, by whom and by when. The joint-sector action plan should be monitored and reviewed by appropriate committees. The construction materials sub-sector master plan should form the starting point for this action plan. The plan should incorporate green construction and Made in Rwanda activities. The action plan should take into account similar intervention by other development partners such as GiZ, Dutch PUM, etc. Development Partners should be mobilised to support the implementation of the plan.
5.2. Objectives of the service

The main objective of this consultancy is to elaborate a national action plan for the MiR construction sector in addressing the following aspects/questions:

a) Identify the main policies, strategies, guidelines, plans, etc. that exist for the MiR construction sector (amongst others NST1, Domestic Market Recapturing Strategy, Sector specific strategies in construction sector like wood, ceramics, etc., Made in Rwanda policy, Rwanda Building Code, Rwanda Building Control Regulations, Industrial sub-sector master plan for construction materials), guidelines, strategies, plans from development partners and others, including also plans and programmes of development partners like GGGI, SKAT, Fonerwa, GIZ, Enabel and others);

b) Analyse these existing documents to identify actions, gaps that are feasible to implement in relation to the construction sector;

c) Identify the stakeholders for each activity to be implemented and engage with them to get their views;

d) Identify areas for investment opportunities within the sector;

e) Identify per action indicators, targets, responsible institution and timeline, estimated cost;

f) Facilitate workshops/meetings with the different stakeholders to agree on actions, timelines, responsible institution;

g) Propose the budgetary and HR means for its implementation;

h) Propose institutional management to manage the sector;

i) Organise validation workshops for key stakeholders including both public and private sector;

j) Once the plan is approved, mobilise stakeholders to start implementing identified actions.

5.3. Scope of the consultancy and duration

The consultancy firm or a consortium of individual consultants shall conduct the assignment as per below table:

<table>
<thead>
<tr>
<th>No</th>
<th>Activity</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Inception report including detailed data collection tools for basic information</td>
<td>3 days</td>
</tr>
<tr>
<td>2.</td>
<td>Data collection period</td>
<td>20 days</td>
</tr>
<tr>
<td>3.</td>
<td>Analysis of data draft action plan writing</td>
<td>15 days</td>
</tr>
<tr>
<td>4.</td>
<td>Final action plan with activities, timeline and budget</td>
<td>7 days</td>
</tr>
<tr>
<td>5.</td>
<td>Facilitation of workshops with stakeholders</td>
<td>5 days</td>
</tr>
</tbody>
</table>

**TOTAL 50 days**

The assignment should be completed within 50 man-days (spread over maximum of three calendar months) and should start as soon as possible.

5.4. Deliverables

The consultancy deliverables shall be as follows:

a) Inception report on methodology and work plan;

b) Designed and validated detailed interview guide that will guide all aspects data collection from sector stakeholders;

c) Produce a draft action plan for validation by stakeholders

d) Facilitate national action plan validation and dissemination workshops with key stakeholders in the sector;
e) Finalization of the action plan and budget after integration of national workshop comments;
f) Facilitation of plan once approved.

5.5. Reporting and supervision

The contract managers are the Director General of NIRDA as well as the IM Urbanisation from Enabel represented through the Policy Advisor NIRDA and Private Sector Development Advisor at Enabel. For technical exchanges, there will be regular consultations with MINICOM, NIRDA, relevant PSF bodies and Enabel team.

5.6. Profile of the consultant

I. Required Profile for the Firm

1. 5 year general experience with developing strategies and action plans for public institutions
2. 3 years’ experience with supporting construction sector in Rwanda with similar assignments (development of strategies, policies, action plans)
3. Experience with data collection and analysis

In case the bidder is a consortium of individual consultants, the firm’s profile will not be considered.

II. Profile of the Key Staff

a) Team Leader
   The team leader should at minimum have the following qualifications:
   - Master’s degree in Development Studies, Economics/Applied Economics, Finance, MBA, Project management, Engineering, Environmental science, LED or other relevant;
   - At least 5 years’ experience with strategic planning, business management, value chain support, sectorial analysis;
   - At least 2 similar assignments in the last 5 years, in the Elaboration of national implementation plan for the MiR construction sector as a team Leader, proven by related certificates of good completion
   - Experience with the Rwandan construction sector
   - Experience in undertaking consultancy tasks of similar magnitude, meaning strategic planning, developing implementation plans; with at least 2 similar assignments in the last 5 years, proven by related certificates of good completion
   - Proven experience with participatory methods for drafting plans/strategies;
   - Proven experience with conducting research including data collection and analysis;
   - Excellent writing and speaking skills in English.

b) The second team member

The other team member should meet the following requirements (if more than 2 two other team members, please specify clearly which ones should be part of the evaluation, see below award criteria):

Degree other team member:
   - Master’s or bachelor’s degree in Development, LED, Economics, MBA-Project management, M&E, engineering, architect
Experience other team member (to be marked in bold in respective CVs):
- 5 years’ experience with strategic planning, sector analysis in Rwanda
- Specific experience with at least 2 similar assignment in the related field, with certificates of good completions)
- Experience with construction sector in Rwanda;
- Experience with conducting research including data collection and analysis.
### 6. FORMS

#### 6.1. Identification form

<table>
<thead>
<tr>
<th>Description</th>
<th>Field</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name and first name of the tenderer or name of the company and legal form</td>
<td></td>
</tr>
<tr>
<td>Nationality of the tenderer and of staff (if different)</td>
<td></td>
</tr>
<tr>
<td>Domicile / Registered office</td>
<td></td>
</tr>
<tr>
<td>Telephone number</td>
<td></td>
</tr>
<tr>
<td>National Social Security Office registration number</td>
<td></td>
</tr>
<tr>
<td>Company number</td>
<td></td>
</tr>
<tr>
<td>Represented by the undersigned (Surname, first name and function)</td>
<td></td>
</tr>
<tr>
<td>Contact person (telephone number, e-mail address)</td>
<td></td>
</tr>
<tr>
<td>If different: Project manager (telephone number, e-mail address)</td>
<td></td>
</tr>
<tr>
<td>Account number for payments</td>
<td></td>
</tr>
<tr>
<td>Financial institution</td>
<td></td>
</tr>
<tr>
<td>Under the name of</td>
<td></td>
</tr>
</tbody>
</table>

Done in ................................., on .................................

Signature: 

Name:

.........................................................
6.2 Integrity statement for the tenderers

By submitting this tender, the tenderer declares on honour the following (cf. Art. 52 and seq. of the Law of 17 June 2016):

- Neither members of administration or staff members, or any person or legal person the tenderer has concluded an agreement with in view of performing the contract, may obtain or accept from a third party, for themselves of for any other person or legal person, an advantage appreciable in cash (for instance, gifts, bonuses or any other kind of benefits), directly or indirectly related to the activities of the person concerned for the account of Enabel.
- The board members, staff members or their partners have no financial or other interests in the firms, organisations, etc. that have a direct or indirect link with Enabel (which could, for instance, bring about a conflict of interests).
- He has read and understood the articles about deontology and anti-corruption included in the tender documents and declares going along completely and respecting these articles.

He is also aware of the fact that the personnel of Enabel are tied to the provisions of an ethical code, which states that: “In order to ensure the impartiality of personnel, they are not allowed to solicit, demand or receive gifts, bonuses or any other kind of benefits for themselves or third parties, whether in exercising their function or not, when said gifts, bonuses or benefits are linked to that exercising. Privately, staff members do not accept any financial or other bonus, gift or benefit for services rendered”.

If above-mentioned contract is awarded to the tenderer, he declares, moreover, agreeing with the following provisions:

- In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the contract, it is strictly forbidden to the contractor of the contract (i.e. members of administration and workers) to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of Enabel who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical position.
- Any (public procurement) contract will be terminated, once it appears that contract awarding or contract performance would have involved the obtaining or the offering of the above-mentioned advantages appreciable in cash.
- Any failure to conform with one or more of the deontological terms may lead to the exclusion of the contractor from this contract and from other contracts for Enabel.
- The contractor of the public contract commits to supply, upon the demand of the contracting authority, any supporting documents related to the performance conditions of the contract. The contracting authority will be allowed to proceed to any control, on paperwork or on site, which it considers necessary to collect evidence to support the presumption of unusual commercial expenditure.

Finally, the tenderer takes cognisance of the fact that Enabel reserves the right to lodge a complaint with the competent legal instances for all facts going against this statement and that all administrative and other costs resulting are borne by the tenderer.

Name and first name: ..........................
Duly authorised to sign this tender on behalf of: ..........................
Date: .......................... Signature: ..........................
6.3 Declaration on access rights and exclusion criteria

By submitting this tender, the tenderer declares on honour the following (cf. Art. 67-70 of the Law of 17 June 2016 and 61-64 of the Royal Decree of 18 April 2017):

He has not been found guilty by a judgement which has the force of res judicata of a crime that blemishes his professional integrity:

1° Participation in a criminal organisation as defined in Art. 324bis of the Criminal Code or in Art. 2 of Council Framework Decision 2008/841/JAI of 24 October 2008 on the fight against crime;

2° Corruption, as defined by Art. 246 and 250 of the Criminal Code or Art. 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union or Art. 2.1 of the Council Framework Decision 2003/568/JAI of 22 July 2003 on the fight against corruption in the private sector;

3° Fraud within the meaning of Art. 1 of the Convention on the protection of the European Communities' financial interests, approved by the Law of 17 February 2002;

4° Terrorist offenses or offenses related to terrorist activities, as defined in Art. 137 of the Criminal Code, Art. 1 or 3 of Council Framework Decision 2002/475/JHA of 13 June 2002 on the fight against terrorism, or inciting, aiding or abetting an offence as referred to in Art. 4 of that Framework Decision;

5° Money laundering or terrorist financing as defined in Art. 5 of the Act of 11 January 1993 on preventing use of the financial system for purposes of money laundering and terrorist financing, or in Art. 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;


7° Occupation of third-country nationals who are unlawfully staying within the meaning of Art. 35/7 of the Act of 12 April 1965 on the protection of workers' remuneration or within the meaning of the Act of 30 April 1999 on the occupation of Foreign Workers

He has paid his social security contributions in accordance with Belgian legislation or the legislation of the country where he has his registered office (cf. Art. 62 of the Royal Decree of 18 April 2017);

He is in order with his obligation pertaining to the payment of his taxes in accordance with Belgian legislation or the legislation of the country where he has his registered office (cf. Art. 63 of the Royal Decree of 18 April 2017);

Non-compliance with the above-mentioned conventions shall be considered a serious mistake in professional duties within the meaning of the Law of 17 June 2016. In witness whereof he has established this declaration on honour which he declares true and sincere for all legal intents and purposes.

Name and first name: ..............................

Duly authorised to sign this tender on behalf of: ........................................

Date: ................................. Signature: .................................
6.4 Power of attorney

The tenderer should include in his tender the power of attorney empowering the person signing the tender on behalf of the company, joint venture or consortium.

In case of a consortium or a temporary association, the joint tender must specify the role of each member of the tendering party. A group leader must be designated and the power of attorney must be completed accordingly.

6.5 Incorporation certificate

The tenderer should include in his tender the incorporation certificate from the competent authority.

6.6 Certification of clearance with regards to the payments of social security contributions

The tenderer must provide a recent and valid certification from the competent authority stating that he is in order with its obligations with regards to the payments of social security contributions that apply by law in the country of establishment. The tenderer registered in Belgium must be in order for the 4th trimester of 2019.

6.7 Certification of clearance with regards to the payments of applicable taxes

The tenderer must provide a recent and valid certification from the competent authority (not older than 6 months) stating that the tender is in order with the payment of applicable taxes that apply by law in the country of establishment.

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10 In case of a consortium or a temporary association, the certificate must be submitted for all members of the tendering party.
Other requirements

The tenderer includes in his tender an overview that lists the technicians or the technical instances that belong or not to the enterprise, and in particular those that are responsible for quality assurance.

The tenderer must dispose of technical equipment to be able to perform the contract properly. He includes the following to his tender:

- A description of the measures that he shall apply for quality assurance purposes;
- A description of the study and research resources that he disposes of.

A description of the measures taken by the service provider to ensure quality, and its company’s study and research resources;

When the services to be provided are complex or, in exceptional cases, when they have to achieve a specific goal, an inspection carried out by the contracting authority or on its behalf by a competent official body of the country in which the service provider is based, provided that this body is in agreement; this inspection shall concern the technical capacities of the service provider and, if necessary, his study and research resources, as well as its quality control measures;

An indication of the proportion of the contract that the service provider may intend to subcontract out.
6.8 Financial offer & tender form

Do NOT change the “Financial offer & tender form”. Reservations are not permitted.

By submitting this tender, the tenderer explicitly declares accepting all conditions mentioned in the tender documents and renounces to his own (sales) conditions. He commits to executing this public contract for the following lump-sum unit prices, in EUR and inclusive of VAT (written in figures):

<table>
<thead>
<tr>
<th>1. Expert Fees</th>
<th>Unit</th>
<th>Unit price* incl. WHT and VAT</th>
<th>Quantity</th>
<th>Total incl. WHT and VAT</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Team Leader</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expert Fees</td>
<td>Man-day</td>
<td>€</td>
<td></td>
<td>€</td>
</tr>
<tr>
<td><strong>Other Team Members (2)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expert fees (1)</td>
<td>Man-day</td>
<td>€</td>
<td></td>
<td>€</td>
</tr>
<tr>
<td>Expert fees (2)</td>
<td>Man-day</td>
<td>€</td>
<td></td>
<td>€</td>
</tr>
<tr>
<td><strong>Sub-total</strong></td>
<td></td>
<td></td>
<td></td>
<td>€</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Reimbursable Fees (if applicable)</th>
<th>Unit</th>
<th>Quantity</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>International travel costs</td>
<td>€</td>
<td>1</td>
<td>€</td>
</tr>
<tr>
<td>Visa costs</td>
<td>€</td>
<td>1</td>
<td>€</td>
</tr>
<tr>
<td>...</td>
<td>€</td>
<td></td>
<td>€</td>
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<tr>
<td><strong>GRAND TOTAL</strong></td>
<td></td>
<td></td>
<td>€</td>
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</tbody>
</table>

Name and first name: ..................................................

Duly authorised to sign this tender on behalf of: ..................................................

Place and date: ..................................................

Signature: .................................................
6.9 Methodology

The tenderer must propose in his offer a methodology (understanding of ToR, strategy, timetable of activities and statement of availability) based on the instructions given in the Terms of Reference.

1. **Understanding of ToR**: Any comments on the ToR for the successful execution of activities, in particular regarding the objectives and expected results, thus demonstrating the degree of understanding of the contract. Previous lessons learnt especially in execution of similar services in the region. Opinion on the key issues related to the achievement of the contract objectives and expected results. An explanation of the risks and assumptions affecting the execution of the contract.

2. **Strategy**: An outline of the approach proposed for contract implementation, a list of the proposed tasks you consider necessary to achieve the contract objectives, inputs and outputs.

3. **Work plan & timetable of activities**: Outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the contracting authority and taking into account travel time). The identification and timing of major milestones in executing the contract, including an indication of how the achievement of these would be reflected in any reports, particularly those stipulated in the Terms of Reference. The methodologies contained in the offer should include a work plan indicating the envisaged resources to be mobilised.

**Please note that the “understanding of ToR” and “strategy” of the methodology should not exceed 15 pages. Do not repeat/copy the ToR.**
6.10 Key experts

For this tender, the tenderer must complete the **table hereunder**. He must provide in his offer the **CV’s of the key experts proposed** for implementing this services contract. The consultancy team will be comprised of 3 key staff (see point 5.7). The CV’s (qualifications and experience of key experts) have to fulfil the profiles as requested in the ToRs.

<table>
<thead>
<tr>
<th>Name of expert</th>
<th>Proposed position</th>
<th>Years of relevant experience</th>
<th>Educational background</th>
<th>Specialist areas of knowledge</th>
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</thead>
<tbody>
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</tbody>
</table>
6.11 Availability of key experts

By submitting this tender, the tenderer explicitly declares that the following key experts are available for the whole period scheduled for his/her input to implement the tasks set out in the Terms of Reference and/or in the methodology\(^{11}\). Key experts will not be replaced during the implementation of the contract without prior written approval by the contracting authority\(^{12}\).

<table>
<thead>
<tr>
<th>Key experts</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name:</td>
<td></td>
<td></td>
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<tr>
<td>X</td>
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<tr>
<td>Name:</td>
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</tbody>
</table>

Name and first name: ..................................................

Duly authorised to sign this tender on behalf of: ..................................................

Place and date: ..................................................

Signature: ..................................................

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\(^{11}\) Any expert working on another contract, where the input from his/her position to that contract could be required on the same dates as his/her activities under this contract, must not be proposed as a key expert for this contract under any circumstances. Consequently, the dates / period included by a key expert in his/her statement of availability must not overlap with dates on which he/she is committed to work as a key expert on any other contract.

\(^{12}\) In case of replacement, the expert’s qualifications and experience must be at least as high as those of the expert proposed in the tender.
# 6.12 Subcontractors

<table>
<thead>
<tr>
<th>Name and legal form</th>
<th>Address / Registered office</th>
<th>Object</th>
</tr>
</thead>
</table>
6.13 Model of Proof of posting bond

Bank X

Address

Performance bond n° X

This performance bond is posted in the context of the Law of 17 June 2016 on public contracts and on certain works, supply and service contracts and in conformity with the General Implementing Rules (GIR) provided in the Royal Decree of 14 January 2013 establishing the general implementing rules of public contracts and the award of public works.

X, address (the “Bank”) hereby declares posting security for a maximum amount of

X € (X euros)

for the Belgian Development Agency (Enabel)

for the obligations of X, address for the contract:

“X, tender documents Enabel < X” (the “Contract”).

Consequently, the Bank commits, under condition of the beneficiary waiving any right to contest or divide liability, to pay up to the maximum amount, any amount which X may owe to Enabel in case X defaults on the performance of the “Contract”.

This performance bond shall be released in accordance with the provisions of the tender documents Enabel < and of Art. 25-33 of the Royal Decree of 22 June 2017, and at the latest at the expiry of 18 months after the provisional acceptance of the Contract.

Any appeal made to this performance bond must be addressed by registered mail to the Bank X, address, with mention of the reference: Enabel RWA19011-10006

Any payment made from this performance bond will ipso jure reduce the amount secured by the Bank.

The performance bond is governed by the Belgian Law and only Belgian courts are competent in case of litigation.

Done in X on X

Signature:

Name:

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