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**Request for Prequalification**

**for  
40MW Solar Photovoltaic IPP Project**

**in**

**Herat Province, Afghanistan**

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1. ACRONYMS

CD-ROM Compact Disc - Read Only Memory

DNI Direct Normal Irradiance

GHI Global Horizontal Irradiance

GSA Government Support Agreement

IDA International Development Association

IFC International Finance Corporation

IPP Independent Power Producer

kWh Kilowatt-Hour

LTS Long Term Sequential

MEW Ministry of Energy and Water

MIGA Multilateral Investment Guarantee Agency

MW Megawatts

MWac Nominal power output following conversion to alternating current (in MW)

MWp Megawatts Peak

OEM Original Equipment Manufacturer

OFC Offshore Financial Centres

PDF Portable Document Format

PPA Power Purchase Agreement

PPP Public-Private Partnership

PV Photovoltaic

PVDI Photovoltaic Durability Initiative

RFP Request for Proposals

RFQ Request for Prequalification

SPV Special Purpose Vehicle

UN United Nations

USB Universal Serial Bus

WBG World Bank Group

1. Part I: Request for Prequalification

**SCALING SOLAR AFGHANISTAN – REQUEST FOR PREQUALIFICATION**

The Government of Islamic Republic of Afghanistan acting through the Ministry of Energy and Water (**MEW** or **Procuring Authority**) and with the support of Ministry of Finance (**MoF**) has engaged the International Finance Corporation, a member of the World Bank Group, acting through its Advisory Services division (**IFC Advisory**), to act as lead transaction advisor. The Procuring Authority invites private sector developers to compete for the right to develop, finance, construct, own, operate, maintain and transfer an independent utility-scale solar photovoltaic (**PV**) power project in Afghanistan of initially 40MW on a Public Private Partnership (**PPP**) basis, based on the model risk allocation, documentation and methodology developed under the World Bank Group’s ‘Scaling Solar’ initiative.

Scaling Solar is an open, competitive and transparent approach that facilitates the rapid development of privately-owned, utility-scale solar PV projects. It is capable of immediate implementation and offers a ‘one-stop-shop’ package of advisory services, contracts, financing, guarantees and insurance. These enable governments and utilities to procure solar power transparently and at the lowest possible cost. For more information, visit [www.ifc.org/scalingsolar](http://www.ifc.org/scalingsolar).

The first stage of the Scaling Solar process is a prequalification round, to prequalify those prospective bidders with the requisite experience, expertise and financial resources to deliver a substantial solar PV IPP project in an accelerated timeframe. The second stage will involve a Request for Proposals (**RFP**) from prequalified bidders.

The Procuring Authority invites prospective bidders capable of meeting the qualification criteria set out in this Request for Prequalification document (**RFQ**) to submit sealed prequalification applications in accordance with the requirements of this RFQ.

Prospective bidders/ interested companies/consortia will be required to register their interest with the Procuring Authority by submitting the completed Registration Form set out in Appendix 2B to Procuring Authority in writing at the email address indicated under “The Procuring Authority contact details” in Appendix 2A, with a copy to the IFC at the email address indicated under “IFC Advisory contact details” in Appendix 2A, to become Registered Entities, allowed to submit Applications to participate in the bidding process.

Prequalification applications must be packaged, labelled and deposited in accordance with the requirements of – and by the deadline stipulated in – this RFQ.

Only prequalified bidders will be eligible to receive the RFP and to participate in the second and final stage of the selection process. Prequalified bidders will also be given access to a Virtual Data Room and be invited to attend one or more organised site visits and/ or pre bid conferences as part of their due diligence, prior to submission of final proposals.

The Procuring Authority currently anticipates that Pre-bid conferences will be held in Dubai, UAE, and New Delhi, India, as well as Kabul, Afghanistan. Details of the specific timing and location will be advertised to prequalified bidders by the Procuring Authority.

1. Part II: Disclaimer

The Procuring Authority is providing this RFQ solely for use by Prospective Bidders (as defined below) in preparing and submitting Prequalification Applications (as defined below).

Neither the Procuring Authority nor IFC, as lead transaction advisor, nor any of their respective consultants or advisors:

* + - * 1. makes any representation or warranty (express or implied) as to the accuracy or completeness of the information contained herein or in any other document made available to a Prospective Bidder at any time;
        2. shall have any liability for this RFQ or for any other written or oral communication transmitted to a Prospective Bidder; or
        3. will be liable to reimburse or compensate a Prospective Bidder for any costs or expenses incurred by a Prospective Bidder in evaluating or acting upon this RFQ or otherwise in connection with the potential transaction(s) contemplated herein or otherwise.

This RFQ constitutes an invitation to submit a Prequalification Application. It does not constitute a solicitation to invest, or otherwise participate in, any project.

1. Part III: The Scaling Solar Program

**Introduction**

The Procuring Authority has developed this RFQ with the support of the World Bank Group’s Scaling Solar Program (**Scaling Solar**). Scaling Solar has been designed to enable governments and utilities to execute quick, simple, professional, transparent and competitive tenders to procure high quality, privately designed, built, owned and operated solar PV power plants under long-term contracts at competitive tariffs.

Scaling Solar seeks to help governments exploit and maximize solar PV’s inherent strengths, namely speed to construct and potential for competitive long-term, fixed rate tariffs[[1]](#footnote-2), while managing its inherent limitations, namely its daytime-only, variable output. In so doing, it also seeks to develop a new regional market, in which qualified private sector participants can compete transparently for well prepared and bankable projects that can quickly progress to financial completion, construction and commercial operation.

Tenders prepared with the support of Scaling Solar are intended to deliver the following benefits to governments and bidders:

1. **Balanced agreements and bankable project documents:**A major component of Scaling Solar is a suite of standard commercial project agreements, including a Power Purchase Agreement (**PPA**) and Government Support Agreement (**GSA**). These agreements have been drafted to be bankable, by ensuring a balanced and sustainable risk allocation among the various parties. They have been designed by the Scaling Solar team, drawn from across the World Bank Group and bringing public and private perspectives, with the support of a leading international law firm. A second leading international law firm has subsequently carried out an independent review from the perspectives of the hypothetical government, off-taker, developer and lender. By applying a standard approach and risk allocation across multiple markets, Scaling Solar will deliver scale efficiencies and reliability to all stakeholders. All project agreements will be issued for review with the RFP that will be issued to prequalified bidders in due course. Scaling Solar encourages governments to adhere to the standard suite of agreements, adapted only to reflect the laws, regulations and sector-specific requirements of a given country.
2. **Credit-approved / management-approved term sheets for financing, political risk insurance and partial risk guarantees:** In addition to fully-developed project agreements, the RFP is expected to include (i) term sheets, with in-principle credit committee approval, providing indicative terms available to bidders for limited recourse financing from IFC through its investment operations (**IFC Investment**) and political risk insurance from MIGA; and (ii) term sheets, with in-principle management approval, for partial risk guarantees from IDA. Whether these term sheets are provided will depend on whether – and to what extent – the key public sector stakeholders do actually adhere to the Scaling Solar model and, in particular, the risk allocation contemplated therein. Assuming these term sheets are provided, they will be available to all bidders to provide comfort and certainty on the availability and commercial terms of these products, although bidders are free to seek alternative financing solutions.
3. **Competition, transparency and speed:**ScalingSolar seeks to maximise competition, transparency and speed and certainty in two ways. First, it involves a rigorous project development process that is carried out before or alongside the issuance of the RFQ. This includes project design and structuring, site selection and extensive due diligence (including on technical, legal, environmental and social and tax matters). Key information obtained during this project development process will be available in an online data room at the RFP stage, ensuring that prequalified bidders can quickly prepare their bids on a detailed economic basis and with reduced risk. Second, and as already noted, it involves prior in-principle credit approval / management approval for financing and credit enhancement term sheets, based on a set of the balanced and bankable project documents. This enables the project agreements to be presented on a non-negotiable basis, which in turn allows for rapid execution of these documents by the preferred bidder and, ultimately, financial close, construction and commercial operation within the minimum possible time and with the minimum possible transaction costs.

**Role of the World Bank Group**

IFC, IDA and MIGA recognize that actual, potential and perceived conflicts of interest may arise as a result of the multiple current or prospective roles of IFC Advisory, IFC Investment, MIGA and IDA in connection with the development, delivery and financing of the Scaling Solar Program and the transaction(s) contemplated herein, or in connection with any pre-existing financial or advisory relationships between an institution of the World Bank Group and a prospective bidder (or its affiliate), the Procuring Authority or the government of the relevant country. Each World Bank Group institution will address any such conflicts of interest pursuant to its policies and procedures regarding the management of operational conflicts of interest, which may include, amongst other things, disclosure, consent, the separation of teams and control of information flows as appropriate.

**No Commitment to Invest**

As noted, a critical component of Scaling Solar is the issuance to all prequalified bidders of in-principle credit-approved term sheets (in case of IFC Investment and MIGA) and in-principle management-approved term sheets (in case of IDA) at the RFP stage. However, it should be noted that neither the issuance of these term sheets nor the term sheets themselves will constitute any binding commitment to provide financing, insurance or partial risk guarantees to the winning bidder. Each institution’s decision to invest in and support the transaction(s) contemplated herein, as contemplated by its respective Term Sheet, is contingent upon final approval by its respective management and Board of Directors, as well as satisfactory additional post-bid due diligence, including on the overall financial plan and projections, environmental and social matters, project- and sponsor-specific information, and the execution of all appropriate project, financing and other related documentation, in form and substance satisfactory to it.

Without limiting the generality of the foregoing, the World Bank Group institutions are highly selective with regard to the clients they work with and are diligent with ‘Know Your Customer’ requirements for all project participants (including equity investors, ultimate shareholders, contractors and advisors). IFC and other lenders will scrutinize politically exposed persons (including government or political party officials), sources of funds, and reputational background of project participants in deciding whether to invest. In addition, IFC’s financing is subject to the requirements and restrictions set out in the Policy of the Use of Offshore Financial Centres in World Bank Group Operations (**OFC Policy**). The OFC Policy is publicly available. Prequalified bidders interested in further exploring any aspect of the available World Bank Group financing should contact the relevant term sheet providers directly, following issuance of the RFP. Contact details will be provided with the term sheets themselves.

1. Part IV: Instructions to Prospective Bidders
   1. Introduction
      1. The Procuring Authority is seeking private sector developers or consortia to develop, finance, construct, own, operate, maintain and transfer a utility-scale solar PV power project in Afghanistan of 40MW (**Project**) on a site identified by the Procuring Authority in Herat province.
      2. The developers will implement the Project through a special purpose vehicle (**SPV**) incorporated specifically for this purpose.
      3. In the interests of convenience, and unless otherwise specified, further references in this RFQ to:
         * 1. the **Project** shall be construed as referring to the project described in section 1.1;
           2. the **Developer** shall beconstrued as referring to the development company or consortium described in section 1.1 to whom the relevant Project is awarded; and
           3. the **Seller** shall be construed as referring to the SPV described in section 1.2 through which the relevant Developer will implement the relevant Project.
      4. In connection with the Project the Seller will enter into:
         * 1. a PPA with Da Afghanistan Breshna Sherkat (DABS) (**Purchaser**), under which the Seller will, subject to a set of operational performance standards set out in the PPA, sell to the Purchaser all of the electrical energy generated by the Project;
           2. subject to approval of the relevant government authorities, a GSA with the Government of Islamic Republic of Afghanistan, acting through the Ministry of Finance, (**Government**), under which the Government will undertake to provide certain protections and other support to the Project; and
           3. certain other agreements relating to the Project, to be identified in due course,

(together, the **Project Agreements**).

* + 1. IFC Advisory is assisting the Procuring Authority in structuring and implementing an open and competitive tender process to select the Developer (**Process**).
    2. As the first stage of the Process, the Procuring Authority hereby invites prequalification applications (each a **Prequalification Application**) from prospective bidders (each a **Prospective Bidder**) to be considered for selection as the Developer.
    3. Prospective Bidders whose Prequalification Applications are accepted (each a **Prequalified Bidder**) will subsequently receive the RFP inviting them to carry out their own due diligence on the Project and thereafter to submit binding proposals capable of acceptance by the Procuring Authority in respect of the Project (each a **Proposal**).
  1. **Project Data and Information**
     1. Appendix 1 contains brief background information relating to the energy sector in Afghanistan, as well as background information relating to the Project and some minimum technical specifications with which the Project will ultimately be expected to comply.
     2. Appendix 2 contains key data relating to the Process, including information relevant to the submission of Prequalification Applications and an estimated timetable for the Process (**Estimated Timetable**).
     3. In addition to the information contained in Appendix 1, the Procuring Authority will in due course make various reports and documents available to Prequalified Bidders via a virtual (online) data room (**Data Room**), including some or all of the following:
        + 1. site climatic studies and solar resource data (e.g. GHI, DNI, temperature, wind etc.);
          2. grid interconnection layout and design (including capital expenditure and operating expenditure estimates), stability and integration studies;
          3. site surveys including: topographic survey, geotechnical investigations, hydrological survey, water resources study, seismic study;
          4. environmental and social scoping report;
          5. legal due diligence report;
          6. agreed-form Project Agreements; and
          7. indicative term sheets for financing, political risk insurance and partial risk guarantee products potentially available, subject to final due diligence and credit / management approval, from the World Bank Group.
     4. In the case of the reports listed in paragraphs (a) to (e) of section 2.3, such reports are expected to have been prepared by or with the assistance of IFC Advisory and its own consultants, save to the extent that an existing report or study is available and already contains the relevant information.
     5. Summary findings of the reports specified in section 2.3 can be accessed from the Data Room by all Prospective Bidders intending to submit Prequalification Applications. The full form reports and data sets will be made available to each Prequalified Bidder during the second stage of the Process through the Data Room, subject to the Prequalified Bidder signing the Virtual Data Room Undertaking in the form provided under Appendix 6.
     6. As regards the ability of Prequalified Bidders to rely on such reports in preparing their Proposals, to the extent that they are provided, such reports:
        + 1. will be provided by the Procuring Authority by way of background only and on condition that Prequalified Bidders will verify, clarify or qualify such reports through their own due diligence to the extent required; and
          2. will be subject to any disclaimer contained therein as well as to the disclaimer set out earlier in this RFQ and no Prequalified Bidder shall be entitled to rely on any such reports.
     7. As regards the ability of the Sellers ultimately to rely on the relevant reports, the Procuring Authority and IFC Advisory have sought to ensure that this will be possible, subject to the Seller countersigning an appropriate reliance letter issued by each of the relevant consultants. However, in no circumstances will the Procuring Authority or IFC Advisory have any liability to the Seller in respect of such reports save, in the case of the Procuring Authority only, to the extent expressly provided in a Project Agreement to which the Procuring Authority is a party. Prospective Bidders should read the Virtual Data Room Undertaking and its schedules and annex for a full understanding of the proposed arrangement as regards reliance on reports.
     8. Prospective Bidders should note that each Prequalified Bidder will be required to include a substantial bid security as part of any Proposal it may choose to submit in response to the RFP.
  2. **Prospective Bidder Composition, Participation Restrictions, Costs**
     1. A Prospective Bidder may take the form of a company, firm, corporate body or other legal entity or a consortium (**Consortium**) comprised of two or more such entities (each a **Consortium Member**), subject always to the requirement in section 1.2 that the Project must ultimately be implemented through a SPV (i.e. the Seller).
     2. Prospective Bidders and manufacturers or suppliers of solar photovoltaic panels or other equipment (each an **OEM**) should note that there is no requirement for a Consortium to include any OEM in its composition. Rather, each Prequalified Bidder will be permitted (as part of its Proposal) to list several OEMs as potential suppliers of the major components that will ultimately make up the Project if such Prequalified Bidder is successful. The intention is to enable Prospective Bidders to retain some competitive tension amongst several OEMs, while also allowing OEMs to retain flexibility to offer their products to multiple Prequalified Bidders. Any Prospective Bidder intending to form a Consortium that does include an OEM is advised to have regard to the technical specifications set out in Appendix 1 prior to concluding any arrangements providing for any form of exclusivity, to ensure that they do not tie themselves into an exclusive equipment supply arrangement that effectively precludes such Consortium from winning the Project.
     3. Each Prospective Bidder shall appoint and authorise at least one and a maximum of three anchor sponsors (each an **Anchor Sponsor**), having regard to the requirement, which will ultimately be applied to the Project through the Project Agreements, that at the date of signature of the Project Agreements and for two years after the Commercial Operations Date as defined in the PPA:
        + 1. the Anchor Sponsor(s) shall (between them) hold and be beneficially entitled to a controlling interest in the Seller, and for these purposes a **controlling interest** shall comprise:

a direct or indirect shareholding of more than 50% of the share capital of the Seller; and

the power to elect a majority of the board of directors (or other similar constituent body) or otherwise direct the management and policies of the Seller, directly or indirectly;

* + - * 1. each Anchor Sponsor shall hold and be beneficially entitled to a minimum individual interest in the Seller and for these purposes a **minimum individual interest** shall comprise:

a direct or indirect shareholding of at least 25% of the share capital of the Seller; and

to the extent that any Anchor Sponsor has contributed or invested capital to the Seller other than by way of direct or indirect shareholding, at least 25% of any such capital contribution or investment; and

* + - * 1. there shall be no contractual or other arrangement in respect of any Anchor Sponsor that purports to transfer, assign or delegate to any other Anchor Sponsor or any third party any right, title or interest in respect of any part of the controlling interest or any minimum individual interest referred to in paragraphs (a) or (b) of this section 3.3 (or does in practice so transfer, assign or delegate).
    1. One Anchor Sponsor shall be authorised to represent and irrevocably bind all Consortium Members in all matters connected with the Process and the Project, including but not limited to the submission of the Prequalification Application on behalf of the Consortium (**Lead Sponsor**).
    2. In the case of a Prospective Bidder that is a single entity, such entity shall be considered as both an Anchor Sponsor and the Lead Sponsor for such entity for the purposes of the Process.
    3. No legal entity or other person may participate or be involved directly or indirectly (including via an affiliate) in more than one Prequalification Application in any capacity whatsoever, provided that this requirement shall not itself prevent any OEM or contractor from offering equipment or services respectively to multiple Prequalified Bidders.
    4. The identity of Prospective Bidders (including the composition of any Consortium and each Consortium Member’s proposed interest in the Seller) shall be fixed with effect from the deadline for submitting Prequalification Applications. No change in such identity (or such composition or proposed interest), including any partnering arrangements, shall be permitted without the written approval of the Procuring Authority in its exclusive discretion until after signature of, and then only as expressly provided in, the Project Agreements. For these purposes Prospective Bidders are advised that it is intended that the Project Agreements may allow such changes to a limited extent, subject always to compliance with the requirements set out in section 3.3.
    5. Each Prospective Bidder shall bear all costs associated with the preparation and submission of its Prequalification Application, including without limitation all costs and expenses related to the Prospective Bidder’s preparation of responses to any questions or requests for clarification which the Procuring Authority may submit pursuant to section 5.5.3.
  1. Prequalification Application
     1. **Introduction**
        1. Each Prequalification Application and all correspondence and documents related thereto shall be submitted in the language specified in Appendix 2. Any material not submitted in such language shall be disregarded for all purposes.
        2. Each Prequalification Application shall comprise the following documents:
           1. Part I – evidence that the relevant Prospective Bidder satisfies **at least one** of the Technical Criteria (see section 4.2);
           2. Part II – evidence that the relevant Prospective Bidder satisfies **the relevant** Financial Criterion (see section 4.3);
           3. Part III – evidence that the relevant Prospective Bidder satisfies **all** Legal Criteria (see section 4.4); and
           4. Part IV – prequalification form and other documents or information (see section 4.5).
        3. No Prequalification Application shall contain prices or price schedules or any other reference to rates and prices for undertaking the Project. Any Prequalification Applications containing any such price information will be rejected and the relevant Prospective Bidder disqualified.
        4. Subject to section 4.1.3, a Prospective Bidder shall be free to include additional materials (including company brochures and other pre-printed literature) in its Prequalification Application, provided that these are bound separately from Parts I to IV as described above. However, the Procuring Authority shall have no obligation to review such materials or to consider them in its evaluation of the relevant Prospective Bidder’s Prequalification Application. It is therefore for each Prospective Bidder to ensure that all information relating to its qualification is contained in Parts I to IV.
     2. **Part I – Technical Qualification**
        1. Without prejudice to sections 4.3 and 4.4, to be declared a Prequalified Bidder, Prospective Bidders shall be required to demonstrate experience of developing, financing and, either itself or through contractors, constructing and operating at least one of the following (each a **Technical Criterion**,together the **Technical Criteria**) and to submit proof thereof as set out in section 4.2.3:
           1. at least three grid-connected solar photovoltaic power plants, each in a different country anywhere in the world with a minimum aggregate capacity of 100 MWac (with a minimum capacity of 10 MWac for each individual plant considered); or
           2. one or more grid-connected power plants of any technology anywhere in the world with a minimum aggregate capacity of 1,500 MW,

in each case complying with the requirements of section 4.2.2. For the avoidance of doubt Prospective Bidders are only required to comply with any one Technical Criterion, rather than both the Technical Criteria collectively. Prospective Bidders should note that, for the purpose of satisfying a Technical Criterion, acceptable photovoltaic technologies are limited to: polycrystalline and monocrystalline silicon, cadmium telluride and copper indium gallium selenide. Building-integrated, rooftop, off-grid, floating and concentrating photovoltaic projects are not acceptable.

Prospective Bidders must provide such evidence of meeting a Technical Criterion during the Relevant Period (defined below) as is required by section 4.2.3 and in accordance with the format attached at Appendix 7.

* + - 1. For a power plant to be recognized as evidence of meeting a Technical Criterion:
         1. the relevant experience must reside within an Anchor Sponsor and at the corporate level, rather than merely at the level of one or more individuals employed or otherwise engaged by such Anchor Sponsor;
         2. the power plant must have been in commercial operation for at least one year prior to the Prequalification Application submission deadline;
         3. the power plant shall not have been in operation prior to 2009;
         4. the Anchor Sponsor must have held a direct or indirect shareholding in the power plant greater than 25% at financial close, through construction and:

for power plants with between one and three years of commercial operation prior to the Prequalification Application submission deadline, **for the entire period of such commercial operation**; and

for power plants with three or more years of commercial operation prior to the Prequalification Application, **for at least three years**; and

* + - * 1. the power plant must have achieved, throughout the Relevant Period (as defined below), average annual availability (calculated as the proportion of each year in the period that the power plant was capable of generating electricity if dispatched, but excluding from such calculation all periods of outage, regardless of whether scheduled or unscheduled) of at least:

97% for solar photovoltaic power plants;

95% for hydroelectric power plants;

95% for wind power plants; and

90% for all other power plants,

and for these purposes the **Relevant Period** shall be either the entire period of commercial operation (in the case of power plants falling under section 4.2.2‎(d)(i) or the last three years during which the relevant Anchor Sponsor held a direct or indirect shareholding in the power plant greater than 25% (in the case of power plants falling under section 4.2.2‎(d)(ii)). It should be noted that any evidence relating to periods outside the Relevant Period will be disregarded.

* + - 1. The Prospective Bidder shall provide a clear statement of which Technical Criterion they aim to qualify under (or which Technical Criteria if they intend to qualify under more than one in the alternative), along with a summary of the supporting evidence provided. For each power plant submitted by the Prospective Bidder as evidence of meeting a Technical Criterion, the Prospective Bidder shall provide:
         1. a clear statement of the power plant’s: (i) name, (ii) location, (iii) description, including technology and nameplate generating capacity, (iv) commercial operations date, (v) average annual availability as stipulated in section ‎4.2.2(e) and (vi) direct or indirect shareholding in the relevant power plant with the name of the SPV and its ultimate parent company or companies; and
         2. verifiable and independently and objectively produced documentary evidence confirming the information required under section 4.2.3‎‎(a), which should include, without limitation:

for the information listed in items (i) to (v) of section ‎4.2.3, either (A) a technical report whether already in existence or prepared especially for the purposes of the Prequalification Application, issued by the lenders’ engineer for such power plant or another reputable and independent engineering firm, in each case, confirming that it is based on assessment of raw generation data for the Relevant Period; or (B) a series of detailed monthly operations and maintenance reports setting out the plant availability for the Relevant Period. In either case details of the average availability calculations must be included. A statement of average annual availability without supporting evidence is not sufficient; and

for the information listed in item (vi) of section 4.2.3‎(a), one or both of the following:

1. as evidence of the required direct or indirect shareholding, a statement from the relevant auditor confirming that the relevant Anchor Sponsor’s audited financial statements covering the relevant portion of the Relevant Period show or otherwise reflect such direct or indirect shareholding; and
2. as evidence of having been solely responsible for the operation and maintenance of the power plant despite not holding such shareholding, a copy of the relevant operation and maintenance contract for the relevant portion of the Relevant Period.
   * 1. **Part II – Financial Qualification**
        1. Without prejudice to sections 4.2 and 4.4, and subject to section 4.3.4, to be declared a Prequalified Bidder, a Prospective Bidder shall be required to satisfy one of the following two financial prequalification criteria (each a **Financial Criterion**,together the **Financial Criteria**) and to submit the documentation described in section 4.3.3:
           1. if the Prospective Bidder comprises a single Anchor Sponsor, such Anchor Sponsor shall have had:

a Net Worth of at least US$40m or equivalent; and

a Net Worth to Total Assets ratio of at least 15%,

in each case calculated pursuant to section 4.3.2‎(d); and

* + - * 1. if the Prospective Bidder is a Consortium:

the Lead Sponsor shall have had a Net Worth of at least US$20m or equivalent;

the Anchor Sponsors shall between them have had a Net Worth of at least US$40m or equivalent; and

each Anchor Sponsor shall have had a Net Worth to Total Assets ratio of at least 15%,

in each case calculated pursuant to section 4.3.2‎(d); and

the Prospective Bidder’s Prequalification Form (as defined below) shall include the confirmation set out in paragraph 6 of Appendix 5.

* + - 1. For the purposes of section 4.3.1:
         1. **Net Worth** shall be calculated as the relevant Anchor Sponsor’s Total Assets minus its Total Liabilities on a consolidated basis;
         2. **Total Assets** shall be calculated as the total consolidated assets of such entity measured in accordance with either IFRS or any other similar accounting or public accounting standard which is permissible in the jurisdiction in which the relevant Anchor Sponsor is incorporated; and
         3. **Total Liabilities** shall be calculated as the total consolidated liabilities of such entity measured in accordance with either IFRS or any other similar accounting or public accounting standard which is permissible in the jurisdiction in which the relevant Anchor Sponsor is incorporated;
         4. Calculations shall be made based:

on the relevant Anchor Sponsor’s audited consolidated financial statements, duly certified by an independent certified public accountant or auditor, for the three most recent full financial years for which audited financial statements are available as at the Prequalification Application submission deadline; or

if (A) the relevant Anchor Sponsor is incorporated in a jurisdiction which does not require the auditing of financial statements and (B) such Anchor Sponsor has not in fact had its financial statements audited, on such Anchor Sponsor’s non-audited consolidated financial statements, accompanied by a written opinion issued by an independent certified public accountant or auditor certifying the relevant Anchor Sponsor’s Net Worth, Total Assets and Total Liabilities for the three most recent full financial years for which such financial statements are available as at the Prequalification Application submission deadline.

* + - 1. The Prospective Bidder shall provide for itself or, where the Prospective Bidder is a Consortium, for each Anchor Sponsor:
         1. for Anchor Sponsors other than those to which section 4.3.2(d)‎(ii) applies, audited consolidated financial statements, including a consolidated balance sheet, income statement, statement of cash flows and accompanying notes, for the three most recent full financial years for which such statements are available as at the Prequalification Application submission deadline, duly certified by a certified public accountant or auditor; or
         2. for Anchor Sponsors to which section 4.3.2(d)‎(i) applies, non-audited consolidated financial statements, including a consolidated balance sheet, income statement, statement of cash flows and accompanying notes, for the three most recent full financial years for which such statements are available as at the Prequalification Application submission deadline, accompanied by a written opinion issued by an independent certified public accountant or auditor, certifying the relevant Anchor Sponsor’s Net Worth, Total Assets and Total Liabilities for the three most recent full financial years for which such financial statements are available as at the Prequalification Application submission deadline;
         3. a completed financial qualification criteria table:

|  |  |  |
| --- | --- | --- |
| **Financial Qualification Criteria** | | |
| **Currency** | **In currency of the financial statements**  [insert name of currency]  **Million** | **In USD Million** |
| Total Assets (for three most recent full financial years) |  |  |
| Total Liabilities (for three most recent full financial years) |  |  |
| Net Worth |  |  |
| Net Worth to Total Assets ratio |  |  |

* + - * 1. a filled-in Financial Qualification Excel Spreadsheet populated to reflect the relevant consolidated financial statements. The Financial Qualification Excel Spreadsheet template will be available on [the Procuring Authority’s website [<https://mof.gov.af/en/tenders>]. For further details on the Financial Qualification Excel Spreadsheet and Net Worth Calculations please refer to Appendix 8.
      1. Any Prospective Bidder unable to satisfy the relevant Financial Criterion due to the specific financial circumstances of any Anchor Sponsor (including the Lead Sponsor) shall nonetheless be deemed to have satisfied the relevant Financial Criterion in the following cases (in each case subject to all other relevant requirements having been satisfied):
         1. In cases where the specific financial circumstances of the relevant Anchor Sponsor arise from such Anchor Sponsor not having satisfied the relevant Net Worth to Total Assets ratio test, such Anchor Sponsor shall nonetheless be deemed to have satisfied such test if either:

it had a Net Worth of at least US$500m and a Net Worth to Total Assets ratio of at least 10% in each case calculated pursuant to section 4.3.2(d); or

its Prequalification Application includes a letter of support from a company that (A) holds a direct or indirect shareholding of at least 75% in the relevant Anchor Sponsor, (B) has an international long term credit rating in foreign currency by Standard & Poor’s Ratings Services, Moody’s Investors Service or Fitch Ratings Limited of at least A- / A3 / A- respectively, (C) itself complied with either the relevant Financial Criterion or the alternative requirements set out in section 4.3.4(a)(i) (to be evidenced by the same documentation in respect of such company as is required in respect of the Anchor Sponsor under section 4.3.3), and (D) acknowledges that, in the event that the relevant Prequalification Application is successful and that the relevant Anchor Sponsor is designated as a Prequalified Bidder (or a Consortium Member thereof), there will be an additional requirement under the RFP that the same company providing the letter of support also provide as part of any final proposal a full, on demand, irrevocable guarantee of all the financial obligations of the Anchor Sponsor for the purposes of the Project.

* + - * 1. In cases where the specific financial circumstances of the relevant Anchor Sponsor arise from such Anchor Sponsor being, or being owned by, an investment fund and, as a result, being unable to satisfy one or both of the relevant Net Worth test or the relevant Net Worth to Total Assets ratio test, it shall nonetheless be deemed to have satisfied the relevant test(s) if the relevant Prequalification Application includes:

copies of irrevocable commitments from one or more limited partners or other investors in the relevant fund of at least US$ 40m as at the date on which the relevant fund closed to new commitments;

a letter from Chief Financial Officer, Chief Investment Officer or equivalent of the manager of such fund, dated no earlier than the date falling two weeks prior to the Prequalification Application submission deadline:

1. confirming the availability as at such date of an aggregate amount of at least US$ 40m (or equivalent) in uncommitted funds;
2. committing to advise the Procuring Authority immediately upon such funds being irrevocably allocated to another purpose;
3. acknowledging the right of the Procuring Authority to disqualify the relevant Prospective Bidder from the Process as a result of such allocation; and
4. acknowledging that the Prospective Bidder will be subject to additional requirements in the Process as follows:
5. if designated as a Prequalified Bidder, an additional requirement under the RFP to provide as part of any final proposal a guarantee or letter of credit from an entity which has an international long term credit rating in foreign currency by Standard & Poor’s Ratings Services, Moody’s Investors Service or Fitch Ratings Limited of at least A-, A3 or A- respectively in an amount of no less than US$ 40m; and
6. if ultimately awarded the Project, an additional requirement under the Project Agreements for such fund manager to retain a controlling interest in the relevant Anchor Sponsor until the second anniversary of the Commercial Operations Date as defined in the PPA.
   * 1. **Part III – Legal Qualification**
        1. For the purposes of the Process, this RFQ and the RFP, **Relevant Person** means, with respect to a person:
           1. any company controlling, controlled by or under common control with such person;
           2. any director, senior executive or manager either of such person or of any company referred to in paragraph (a);
           3. any consultant, agent or representative supporting such person in connection with the Process or the Project; and
           4. any person with an aggregate ultimate beneficial interest in at least 5% of the share capital or ownership interest in such person (howsoever held).
        2. Without prejudice to sections 4.2 and 4.3, to be declared a Prequalified Bidder, a Prospective Bidder or, where the Prospective Bidder is a Consortium, each Consortium Member shall be required to satisfy all of the following legal prequalification criteria (each a **Legal Criterion**) and to submit the documentation described in section 4.4.3:
           1. it and all Relevant Persons are not in bankruptcy or liquidation, or receivership, or wound up, or their affairs are not being administered by a court or a judicial officer, or their business activities have not been suspended or they are not the subject of legal proceedings of any of the foregoing and have a reasonable expectation of being able to discharge all financial liabilities as they fall due;
           2. neither it nor any Relevant Person has been convicted of fraud, corruption, collusion or money laundering or for a criminal act involving dishonesty, physical violence or intentional harm to human life, or for any criminal offence related to their professional conduct within a period of five years of commencement of the procurement proceedings, nor is the subject of credible and/or persistent allegations related to, or is under investigation for, such criminal activities;
           3. it is not aware of any conflict of interest or potential conflict of interest arising from prior or existing contracts or relationships which affects or could affect its or (upon formation) the Seller’s (as applicable) potential involvement in the Project (other than supply or service agreements among members of the Consortium Member’s corporate group in the ordinary course), provided that the mere fact of either (i) prior or ongoing involvement in another procurement using the Scaling Solar procurement model elsewhere, and/or (ii) being an existing IFC Investment client, does not in and of itself represent a conflict of interest or potential conflict of interest for these purposes;
           4. neither it nor any Relevant Person has any tax liabilities, outstanding social security contributions or liabilities in respect of judgments awarded by any court or similar proceedings in the period of three years prior to the date of this invitation, save in each case to the extent that it has made suitable accounting provision for such liabilities in accordance with applicable accounting regulations;
           5. neither it nor any Relevant Person has previously been excluded from tender or other public procurement processes in Afghanistan;
           6. neither it nor any Relevant Person has had a concession or PPA terminated that is attributable to an event of default of the concessionaire in the event of a concession or a seller of power in the event of an IPP;
           7. neither it nor any Relevant Person:

is included as a debarred person pursuant to the public sanctions list of any multilateral development bank that is party to the Agreement on Mutual Enforcement of Debarment Decisions of 9 April 2010 ([www.crossdebarment.org](http://www.crossdebarment.org));

is included on any sanctions lists promulgated by the UN Security Council or its Committees, or any other recognised international sanctions list; or

is included on the list of companies debarred by the National Procurement Authority (<https://ageops.net/en/companies/debarment/debarred-vendors>) or on the list of companies currently facing debarment proceedings by the National Procurement Authority (https://ageops.net/en/companies/debarment/under-process); and

* + - * 1. neither it nor any Relevant Person has operations (directly or through any subsidiary) or carries out transactions that are not in compliance with the sanctions promulgated by the UN Security Council or its Committees or national sanctions in Afghanistan.
      1. The Prospective Bidder, or if the Prospective Bidder is a Consortium, each Consortium Member shall in addition provide the following:
         1. a confirmation letter in the form attached as Appendix 3 (changes to the form will be allowed only after advance clarification and approval of an alternative form by the Procuring Authority in accordance with the process described in section 5.1);
         2. a comprehensive organisation chart showing – or narrative text describing – how it is owned, up to the level of ultimate beneficial ownership by individuals and identifying by name all legal or natural persons holding (at any level in the organisation structure) an aggregate ultimate beneficial interest of at least 5%;
         3. certified copies of up-to-date constitutional documents (e.g. certificate of incorporation and/or registration, extract from commercial registry, by-laws etc.);
         4. power(s) of attorney substantially in the form attached as Appendix 4 authorising the person(s) signing and submitting the Prequalification Application on behalf of the relevant Prospective Bidder or each Consortium Member (as applicable) so to do, (provided that to the extent that a Prospective Bidder or Consortium Member considers that a power of attorney in general or the form attached as Appendix 4 in particular is not effective or appropriate, advance clarification and approval of an alternative form of document should be sought in accordance with the process described in section 5.1); and
         5. a legal opinion from internationally recognised and reputable law firm(s) qualified to opine on the laws of the country/ies of incorporation of the relevant Prospective Bidder and/or Consortium Member(s) (as applicable) confirming that the power(s) of attorney or alternative form of document approved pursuant to section 4.4.3(d) (and, if applicable, the guarantee issued pursuant to section 4.3.4(a)(ii)) is/are legal, valid, binding and enforceable in accordance with its/their terms, and that all legal formalities in that country/those countries in respect of granting such power(s) of attorney (or other authority), and of properly signing and submitting the Prequalification Application, have been taken.
    1. **Part IV – Prequalification Form and Virtual Data Room Undertaking** 
       1. Each Prospective Bidder shall provide:
          1. a prequalification form in the form attached as Appendix 5 (**Prequalification Form**); and
          2. an undertaking in respect of the Data Room in the form attached as Appendix 6 (**Virtual Data Room Undertaking**),

in each case signed on behalf of the Prospective Bidder (or if the Prospective Bidder is a Consortium, the Lead Sponsor) by the individual identified in the power(s) of attorney referred to in section 4.4.3(d).

* 1. Process
     1. **Clarifications**

Any Prospective Bidder requiring any clarification of any part of this RFQ or of any of the requirements set out herein may notify the Procuring Authority in writing at the email address indicated in Appendix 2 with a copy to the IFC Advisory Project Team Leader stipulated in such Appendix at any time prior to the deadline for such requests specified in the Estimated Timetable (as defined below). To the extent that the Procuring Authority responds to any or all such requests (and it shall not be obliged to do so), it shall send such response(s) to all Prospective Bidders in one or more batches and without identifying the source of the original request(s).

* + 1. **Estimated Timetable**

The Estimated Timetable is set out in Appendix 2. The Estimated Timetable is presented for indicative purposes only and the Procuring Authority shall not incur any liability whatsoever in respect thereof. The Procuring Authority may amend the Estimated Timetable (and any other information in Appendix 2) at any time in its sole discretion, provided that in no circumstance shall any such amendment result in an acceleration of the Prequalification Application submission deadline. The Procuring Authority shall give notice to Prospective Bidders as soon as reasonably practicable after making any such changes (whereupon all references to time and deadlines in this RFP shall be deemed amended accordingly).

* + 1. **Format, Signing and Submission of Prequalification Applications**
       1. Each Prospective Bidder shall prepare and submit one original and the relevant number of copies of its Prequalification Application as specified in Appendix 2, together with a CD-ROM or USB flash-drive (in either case in read-only / write-protected format to prevent amendment) containing a complete scanned PDF copy of the original Prequalification Application (split into separate files for each of Parts I to IV as described in section 4.1.2).
       2. The person(s) duly authorised by the power(s) of attorney referred to in section 4.4.3(d) to bind the Prospective Bidder shall sign the Prequalification Application by signing the first page of the original of the relevant Prequalification Application.
       3. The Prequalification Application shall be typed and shall contain no alterations, omissions or additions. Any manuscript text, other than the signature referred to in section 5.3.2, will be ignored.
       4. The Prospective Bidder shall seal the original Prequalification Application, each copy and the CD-ROM or USB flash-drive in separate envelopes, each complying with the requirements of section 4, and shall mark the envelopes as “**Prequalification Application – Original**, **Prequalification Application – Copy 1**, **Prequalification Application – Copy 2”** etc. and “**Prequalification Application – Electronic Copy”**. Each such envelope shall specify the name and address of the Prospective Bidder (or in the case of a Consortium, the names of all Consortium Members and the address of the Lead Sponsor, to enable the relevant Prequalification Application to be returned unopened in the event that it is submitted beyond the deadline for submission).
       5. The envelopes shall be sealed in a larger outer envelope, which shall be labelled as follows (with no additional text, information or markings): **MINISTRY OF ENERGY AND WATER: SCALING SOLAR AFGHANISTAN HERAT PROVINCE I– REQUEST FOR PREQUALIFICATION**.
       6. The outer envelope shall not disclose the Prospective Bidder’s or any Consortium Member’s identity or address.
       7. Prequalification Applications must be deposited in the designated tender location at the Address for Submission and Opening of Prequalification Applications no later than the Prequalification Application Submission Deadline, in each case as specified in Appendix 2. Late applications will not be accepted.
    2. **Opening of Prequalification Applications**
       1. Prequalification Applications will be opened at the Address for Submission and Opening of Prequalification Applications immediately after the Prequalification Application Submission Deadline, in each case as specified in Appendix 2.
       2. Any Prospective Bidder that has registered with the Procuring Authority shall be entitled to be represented at the opening of Prequalification Applications at the time and place stipulated in Appendix 2, subject to a maximum of two representatives per Prospective Bidder.
       3. The Procuring Authority will:
          1. in respect of any Prequalification Application received after the Prequalification Application submission deadline stipulated in Appendix 2, open the outer envelope to determine the name and address of the relevant Prospective Bidder or, in the case of a Consortium, the Lead Sponsor, before declaring such Prequalification Application to have been submitted “late”; and
          2. in respect of all other Prequalification Applications, open the outer envelope to determine the name of the relevant Prospective Bidder and, in the case of a Consortium, all Members, before declaring such Prequalification Application to have been submitted “on time” and announcing such name(s) publicly to those attending the meeting.
       4. Once all outer envelopes have been opened and all Prequalification Applications have been designated either “late” pursuant to section 5.4.3(a) or “on time” pursuant to section 5.4.3(b), the Procuring Authority shall declare the meeting closed. Thereafter the Procuring Authority shall:
          1. in respect of any Prequalification Applications declared “late” pursuant to section 5.4.3(a), promptly return such Prequalification Applications to the relevant Prospective Bidder or Lead Sponsor (as applicable) without opening any inner envelope; and
          2. in respect of all Prequalification Applications declared “on time” pursuant to section 5.4.3(b), promptly commence the evaluation of such Prequalification Applications in accordance with section 5.5.
    3. **Evaluation of Prequalification Applications**
       1. The Procuring Authority shall first examine each Prequalification Application to determine whether it is complete in form and substance.
       2. In the event of any inconsistency between the original and any of the copies making up a Prequalification Application, the original shall prevail.
       3. Where the Procuring Authority deems it convenient or necessary for clarification purposes, it may – but shall not be so obliged – request supplementary information or documentation from a Prospective Bidder (whether relating to such Prospective Bidder, any Consortium Member, the relevant Prequalification Application or any document submitted as part thereof or otherwise in connection therewith) for determining its eligibility for prequalification. Whenever such request is made, the Prospective Bidder shall provide the required information or documentation to the Procuring Authority within seven days (or such longer period as is specified in the request from the Procuring Authority).
       4. Once the Procuring Authority has concluded the clarification process contemplated under section 5.5.3 (if any), it shall proceed to formal evaluation of the Prequalification Applications. Such evaluation shall be on a simple “pass/fail” basis as follows:
          1. Prequalification Applications shall be evaluated first for compliance with section 4.2. Those evaluated as having failed shall not be evaluated further, while those evaluated as having passed shall be next evaluated for compliance with section 4.3. Again those evaluated as having failed shall not be evaluated further, while those evaluated as having passed shall finally be evaluated for compliance with section 4.4.
          2. Any Prospective Bidder whose Prequalification Application is evaluated as being compliant with the requirements of section 4 shall be designated as a Prequalified Bidder. The Procuring Authority shall notify all Prequalified Bidders simultaneously whether their Prequalification Applications have been accepted and shall proceed when ready to open the Data Room to all such Prequalified Bidders. If the Procuring Authority determines, in its sole discretion, that, based on the number of Prequalification Applications received, a further shortlisting of Prospective Bidders is required, it may, reduce the number of Prequalified Bidders by ranking the eight most appropriately qualified Prospective Bidders, in the Procuring Authority’s opinion, based on a qualitative evaluation of each Prospective Bidder against the criteria in sections 4.2 and 4.3.
          3. Any Prospective Bidder whose Prequalification Application fails to demonstrate compliance with the requirements of section 4 shall be designated as a non-prequalified bidder. The Procuring Authority shall notify all such non-prequalified bidders simultaneously that their Prequalification Applications have been rejected.
       5. For the purposes of the formal evaluation referred to in section 5.5.4, the Procuring Authority shall be entitled (but shall not be so obliged) to disregard minor deviations from the formal requirements of section 4, provided that it is clear from the relevant Prospective Bidder’s Prequalification Application (and from any subsequent clarifications pursuant to section 5.1) that the Prospective Bidder satisfies at least one of the Technical Criteria, the relevant Financial Criterion and all of the Legal Criteria.
       6. The Procuring Authority shall be entitled to disqualify any Prospective Bidder from the Process, whether during the formal evaluation referred to in section 5.5.4 or subsequently, if it discovers that any statement in any document provided by such Prospective Bidder as part of or in connection with its Prequalification Application is or was when made incorrect or misleading in any material respect.
    4. **Termination or Variation of Process**
       1. Notwithstanding any other provision of this RFQ or any other document already issued or to be issued in future in connection with the Process, the Procuring Authority reserves the right at all times:
          1. to vary the number of Projects, the capacity of any Project and the total capacity being procured under the Process;
          2. to amend the Process or amend or clarify the procedures and rules relating thereto;
          3. to extend or amend the Estimated Timetable from time to time;
          4. to terminate the Process; and
          5. to request additional information from any Prospective Bidder reasonably required to assess this Prequalification Application,

in each case at any time and for any reason and without incurring any liability to any Prospective Bidder or Prequalified Bidder in respect thereof.

* + 1. **Governing Law**

The Process shall be governed by the laws and regulations of the Islamic Republic of Afghanistan.

1. Part V: Appendices

Appendix 1: Background Information

**Energy Sector in Afghanistan**

At present, approximately 80% of Afghanistan’s total power capacity of 1,450 MW is imported from the neighbouring countries of Tajikistan, Turkmenistan, Uzbekistan and Iran. The National Renewable Energy Policy (NREP) which came into effect in 2013 is intended to establish a self-sustaining energy system in Afghanistan to reduce its reliance on imports.

NREP is being implemented in two terms: in the first term (2015-2020) the focus is on developing the renewable energy sector, in particular through the PPP framework and the implementation of the Power Services Regulatory Act; and during the second term (2021-2032) the strategy is for renewable energy to become fully commercialised.

The NREP is intended to increase rural household energy connections from the current 30% to 65%, achieving 100% access to electricity in urban areas and reaching 4,500-5,000 MW of renewable energy capacity, which would constitute about 95% of the estimated total energy requirement.

In September 2018, the Procuring Authority and IFC entered into a Financial Advisory Services Agreement (FASA) setting out the terms of a transaction advisory mandate to advise the Procuring Authority on implementing up to 2000 MW of solar PV IPPs in a phased manner across Afghanistan based on the Scaling Solar initiative. The overall objective of the Scaling Solar initiative is to minimise the amount of work required from Prospective Bidders, in the expectation that this ‘de-risking’ of the Project will remove uncertainty and result in the lowest possible prices ultimately being offered.

**Transaction Structure**

In terms of outline transaction structure this is currently expected to be as follows (with a significant degree of overlap in terms of timetable), and subject to further revisions at the discretion of the Procuring Authority:

* The Procuring Authority is proposing to acquire the necessary land and lease it on to the SPV for the duration of the PPA. The Procuring Authority may also apply for permits, potentially including a provisional environmental and social impact assessment.
* The Procuring Authority will finalise the terms of the PPA and GSA with the Purchaser and the Government respectively (in each case closely following the World Bank Group’s Scaling Solar template documents).
* Prospective Bidders will submit Prequalification Applications (in accordance with this RFQ).
* Prequalified Bidders will bid on the basis of the final forms of the PPA and GSA.
* Prequalified Bidders’ Proposals will be assessed for compliance with certain commercial requirements (e.g. inclusion of a bid bond) and technical requirements (e.g. compliance with certain minimum technical specifications) on a “pass/fail” basis.
* The winning bidder will then be selected on the basis of a single evaluation criterion, i.e. the price of electricity offered (in US$ c/kWh).
* The winning bidder’s price will be inserted into the PPA relating to the Project and the SPV will sign its PPA with the Purchaser and its GSA with the Government.
* The winning bidder will be responsible for any final development activities, as well as the financing, construction, operation and maintenance of the Project.

It should be noted that this structure represents the Procuring Authority’s current intention. It remains subject to legal and other due diligence and the Procuring Authority expressly reserves the right to adopt an alternative structure in its absolute discretion, in accordance with section 5.6 of the RFQ.

**Project Location[[2]](#footnote-3)**

The project site is located in the western part of Afghanistan, approximately 6.7 km south of Gozareh district in Herat Province and is adjacent to the Kandahar-Herat Highway (the “**Project Site**”). The Project Site has a total surface area of 81.6 ha and all parts of the Project Site are suitable for the installation of PV modules. The PV site is located near the existing Shohada-e 24-Hoot 132/20 kV Substation ("**24-Hoot Substation**"). The distance between the PV site and the substation is approximately 5 km. This allows connection to the high voltage (HV) level. The figure below shows the geographical position of the Project Site and the 24-Hoot Substation.



The land at the Project Site is barren, arid, uncovered, and uncultivated. As a result, the land is not suitable for agricultural use at present or in future, whether seasonal or otherwise.

**Minimum Technical Requirements**

The following technical requirements relating to the PV Modules, Inverters and Mounting Structures should be noted by bidders.

#### *PV Modules*

The PV modules may be either crystalline or thin film and shall have valid certifications issued by reputable testing institutions according to IEC/EN standards as follows:

* Test for electrical safety: IEC/EN 61730:
  + Part 1: requirements for construction.
  + Part 2: requirements for testing.
* Design qualification and type approval:
  + IEC/EN 61215 (in the case of crystalline modules), or
  + IEC/EN 61646 (in the case of thin film modules).
* Exceeding IEC 61215/61646 requirements in terms of duration or number of cycles for Damp Heat, Thermal Cycling and Humid Freeze testing by a factor of two (i.e. 2000 hours for Damp Heat test, 400 hours for Thermal Cycling test, 20 cycles for Humid Freeze test).
* Meeting IEC 61215/61646 requirements for Damp Heat and Thermal Cycling tests while under voltage bias of 1000V.
* Testing for Potential Induced Degradation (PID) in accordance with IEC 62804.
* CE Certification.

The PV modules shall have a minimum efficiency at Standard Test Conditions of 16% in the case of crystalline modules, or 12% in the case of thin film modules in order to avoid low efficiency technologies that would require larger land area.

The following minimum guarantees shall be applicable:

* Product warranty of ten years; and
* Linear degradation warranty as follows:
  + - For any technology, a constant degradation of up to 0.8% per year from year 1 to year 25, or up to 3% in year 1 and up to 0.7% per year from year 2 to year 25.
    - Or, for monocrystalline modules, up to 6.3% by year 5, and up to 0.7% per year from year 6 to year 25,

and in either case with a guaranteed power output after 25 years no less than 80% of the initial nominal power.

All PV modules shall be of the same type, from a single manufacturer and shall have been installed in at least three different projects in the past two years, in each case financed on a non-recourse or limited recourse basis. The manufacturer shall conform to the following requirements:

* Five-year manufacturing history;
* >1000 MW global installed capacity;
* >500 MW/year manufacturing capacity;
* PV Module manufacturing facilities certified according to:
  + ISO 9001 – Quality Management Systems; and
  + ISO 14001 – Environmental Management Systems.

Without prejudice to meeting the minimum qualification criteria, bidders are encouraged to submit test results relative to third-party measured, extended accelerated module testing such as (but not limited to): Thresher test, Reliability Demonstration, Long Term Sequential (LTS), Photovoltaic Durability Initiative (PVDI) testing sequence, or PV Module Qualification Plus.

#### *Inverters*

The inverters must have a minimum Euro efficiency of 97% and a minimum five-year product guarantee against manufacturing defects.

All inverters shall be of the same type, from a single manufacturer and shall have been installed in at least three different projects in the past two years, in each case financed on a non-recourse or limited recourse basis. The manufacturer shall conform to the following requirements:

* Five-year manufacturing history;
* >1000 MW global installed capacity;
* >500 MW/year manufacturing capacity;
* Inverter manufacturing facilities certified according to:
  + ISO 9001 – Quality Management Systems; and
  + ISO 14001 – Environmental Management Systems.

#### *PV Module Mounting Structure*

The PV module mounting structure shall be either fixed or single-axis tracking. The control system of the trackers (if any) shall have a defect warranty of at least two years.

**Local Content**

* The Public Private Partnership Law requires that PPP projects must be set-up to ensure the use of local capacity and technology transfer into the country.
* The Power Services Regulation Act requires electricity license holders to hire and train local workers, however, foreign workers may be employed by permission of the Energy Regulation Services Department if appropriately qualified local workers are not available.

Appendix 2A: Process Information

**Basic Information**

|  |  |
| --- | --- |
| Project Name | SCALING SOLAR AFGHANISTAN |
| The Procuring Authority contact details | **Ministry of Energy & Water**  Darulaman Road, 7th District  Kabul, Afghanistan  Attention:  Renewable Energy Director  Email: Kohistani.dabm@gmail.com  +93 700 227905  Mr. Faridullah Sharafmal  +93 749 577751  [F.sharafmal@mew.gov.af](mailto:F.sharafmal@mew.gov.af)  <https://mew.gov.af>  and:  **Ministry of Finance/ DG PPP**  Mr. Talha Hidayat, [talha.hidayat@mof.gov.af](mailto:talha.hidayat@mof.gov.af)  Cc:  Mr. Mohammad Jawid Yosufzai, jawid.yosufzai@mof.gov.af |
| IFC Advisory contact details | International Finance Corporation  Att. Scaling Solar Afghanistan  Email: [afghanscalingsolar@ifc.org](mailto:afghanscalingsolar@ifc.org) |
| Address for Submission and Opening of Prequalification Applications | Ministry of Energy & Water  Darulaman Road, Sanatorium  Kabul, Afghanistan |
| Prequalification Application language | English |
| Number of copies of Prequalification Application | One original and three copies |

**Applicable Timetable**

| **Activity** | **Deadline** |
| --- | --- |
| RFQ issued | October 19, 2019 |
| Clarification request deadline | November 23, 2019 |
| Prequalification Application Submission Deadline | November 30, 2019 |
| Announcement of Prequalified Bidders | December 14, 2019 |
| RFP issued / Data Room launched | December 28, 2019 |

Appendix 2B: Registration Form



**Islamic Republic of Afghanistan**

**Ministry of Energy & Water**

**REGISTRATION FORM**

**Request for Qualification (RFQ)**

**Development of 40 MW solar photovoltaic IPP project in Herat Province, Afghanistan**

|  |  |
| --- | --- |
| **NAME AND DESIGNATION OF AUTHORISED PERSON** |  |
| **NAME OF ORGANISATION[[3]](#footnote-4)** |  |
| **ADDRESS OF ORGANISATION** |  |
| **TELEPHONE** |  |
| **FAX** |  |
| **EMAIL ADDRESS** |  |

I hereby declare that I am duly authorized by [*insert details of applicant*] to register it with the Ministry of Energy & Water (“**MEW**”) of the Islamic Republic of Afghanistan as a prospective applicant in the bidding process for the Development of 40 MW solar photovoltaic IPP project in Herat Province, Afghanistan.

On behalf of the organization, I acknowledge that being registered as a Registered Entity is at the discretion of MEW. I further acknowledge that Applications in response to the RFQ will only be accepted from the organizations that have been notified by MEW to be Registered Entities.

Appendix 3: Legal Qualification – Confirmation Letter

**To:** Ministry of Energy and Water, Government of Islamic Republic of Afghanistan

**Re: Scaling Solar Afghanistan Project (Project)**

[*Date*]

Dear Sirs,

I refer to the Request for Prequalification document dated [RFQ Issuance Date] issued in connection with the Project (**RFQ**). Capitalised terms defined in the RFQ and used but not defined herein shall bear the meanings ascribed to them in the RFQ.

In accordance with section 4.4.3(a) of the RFQ, I hereby confirm on behalf of [*name of Prospective Bidder or Consortium Member*] (**Company**) that:

* + - * 1. the Company and all Relevant Persons are not in bankruptcy or liquidation proceedings or receivership, or wound up, or their affairs are not being administered by a court or a judicial officer, or their business activities have not been suspended or they are not the subject of legal proceedings of any of the foregoing and have a reasonable expectation of being able to discharge all financial liabilities as they fall due;
        2. neither the Company nor any Relevant Person has been convicted of fraud, corruption, collusion or money laundering or for a criminal act involving dishonesty, physical violence or harm to human life, or for any criminal offence related to their professional conduct within a period of five years of commencement of the procurement proceedings, nor is the subject of credible and/or persistent allegations related to, or is under investigation for, such criminal activities;
        3. the Company is not aware of any conflict of interest or potential conflict of interest arising from prior or existing contracts or relationships which affects or could affect its or (upon formation) the Seller’s (as applicable) potential involvement in the Project;
        4. neither the Company nor any Relevant Person has any tax liabilities or outstanding social security contributions or liabilities in respect of judgments awarded by any court or similar proceedings in the period of three years prior to the date of this invitation, save in each case to the extent that it has made suitable accounting provision for such liabilities in accordance with applicable accounting regulations;
        5. neither the Company nor any Relevant Person has previously been excluded from tender or other public procurement processes in Afghanistan;
        6. neither the Company nor any Relevant Person has had a concession or PPA terminated that is attributable to an event of default of the concessionaire in the event of a concession or a seller of power in the event of an IPP;
        7. neither the Company nor any Relevant Person:

is included as a debarred person pursuant to the public sanctions list of any multilateral development bank that is party to the Agreement on Mutual Enforcement of Debarment Decisions of 9 April 2010 ([www.crossdebarment.org](http://www.crossdebarment.org));

is included on any sanctions lists promulgated by the UN Security Council or its Committees, or any other recognised international sanctions list; or

is included on the list of companies debarred by the National Procurement Authority (<https://ageops.net/en/companies/debarment/debarred-vendors>) or on the list of companies currently facing debarment proceedings by the National Procurement Authority (https://ageops.net/en/companies/debarment/under-process); and

* + - * 1. neither the Company nor any Relevant Person has operations (directly or through any subsidiary) or carries out transactions that are not in compliance with the sanctions promulgated by the UN Security Council or its Committees or national sanctions in Afghanistan.

In accordance with section 4.4.3 of the RFQ, I enclose the following documents:

* + - * 1. a confirmation letter in the form attached as Appendix 3 of the RFQ;
        2. a comprehensive organisation chart showing – or narrative text describing – how the Company is owned, up to the level of ultimate beneficial ownership by individuals and identifying by name all legal or natural persons holding (at any level in the organisation structure) an aggregate ultimate beneficial interest of at least 5%;
        3. certified copies of up-to-date constitutional documents of the Company;
        4. a power of attorney substantially in the form attached as Appendix 4 of the RFQ; and
        5. a legal opinion from an internationally recognised and reputable law firm qualified to opine on the laws of the country of incorporation of the Company confirming that the power of attorney [and the guarantee issued pursuant to section 4.3.4(a)(ii) of the RFQ] [is/are] legal, valid, binding and enforceable in accordance with [its/their] terms, and that all legal formalities in that country in respect of granting such a power of attorney and of properly signing and submitting the Prequalification Application, have been taken.

Yours faithfully

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Name*]

[*Position*]

Authorised to signatory for [*Prospective Bidder or Consortium Member*]

Appendix 4: Legal Qualification – Power of Attorney

Reference is made to Scaling Solar Afghanistan (**Project**) and the Request for Prequalification document dated [RFQ Issuance Date] issued in connection therewith (**RFQ**). Capitalised terms defined in the RFQ and used but not defined herein shall bear the meanings ascribed to them in the RFQ.

[*Company*], incorporated under the laws of [*country*] and having its registered office at [*address*] (**Company**) does hereby irrevocably constitute, nominate, appoint and authorize [*name*][[4]](#footnote-5) of [*address*], who is presently employed with [*Lead Sponsor*] and holding the position of [*title*], as its true and lawful attorney (**Attorney**) to do in its name and on its behalf, all such acts, deeds, matters and things as are necessary or required in connection with or incidental to submission of a Prequalification Application on behalf of [*Prospective Bidder*] pursuant to the RFQ issued and for the ensuing participation of [*Prospective Bidder*] as Prequalified Bidder including but not limited to:

representing the Company [and the Prospective Bidder] in all matters relating to the Process, including signing, executing and submitting all bids, proposals, contracts, undertakings and other documents relating to the Process (including the Project Agreements);

participating in pre-bid conferences and other conferences and providing information/responses to the Procuring Authority and generally dealing with the Procuring Authority in all matters in connection with or relating to the Process,

and we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds, matters and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall be done and shall always be deemed to have been done by us.

IN WITNESS WHEREOF, THE COMPANY HAS EXECUTED THIS POWER OF ATTORNEY ON THIS ……… DAY OF …………., 20[●][[5]](#footnote-6)

BY ………………………….

Appendix 5: Prequalification Form

**To:** Ministry of Energy and Water, Government of Islamic Republic of Afghanistan

**Re:** Scaling Solar Afghanistan **(Project)**

[*Date*]

Dear Sirs,

* 1. I refer to the Request for Prequalification document dated [RFQ Issuance Date] issued in connection with the Project (**RFQ**). Capitalised terms defined in the RFQ and used but not defined herein shall bear the meanings ascribed to them in the RFQ.
  2. [*Prospective Bidder*] hereby submits its Prequalification Application in conformity with the RFQ and requests to be considered for prequalification as a Prequalified Bidder in connection with the Project and confirms that it:

acknowledges and agrees to the disclaimer in and other terms of the RFQ;

agrees to comply with all rules, laws and regulations governing the Process as issued by the Procuring Authority and any other relevant authorities from time to time;

accepts the right of the Procuring Authority:

to vary the number of Projects, the capacity of any Project and the total capacity being procured under the Process;

to amend the Process or amend or clarify the procedures and rules relating thereto;

to extend or amend the Estimated Timetable from time to time;

to terminate the Process; and

to request additional information from any Prospective Bidder reasonably required to assess this Prequalification Application,

in each case at any time and for any reason and without incurring any liability to any Prospective Bidder or Prequalified Bidder in respect thereof; and

accepts the exclusive application of Afghanistan law with respect to the Process.

* 1. [*Prospective Bidder*] hereby designates the Attorney identified (and as defined) in the Power of Attorney enclosed within this Prequalification Application as its representative to receive notices in respect of the prequalification and the tender at the following address, telephone numbers and email address:

[*Details*]

* 1. [*Prospective Bidder*] hereby confirms that the Power of Attorney enclosed within this Prequalification Application is a legal, valid, binding and enforceable delegation of the Procuring Authority in accordance with its terms.
  2. [*Include one of the following two provisions, depending on whether the Prospective Bidder is a Consortium (first provision) or a single entity (second provision):*]
* [*Prospective Bidder*] confirms that it is a Consortium comprising the following Consortium Members: [*List Consortium Members, clearly identifying the Lead Member and all Anchor Sponsors, and set out each Consortium Member’s anticipated ultimate beneficial shareholdings in the Seller in the form of the table provided below*]. [*Prospective Bidder*] confirms that there will be no change in the membership of the Consortium or the foregoing anticipated beneficial shareholdings in the Seller (or related control and other interests held) by each Consortium Member (**Anticipated Seller Ownership**) until signature by or novation to the Seller of the Project Agreements and then only as permitted therein, save to the extent that the Procuring Authority otherwise consents in writing.

|  |  |  |
| --- | --- | --- |
| **Role** | **Name of Entity** | **Anticipated Beneficial Shareholding in the Consortium** |
| Lead Sponsor |  |  |
| Anchor Sponsor  (If Applicable) |  |  |
| Anchor Sponsor (If Applicable) |  |  |
| Consortium Member  (If Applicable) |  |  |
| Consortium Member  (If Applicable) |  |  |

* [*Prospective Bidder*] confirms that it is submitting this Prequalification Application in its own right and not as a Consortium, that it anticipates holding the entire beneficial shareholding in the Seller (and related control and other interests) (**Anticipated Seller Ownership**) and that there will be no change in the Anticipated Seller Ownership until signature by or novation to the Seller of the Project Agreements and then only as permitted therein, save to the extent that the Procuring Authority otherwise consents in writing.
  1. [*Only include if the Prospective Bidder is a Consortium comprising at least one Consortium Member that is not an Anchor Sponsor*:

[*Prospective Bidder*] hereby confirms that, in the event that it is awarded the Project, the Anchor Sponsors will jointly and severally cover any shortfall in the equity contribution of any Consortium Member that is not an Anchor Sponsor.]

* 1. [*Prospective Bidder*] hereby represents and warrants that as of the date of this letter all of the information submitted in this Prequalification Application, including the enclosed forms and documents, is accurate, complete and not misleading in any respect.

Yours faithfully

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney for [*Prospective Bidder*] under enclosed Power of Attorney

Appendix 6: Virtual Data Room Undertaking

1. General
   1. This document (**Virtual Data Room Undertaking**) relates to the Request for Prequalification (**RFQ**) issued by the Ministry of Energy and Water, Government of Islamic Republic of Afghanistan on [RFQ Issuance Date] in connection with the selection of a private sector sponsor to develop, finance, construct, own, operate, maintain and transfer an independent utility-scale solar photovoltaic (PV) power project in Afghanistan of initially 40MW on a Public Private Partnership (PPP) basis using the World Bank Group’s ‘Scaling Solar’ initiative (**Project**). Capitalised terms defined in the RFQ and used but not otherwise defined in this Virtual Data Room Undertaking shall have the meaning given to them in the RFQ.
   2. This Virtual Data Room Undertaking sets out the undertakings, rules and procedures governing the use of a website data room (**Virtual Data Room**) made available to the Prequalified Bidder and, where the Prequalified Bidder is a Consortium, to its Consortium Members and to its and their respective directors, officers, employees, agents and financial and other professional advisers involved in considering the Project (each a **Permitted Person**).
   3. The signing of this Virtual Data Room Undertaking by the Representative (as defined below) shall be deemed to be on behalf of all parties comprising or representing the Prequalified Bidder who are subsequently given access to the Virtual Data Room. Any direct obligation imposed on the Prequalified Bidder under this Virtual Data Room Undertaking shall, in addition to the direct obligation itself, be construed as an indirect obligation to ensure that each other Permitted Person complies with such obligation as if such other Permitted Person were itself a party to this Virtual Data Room Undertaking (*mutatis mutandis*). The Prequalified Bidder shall be liable for the non-performance by each Permitted Person of such indirect / constructive obligation.
   4. The information contained in the Virtual Data Room, including information added before the closing of the Virtual Data Room and information provided in response to questions and any other information or data disclosed to the Prequalified Bidder by or on behalf of the Procuring Authority in connection with the Project (**Information**) is being made available by or on behalf of the Procuring Authority subject to and on the terms of this Virtual Data Room Undertaking (**Confidentiality Arrangements**).
2. Confidentiality
   1. Subject to Clause 2.2, the Prequalified Bidder shall treat the Information as strictly confidential and not use the Information other than, or disclose the Information other than to Permitted Persons and then, solely for the purpose of considering, evaluating, advising on or furthering the Project.
   2. The obligation under Clause 2.1 does not extend to Information that is publicly available at the time it was made available to the Prequalified Bidder and shall not prevent disclosure by the Prequalified Bidder of Information to the extent necessary to comply with any legal obligation or the requirement of any relevant stock exchange or other regulatory government or official body.
   3. The Prequalified Bidder undertakes:
      1. to keep the Information and any copies of it secure and in such a way as to prevent unauthorised access by any third party;
      2. to inform the Procuring Authority immediately if it becomes aware that any Information has been disclosed to or come to the knowledge of an unauthorised third party;
      3. at its own expense within seven days of withdrawing from the bidding process or of being notified that it has not been declared as having won the Project and in any event on receipt of a written demand from the Procuring Authority:
         1. to return or destroy all hard copies of Information that has been made available to it by or on behalf of the Procuring Authority which is in its possession or under its custody and control without keeping any copies;
         2. to destroy all hard copies of Information prepared by it to the extent that the same contains, reflects or derives from Information that has been made available to it by or on behalf of the Procuring Authority;
         3. to the extent practicable, to expunge all Information from any computer, word processor or other device in its possession or under its custody or control; and
         4. to confirm to the Procuring Authority in writing that the above actions have been taken.
3. Virtual Data Room
   1. No representation or warranty (whether express or implied) is given and no responsibility or liability is accepted by the Procuring Authority or its advisers or representatives as to the accuracy or completeness of the Information or otherwise.
   2. The Prequalified Bidder hereby (a) acknowledges and consents to any actual, potential or perceived conflicts of interests arising as a result of the multiple current or prospective roles of IFC Advisory, IFC Investment, MIGA and IDA in connection with the development, delivery and financing of the Scaling Solar Program and the Project, or in connection with any pre-existing financial or advisory relationships between an institution of the World Bank Group and a prospective bidder (or its affiliate), the Procuring Authority or the Government of Islamic Republic of Afghanistan; (b) waives any liability to which any World Bank Group institution might otherwise be subject in connection with such actual, potential or perceived conflicts of interest; and (c) consents to the sharing of any information provided to or created by IFC Investment in connection with the proposed financing of the Project among IFC Investment, IDA and MIGA staff members engaged in the proposed financing of the Project.
   3. The Information, or any part thereof, does not constitute an offer or proposal by or on behalf of the Procuring Authority.
   4. Additional documents may be added to, and documents may be removed from, the Virtual Data Room from time to time by or on behalf of the Procuring Authority. The Prequalified Bidder should check the Virtual Data Room regularly as the inclusion of new documents will be apparent from doing so. However, no obligation is undertaken or accepted by the Procuring Authority or its advisers or representatives to provide any additional or updated Information or to correct any inaccuracies or discrepancies in the Information.
4. Access to the Virtual Data Room
   1. Only those Permitted Persons identified to and approved by the Procuring Authority from time to time will be allowed access to the Virtual Data Room. The initial list of such Permitted Persons is set out in Schedule 1. If the Prequalified Bidder wishes to add new Permitted Persons to such list at any time, it should prepare an updated list in the form of Schedule 1 and submit such updated list to the Procuring Authority, with a copy to IFC Advisory addressed in accordance with the details stipulated in Appendix 2 of the RFQ. Following receipt of the updated list, the Procuring Authority shall notify the Prequalified Bidder as to whether it accepts the updated list. If the Procuring Authority accepts the updated list, the updated list shall replace any previous list provided by the Prequalified Bidder.
   2. The Prequalified Bidder shall ensure at all times that:
      1. only Permitted Persons shall seek access to the Virtual Data Room; and
      2. the number of Permitted Persons who shall seek such access is limited only to those for whom it is strictly necessary.
   3. Access to the Virtual Data Room by any Permitted Persons is subject to:
      1. the consent of the Procuring Authority; and
      2. an authorised representative of the Prequalified Bidder, being the individual authorised under the power of attorney submitted in connection with the Prequalified Bidder’s Prequalification Application and the signatory of this Virtual Data Room Undertaking, (**Representative**) having:
         1. signed and returned a copy of the Virtual Data Room Undertaking, together with a complete list of those persons requiring access to the Virtual Data Room in the form of Schedule 1; and
         2. countersigned and returned copies of any non-reliance letters issued by consultants whose reports are included in the data room, in each case as identified to the Representative by the Procuring Authority or IFC Advisory (these letters are likely to be substantially in the form attached as Schedule 2), provided that failure by a consultant to require countersignature of a non-reliance letter shall not affect in any way the reliance provisions of sections 2.6 and 2.7 of the RFQ.
   4. Each Permitted Person granted access to the Virtual Data Room will be allocated and sent a unique user name and temporary password to enable such person to access the Virtual Data Room. Permitted Persons will be prompted to use their user name and password each time that they seek access to the Virtual Data Room.
   5. Having entered a correct user name and password, Permitted Persons will be requested to confirm that:
      1. they understand and agree to comply with the terms of this Virtual Data Room Undertaking and any Confidentiality Arrangements;
      2. they are the authorised user of the Virtual Data Room to whom the password was issued and have not received the password by unauthorised means; and
      3. they acknowledge and accept that neither the Procuring Authority, its representatives or advisers nor any of their respective officers, employees or agents accepts responsibility for or makes any representation, express or implied, or gives any warranty with respect to the accuracy or completeness of the information provided in the Virtual Data Room.
   6. Permitted Persons will not be able to access the Virtual Data Room unless and until they have confirmed the above.
   7. the Procuring Authority reserves the right to refuse, terminate or withdraw access to the Virtual Data Room (either in general or by any Permitted Person) at any time without giving any reason. In particular, if the Prequalified Bidder withdraws from the tender process, whether formally or informally (e.g. by not submitting a response to the RFP), access to the Virtual Data Room will be withdrawn.
   8. With the exception of scheduled downtime and unless otherwise advised, the Virtual Data Room will be open 24 hours per day, seven days per week from the date of its opening until the deadline for responding to the RFP, or such other dates as notified by the Procuring Authority to the Prequalified Bidder. The information may subsequently be reopened to the successful Prequalified Bidders.
5. Use of the Information
   1. The Information may not be forwarded or shared other than in accordance with this Virtual Data Room Undertaking.
   2. If any Information is printed or downloaded, it shall be deemed to have been printed and/or downloaded on, and shall remain subject to, the terms of this Virtual Data Room Undertaking and the Confidentiality Arrangements (including, for the avoidance of doubt, the obligation to return or destroy the Information).
   3. No attempt may be made to circumvent any of the security features of the Virtual Data Room.
6. Security
   1. Permitted Persons must not reveal their user name or password to anyone for any reason whatsoever. New individuals can be added to the list of Permitted Persons and granted their own user names and passwords under the procedure described in section 4.
   2. When accessing the Virtual Data Room, Permitted Persons must:
      1. take all necessary steps to ensure that none of the information contained therein is visible to, or capable of being overlooked by, other persons;
      2. not leave their computer (or other communications device through which they have logged on to the Virtual Data Room) unattended whilst they are logged on to the Virtual Data Room; and
      3. ensure that they log-out of the Virtual Data Room when they have finished using it, by closing down their Internet browser programme.
   3. It should be noted that the system keeps a record of which user names have been used, and at what time, to access particular documents.
7. Questions & Answers Procedure

The Procuring Authority will advise Prequalified Bidders as regards the procedure for submitting questions and requests for clarification, either via the Virtual Data Room itself or separately.

1. Technical Support

Permitted Persons who experience technical difficulties in accessing or using the Virtual Data Room should contact the IFC Advisory Project Team Leader stipulated in Appendix 2 of the RFQ.

1. Disclaimer

No liability is accepted by the Procuring Authority or its advisers or representatives for any damage of any sort which may be caused to any computer, computer system or other communications device through which the Virtual Data Room has been accessed, or any information stored on any such computer, computer system or other communications device, in any way resulting from the use of or the downloading of any information from the Virtual Data Room. Use of the Virtual Data Room is entirely at the user’s own risk.

1. Governing Law

This agreement and any non-contractual obligations arising out of or in connection with it shall be governed in accordance with the laws and regulations of the Islamic Republic of Afghanistan.

1. Acceptance

In consideration of the Procuring Authority agreeing to grant us access to the Virtual Data Room, we hereby agree to comply with this Virtual Data Room Undertaking.

|  |  |
| --- | --- |
| **Prequalified Bidder[[6]](#footnote-7)** |  |
| Name of Prequalified Bidder:  ………………………………….. |  |
| By: ………………………………………………. | Date: ………………………………… |
| Name (in capitals): ………………………………. |  |
| Position: ……………………………………………. |  |

Schedule 1: Permitted Persons requiring access to the Virtual Data Room

|  |  |  |  |
| --- | --- | --- | --- |
| **Name** | **Position** | **Company** | **E-mail** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Schedule 2: Non-Reliance Letter

[On adviser’s letterhead]

Name and address of Prequalified Bidder  
to whom report will be provided

[*Date*]

Dear Sirs

1. We refer to the confidential draft [•] report (**Draft Report**) in connection with the competitive tender conducted by the Ministry of Energy and Water, Government of Islamic Republic of Afghanistan (**Procuring Authority**) todevelop, finance, construct, own, operate, maintain and transfer an independent utility-scale solar photovoltaic (PV) power project in Afghanistan of initially 40MW on a Public Private Partnership (PPP) basis using the World Bank Group’s ‘Scaling Solar’ initiative(**Project**).
2. We understand that you wish to be provided with a copy of the Draft Report. The Procuring Authority has authorised us to provide a copy of the Draft Report to you.
3. This letter sets out the terms upon which we will agree to release the Draft Report to you and explains certain matters in relation to the Draft Report.
4. You may receive a copy of the Draft Report in your capacity as Prequalified Bidder (as defined in the Request for Prequalification dated [●] 2019) on the condition that, unless and until you are declared the winner in connection with the Project, have signed the Project documentation and are recognised as an addressee of the Draft Report by signing the reliance letter as set out in Annex 1, you will be bound by and will accept the provisions of this letter. In particular, you accept that:
5. you may not rely on the Draft Report or any explanation we may give in relation to the Draft Report;
6. we do not have any responsibility or liability to you, whether in contract, tort (including negligence) or otherwise; and
7. you agree to indemnify us on demand and hold us harmless against any loss, damage, liability, cost or expense (including without limitation, indirect, consequential or economic loss) which arises in any way from, or is in any way connected with, any breach by you of the terms of this letter.
8. You agree to keep the Draft Report confidential and not to disclose the whole or part of the Draft Report to any other person other than in accordance with paragraph 6 without our prior written consent. We may, at our discretion, withhold consent or give our consent subject to receiving a letter in a form mutually agreed between us and the party seeking access (or by you) which is subject to negotiation at such time and which may provide that we are indemnified in respect of claims by any person arising from such access. Whether or not we have given our consent, we will not accept any liability or responsibility to any third party who may gain access to the Draft Report.
9. You may make copies of the Draft Report available to your directors, officers, employees, agents and financial and other professional advisers involved in considering the Project provided that in each case you ensure that they understand and accept that:
10. the Draft Report is confidential and may not be disclosed to any other parties without our prior written consent save where required by law or any applicable regulatory body;
11. they may use the Draft Report only for the purposes of considering the Project and, in the case of financial or other professional advisers, only for the purpose of advising you in relation to your consideration of the Project; and
12. we accept no duty of care to them in respect of any use they may make of the Draft Report.
13. You agree that the Draft Report was prepared solely upon, and subject to, the instructions of the Procuring Authority for limited purposes which may not meet your requirements or objectives.
14. In the event that you are not declared the Winning Bidder in connection with the Project (as defined in the Request for Proposals dated [●] 2019), we require you to arrange for any copies of the Draft Report provided to you, together with any further copies which have been made by you or on your behalf, to be returned to us or destroyed. For these purposes, electronic copies of the Draft Report should be expunged, so far as practicable, from any computer, word processor, mobile phone, memory stick or any other device.
15. [Our release of the Draft Report to you does not give rise to an attorney-client relationship with you.][[7]](#footnote-8)
16. The terms and provisions of this letter shall not exclude or restrict any liability for fraud or wilful default to the extent that it may not be so excluded or restricted by law or professional rules.
17. You acknowledge and agree that the provisions and limitations of the Draft Report and of this letter are reasonable in the context of our role as advisers to the Procuring Authority and all the circumstances of the Project.
18. If any provision of this letter shall be or become illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the parties. To the extent it is not possible to delete or modify the provision, then such provision or part of it shall, to the extent that it is illegal, invalid or unenforceable, be deemed not to form part of this letter and the legality, validity and enforceability of the remainder of this letter shall, subject to any deletion or modification made under this paragraph, not be affected.
19. This letter is subject to [•] law and any dispute which may arise out of or in connection with this letter will be subject to the exclusive jurisdiction of the [•] courts.

Please sign the accompanying copy of this letter and return it to us as an acknowledgement and acceptance of its terms whereupon we shall issue a copy of the Draft Report to you.

Yours faithfully

|  |  |
| --- | --- |
| ....................................................................... |  |
| [ ] |  |
| [*Adviser*] |  |

We hereby agree to the terms of this letter.

|  |  |
| --- | --- |
| ....................................................................... |  |
| [ ] |  |
| For and on behalf of [*Prequalified Bidder*] |  |
|  |  |
| Dated: ........................................................... |  |

Annex 1: Form of Reliance Letter

[On adviser’s letterhead]

[*Seller*]

[*Date*]

Dear Sirs

Scaling Solar Afghanistan: Reliance Letter

1. We refer to the confidential [•] report dated [•] (**Report**), prepared by us (**Firm**) at the request of IFC Advisory, on behalf of the Ministry of Energy and Water, Government of Islamic Republic of Afghanistan to select a private sector sponsor to develop, finance, construct, own, operate, maintain and transfer an independent utility-scale solar photovoltaic (**PV**) power project in Afghanistan of initially 40MW on a Public Private Partnership (**PPP**) basis using the World Bank Group’s ‘Scaling Solar’ initiative (**Project**).
2. We agree that you may rely on the Report subject to, and on the basis of, the terms and provisions of, and the limitations on our liability set out in, (a) the Report (being the same as the terms and provisions of, and the limitations set out in the draft report previously provided to you) and (b) this letter.
3. The Report is based on our review of the documents provided by IFC Advisory up to [●] and on our understanding of the law and practice as at that date. It does not contain any information relating to documents, data or confirmations provided to us after that date and we do not undertake to update it in respect of any such information or subsequent change to law or practice or to notify any person of any such information or change. We shall not be liable for, and expressly exclude in advance any liability to keep you informed of, any change in the analysis or information contained in the Report after the date referred to in this paragraph, whether or not it has an effect on the findings and conclusions contained in the Report.
4. You agree that:
5. you shall not bring any claim in respect of the Report against any member, shareholder, partner, employee or consultant of [*Adviser*] personally but only against [*Adviser*] as a whole;
6. any legal or other proceedings in respect of the Report must be formally commenced and any relevant originating application, writ or other process served on us within two years from the date of the principal agreement by which the Project was effected;
7. you shall keep the Report and this letter confidential and not disclose the whole or part of the Report or this letter to any other person without our prior written consent other than in accordance with paragraph 5 below. We may, at our discretion, withhold consent or give our consent subject to receiving a letter in a form mutually agreed between us and the party seeking access (or between us and you) which is subject to negotiation at such time and which may provide that we are indemnified in respect of claims by any person arising from such access. Whether or not we have given our consent, we will not accept any liability or responsibility to any third party who may gain access to the Report.
8. You may make copies of the Report available (i) if and to the extent required by law or any applicable regulatory body (provided that, to the extent reasonably practicable and permitted by such law or regulation, you consult with us first on the timing and manner of such disclosure); and (ii) to your directors, officers, employees, agents and professional advisers who require access to the Report in connection with the Project, provided that in each case you ensure that they understand and accept that:
   * + - 1. the Report is confidential and may not be disclosed to any other parties without our prior written consent, save where required by law or any applicable regulatory body;
         2. they may use the Report only for the purposes of considering the Project and, in the case of professional advisers, only for the purpose of advising in relation to the Project; and
         3. we accept no duty of care to them in respect of any use they may make of the Report.
9. We shall not be liable to you in respect of any matters contained in, or omissions from, the Report to the extent that you or any of your directors, partners, officers, employees, agents or professional advisers are aware, having carefully considered the Report, of any matter, fact or circumstance which renders any of the factual information or the opinions and expectations set out in the Report inaccurate or misleading in any material respect.
10. The terms and provisions of this letter shall not exclude or restrict any liability to the extent that such liability may not be so excluded or restricted by applicable law or professional rules.
11. You acknowledge and agree that the provisions and limitations of the Report and of this letter are reasonable in the context of our role as advisers to the Seller and all the circumstances of the Project.
12. Where we are liable to you in respect of the Report for loss which you have suffered, and another person is liable to you in respect of the same loss (or would be so liable but for paragraphs (a) and (b) below if such other person had entered into a contractual undertaking in favour of you to perform its obligations with the standard or care and diligence that you would be entitled to expect in the circumstances), the compensation payable by us to you in respect of that loss shall be reduced in proportion having regard to the extent of the responsibility of such other person for the loss. In determining the existence and extent of the responsibility of such other person for the loss in question, no account shall be taken of:
    * + - 1. any agreement limiting the amount of damages payable by such person; or
          2. any actual or potential shortfall in recovery of this amount from such person (whether this is due to settling or limiting claims, or any other reason).
13. The aggregate liability of the Firm to all persons shall be limited to USD 10 million, in respect of all losses arising out of or in connection with the Firm’s services in relation to the Project howsoever caused, including arising as a result of breach of contract or statutory duty, negligence or any other act or omission.
14. References in this letter to “**loss**” or “**losses**” are references to any loss, damage, liability, cost, interest, expense or claim (including, without limitation, indirect, consequential or economic loss).
15. If any provision of this letter shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the parties. To the extent it is not possible to delete or modify the provision, then such provision or part of it shall, to the extent that it is illegal, invalid or unenforceable, be deemed not to form part of this letter and the legality, validity and enforceability of the remainder of this letter shall, subject to any deletion or modification made under this paragraph, not be affected.
16. This letter is subject to [•] law and any dispute which may arise out of or in connection with this letter will be subject to the exclusive jurisdiction of the [•] courts.

Please sign the accompanying copy of this letter and return it to us as an acknowledgement and acceptance of its terms whereupon we shall issue a copy of the Report to you.

Yours faithfully

|  |  |
| --- | --- |
| ....................................................................... |  |
| [ ] |  |
| [*Adviser*] |  |

We hereby agree to the terms of this letter.

|  |  |
| --- | --- |
| ....................................................................... |  |
| [ ] |  |
| For and on behalf of [*Seller*] |  |
|  |  |
| Dated: ........................................................... |  |

Appendix 7: Technical Criteria Evidence Formsheet

|  |  |  |  |
| --- | --- | --- | --- |
| 1. **Name of Prospective Bidder** |  | | |
| 1. **Names of Consortium Members (if applicable)** |  |  |  |

|  |  |  |
| --- | --- | --- |
| 1. **Technical Criterion** 2. (satisfaction of one Technical Criterion only is required) |  | 1. At least three grid-connected solar photovoltaic power plants, each in a different country anywhere in the world with a minimum aggregate capacity of 100 MWac (with a minimum capacity of 10 MWac for each individual plant considered). |
|  | 1. One or more grid-connected power plant(s) of any technology anywhere in the world with a minimum aggregate capacity of 1,500 MW. |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 1. **Name of power plant/project and location** | 1. **Name of the Project Company** | 1. **Date of plant/project commercial operation and the Relevant Period** | 1. **Name of sponsor and percentage participation (direct or indirect) in the relevant power plant during the Relevant Period** | 1. **Name of auditor able to confirm the direct or indirect participation of the sponsor** |
| 1. *[one line per power plant]* |  |  |  |  |
|  |  |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 1. **Name of power plant/project and location** | 1. **Capacity (in MWac)** | 1. **Technology** | 1. **Average Availability each year during the Relevant Period** | 1. **Name of the entity / company responsible for producing the independent technical report** |
| 1. *[one line per power plant]* |  |  |  |  |
|  |  |  |  |  |

Appendix 8: Financial Qualification Excel Spreadsheet and Net Worth Calculation

Bidders are required to submit a completed Financial Qualification Excel Spreadsheet, to be included in the original and hard copies, as well as the electronic version of the Prequalification.

Bidders are only required to complete the cells that are in yellow and to select the applicable currency of their financial statements from the available drop-down menu. The spreadsheet will automatically insert the relevant exchange rate based on the arithmetic average of the bid and ask rates published by Reuters at close of business (UK time) on October 18th, 2019.

Image[[8]](#footnote-9) of Financial Qualification Excel Spreadsheet to be filled in:



**Net Worth Calculation – Example of Line Items**

**Net Worth = Total Assets – Total Liabilities**

Generic ‘**Total Assets**’ line items typically include:

Generic ‘**Total Liabilities**’ line items typically include:

**Non-current Liabilities**

* Long-term debt
* Due to related parties
* Deferred tax liability
* Deferred revenue
* Financial liabilities

**Non-current assets**

* Other assets
* Investment and advances for investments
* Property, Plant and Equipment
* Goodwill

**Current assets**

* Cash and cash equivalents
* Accounts and notes receivable
* Inventory
* Pre-paid expenses

**Current Liabilities**

* Payables and accruals
* Short-term debt
* Current proportion of short-term debt
* Due to related parties

**Exchange Rates**

| **Currency Name** | **Exchange Rate versus United States Dollar (USD)** |
| --- | --- |
| **(Average of bid and ask rates – as of date of release of RfQ** |
|  |  |

1. [↑](#footnote-ref-2)
2. Details of the reports that will be made available via the data toom are specified in section 2.3 of Part IV (Instructions to Prospective Bidders). [↑](#footnote-ref-3)
3. Insert the name of the company/consortium seeking registration as a Registered Entity [↑](#footnote-ref-4)
4. In the case of a Consortium, all Consortium Members should appoint the same individual, who should be an employee, officer or other representative of the Lead Sponsor. [↑](#footnote-ref-5)
5. Execution formalities should be adjusted as required for the country of incorporation / constitutional documents of the Prospective Bidder / Consortium Member (e.g. as regards notarization / apostil etc.). However, no substantive changes should be made unless they have first been cleared with the Procuring Authority through the process described in section 5. [↑](#footnote-ref-6)
6. To be signed by attorney authorized under Power of Attorney, who is automatically also the Representative as defined above. Note that Data Room Undertakings will be given by all Prospective Bidders at the time of submitting their Prequalification Applications, but only those Data Room Undertakings given by Prequalified Bidders will ever take effect (hence the reference to the Prequalified Bidder – rather than the Prospective Bidder – throughout this Appendix). [↑](#footnote-ref-7)
7. Only for legal DD reports. [↑](#footnote-ref-8)
8. For reference and illustration purposes only. [↑](#footnote-ref-9)