

**Standard Bidding Documents
For
Open Shopping
(Non-Consulting Services)**

November 2020



Tuvalu

INVITATION FOR BID

FOR

[Insert title of Non-consulting Services Contract]

[insert date of issue of invitation]

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[To users of this Standard Bidding Document:

Use only for Non-Consulting Services estimated to cost more than the threshold in the Public Procurement Regulations at which advertising of Bids is necessary and less than the threshold for Open Competitive Bidding.

Notes in blue italics in square brackets are for the user’s guidance in completing the SBD and should be deleted before invitations are issued.

Notes in black italics in square brackets relate to contract award stage and should not be deleted until award is made.

Notes in black italics in round brackets are for the guidance of bidders and should not be deleted]

[This Invitation for Bid must be advertised in accordance with Regulation 37 of the Public Procurement Regulations]

INVITATION FOR BID

IFB No: OS/_____ *[insert]*

Date: _____ *[insert]*

1. The Government of Tuvalu wishes to enter into a contract for the provision of *[briefly describe the Non-Consulting Services]*. The *[insert name of department and ministry]*, hereinafter called the Employer, now invites bids from eligible contractors.
2. The contract completion date will be ___ months after a contract is signed. *[Insert number of months]*.
3. The bidding document may be inspected online at *[insert website address]* and will be electronically mailed to interested, qualified and eligible bidders free of charge upon application to the Employer by electronic mail at *[insert e-mail address]*.
4. To be eligible and qualified, a contractor must:
 - (a) be a legally registered entity in its country of incorporation;
 - (b) not be under notice of debarment by the Government of Tuvalu;
 - (c) have completed in the last 3 years at least two contracts of a similar nature, each valued at not less than 75 per cent of the bid price for this contract;
 - (d) have a cumulative ~~construction~~ turnover in the last two years equal to at least two times the value of the bid price; and
 - (e) nominate a Site Manager with at least 3 years of experience of being in charge of **services** of an equivalent nature and size.
5. Documentary evidence to demonstrate the bidder's qualifications under 4 (a), (c), (d) and (e) must be submitted with the bid.
6. Bids must be delivered to the address given below at or before *[insert date and time, 20 days from first date of advertisement]*. Late bids will be rejected. Bids will be opened in public at the same address immediately after the closing time, in the presence of bidders' representatives. Members of the public may also attend.
7. All bids must be accompanied by a Bid Securing Declaration as described in the bidding documents. Any bid not so accompanied shall be rejected as non-responsive.

8. The Employer shall award the contract to the bidder that has submitted the **best value for money bid**, as defined in Part 8 of the Public Procurement Regulations of Tuvalu, as amended on (*date*), provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

9. Bids must be submitted in hard copy at the following address:

[Insert name of Employer, name of concerned officer, office address, and telephone and fax numbers.]

10. The Government of Tuvalu will debar a company from bidding and executing any contract for a period of time it shall determine, if it at any time determines that the company has engaged in fraudulent or corrupt practices in competing for or in executing a contract.

11. Any party may lodge a complaint at any stage of the procurement process using the procedure described in Part 13 of the Public Procurement Regulations of Tuvalu.

SECTION 1: INSTRUCTIONS TO BIDDERS

1. Eligibility

1.1 The bid is open to all eligible and qualified providers of *[insert type of service]* except those who are under notice of debarment by the Government of Tuvalu. Materials and equipment used in providing the required services may be sourced from any state or country except those with whom the Government of Tuvalu has officially prohibited commercial relations.

1.2 To be eligible and qualified for award of this contract, a bidder must meet the conditions stated in paragraph 4 of the Invitation for Bid

2. Contents of Bidding Documents

2.1 The Bidding Documents comprise the following:

INVITATION FOR BID

SECTION 1: INSTRUCTIONS TO BIDDERS

SECTION 2: CONDITIONS OF CONTRACT

SECTION 3: SERVICES SPECIFICATION *[we to specify]*

SECTION 4: SERVICES INPUT AND PRICING SCHEDULE *[we to define inputs, bidder to confirm/amend and fill in pricing schedule]*

SECTION 5: DECLARATION ON ETHICAL CONDUCT

SECTION 6: BID SECURING DECLARATION

SECTION 7: BID SUBMISSION FORM

SECTION 8: FORM OF CONTRACT

3. Documents Comprising the Bid

3.1 The bid shall comprise the following documents duly completed and signed by the bidder:

Bid Submission Form (Section 7)

Documentary evidence of compliance with Invitation for Bid clauses 4 (a), 4 (c), 4 (d) and 4 (e)

Priced Security Services Input Schedule (Section 4)

Declaration on Ethical Conduct (Section 5)

Bid Securing Declaration (Section 6)

4. Eligibility and Qualifications of Bidders

4.1 To be eligible and qualified, a bidder must:

- (a) not be under notice of debarment by the Government of Tuvalu;
- (b) have successfully completed at least two contracts for supply of similar works in the preceding three years, each of not less than 50 per cent of the bid price for this contract; and
- (c) have completed contracts in the preceding two years with a total cumulative value equal to at least two times the value of the bid price for this contract.

5. Language of Bid

5.1 Bids shall be submitted in the English language.

6. Currency and Pricing of Bid

6.1 All rates and prices shall be quoted in Australian dollars (AUD). Items in the Bills of Quantities and Activity Schedule for which no rate or price is entered shall be deemed covered by the rates and prices entered for other items. Prices shall be deemed to be inclusive of all taxes and duties, treatment of certain goods for the prevention of the introduction or spread of diseases or pests (see GCC clause 2.5), ~~insurance of the works until takeover,~~ and all other costs incurred by the **Service Provider** in implementing the contract. The prices shall be fixed price for the duration of the contract.

7. Sealing of Bids

7.1 The bidder shall prepare one original of the documents comprising the bid as described in Clause 3 of these Instructions and clearly marked "Original". In addition, the Bidder shall submit two copies, each of which shall be clearly marked as "COPY". In the event of discrepancy between them the original shall prevail. The original and each copy of the bid shall be signed by a person or persons duly authorized to sign on behalf of the bidder. All the pages of the bid where entries or amendments or corrections have been made shall be initialled by the person or persons signing the bid. The original and each copy of the bid shall be sealed in separate envelopes, marked as "ORIGINAL" and "COPY" with all three envelopes placed into one outer envelope. The inner and the outer envelopes shall be addressed to the Employer at the address provided in the Invitation to Bid. The outer envelope shall carry a warning not to open before the specified time and date for bid opening as defined in Clause _ of these Instructions. If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the bid and its consequent rejection. The inner envelopes only shall indicate the name and full address of the bidder.

8. Submission of Bids

8.1 Bids shall be delivered to the Employer no later than *[insert date and time]* at the address given in paragraph 9 of the Invitation for Bids. Any bid received by the Employer after the deadline shall be rejected and returned unopened to the bidder.

9. Bid Evaluation Criteria

9.1 The Employer shall award the contract to the bidder that has submitted the best **value for money** responsive bid, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily. In evaluating the Bids, the Employer will correct any arithmetic errors as follows:

- (a) where there is a discrepancy between amounts in figures and in words, the amount in words shall prevail;
- (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate quoted shall prevail;

9.2 If a bidder refuses to accept a correction, its bid shall be rejected and the Bid Securing Declaration executed.

10. Employer's Rights

10.1 The Employer reserves the right to accept or reject any bid, and to annul the bidding process at any time prior to issue of the Letter of Award, without incurring any liability to any bidder or any obligation to inform the affected bidders of the grounds for the Employer's decision.

10.2 The Employer reserves the right to inspect and audit any and all records of bidders relating both to the preparation of bids and execution of the contract by the winning bidder.

11. Notification of Award and Signing of Contract

11.1 The bidder whose bid has been accepted will be notified of the award by the Employer prior to the expiration of the validity period of the bid, by facsimile or registered or hand delivered letter. The written notification of award will constitute the formation of the Contract. In the event that no notification of award is issued, the signature of the Contract by the Employer and Bidder shall constitute the formation of the Contract.

12. Publication of Award

12.1 After a contract has been awarded, the Employer shall publish the names of the successful and unsuccessful bidders on the Government website and public notice board in the Government Offices. The Employer shall also notify in writing all participating bidders the name of the successful bidder.

13. Debriefing

13.1 After publication of the award of contract, an unsuccessful bidder has the right to request a debriefing to ascertain why its bid was unsuccessful and the Employer shall provide a debriefing. No commercial confidences shall be breached and no detailed information concerning other bids will be disclosed other than the information already read out at bid opening.

14. Complaints

14.1 A complaint may be made by any party at any stage of the procurement process. Complaints received during the bid evaluation process will be reviewed by the Employer and a response issued only after the evaluation is completed. Complaints shall be made, and will be received and attended to, in accordance with the procedure defined in Part 13 of the Public Procurement Regulations of Tuvalu.

15. Fraud and Corruption

15.1 The Government of Tuvalu has a policy of zero tolerance of fraud and corruption and shall reject a proposal for award of a contract, or cancel a contract already awarded, if it determines that the bidder or contractor concerned, or any of its personnel, agents, sub-consultants, subcontractors, non-consulting service providers, and suppliers has directly or indirectly engaged in fraud and corruption in securing a contract or implementing the contract. The bidder, contractor or service provider concerned shall be liable to debarment from all future Government contracts for a period stated in the Procurement Suspension and Debarment Procedure issued by the Central Procurement Unit.

15.2 All bidders are required to sign the Declaration on Ethical Conduct at Section 5 of these Bidding Documents and attach it to their bid. The Declaration will form part of the Contract awarded to the successful bidder.

16. Validity of Bid

16.1 Bids shall remain valid for acceptance for 45 calendar days after the closing date for submission to the Employer.

SECTION 2: CONDITIONS OF CONTRACT

- | | |
|--|--|
| 1. General Provisions | <p>1.1 The Contractor confirms that he has examined, read and understood all the Contract Documents, comprising:</p> <p style="padding-left: 40px;">Bid Submission Form</p> <p style="padding-left: 40px;">Form of Contract</p> <p style="padding-left: 40px;">Conditions of Contract</p> <p style="padding-left: 40px;">Services Specification including Drawings if issued</p> <p style="padding-left: 40px;">Services Input, Work Plan and Pricing Schedule</p> <p style="padding-left: 40px;">Declaration on Ethical Conduct</p> <p style="padding-left: 40px;">Bid Securing Declaration</p> <p>1.2 The Contract shall be amended only by written agreement between the Employer and the Contractor.</p> <p>1.3 This Contract shall be subject to the laws of Tuvalu. Every effort shall be made to resolve disputes amicably without referral to third parties. Any dispute that cannot be resolved amicably shall be referred to arbitration under procedures described in the Arbitration Act, 2008 Revised Edition.</p> |
| 2. Employer's and Contractor's Obligations | <p>2.1 On the start date, the Employer shall indicate to the Contractor the exact locations where the Services are to be provided.</p> <p>2.2 The Employer shall pay the Contractor the Contract price of <i>[Insert amount in words and figures before the contract is signed]</i> for completion of the Services described in the Services Specification, and Services Input and Pricing Schedule.</p> <p>2.3 The Contractor shall complete construction of the Works on or before the contract completion date. The Works shall conform to the drawings and standards in the Technical Specification and the Contractor shall be responsible for insuring the Works against all risks during the construction period.</p> <p>2.4 The Contractor guarantees that all materials used in the permanent works will be new and unused. Throughout the Contract and warranty period, the Contractor agrees to make good, at its own expense, any defect that is due to the quality of materials or workmanship.</p> |

- 2.3 The Quarantine Act (2008 Revised Edition) and the Plants Act (2008 Revised Edition) and their supporting Regulations, require that certain goods imported into Tuvalu are treated for the prevention of the introduction or spread of diseases or pests. The Purchaser shall apply for an Import Permit for such goods, which will specify the treatment required, usually fumigation. The Import Permit will be given to the Supplier, who shall be responsible for ensuring that treatment is carried out in accordance with the conditions stated on the Import Permit, including the provision of a Fumigation Certificate by the fumigator and an Inspection Certificate by the quarantine authorities at the port where fumigation is carried out. Upon arrival at the Port of Funafuti, Tuvalu, the Fumigation Certificate and Inspection Certificate shall be presented to the authorities with the shipping documents. All costs incurred in complying with this Clause are deemed to be included in the Supplier's prices.
3. Conditions for Execution of the Works
- 3.1 The Contractor shall not sub-contract any part of the Services to be provided without the written consent of the Employer, which shall not be unreasonably withheld for amounts totalling less than 30% of the contract value. If the Employer approves sub-contracting, such consent shall not relieve the Contractor of its obligations under the Contract.
- 3.2 The Contractor shall commence implementation of the Contract on the start date specified in the Letter of Award and shall cease to provide the Services after the number of calendar days stated in the Letter of Award. If implementation of the Contract is delayed or suspended due to any circumstances which could not reasonably have been foreseen, the Contractor shall inform the Employer immediately of the circumstances. If the Employer considers that an extension of time for the provision of Services is justified, the Contractor must submit and agree an amended Work Plan with the Employer.
- 3.3 If the Contractor has not started to provide the Services 15 calendar days after the start date, the Employer shall have the right to cancel the contract. If at any time, implementation of any part of the Works is delayed by more than 100 calendar days beyond the dates shown in the Work Plan, the Employer has the right to cancel the contract. In either circumstance, if the delay is attributable to a breach of Contract by the Contractor, the Employer will debar the Contractor from bidding or accepting all publicly funded contracts for a period that

it shall determine.

- 3.4 If at any time during the Contract, the Contractor fails to provide the level of services agreed in **Services Input, Work Plan and Pricing Schedule**, the Employer has the right to **withhold payment to the Contractor of the daily amount specified in the Pricing Schedule for those services not being provided.** If the amount withheld reaches 10% of the contract value, the Employer has the right to terminate the contract **immediately.**
 - 3.5 If Force Majeure makes completion of the contract impossible, the Contractor may ask the Employer to be released from the Contract. The Contractor may request the Employer **for payment for Services that have been provided** at the time the request for release is made.
 - 3.6 The Contractor shall appoint a Site Manager **who shall be present in Tuvalu for the duration of the Contract and contactable at all times.** The Site Manager and each site-based staff member of the Contractor shall keep a Services Notebook to record all instances of breaches or attempted breaches of security, and shall carry a camera to provide photographic evidence of such breaches or attempted breaches.
 - 3.7 The Employer shall appoint a Contract Manager as its representative and notify the Contractor of this person's name.
 - 3.8 The Contract Manager may issue instructions to the Contractor to ensure compliance with the **Services Input, Work Plan and Pricing Schedule.** The Contract Manager's instructions shall not require the Contractor to change the methodology of Services delivery without the written agreement of the Employer.
 - 3.9 **The Contract Manager shall act as the intermediary for all formal contact between the Tuvalu Police Department and the Contractor.**
4. Payment Provisions
- 4.1 Monthly payments shall be made to the Contractor upon his submission of written requests to the Employer. The Contract Manager shall verify that the requests are in accordance with the agreed Work Plan and Pricing Schedule. The Contract Manager shall then either: (a) issue a brief Progress Report of the Contractor's activities and compliance with the agreed Work Plan and Pricing Schedule within three working days of receiving the Contractor's written request for payment, certifying that the conditions for release of the payment have been met; or (b) return the request for payment to the

Contractor noting any errors that need correction before resubmittal.

- 4.3 The Employer shall make payments within 30 days of receipt of the Contractor's invoices provided that the conditions for payment in Clause 4.1 have been met. *[For contract periods of 3 months or less, the 30 days should be reduced to 15 days.]*
- 4.5 The Employer shall pay interest to the Contractor on any payment that is due and is delayed more than one (1) calendar month beyond the period stipulated in Clause 4.3. The rate of interest shall be 1% per complete calendar month of delay.
- 4.6 If taxes, duties, and other levies payable by the Contractor are changed between seven (7) days before the submission of bids and bid opening, the Employer shall adjust the Contract price accordingly, provided such changes are not already reflected in the bid price and can be substantiated with supporting documents.
- 4.7 If the Contract is terminated due to default by the Contractor, the Employer has the right to take over the **Provision of Services** and complete them by any other method. Payment to the Contractor will be limited to the difference between the Pricing Schedule and the cost to the Employer of completing the Services that were not implemented by the Contractor.

5. Special
Conditions

- 5.1 *[The Employer should add clauses here that are specific to each particular contract.]*

SECTION 3: SERVICES SPECIFICATION

[The Services Specification (duties of security staff) should be written and inserted here. We need to define at least the duties, team structure and deliverables (reports of incidents, etc). There are plenty of commercial examples available online from developed countries, some of which are extremely legalistic and require private security firms to insure against non-performance, but I cannot find anything that appears relevant to Tuvalu's isolated location and level of development.

Could our colleagues in Tuvalu get some data from Fiji Airways on their security arrangements? I understood from CEO Lee that FJ contracts out its security services.]

List of Drawings

[My suggestion is that we issue area plans of Funafuti showing the location of the bases and sub-bases of security guards provided under the Contract. Are we going to provide the bases (small huts) or let the appointed services provider to arrange that with PWD?]

SECTION 4: SERVICES INPUT AND PRICING SCHEDULE

[This is really a Bill of Quantities for what is basically a manpower contract. Some suggestions entered but needs more thought.]

No.	Item of Services	Unit	Quantity	Rate (AUD)	Amount (AUD) (Quantity × Rate)
1	Contractor's administration and head office overheads)	month	12		
2	Site Manager	month	12		
3	Senior Security Guard – Funafuti Govt Building	month	12		
4	Senior Security Guard – Funafuti North	month	12		
5	Senior Security Guard – Funafuti Central	month	12		
6	Senior Security Guard – Funafuti South	month	12		
7	Security Guard (4) – govt/north/central/south	month	12 x 4		
8	Mobile Security Guard (2)	month	12 x 2		
	<i>[Add items such as motorcycle rent, guard bases (huts), uniforms, walkie-talkies or mobile phones, notebooks, torches...]</i>				
Total Amount (AUD)					

SECTION 5: DECLARATION ON ETHICAL CONDUCT

The undersigned, as the authorised representative of the Bidder, confirms that in the preparation of our bid:

1. We, our employees, associates, agents, shareholders, partners and consultants, or their relatives or associates:
 - (a) have no relationship that could be regarded as a conflict of interest as defined in Regulation 71 of the Public Procurement Regulations of Tuvalu; should we become aware of the potential for a conflict of interest, we will advise the Employer immediately; and
 - (b) have not engaged in any corrupt or fraudulent practices during the preparation of this bid.
2. No unauthorised payments in cash or in kind in connection with this procurement proceeding have been made or will be made by us, our employees, associates, agents, shareholders, partners and consultants, or by their relatives or associates, to any employees, associates, agents, partners or consultants of the Employer, or to their relatives and associates.
3. We understand that if we are found to be in breach of this Declaration, we shall be debarred from any contracts with the Government of Tuvalu for a period stated in the Procurement Suspension and Debarment Procedure issued by the Central Procurement Unit.

Authorised signature: _____

Name and job title: _____

Name and address of Bidder: _____

Telephone No: _____

Fax No: _____

E-mail address: _____

Affix company seal:

SECTION 6: BID SECURING DECLARATION

(The Bidder shall complete and sign this form)

Date: _____

Name of contract: _____

Contract Identification No: _____

Invitation for Bid No: _____

To: *(name and address of Employer)*

We, the undersigned, declare that:

1. We understand that this bid must be supported by a Bid and Performance Securing Declaration.
2. We accept that, if we are in breach of our obligations under the bidding and/or contract conditions, we shall be debarred from bidding for any contract with the Government of Tuvalu for a period stated in the Procurement Suspension and Debarment Procedure issued by the Central Procurement Unit., starting from the date when the Employer executes this Declaration. The Government of Tuvalu can debar us if we:
 - (a) withdraw our Bid during the period of bid validity specified in the Bid Submission Form; or
 - (b) do not accept the correction of mathematical errors in accordance with the Instructions to Bidders; or
 - (c) fail or refuse to execute the Form of Contract during the period of bid validity, having been notified of the acceptance of our Bid by the Employer; or
 - (d) are in default of the contract conditions resulting in the Employer terminating the contract.
3. If we are not named as the successful bidder, we understand that this Bid Securing Declaration shall expire 30 calendar days after the expiry of the validity of our Bid. If we are awarded a contract, we understand that this Bid Securing Declaration will expire upon successful completion of the defects liability period specified in the Conditions of Contract.
4. We understand that if we are a Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits the bid. If the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all future partners in the Joint Venture, as named in our bid.

Signed: _____

Print name: _____

In the capacity of: _____ *[insert job title]*

Duly authorized to sign the Bid for and on behalf of: _____ *[name of company or joint venture]*

Dated on this ____ day of _____, 20__

SECTION 7: FORM OF BID

(Reproduce on Bidding Company’s Letter Heading)

To: *(insert name of Employer – see Section 1)*
Offices of the Government of Tuvalu
Vaiaku
Funafuti
Tuvalu

IFB No: OS/_____ *(insert number – see Section 1)*

Date: _____

In conformity with the Bidding Documents and in accordance with the Conditions of Contract, we offer to construct *(insert a brief description of the Works)*. The total price of our Bid, including any discounts offered, is AUD *(insert amount in words and figures)*. We agree to complete the works according to the Technical Specification and the Drawings and within the time allowed.

This bid and your written acceptance will constitute a binding contract between us until the Form of Contract is signed. We understand that you are not bound to accept the lowest or any bid you receive.

We hereby confirm that this bid will remain valid for 45 calendar days after the deadline for submission of bids.

We note and accept without reservation the Government’s right to audit and inspect any and all records relating both to the preparation of our bid, and if our bid is successful, the execution of the resulting contract.

Signed: _____ Print name: _____

In the capacity of: _____ *(insert job title)*

Name and address of bidder: _____

Affix company seal:

Phone number: _____

Fax number: _____

E-mail address: _____

SECTION 8: FORM OF CONTRACT

[The Employer shall complete this form before signing by both parties]

AGREEMENT

This Agreement is made on the _____ day of _____ 20__, by and between *[insert name and address of Employer]*, hereinafter called the Employer, and *[insert name and address of Contractor]*, hereinafter called the Contractor

Whereas the Employer invited bids for *[insert brief description of Works – add services if required]* and has accepted a Bid by the Contractor for the execution and completion of those Works *[add "and services" if required]* in the sum of *[insert Contract Price in Australian Dollars in words and figures]* (hereinafter called "the Contract Price").

Now this Agreement witnesses as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. The following documents shall constitute the Contract between the Employer and Contractor, and each shall be read and construed as an integral part of the Contract:
 - (a) This Contract Agreement
 - (b) Conditions of Contract
 - (c) Technical Specification
 - (d) Bill of Quantities
 - (e) Contractor's Work Plan approved by the Employer
 - (f) Bid Submission Form
 - (g) Employer's Notification of Award
 - (h) Declaration on Ethical Conduct
3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
4. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.

5. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

In Witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

For and on behalf of the Employer

[signed]

in the capacity of: *[insert title or designation and affix official Seal]*

in the presence of: *[insert name, title and signature of official witness]*

For and on behalf of the Contractor

[signed by authorized representative of the Contractor]

in the capacity of: *[insert title or designation and affix official Seal]*

in the presence of: *[insert name, title and signature of official witness]*