

## PROCUREMENT PLAN

### Basic Data

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| <b>Project Name:</b> GMS Ben Luc-Long Thanh Expressway - PFR 2   |   |
| <b>Project Number:</b> 41414-063   | <b>Approval Number:</b>                                 |
| <b>Country:</b> Viet Nam, Socialist Republic of  | <b>Executing Agency:</b> Vietnam Expressway Corporation |
| <b>Project Procurement Classification:</b>   | <b>Implementing Agency:</b><br>N/A                      |
| <b>Project Procurement Risk:</b>   |   |
| <b>Project Financing Amount:</b> US\$ 286,000,000<br><b>ADB Financing:</b> US\$ 286,000,000<br><b>Cofinancing (ADB Administered):</b><br><b>Non-ADB Financing:</b> | <b>Project Closing Date:</b>                            |
| <b>Date of First Procurement Plan:</b>   | <b>Date of this Procurement Plan:</b> 23 March 2016     |

### A. Methods, Thresholds, Review and 18-Month Procurement Plan

#### 1. Procurement and Consulting Methods and Thresholds

Except as the Asian Development Bank (ADB) may otherwise agree, the following process thresholds shall apply to procurement of goods and works.

| Procurement of Goods and Works              |                           |              |
|---|---------------------------|--------------|
| Method                                      | Threshold                 | Comments     |
| International Competitive Bidding for Works | US\$ 10,000,000 and Above | Prior review |

#### 2. Goods and Works Contracts Estimated to Cost \$1 Million or More

The following table lists goods and works contracts for which the procurement activity is either ongoing or expected to commence within the next 18 months.

| Package Number | General Description             | Estimated Value | Procurement Method | Review (Prior/Post) | Bidding Procedure | Advertisement Date (quarter/year) | Comments  |
|----------------|---------------------------------|-----------------|--------------------|---------------------|-------------------|-----------------------------------|---|
| A-5            | Civil works (Km32+450-Km35+900) | 38,360,000.00   | ICB                | Prior               | 1S2E              | Q1 / 2016                         | No Prequalification; Estimated value is inclusive of VAT and exclusive of contingencies |
| A-6            | Civil works (Km35+900-Km52+400) | 73,380,000.00   | ICB                | Prior               | 1S2E              | Q1 / 2016                         | No Prequalification; Estimated value is inclusive of VAT and exclusive of contingencies |
| A-7            | Civil Works (Km52+400-Km57+700) | 97,960,000.00   | ICB                | Prior               | 1S2E              | Q1 / 2016                         | No Prequalification; Estimated value is inclusive of VAT and exclusive of contingencies |

### 3. Consulting Services Contracts Estimated to Cost \$100,000 or More

The following table lists consulting services contracts for which the recruitment activity is either ongoing or expected to commence within the next 18 months.

| Package Number | General Description | Estimated Value | Recruitment Method | Review (Prior/Post) | Advertisement Date (quarter/year) | Type of Proposal | Comments |
|----------------|---------------------|-----------------|--------------------|---------------------|-----------------------------------|------------------|----------|
| None           |                     |                 |                    |                     |                                   |                  |          |

### 4. Goods and Works Contracts Estimated to Cost Less than \$1 Million and Consulting Services Contracts Less than \$100,000 (Smaller Value Contracts)

The following table lists smaller-value goods, works and consulting services contracts for which the activity is either ongoing or expected to commence within the next 18 months.

| Goods and Works |                     |                 |                     |                    |                     |                   |                                   |          |
|-----------------|---------------------|-----------------|---------------------|--------------------|---------------------|-------------------|-----------------------------------|----------|
| Package Number  | General Description | Estimated Value | Number of Contracts | Procurement Method | Review (Prior/Post) | Bidding Procedure | Advertisement Date (quarter/year) | Comments |
| None            |                     |                 |                     |                    |                     |                   |                                   |          |

| Consulting Services |                     |                 |                     |                    |                     |                                   |                  |          |
|---------------------|---------------------|-----------------|---------------------|--------------------|---------------------|-----------------------------------|------------------|----------|
| Package Number      | General Description | Estimated Value | Number of Contracts | Recruitment Method | Review (Prior/Post) | Advertisement Date (quarter/year) | Type of Proposal | Comments |
| None                |                     |                 |                     |                    |                     |                                   |                  |          |

### B. Indicative List of Packages Required Under the Project

The following table provides an indicative list of goods, works and consulting services contracts over the life of the project, other than those mentioned in previous sections (i.e., those expected beyond the current period).

| Goods and Works |                     |                              |                               |                    |                     |                   |          |
|-----------------|---------------------|------------------------------|-------------------------------|--------------------|---------------------|-------------------|----------|
| Package Number  | General Description | Estimated Value (cumulative) | Estimated Number of Contracts | Procurement Method | Review (Prior/Post) | Bidding Procedure | Comments |
| None            |                     |                              |                               |                    |                     |                   |          |

| Consulting Services |                     |                              |                               |                    |                     |                  |          |
|---------------------|---------------------|------------------------------|-------------------------------|--------------------|---------------------|------------------|----------|
| Package Number      | General Description | Estimated Value (cumulative) | Estimated Number of Contracts | Recruitment Method | Review (Prior/Post) | Type of Proposal | Comments |
| None                |                     |                              |                               |                    |                     |                  |          |

## **C. National Competitive Bidding**

### **1. General**

The procedures to be followed for the procurement of goods, non-consulting services, and works under contracts awarded on the basis of National Competitive Bidding shall be those set forth in: (a) Law on Procurement No. 43/2013/QH13 dated November 26, 2013 (“Law on Procurement”) and (b) Decree No. 63/2014/ND-CP dated June 26, 2014 (collectively, “National Procurement Laws”). Whenever any procedure in the National Procurement Laws is inconsistent with the ADB Procurement Guidelines (March 2013, as amended from time to time), the ADB Procurement Guidelines shall prevail, amongst others on the following.

### **2. Eligibility**

- (i) The eligibility of bidders shall be defined under section I of the ADB Procurement Guidelines; accordingly, no bidder or potential bidder should be declared ineligible for reasons other than those provided in section I of the ADB Procurement Guidelines, as amended from time to time. Conditions of bidders’ participation shall be limited to those that are essential to ensure bidders’ capability to fulfill the contract in question. Foreign bidders shall be eligible to participate under the same conditions as national bidders. Foreign bidders shall not be asked or required to form joint ventures with, or be subcontractors to, national bidders in order to submit a bid.
- (ii) A firm declared ineligible by ADB cannot participate in bidding for an ADB-financed contract during the period of time determined by ADB.
- (iii) A bidder shall not have a conflict of interest, which term shall be defined in accordance with section 1 of ADB Procurement Guidelines.<sup>1</sup> Any bidder found to have a conflict of interest shall be ineligible for contract award.
- (iv) Government-owned enterprises in the Borrower’s country shall be eligible to participate as a bidder only if they can establish that they are legally and financially autonomous, operate under commercial law and are not dependent agencies of the Borrower or Sub-Borrower.
- (v) National sanction lists may only be applied with approval of ADB<sup>2</sup>.

### **3. Preferences**

No preference of any kind shall be given to domestic bidders over foreign bidders or for domestically manufactured goods over foreign manufactured goods. Unless otherwise stated in the applicable financing agreement, preferences among domestic bidders set forth in Article 14(3) of the Law on Procurement shall not be applied.

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<sup>1</sup> Detailed guidance on how to apply conflict of interest test is available under section I of ADB’s standard bidding documents for goods and works (as amended from time to time).

<sup>2</sup> For fraud and corruption cases, Section 50 of ADB’s Integrity Principles and Guidelines provides that ADB may decide that another international financial institution’s or legal or regulatory body’s determination that a party has failed to adhere to appropriate ethical standards, as defined by any established system of principles, rules, or duties, including the laws or regulations of a state, constitutes that party’s failure to maintain the highest ethical standards as required by ADB’s Anticorruption Policy. The party may be subject to remedial action in accordance with the Integrity Principles and Guidelines. <http://www.adb.org/sites/default/files/integrity-principles-guidelines.pdf>

#### **4. Bidding Procedure**

Single stage-single envelope shall be the default bidding procedure and application of other bidding procedures shall require ADB's prior approval.

#### **5. Time for Bid Preparation**

The time allowed for the preparation and submission of bids for large and/or complex packages shall not be less than thirty (30) days from the date of the invitation to bid or the date of availability of the bidding documents, whichever is later.

#### **6. Standard bidding documents**

The Borrower's standard bidding documents, acceptable to ADB, shall be used. Bidders shall be allowed to submit bids by hand or by mail/ courier.

#### **7. Bid Opening and Evaluation**

- (i) Bids shall be opened in public, immediately after the deadline for submission of bids, regardless of the number of bids received.
- (ii) Except with prior approval of ADB, merit points shall not be used in bid evaluation.
- (iii) No price adjustments shall be made for evaluation purposes in accordance with Article 117(6) of Decree 63 when unit rates offered by the bidder are determined to be abnormally low.
- (iv) Bidders shall be given commercially reasonable time period to respond to clarification requests.
- (v) Bidders shall not be eliminated from detailed evaluation on the basis of minor, non-substantial deviations<sup>3</sup>.
- (vi) Except with the prior approval of ADB, negotiations contemplated under paragraphs 7 and 8 of Article 117 of Decree No. 63/2014/ND-CP shall not take place with any bidder prior to contract award.
- (vii) A bidder shall not be required, as a condition for award of contract, to undertake obligations not specified in the bidding documents or otherwise to modify the bid as originally submitted.

#### **8. Rejection of All Bids and Rebidding**

- (i) No bid shall be rejected on the basis of a comparison with the Procuring Entity's estimate or budget ceiling without ADB's prior concurrence.
- (ii) All bids shall not be rejected and new bids solicited without ADB's prior approval.

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<sup>3</sup> A minor, non-substantial deviation is one that, if accepted, would not affect in any substantial way the scope, quality, or performance specified in the contract; or limit in any substantial way, the Contracting entity rights or the Bidder's obligations under the proposed contract or if rectified, would not unfairly affect the competitive position of other bidders presenting substantially responsive bids.

## **9. Publication of the Award of Contract. Debriefing.**

- (i) For contracts subject to prior review, within 2 weeks of receiving ADB's "No—objection to the recommendation of contract award, the borrower shall publish in the Government Public Procurement Gazette, or well-known and freely-accessible website the results of the bid evaluation, identifying the bid and lot numbers, and providing information on: i) name of each bidder who submitted a bid; ii) bid prices as read out at bid opening; iii) name and evaluated prices of each bid that was evaluated; iv) name of bidders whose bids were rejected and the reasons for their rejection; and v) name of the winning bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.
- (ii) For contracts subject to post review, the procuring entity shall publish the bid evaluation results no later than the date of contract award.
- (iii) In the publication of the bid evaluation results, the Borrower shall specify that any bidder who wishes to ascertain the grounds on which its bid was not selected, may request an explanation from the Borrower. The Borrower shall promptly provide an explanation of why such bid was not selected, either in writing and/or in a debriefing meeting, at the option of the Borrower. The requesting bidder shall bear all the costs of attending such a debriefing.

## **10. Contract Administration**

The Contract Agreement, as such term is defined in the relevant bidding document, shall be applied without any modification during implementation except as otherwise agreed by ADB.

## **11. Fraud and Corruption**

A provision shall be included in all bidding documents for NCB works and goods contracts financed by ADB stating that ADB will sanction a party or its related parties, including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB-financed, administered or supported activities if it at any time determines that the party has, directly or indirectly through an agent, engaged in integrity violations as defined under ADB's Integrity Principles and Guidelines, including corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, an ADB-financed, administered or supported contract.

## **12. Right to Inspect/ Audit**

Each bidding document and contract financed by ADB shall include a provision requiring bidders, contractors, agents (whether declared or not), sub-contractors, sub-consultants, service providers, or suppliers and any personnel thereof, to permit ADB to inspect all accounts, records and other documents relating to any prequalification process, bid submission, and contract performance (in the case of award), and to have them audited by auditors appointed by ADB.