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## **SOLICITATION DOCUMENT**

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**TENDER NO. ZDA/ORD/002/2017**

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# **TENDER FOR THE SUPPLY OF FUEL AND LUBRICANTS ON A ONE (1) YEAR CONTRACT**

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**Financing Agency: Zambia Development Agency**

**Zambia Development Agency  
Privatization House  
Nasser Road  
P.O. Box 30819  
Lusaka  
Zambia  
Tel No. +260-11-220177/222858  
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*March, 2017*

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## Section I: Invitation for Bids

### **ZDA/ORD/002/2017 - TENDER FOR THE SUPPLY OF FUEL AND LUBRICANTS ON A ONE (1) YEAR CONTRACT**

- 1.0 The Zambia Development Agency (ZDA) has set aside funds for the repair, maintenance and operation of its fleet of motor vehicles and intends to apply part of the funds to cover eligible payments under the Contract for the supply of Fuel and Lubricants on a one (1) year Contract.
- 2.0 The Agency now invites sealed bids from eligible and interested bidders for the supply of Fuel and Lubricants on a one (1) year Contract.
- 3.0 Interested eligible bidders may obtain further information from and inspect the bidding document at the Zambia Development Agency, Privatization House, Nasser Road, and P.O. Box 30819, Lusaka, Zambia. The telephone numbers are 260-211-222858; 220177 and the Telefax number is 260-211-225270. However, telegraphic and/or electronic offers will not be accepted. The tender document can also be accessed on the Zambia Development Agency website: [www.zda.org.zm](http://www.zda.org.zm).
- 4.0 Solicitation documents may be purchased by interested bidders from the Zambia Development Agency Offices, Privatisation House along Nasser Road, Lusaka upon payment of a non – refundable fee of **Five Hundred Kwacha (K500.00)**.
- 5.0 Bidders will be evaluated based on the **‘Preferential Procurement Margin Clause’** for bidders registered with the Citizen Economic Empowerment Commission (CEEC) in accordance with ‘The Citizen Economic Empowerment (Preferential Procurement) Regulation, 2011’, Statutory Instrument(SI) 36 (2011) as follows:
  - (i) For a Citizen influenced Company, by 4% (four percent);
  - (ii) For Citizen empowered Company by 8% (eight percent); and
  - (iii) For Citizen owned Company by 12% (twelve percent).
- 6.0 The bids must be appropriately bound; sealed and clearly bold labeled **“ZDA/ORD/002/2017 – Tender for the supply of Fuel and Lubricants on a one (1) year Contract”** and must be deposited in the Tender Box at the Zambia Development Agency Offices, ground floor, Privatization House Nasser Road, Lusaka on or before **Thursday 30<sup>th</sup> March, 2017 at 10:30 hours local time**.
- 7.0 **Bids must be accompanied by a Bid Security** of not less than K2, 000.00 duly signed by the Guarantor (s). **LATE, FAXED AND ELECTRONIC BIDS WILL NOT BE ACCEPTED**. Bids will be opened soon after closing in the Board Room on the 2<sup>nd</sup> Floor, Privatization House, Nasser Road, Lusaka in the presence of bidders or representatives who chose to attend.

**Nyadiyondi C. Moyo (Mrs.)**  
Manager – Procurement & Supplies

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**Instructions to Bidders**

**A. Introduction**

- 1. Source of funds**            The source of funds is the Zambia Development Agency. The Purchaser named in the Bid Data Sheet intends to apply these funds to eligible payments under the Contract for which this Invitation for Bids is issued.
  
- 2. Eligible Bidders**
  - 2.1 This Invitation for Bids is open to reputable and approved firms dealing in Fuel and Lubricants within Zambia.
  
  - 2.2 Bidders should not be associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates that has been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods and services to be purchased under this Invitation for Bids.
  
  - 2.3 Bidders who are or have been declared ineligible due to corrupt and fraudulent practices shall not be allowed to participate in the bid.
  
- 3. Eligible Services**            All goods and services to be supplied under the Contract shall conform to the requirements in the Schedule of Requirements and all expenditure made under the Contract will be limited to those services.
  
- 4. Cost of bidding**            Bidders shall bear all the costs associated with the preparation and submission of their bids, and the Purchaser named in the Bid Data Sheet, hereinafter referred to as “the Purchaser,” shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

**B. The Bidding Documents**

- 5. Content of bidding documents**
  - 5.1 The Services required, bidding procedures, and Contract terms are prescribed in the bidding documents. In addition to the Invitation for Bids, the bidding documents include the:
    - (a) Instructions to Bidders (ITB);
    - (b) Bid Data Sheet;
    - (c) General Conditions of Contract (GCC);
    - (d) Special Conditions of Contract (SCC);
    - (e) Schedule of Requirements;
    - (f) Bid Form;
    - (g) Price/Rate Schedule;
    - (h) Bid Security Form;

- (i) Contract Form;

5.2 Bidders shall examine all instructions, forms, terms, and specifications in the bidding documents. Failure to furnish all the information required as provided in the bidding documents or to submit a bid not substantially responsive to the bidding documents in every respect shall be at the Bidder's risk and may result in the rejection of a bid.

**6. Clarification of Bidding Documents**

A prospective Bidder requiring any clarification on a bidding document may notify the Purchaser in writing or facsimile at the Purchaser's address indicated in ITB Clause 18.2 (a). The Purchaser shall respond in writing to any request for clarification of the bidding documents, which it receives no later than seven (7) days prior to the deadline for the submission of bids prescribed in the Bid Data Sheet. Written copies of the Purchaser's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Bidders that have received the bidding documents.

**7. Amendment of bidding documents**

7.1 The Purchaser may at any time prior to the deadline for the submission of bids for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, amend the bidding documents.

7.2 All prospective Bidders that have received the bidding documents shall be notified of the amendment in writing or by cable, and the amendment shall be binding on them.

7.3 In order to allow prospective Bidders reasonable time in which to take the amendment into account in preparing their bids, the Purchaser may, at its discretion, extend the deadline for the submission of bids.

**C. Preparation of Bids**

**8. Language of bid**

The bid prepared by the Bidder, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Purchaser, shall be written in the language specified in the Bid Data Sheet. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the Bid Data Sheet, in which case, for purposes of the interpretation of the bid, the translation shall govern.

**9. Documents comprising the bid**

The bid prepared by the Bidder shall comprise the following components:

(a) a Bid Form and price schedule completed in accordance with ITB Clauses 10, 11 and 12;

(b) documentary evidence established in accordance with ITB Clause 13 that the Bidder is eligible to bid and is qualified to

perform the Contract if its bid is accepted;

- (c) documentary evidence established in accordance with ITB Clause 14 that the goods and services to be provided by the Bidder conform to the bidding documents;
- (d) the bid security furnished in accordance with ITB Clause 15;
- (e) a valid ZRA Tax Clearance Certificate;
- (f) Certificate of Incorporation;
- (g) ERB License; and
- (h) documentary evidence of Citizen Economic Empowerment Commission (CEEC) Preferential Scheme applicable treatment in accordance with the Statutory Instrument (SI) 36 (2011) of the Zambia Public Procurement Act No.12 of 2008 (if applicable).

**10. Bid form**

The Bidder shall complete the Bid Form furnished in the bidding documents, indicating the services to be provided under the contract and associated prices.

**11. Bid prices**

- 11.1 The Bidder shall indicate on the appropriate Price/rate Schedule (where applicable) and total bid price of the goods and services it proposes to supply under the Contract.
- 11.2 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and shall not be subject to variation on any account, unless otherwise specified in the Bid Data Sheet. A bid submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to ITB Clause 24. If, however, in accordance with the Bid Data Sheet, the prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation will not be rejected, but the price adjustment will be treated as zero.

**12. Bid currencies**

Prices shall be quoted in the currency of the Purchaser's country, unless otherwise specified in the Bid Data Sheet.

**13. Documents establishing bidder's eligibility and qualification**

- 13.1 Pursuant to ITB Clause 9, the Bidder shall furnish, as part of its bid, documents establishing the Bidder's eligibility to bid and its qualifications to perform the Contract if its bid is accepted.
- 13.2 The documentary evidence of the Bidder's eligibility to bid shall establish to the Purchaser's satisfaction that the Bidder, at the time of submission of its bid, is eligible as defined under ITB Clause 2.
- 13.3 The documentary evidence of the Bidder's qualifications to perform

the Contract if its bid is accepted shall establish to the Purchaser's satisfaction:

- (a) that the Bidder has the technical capability necessary to perform the Contract;
- (b) that the Bidder meets the qualification criteria listed in the Bid Data Sheet.

**14. Documents establishing services' eligibility and conformity to bidding documents**

Pursuant to ITB Clause 9, the Bidder shall furnish, as part of its bid, documents establishing the eligibility and conformity to the bidding documents of all services, which the Bidder proposes to supply under the Contract.

**15. Bid security**

- 15.1 Pursuant to ITB Clause 9, the Bidder shall furnish, as part of its bid, a bid security in the amount specified in the Bid Data Sheet.
- 15.2 The bid security is required to protect the Purchaser against the risk of Bidder's conduct that would warrant the forfeiture of the security, pursuant to ITB Clause 15.7.
- 15.3 The bid security shall be denominated in the currency of the bid or in another freely convertible currency, and shall be in one of the following forms:
  - (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the Purchaser's country or abroad, in the form provided in the bidding documents or another form acceptable to the Purchaser and it shall be valid for thirty (30) days beyond the validity of the bid; or
  - (b) a bank certified cheque.
- 15.4 Any bid not secured in accordance with ITB Clauses 15.1 and 15.3 will be rejected by the Purchaser as non-responsive, pursuant to ITB Clause 24.
- 15.5 An unsuccessful Bidder's bid security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of the validity of the bid prescribed by the Purchaser pursuant to ITB Clause 16.
- 15.6 The successful Bidder's bid security will be discharged upon the Bidder signing the Contract, pursuant to ITB Clause 33, and furnishing the performance security, pursuant to ITB Clause 34.
- 15.7 The bid security may be forfeited:



- (a) if a Bidder withdraws its bid during the period of the validity of the bid specified by the Bidder on the Bid Form; or
- (b) if a Bidder does not accept the correction of errors pursuant to ITB Clause 24.2; and
- (c) in the case of a successful Bidder, if the Bidder fails to:
  - (i) sign the Contract in accordance with ITB Clause 33;
  - or**
  - (ii) furnish the performance security in accordance with ITB Clause 34.

**16. Period of validity of bids**

- 16.1 Bids shall remain valid for the period specified in the Bid Data Sheet after the date of the opening of the bid prescribed by the Purchaser, pursuant to ITB Clause 19. A bid valid for a shorter period shall be rejected by the Purchaser as non-responsive.
- 16.2 In exceptional circumstances, the Purchaser may solicit the Bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing or by facsimile. The bid security provided under ITB Clause 15 shall also be suitably extended. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required nor permitted to modify its bid, except as provided in ITB Clause 16.3.
- 16.3 In the case of a fixed price Contract, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial validity of the bid, the Contract price may be adjusted by a factor specified in the request for extension.

**17. Format and signing of bid**

- 17.1 The Bidder shall prepare an original and the number of copies of the bid indicated in the Bid Data Sheet, clearly marking each "ORIGINAL BID" and "COPY OF BID," as appropriate. In the event of any discrepancy between them, the original shall govern.
- 17.2 The original and the copy or copies of the bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorised to bind the Bidder to the Contract. All pages of the bid, except for un-amended printed literature, shall be initialed by the person or persons signing the bid.
- 17.3 Any interlineations, erasures, or overwriting shall be valid only if they are initialed by the person or persons signing the bid.
- 17.4 The Bidder shall furnish information as described in the Form of Bid on commissions or gratuities, if any, paid or to be paid to Contractors relating to this Bid, and to the execution of the Contract if

the Bidder is awarded the Contract.

#### **D. Submission of Bids**

#### **18. Sealing and marking of bids**

- 18.1 The Bidder shall seal the original and each copy of the bid in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” The envelopes shall then be sealed in an outer envelope.
- 18.2 The inner and outer envelopes shall:
- (a) be addressed to the Purchaser at the address specified in the Bid Data Sheet; and
  - (b) bear the Project name indicated in the Bid Data Sheet, the Invitation for Bids (IFB) title and number indicated in the Bid Data Sheet, and a statement: “DO NOT OPEN BEFORE,” to be completed with the time and the date specified in the Bid Data Sheet, pursuant to ITB Clause 22.1.
- 18.3 The inner envelopes shall also indicate the name and address of the Bidder to enable the bid to be returned unopened in the event that it is declared “late”.
- 18.4 If the outer envelope is not sealed and marked as required by ITB Clause 18.2, the Purchaser shall not assume responsibility for the bid’s misplacement or premature opening.

#### **19. Deadline for submission of bids**

- 19.1 Bids shall be received by the Purchaser at the address specified under ITB Clause 18.2 no later than the time and date specified in the Bid Data Sheet.
- 19.2 The Purchaser may, at its discretion, extend the deadline for the submission of bids by amending the bidding documents in accordance with ITB Clause 7, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

#### **20. Late bids**

Any bid received by the Purchaser after the deadline for the submission of bids prescribed by the Purchaser pursuant to ITB Clause 19 shall be rejected and returned unopened to the Bidder.

#### **21. Modification and withdrawal of bids**

- 21.1 The Bidder may modify or withdraw its bid after submission of the bid, provided that written notice of the modification, including substitution or withdrawal of the bids, is received by the Purchaser prior to the deadline prescribed for the submission of bids.
- 21.2 The Bidder’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of

ITB Clause 18. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked no later than the deadline for the submission of bids.

21.3 A bid may not be modified after the deadline for the submission of bids.

21.4 A bid may not be withdrawn in the interval between the deadline for the submission of bids and the expiration of the period of the validity of the bid specified by the Bidder on the Bid Form. Withdrawal of a bid during this interval may result in the Bidder's forfeiture of its bid security, pursuant to the ITB Clause 15.7.

### **E. Opening and Evaluation of Bids**

#### **22. Opening of bids by the Purchaser**

22.1 The Purchaser shall open all bids in the presence of the Bidders' representatives who choose to attend, at the time, on the date, and at the place specified in the Bid Data Sheet. The Bidders' representatives who are present shall sign a register evidencing their attendance.

22.2 The Bidders' names, bid modifications or withdrawals, bid prices, discounts, and the presence or absence of requisite bid security and such other details as the Purchaser, at its discretion, may consider appropriate, will be announced at the opening. A bid shall not be rejected at the **opening** of the bid, except for late bids, which shall be returned unopened to the Bidder pursuant to ITB Clause 20.

22.3 Bids (and modifications sent pursuant to ITB Clause 21.2) that are not opened and read out at the opening of the bid shall not be considered further for evaluation, irrespective of the circumstances. Withdrawn bids shall be returned unopened to the Bidders.

22.4 The Purchaser shall prepare minutes of the opening of the bid.

#### **23. Clarification of bids and site visit**

23.1 During evaluation of the bids, the Purchaser may, at its discretion, ask the Bidder for a clarification of its bid. The request for clarification and the response shall be in writing, and no change in the prices or substance of the bid shall be sought, offered, or permitted.

#### **24. Preliminary examination**

24.1 The Purchaser shall examine the bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the bids are generally in order.

24.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the Contractor does not accept

the correction of the errors, its bid shall be rejected, and its bid security may be forfeited. If there is a discrepancy between words and figures, the amount in words shall prevail.

- 24.3 The Purchaser may waive any minor informality, nonconformity, or irregularity in a bid which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.
- 24.4 Prior to the detailed evaluation, pursuant to ITB Clause 26, the Purchaser will determine the substantial responsiveness of each bid to the bidding documents. For purposes of these Clauses, a substantially responsive bid is one which conforms to all the terms and conditions of the bidding documents without material deviations. Deviations from, or objections or reservations to critical provisions, **such as** those concerning Bid Security (ITB Clause 15), Applicable Law (GCC Clause 16), and Taxes and Duties (GCC Clause 7), shall be deemed to be a material deviation. The Purchaser's determination of a bid's responsiveness shall be based on the contents of the bid itself without recourse to extrinsic evidence.
- 24.5 If a bid is not substantially responsive, it shall be rejected by the Purchaser and may not subsequently be made responsive by the Bidder by correction of the nonconformity.

**25. Conversion to single currency**

- 25.1 To facilitate evaluation and comparison, the Purchaser shall convert all bid prices expressed in the amounts in various currencies in which the bid prices are payable to either:
- (a) the currency of the Purchaser's country at the selling exchange rate established for similar transactions by the Central Bank or a commercial bank in the Purchaser's country;
- or**
- (b) a currency widely used in international trade, such as U.S. dollars, at the selling rate of exchange published in the international press for the amount payable in foreign currency; and at the selling exchange rate established for similar transactions by the Central Bank in the Purchaser's country for the amount payable in the currency of the Purchaser's country.
- 25.2 The currency selected for converting bid prices to a common base for the purpose of evaluation, along with the source and date of the exchange rate, are specified in the Bid Data Sheet.

**26. Evaluation and comparison of bids**

- 26.1 The Purchaser will evaluate and compare the bids which have been determined to be substantially responsive, pursuant to ITB Clause 24.
- 26.2 The Purchaser's evaluation of a bid will take into account, in addition

to the price quoted in accordance with ITB Clause 11.2, one or more of the following factors as specified in the **Bid Data Sheet**:

- (a) Experience of the firm related to the assignment (to be verified from submitted references and company profiles);
- (b) Location of the service station relative to ZDA offices;
- (c) Methodology statement for the provision of Fuel and Lubricants;
- (d) Certificate of incorporation;
- (e) Valid Tax Clearance Certificate : respondents to this tender are required to obtain a Tax Clearance Certificate from the ZAMBIA REVENUE AUTHORITY issued in accordance with Section 81B of the Income Tax Act, Cap 323. Failure to submit a valid Tax Clearance Certificate **WILL** invalidate ones response to this tender.
- (f) Necessary licenses (e.g. from the Energy Regulation Board of Zambia) to buy, sell or deal in Fuel and Lubricants;
- (g) Preferential Procurement Margins:

Evaluation for bidders registered with the Citizen Economic Empowerment Commission (CEEC) in accordance to the Statutory Instrument (SI) 36 (2011) of the Zambia Public Procurement Act No.12 of 2008 will be as follows:

- (i) For a Citizen influenced Company, by 4% (four percent);
- (ii) For Citizen empowered Company by 8% (eight percent); and
- (iii) For Citizen owned Company by 12% (twelve percent).

***Bidders who fall under these categories should show proof to be considered for the preferential schemes.***

- (h) other specific criteria indicated in the **Bid Data Sheet** and/or in the Technical Specifications.

## **27. Contacting the Purchaser**

- 27.1 Subject to ITB Clause 23, a Bidder shall not contact the Purchaser on any matter relating to its bid, from the time of the opening of the bid to the time the Contract is awarded. If the Bidder wishes to bring additional information to the notice of the Purchaser, it should do so in writing.
- 27.2 Any effort by a Bidder to influence the Purchaser in its decisions on the bid evaluation, bid comparison, or Contract award may result in the

rejection of the Bidder's bid.

#### **F. Award of Contract**

#### **28. Post-qualification**

- 28.1 In the absence of pre-qualification, the Purchaser will determine to its satisfaction whether the Bidder that is selected as having submitted the best evaluated responsive bid is qualified to perform the Contract satisfactorily, in accordance with the criteria listed in ITB Clause 13.3.
- 28.2 The determination shall take into account the Bidder's financial, technical, and production capabilities. The determination **SHALL** be based on an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 13.3, as well as such other information as the Purchaser considers necessary and appropriate.
- 28.3 An affirmative determination shall be a prerequisite for the award of the Contract to the Bidder. A negative determination shall result in rejection of the Bidder's bid, in which event the Purchaser will proceed to the next best evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

#### **29. Purchaser's right to vary quantities**

The Purchaser reserves the right at the time of Contract award to increase or decrease, by the percentage indicated in the Bid Data Sheet, the quantity of services originally specified in the Schedule of Requirements without any change in unit prices or other terms and conditions.

#### **30. Award criteria.**

Subject to ITB Clause 31, the Purchaser **will** award the Contract to the successful Bidder whose bid has been determined to be substantially responsive and the best evaluated bid provided that the Bidder is determined as being qualified to perform the Contract satisfactorily.

#### **31. Purchaser's right to accept any bid and to reject any or all bids**

The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to the award of the Contract, without thereby incurring any liability to the affected Bidder or Bidders.

#### **32. Notification of award**

Prior to the expiration of the period of bid validity, the Client will notify the successful Bidder in writing, that its bid has been accepted. The notification of award will constitute the formation of the Contract. After publication of the award, unsuccessful Bidders may make a request in writing to the Client for a debriefing seeking an explanation on the grounds on which their bids were not selected. The Client shall promptly respond in writing to any unsuccessful Bidder who, after publication of the contract award, requests a debriefing.

**33. Signing of Contract**

- 33.1 At the same time as the Purchaser notifies the successful Bidder that its bid has been accepted, the Purchaser shall send the Bidder the Contract Form provided in the bidding Documents, incorporating all agreements between the Parties.
- 33.2 Within fourteen (14) days of receipt of the Contract Form, the successful Bidder shall sign and date the Contract and return it to the Purchaser.

**34. Performance security**

- 34.1 Within fourteen (14) days of receipt of the notification of award from the Purchaser, the successful Bidder shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the bidding documents, or in another form acceptable to the Purchaser.
- 34.2 Failure of the successful Bidder to comply with the requirement of ITB Clause 33 or ITB Clause 34.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security, in which event the Purchaser may award the next best evaluated Bidder or call for new bids.

**35. Corrupt or Fraudulent Practices**

The Purchaser requires Bidders to observe the highest standard of ethics during the procurement and execution of such a Contract. In pursuance of this policy, the Purchaser:

- (a) defines, for the purposes of this provision, the terms below as follows:
  - (i) “corrupt practices” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in the execution of the Contract; and
  - (ii) “fraudulent practices” means a misrepresentation of facts in order to influence a procurement process or the execution of a Contract to the detriment of the Purchaser and includes collusive practices among Bidders (prior to or after submission of a bid) designed to establish bid prices at artificial non-competitive levels and to deprive the Purchaser of the benefits of free and open competition;
- (b) shall reject a proposal for an award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract in question;
- (c) shall declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a ZDA-financed Contract if it at any time determines that the firm has engaged in corrupt practices or fraudulent practices in competing for, or in executing, a ZDA-financed Contract.

### Section III. Bid Data Sheet

The following specific data for the service to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in the ITB.

<b>Introduction</b>	
<b>ITB 1.1</b>	Name of Purchaser: <b>Zambia Development Agency.</b>
<b>ITB 1.1</b>	Name of Tender: <b>Tender for the supply of Fuel and Lubricants on a one (1) year Contract.</b>
<b>ITB 6.1</b>	<p>The Client's Address is:</p> <p>Zambia Development Agency            Privatization House,            Nasser Road,            P.O. Box 30819, Lusaka, Zambia            Tel: 260 1 220177/222858 Fax: 260 211 225270</p> <p>Address for seeking clarification is:</p> <p>The Secretary, Procurement Committee            Zambia Development Agency,            Privatization House,            P.O. Box 30819, Lusaka, Zambia.            Telephone numbers are (260)–211– 220177/222858            Fax number (260)– 211 –225270            E-mail: <a href="mailto:nyadiyondi.moyo@zda.org.zm">nyadiyondi.moyo@zda.org.zm</a></p>
<b>Preparation of Bids</b>	
<b>ITB 8.1</b>	Language of the bid: English.
<b>ITB 11.1</b>	Bidders are required to indicate the price payable.
<b>ITB 11.2</b>	<p>The price of fuel shall be the price determined by the Energy Regulation Board of Zambia (ERB) from time to time.</p> <p>The price quoted for Lubricants shall be fixed during the validity period of the Contract. Annual reviews may be allowed where the bidder has provided enough evidence to show major economic changes. Where the bidder applies for price adjustment, the Agency may award a price adjustment or terminate the Contract and invite a fresh tender.</p>
<b>ITB 12</b>	Prices shall be quoted in Zambian Kwacha.
<b>ITB 13.3 (b)</b>	Qualification requirements:



	<ol style="list-style-type: none"> <li>1. The Bidder must have a proven track record of handling similar contracts. The Bidder must have performed at least three similar contracts in the last five years. Bidders shall provide information on contract values, description of services performed, purchaser's name and address. The absence of this information <b>SHALL</b> render the bid non-responsive;</li> <li>2. The bidder must have a computerised Fuel issuance system for bidders domiciled in Lusaka;</li> <li>3. The bidder should also offer versatile card system that will ensure ZDA operates an effective and efficient reconcilable accounting system;</li> <li>4. Valid Tax Clearance Certificate;</li> <li>5. Certificate of Registration with the Patents and Companies Registration Agency (PACRA); and</li> <li>6. ERB License.</li> </ol>
<b>ITB 15.1</b>	Amount of bid security: <b>K2,000.00</b>
<b>ITB 16.1</b>	Period of validity of the bid: <b>90 days from the date of the opening of the bids.</b>
<b>ITB 17.1</b>	Number of copies: <b>one (1) original, and Five (5) copies.</b>
<b>Submission of Bids</b>	
<b>ITB 18.2 (a)</b>	<p>Address for submission of the bid:</p> <p>The Director General, Zambia Development Agency, Privatization House, Nasser Road, P.O. Box 30819, Lusaka, Zambia. Telephone numbers are (260)–211– 220177/222858 Fax number (260)– 211 – 225270</p> <p>The deadline for the submission of bids is:</p> <p>Date: <b>Thursday, 30<sup>th</sup> March, 2017</b></p> <p>Time: <b>10:30 hours</b></p>
<b>ITB 18.2 (b)</b>	IFB Title and No.: <b>Tender for the supply of Fuel and Lubricants on a one (1) year Contract – ZDA/ORD/002/2017</b>

<b>ITB 19.1</b>	Deadline for submission of the bids: <b>10:30 Hours Zambian time on Thursday, 30<sup>th</sup> March, 2017.</b>
<b>Opening and Evaluation of Bids</b>	
<b>ITB 22.1</b>	Time, date, and place for the opening of the bids: <b>10:30 Hours Zambian time on Thursday, 30<sup>th</sup> March, 2017.</b>
<b>ITB 25.1</b>	Not applicable
<b>ITB 26.2</b>	Criteria for evaluation of the bids are: 26.2 (a) to (h)
<b>Contract Award</b>	
<b>ITB 29</b>	Percentage for quantity increase or decrease: not to exceed fifteen (15) percent of the Contract value.

## Section IV. General Conditions of Contract

### Table of Clauses

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#### I. General Provisions

##### 1. Definitions

In this Contract, unless the context otherwise requires,

- (a) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents of the signed Contract;
- (b) “effective date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 8;
- (c) “GCC” means these General Conditions of Contract; and
- (d) “SCC” means Special Conditions of Contract by which the GCC may be amended or supplemented.

##### 2. Relationship between the Parties

Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and Supplier as between the ZDA and the Supplier. The Supplier shall, subject to this Contract, have complete charge of the Supplier’s personnel performing Services and shall be fully responsible for the Services performed by such personnel on behalf of the Supplier.

##### 3. Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the laws of Zambia.

##### 4. Language

This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

- 5. Location** The Services shall be performed at such locations as are specified in the Terms of Reference.
- 6. Authorized representative** Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by ZDA or the Supplier may be taken or executed by the officials specified in the SCC.
- 7. Taxes and Duties** Unless otherwise specified in the SCC, the Supplier shall pay the taxes, duties, fees and other impositions as may be levied under the law.

## **II. Commencement, Completion, Modification of Contract**

- 8. Effectiveness of Contract** This Contract shall come into force and effect on the date of signing of the contract.

**9. Termination** **9.1 Termination for default:**

9.1.1 ZDA may, without prejudice to any other remedy for breach of Contract, by one month's written notice sent to the Supplier, terminate this Contract in whole or in part:

- (a) if the Supplier fails to perform any or all the Services required within the period(s) specified in the Contract, or within any extension thereof granted by ZDA; or
- (b) if the Supplier fails to perform any other obligation under the Contract.

9.1.2 In the event that ZDA terminates the Contract in whole or in part, ZDA may procure, upon the terms and in the manner that ZDA considers appropriate, services similar to those undelivered, and the Supplier shall be liable to ZDA for any excess costs for such similar services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

### **9.2 Termination for Insolvency**

ZDA may at any time terminate the Contract by giving written notice to the Supplier if the Supplier becomes bankrupt or insolvent. In this event, the termination shall be without compensation to the Supplier, provided that such termination does not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to ZDA.

### **9.3 Termination**

9.3.1 This Contract may be terminated by either Party, giving three (3) months written notice to the other Party of such termination.

9.3.2 On the termination of this Contract the Supplier shall be permitted to remove all the Supplier's apparatus and equipment, which may have been placed by it upon ZDA's premises.

**10. Commencement of Services** The Supplier shall begin carrying out the Services on the Effective Date as shall be specified in the SCC.

**11. Expiration of Contract** Unless terminated earlier, this Contract shall terminate at the date as shall be specified in the SCC.

**12. Entire agreement** This Contract contains all covenants, stipulations and provisions agreed by the Parties. Neither Party nor a representative of either Party has Agency to make any statement, representation, promise or agreement not provided for in this Contract.

**13. Modification** Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposal for modification made by the other Party.

**14. Force Majeure** 14.1 Notwithstanding the provisions of GCC Clause 9, the Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that the Supplier's delay in performance or other failure to perform the Supplier's obligations under this Contract is the result of an event of Force Majeure.

14.2 For the purposes of this clause, "Force Majeure" means an event that is not foreseeable and is beyond the control of the Supplier or ZDA and not involving the Supplier's or ZDA's fault or negligence. Such events may include, but are not restricted to, acts of either Party in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

14.3 If a Force Majeure situation arises, the Supplier or ZDA shall promptly notify the other Party in writing of such condition and the cause thereof. Unless otherwise directed by the other Party in writing, the Party shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

### **III. Obligations of the Supplier**

**15. Standard of performance** The Supplier shall perform the Services and carry out the Supplier's obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and

practices, and shall observe sound management practices. The Supplier shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to ZDA, and shall at all times support and safeguard the ZDA's legitimate interests in any dealings with Third Parties.

**16. Prohibition of conflicting activities**

The Supplier shall not engage, and shall not cause its Personnel to engage, either directly or indirectly, during the term of this Contract in any activities, business or professional activities which may conflict with the activities assigned to the Supplier under this Contract.

**17. Confidentiality**

The Supplier or the Supplier's Personnel shall not, either during the term of the contract or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to ZDA's business or operations without the prior written consent of the ZDA.

**18. Liability of the Supplier**

18.1 The Supplier shall indemnify ZDA, its servants and workmen against loss of or damage to property or bodily injury, sustained by ZDA, its servants or workmen by reason of any act, dishonesty or neglect of the Personnel of the Supplier whilst performing their duties within the scope of their employment with the Supplier .

18.2 Notice of all claims by ZDA in respect of any loss, damage or injury or consequential or indirect loss shall be given in writing, to the Supplier at the address given at the head of this Agreement, and in default of such notice the Supplier shall not be held responsible for such claim.

**19. Equipment**

All equipment, machinery or other materials, which the Supplier is required to possess for the successful execution of this Contract shall remain the sole property of the Supplier.

**20. Incidental Services**

The Supplier may be required to additional Services, if any, specified in the SCC.

**21. Change Orders**

21.1 ZDA may at any time, make changes within the general scope of the Contract in any one or more of the following and notify the Supplier

of the changes, in writing :

- (a) duration of the Agreement; and
- (b) performance of any additional services outside the scope of the services as ZDA may require provided that such additional services shall be agreed between the Parties.

21.2 ZDA shall reimburse to the Supplier reasonable costs expended by the Supplier in carrying out any instructions under this clause.

**22. Liquidated damages**

Subject to clause 10, if the Supplier fails to perform any or all of the services, ZDA shall, without prejudice to its other remedies under this Contract, deduct from the contract sum, as liquidated damages, a sum equivalent to the actual loss or damage arising from the Supplier's default.

**23. Subcontracts**

The Supplier shall notify ZDA in writing of all subcontracts awarded under this Contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the Supplier from any liability or obligation under the Contract.

**24. Delays in the Supplier's Performance**

24.1 Performance of Services shall be made by the Supplier in accordance with the Time Schedule prescribed by the ZDA in the Schedule of Requirements.

24.2 If at any time during the performance of the Contract, the Supplier or its sub Suppliers encounters conditions impeding timely performance of services, the Supplier shall promptly notify ZDA in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, ZDA shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the Parties by an amendment to the Contract.

**IV. Supplier' Personnel**

**25. General**

The Supplier shall employ and provide qualified and experienced Personnel required to carry out the Services.

**26. Description of Personnel**

The Supplier is required to state the title, agreed job description, minimum qualification and estimated period of engagement of each of the Supplier's key Personnel.

**V. Fairness and Good Faith**

**27. Good Faith**

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable

measures to ensure the realization of the objectives of this Contract.

## **VI. Payment to the Supplier**

### **28. Prices**

Prices charged by the Supplier for the Services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments authorized in the SCC or in the ZDA's request for a bid validity extension, as the case may be. The price of fuel shall be the price determined by the Energy Regulations Board (ERB) from time to time.

### **29. Payment**

29.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in the SCC.

29.2 The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to GCC Clause 10, and upon fulfillment of other obligations stipulated in the Contract.

29.3 Payments shall be made promptly by the Purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the Supplier.

## **VII. Settlement of Disputes**

### **30. Amicable settlement**

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or the interpretation of the Contract.

### **31. Dispute settlement**

Any dispute between the Parties as to matters arising pursuant to this Contract which cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SCC.

### **32. Reporting Obligations**

The Supplier shall submit to ZDA the following reports:

- reconciled quarterly reports on fuel consumption and Lubricants



## **Section V: Special Conditions of Contract**

**1. Language (GCC 4)**

The language of the Contract shall be English.

**2. Authorized Representative (GCC 6)**

The authorized representative for ZDA is the Director General.

The authorized representative for the Supplier is the Chief Executive Officer of the Company.

**3. Taxes and Duties (GCC 7)**

The prices shall be inclusive of all local taxes.

**4. Commencement of services (GCC 10)**

The provision of the services shall commence on 1<sup>st</sup> May, 2017

**5. Expiration of Contract (GCC 11)**

The Contract shall expire on 30<sup>th</sup> April, 2018. The ZDA shall conduct quarterly reviews and where service delivery is considered unsatisfactory; the ZDA may terminate the Contract.

**6. Prices (GCC 28)**

The price of fuel shall be the price determined by the Energy Regulations Board (ERB) from time to time.

The price quoted for lubricants shall be fixed during the validity period of the contract. However, the **only** price variation permissible by ZDA will be that determined by the Energy Regulation Board (ERB).

**7. Payments (GCC 29)**

Under GCC 29.3, ZDA will pay the Supplier upon submission of invoice after a credit period of thirty (30) days.

**8. Dispute settlement (GCC 31)**

The ZDA and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with this contract.

If, after thirty (30) days from the commencement of such informal negotiations, ZDA and the Supplier have been unable to resolve amicably a Contract dispute, either Party may refer the dispute for resolution to an Arbitrator in accordance with the Arbitration Act, No. 19 of 2000.

**Section VI. Terms of Reference / Schedule of Requirements**

**1.0 INTRODUCTION**

1.1 The Zambia Development Agency (ZDA) is looking for reputable Service Station to supply Fuel and Fuel Lubricants. The service provider shall be expected to meet a high level of standards that are spelt out in this and other documents that constitute tender documents.

**2.0 SCHEDULE OF SERVICES**

**SUPPLIER**

2.1 The contracted company(s) shall be expected to provide Fuel and Fuel lubricants to ZDA motor vehicles as requested from time to time and the contracted company (s) is expected to store all essential lubricants and a list to that effect should be submitted with the bid.

2.2 The projected monthly consumption of the fuel is 1,526 litres Diesel and 380 litres for 14 motor vehicles, 2 motorbikes and 1 generator.

2.3 The service shall be provided on call off order basis as notified by ZDA from time to time.

2.4 The Supplier shall issue an official fuel receipt indicating motor vehicle mileage at the time of refueling.

2.5 The Supplier shall provide Fuel and Lubricants to the Client on a credit basis. Bidders should indicate proposed credit period.

2.6 The Supplier shall, for each month prepare invoices for goods sold to the Client with detailed fuel consumption stating the Station refueled from, time of the re-fuel and vehicle registration number.

- 2.7 The Supplier shall send the invoices within two days of the last day of the week for which goods were provided.
- 2.8 To be considered for Contract award, the Supplier must have a computerized system for issuance of fuel and lubricants and issuance of invoices for amounts of fuel consumed.
- 2.9 The Supplier shall consistently provide and render allied services at any authorized gasoline station nationwide through the use of **Fleet Cards**.
- 2.10 Issue Fleet Cards under the name of ZDA.
- 2.11 The Supplier shall protect the ZDA from possible frauds, misuse and abuse of the Fleet Cards by:
  - 1) providing separate cards to identify authorized drivers who will be allowed to refuel;
  - 2) providing available options to limit refueling up to the maximum allowable monthly allowance for each authorized vehicle in accordance with the ZDA rules and regulations

**ZAMBIA DEVELOPMENT AGENCY**

- 2.12 ZDA shall pay to the Supplier the amounts on the monthly invoices sent to it by the Supplier within thirty (30) days of receipt of the invoice.
- 2.13 ZDA shall provide to the Supplier a list approved by the Administration Unit containing:
  - (a) all its motor vehicles that are eligible for receiving fuel and lubricants, and
  - (b) the maximum amount of fuel and lubricants that each of its motor vehicles are entitled to in a calendar month.
- 2.14 ZDA shall immediately inform the Supplier of any of its motor vehicles that are no longer eligible to receive fuel and lubricants.

**Section VII. Sample Forms**

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**1a. Bid Form and Price Schedules**

Date: \_\_\_\_\_

IFB N°:

ZDA/ORD/002/2

017

To: [ \_\_\_\_\_ ]

Gentlemen and/or Ladies:

Having examined the bidding documents including Addenda Nos. *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply (*description of services*) in conformity with the said bidding documents for the sum of *[attach price list]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

We undertake, if our Bid is accepted, to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements.

If our Bid is accepted, we will obtain the guarantee of a bank in a sum equivalent to   N/A   percent of the Contract Price for the due performance of the Contract, in the form prescribed by the Purchaser.

We agree to abide by this Bid for a period of *[number]* days from the date fixed for the Bid opening under Clause 22 of the Instructions to Bidders, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any bid you may receive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
*[Signature]*

\_\_\_\_\_  
*[in the capacity of]*

Duly authorized to sign the Bid for and on behalf of \_\_\_\_\_

**1b. Price Schedule**

The bidder should provide a price list for the Fuel and Lubricants it proposes to supply under the contract.

**2. Form of Bid-Securing Declaration**

Date: \_\_\_\_\_  
Bid No.: \_\_\_\_\_  
Alternative No.: \_\_\_\_\_

To:

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding in any contract with Government for the period of time of \_\_\_\_\_ starting on \_\_\_\_\_, if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) have withdrawn our Bid during the period of bid validity specified in the Letter of Bid; or
- (b) having been notified of the acceptance of our Bid by the Employer during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Signed: \_\_\_\_\_

In the capacity of \_\_\_\_\_

Name: \_\_\_\_\_

Duly authorized to sign the bid for and on behalf of: [insert complete name of Bidder]

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Corporate Seal (where appropriate)

*[Note: In case of a Joint Venture, the Bid-Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid.]*

### 3. Contract Form

THIS AGREEMENT made the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ between the Zambia Development Agency, Privatization House, Nasser Road, Lusaka hereafter called “the Purchaser”) of the one part and \_\_\_\_\_ hereinafter called “the Supplier”) of the other part;

WHEREAS the Purchaser invited bids for certain goods and ancillary services, viz., provision of Fuel and Lubricants on a one year contract and has accepted a bid by the Supplier for the supply of those goods and services.

NOW THIS AGREEMENT WITNESSETH 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 referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) the Bid Form and the Price Schedule submitted by the Bidder;
  - (b) the Schedule of Requirements;
  - (c) the General Conditions of Contract;
  - (d) the Special Conditions of Contract; and
  - (e) the Purchaser’s Notification of Award.
3. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the goods and services and the remedying of defects therein, 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 hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed and delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Purchaser).

Signed, sealed and delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Supplier).