



Emsaad – Ras Ejdyer Motorway Authority

ERMA

PRE-QUALIFICATION TENDER

FOR THE CONSTRUCTION OF INFRASTRUCTURES IN LIBYA

The Libyan Authority ERMA (*Emsaad - Ras Ejdyer Motorway Authority*) intends to issue a tender procedure aiming at awarding the construction works for a new motorway infrastructure in Libya, in compliance with the Treaty on Friendship, Partnership and Cooperation between Italy and Libya signed in Benghazi on 30 August 2008.

Therefore, ERMA opens a prequalification procedure dedicated only to firms with registered office in Italy for over one year. The present pre-qualification tender contains the terms concerning this procedure and the selection criteria for pre-qualification.

SECTION I: CONTRACTING AUTHORITY

I.1 Name, addresses and contacts

Official name:

ERMA (Emsaad – Ras Ejdyer Motorway Authority), hereinafter referred also as “The Contracting Authority”.

Address:

ERMA’s Headquarter Office
El-Sabaa Road,
Fornaje Zone, Tripoli, (LIBYA)

Contacts:

The documents of this pre-qualification tender, including the “Operating Instructions for compiling the RFI” (hereinafter also referred to as the “**Operating Instructions**”), are available for free, unlimited and direct access in the “Opportunity and Notices Area” of the Procurement Platform (hereinafter also referred to as the “**Portal**”), available at: <https://acquisti.stradeanas.it/web/libyaerma.html>.

Applications shall be submitted exclusively in electronic format, according to the forms, methods and deadlines listed in the present pre-qualification tender.

The documentation of the subsequent tender phase will be available with a non-refundable fee, to the qualified competitors at the time of issuance of the relevant letter of invitation to tender. The fees for obtaining an electronic copy of the tender documentation will also be indicated in the same letter of invitation. The project tender documentation shall be used only for a solo purpose of participating to the tender.

Applicants requiring any clarification regarding the Prequalification Documents shall contact the Contracting Authority through the “Messages” area of the online procedure (hereinafter also referred to as the “**rfi**”).

The instructions for using the above-mentioned “Messages” area are given in the “Operating Instructions”.

All questions and related answers regarding this procedure will be published on the Portal.

SECTION II: SCOPE OF THE TENDER

II.1 Title of procedure

Prequalification of Italian economic operators for awarding construction works of:

Lot no. 4.1 “MISURATA - AL KHUMS-2”, for a length equal to approximately 104 km;

Lot no. 4.2 “AL KHUMS-2 - AL AZIZIYAH”, for a length equal to approximately 134 km;

Lot no. 4.3 “AL AZIZIYAH - RAS EJDYER”, for a length equal to approximately 160 km.

II.2. Tender nature and place of execution:

Execution of Works.

Libya.

II.3. Brief description of the nature and entity of the works

The construction works refer to the new *Emssad - Ras Ejdyer Expressway Project* covering a total length of approximately 1,700 km, crossing the whole of Libya connecting the western border with Tunisia to the eastern border with Egypt.

The project is divided into four macro lots, one of which (Lot no. 1) has already been awarded. The lots are subdivided as follows:

- Lot no. 1 - *Al Marj – Emsaad Road Section* - approximately 400 km;
- Lot no. 2 - *Brega - Al Marj Road Section* (including connections to the city of Benghazi) - approximately 360 km;
- Lot no. 3 - Misurata - *Brega Road Section*, approximately 520 km;
- Lot no. 4 - *Ras Ejdyer - Misurata Road Section* - approximately 400 km.

The present pre-qualification tender refers to the works of Lot no. 4 (*Ras Ejdyer- Misurata road section*) which has been divided into 3 different sub-

lots as listed in the above-mentioned paragraph **II.1**.

The scope of the project is the construction of a motorway with three lanes plus an emergency lane for each direction, including structures, junctions, crossings, toll and service stations.

The tender procedure for the works of the remaining Lots 2 and 3 will be published at a later stage.

SECTION III: TENDER SPECIFICATIONS

III.1 CONDITIONS OF THE TENDER

III.1.1 METHODS OF FINANCING

The construction works of the entire Emssad - Ras Ejdyer Expressway Project will be co-financed by the Italian State within the limits of the sums made available by the Treaty of Friendship, Partnership and Cooperation between Italy and Libya signed in Benghazi on August 30, 2008. However, all payments will be approved and authorized by ERMA.

III.2 CONDITION OF PARTECIPATION

Any Applicant may participate and apply for more than one sub-lot. The Applicant shall indicate, in the Application form, for which sub-Lot(s) it intends to submit his/her tender by specifying number(s) and name(s) of the sub-Lot(s), and it must satisfy the legal and financial capabilities and the technical and professional abilities required for the chosen sub-lot(s).

Only firms with registered office in Italy for over one year are admitted to participate to this tender procedure, i.e. only firms that are constituted, established, incorporated, registered and operating in compliance with the Italian law.

These circumstances should find confirmation in the article of incorporation, article of association and documents certifying the enrollment in an Italian Chamber of Commerce.

Applicants must submit a declaration - accompanied by a copy of a valid identification document of the signatory - attesting that they are registered in an Italian Chamber of Commerce.

Applicants may be private or public contractors (or an entity based on a public/private partnership), incorporated in one of the forms allowed by the law, or a Joint Venture or a Consortium though not yet incorporated. In the latter case, the subjects forming the Joint Venture or the Consortium must submit a specific declaration, proving that they are committed to a formal association in case of tender awarding. This declaration has to be signed by all Legal Representatives of the above-mentioned firms, including the designation of the leading company. In case of a candidate under Joint Venture or Consortium, all the components of the same, which must be firms with registered office in Italy for over one year as specified in this clause, shall be deemed jointly responsible to the Contracting Authority.

Economic operators may be in one of the forms described hereafter:

- a) individual Contractors, trade companies or cooperative production and employment companies;
- b) Consortia between workers and producer cooperative companies;
- c) stable Consortia, including those incorporated in the form of consortia between individual entrepreneurs, trade companies or workers and producer cooperative companies;
- d) Joint Ventures and Consortia, formed by the subjects of which in sections a), b) and c);

Any Applicant who is involved with ERMA (and/or any other Libyan authority) on any form of legal dispute will be not qualified and/or invited to tender.

III.3 SELECTION CRITERIA

III.3.1 STATUS OF APPLICANTS AND SIGNING OF APPLICATIONS

On penalty of exclusion, a person duly authorized to sign on behalf of the Applicant shall sign the Application. The Applicant shall produce documentation attesting the power of attorney of the signer and indicating that the person(s) signing the application has the authority to sign the application and the application is thus binding upon the Applicant.

On penalty of exclusion, Applicants must submit a declaration made by the Legal Representative of the contractor, jointly with a copy of a valid identification document and suitable documentation proving the powers of signature of the subscriber, attesting that:

A. There is no reason for excluding the economic operator from participating in the tender and, in particular, that Applicant does not lie in a conviction with final sentence or criminal decree of conviction that has become irrevocable, for one of the following offences:

- a) undergoing bankruptcy, forced liquidation or composition with creditors and that there are no ongoing procedures for none of these conditions;
- b) false corporate communication;
- c) any offences, committed or attempted, perpetrated with the purpose of terrorism, also international, and subversion of the constitutional order, terrorist offences or offences connected to terrorist activities;
- d) laundering of the proceeds from criminal activities or financing of terrorism;
- e) exploitation of child labor and other forms of trafficking of human beings;
- f) every other offence that, as ancillary penalty, implies the incapacity to contract with public authorities;

B. There are no other reasons of exclusion for pending procedures for the implementation of prevention measures for public safety protection (residency obligation, special surveillance) or one of the preventive causes provided by the anti-mafia laws in force.

The above-mentioned **exclusion and prohibition** (*point A and B*) shall be enforced if the pending procedures concern:

- *the owner or the technical director in case the firm is an individual one;*
- *the shareholders or the technical director in case the firm is a collective one;*
- *the partners or the technical director in case the firm is a limited partnership;*
- *the members of the board of directors which have been assigned the legal representation, management or supervision or the subjects granted powers of representation, management or control, the technical director or the natural person sole shareholder, or the majority shareholder in case of a company with four or less than four shareholders, if another type of company or consortium.*

The exclusion and prohibition shall also apply to persons who ceased to hold office in the year preceding the date of publication of this prequalification notice, if the undertaking fails to demonstrate that there has been complete and effective dissociation of the conduct penalized.

C. Neither a definitive conviction judgment has been rendered against the legal representative, nor a criminal conviction decree of an irrevocable nature or judgment of implementation of the punishment on request of the parties for crimes seriously damaging the Italian and/or Libyan States affecting his professional morality. In particular the following **causes for exclusion are always applied**: *conviction with definitive judgment for one or more crimes of involvement with criminal organizations, corruption, fraud or laundering. Furthermore, **exclusion and prohibition** shall be enforced if the judgment or decree was rendered against:*

- *the owner or the technical director in case the firm is an individual one;*
- *the shareholders or the technical director in case the firm is a collective one;*
- *the partners or the technical director in case the firm is a limited partnership;*
- *the directors with powers of representation or the technical director or the individual sole shareholder or the majority shareholder in case the firm has less than four shareholders, or it is another type of firm or consortium.*

*In any case, **exclusion and prohibition** shall be enforced against any individuals, who have stepped down from office in the year preceding the publication of this notice, unless the contractors demonstrate that they were not implicated in the sanctioned crime.*

*In any case, **exclusion and prohibition** shall not be enforced if the crime has been de-criminalized or if rehabilitation has been enforced or if the crime has been declared extinct after conviction or if the conviction itself has been overturned.*

D. The Applicant shall also declare it has not committed a serious breach, definitively established, of its obligations to pay taxes or social security contributions, in accordance with Italian or Libyan legislation or that of the State in which they are established. With this regards an economic operator may be excluded from participation in a procurement procedure if the Contracting Authority is aware of and can adequately demonstrate that it has not fulfilled its obligations to pay taxes or social security contributions not definitively established where such non-payment constitutes a serious infringement.

As above said shall not apply where the economic operator has fulfilled its obligations by paying or making a binding commitment to pay the taxes or social security contributions due, including any interest or fines, or where the tax or social security debt is in any case fully extinguished, provided that the settlement, payment or commitment has been completed before the expiry of the period for lodging applications.

E. The Applicant shall also declare it is **NOT** in one of the following situations:

- a) have committed serious and ascertained infringements to safety rules and any other obligation deriving from employment relationships, resulting from Italian and Libyan Authorities records responsible for supervising tenders;
- b) according to the motivated assessment of the Contracting Authority, have committed serious negligence or malice in the performance of the services already awarded; or have committed serious errors in

- performing their professional activities, ascertained through any means of proof by the Contracting Authority;
- c) have attempted to unduly influence the decision-making process of the procuring entity or to obtain confidential information for its own benefit or have provided, including through negligence, false or misleading information likely to influence decisions on exclusion, selection or award, or have omitted the information required for the proper conduct of the selection procedure;
 - d) have demonstrated significant or persistent deficiencies in the performance of a previous contract or concession which led to its termination for failure to fulfil its obligations, or an order for damages or other comparable penalties; on such circumstances, the procuring entity shall also state its reasons with regard to the time elapsed since the infringement and the seriousness of the infringement;
 - e) have committed a serious infringement in respect of one or more subcontractors, recognized or established by a judgment which has the force of *res judicata*;
 - f) the participation of the economic operator leads to a situation of conflict of interest;
 - g) have committed definitively ascertained infringements of the obligations concerning the payment of tax and duties, foreseen by Italian or Libyan laws;
 - h) existing criminal record for the Applicants in the database of Italian and Libyan Authorities for the submission of false declarations or false documentation concerning significant requirements and conditions for tender participation and subcontract awarding;
 - i) do not comply with the rules on the disability right at work according to Italian or Libyan law, where applicable;
 - j) being subject to debarment sanctions for administrative liability or other sanction forbidding contracting with Italian and/or Libyan public authorities, including debarment measures for illegal employment and the inobservance of the laws on health and safety in the workplace in force in both Countries; having violated the prohibition on trustee

ownership by an interposed individual. In particular the exclusion will last one year starting from the final ascertainment of the violation and it must be always applied if the violation has not been rectified;

- k) although being victims of bribery and extortion, have not reported the crimes to the judicial authorities. In particular **exception to the above-mentioned case** is done to whomever has committed the crime during the fulfillment of a duty or the exercise of a legitimate right or in cases of necessity or legitimate defense;
- l) control or have working relations - even *de facto* - with another participant in the same awarding procedure implying that the bids are attributable to a single decision-making body.

Subsidiary companies are considered as:

- 1) Companies in which another company has the majority of the voting rights in ordinary shareholders' meetings;
- 2) Companies in which another company has sufficient votes to exercise a dominating influence over the ordinary shareholders' meeting;
- 3) Companies which are under the dominating influence of another company by virtue of specific binding clauses with it.

To determine the votes according to the above articles 1) and 2) reference must be made also to votes cast by subsidiaries, trustee companies and interposed persons; while votes cast on behalf of third parties are not counted.

On penalty of exclusion, Applicants are also bound to make the following additional declarations, jointly with a valid identification document of the subscriber, made by: *owner and technical director in case of an **individually owned business**; all the shareholders and the technical director in case of a **collective firm**; all the partners and the technical director in case of a **simple partnership**; all the directors with powers of representation and the technical director or sole individual shareholder in case of **other firms or Consortia** or the majority shareholder, in case of **a firm or consortium with less than four shareholders***. This declaration must prove:

n.1) that they are not in the conditions described in the above sections A) and B) and C). In particular, there are neither pending procedures nor judgments for the implementation of special prevention measures for public safety protection against mafia crimes. Furthermore, in the last five years, they should not have been involved by the implementation of prevention measures disposed against their live-in partners and none of the definitive judgments listed in this point has been applied against them by definitive procedure. On the contrary, should one of the above-mentioned conditions occur, they have to list all the definitive judgments, specifying the year of crime commitment, the type of crime, the infringed rule, the Italian or Libyan court where the judgment has been pronounced.

n.2) that they have not been victim of bribery and extortion crimes.

Declarations concerning company representatives in charge in the year preceding the publication of this notice, may be presented by legal representatives, if they are aware of the circumstances being declared.

Declarations and documentations above mentioned shall be submitted and electronically signed:

- a) by each Applicant;
- b) by all the subjects that will embody the Joint Venture or Consortium already incorporated or to be incorporated.

Applicants are invited to use the "Application Form" available exclusively on the Portal.

The Contracting Authority may exclude from participation in this procurement procedure any economic operator who has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria, has withheld such information or is not able to submit the supporting documents may be required by the Contracting Authority.

The tender documentation, on penalty of exclusion, must be fully uploaded on and received through the rfi published on the Portal before the deadline

for receipt of the online applications indicated in SECTION IV: SUBMISSION OF APPLICATIONS.

It is specified that the Portal does not allow the submission of the applications beyond the deadline. In addition, please note that, should the completion of the “Qualification Response” (*the digital envelope of the rfi containing the administrative documentation*) not be concluded within the time and date stated in the online procedure, the Portal will not display a warning message regarding the expiration of it, but will directly refuse the submission of the application as a result of the deadline having closed.

The economic operators can modify the applications already sent whilst the online rfi is ongoing.

The transmission of the applications shall be effected by electronic means only.

The instructions regarding the completion of the rfi as well as the instructions for submitting and/or modifying the online applications are given in the “Operating Instructions”.

III.3.2 ADDITIONAL PREQUALIFICATION CONDITIONS

Applicants shall submit one application for each Lot, either individually as an Applicant and as a partner of a Joint Venture or Consortium, even if not yet incorporated.

Applicants cannot participate in the tender as a member of more than one Joint Venture or Consortium.

Applicants cannot participate in the tender individually if they already took part as a member of a Joint Venture or Consortium.

III.3.3 CONFLICTS OF INTEREST

The Contracting Authority shall assess the existence of any conflicts of interest of the Applicant and/or those subjects forming the same. A conflict of interest shall be deemed as existing if the Applicant or its components

have participated in one of the phases of planning, design and/or preparation of the technical specifications of the works involved in the present prequalification procedure.

The requirements listed in paragraphs III.2, III.3.1, III.3.2 and III.3.3 must be owned both by individual participants and by all the components of Joint Ventures or Consortia. Applicants must prove at any moment to the Contracting Authority that the conditions for prequalification do exist, also during the execution of the contract. If any change of whatsoever occurs in the condition of prequalification, the Applicant shall inform the Contracting Authority of such changes within max 7 days.

III.3.4 ECONOMIC-FINANCIAL AND TECHNICAL-ORGANISATIONAL CAPACITY

Applicants intending to submit their applications must submit the possession of the minimum technical, organizational and economic-financial requirements described below. The possession must result from a declaration signed by the Legal Representative, jointly with a copy of a valid identification document, attesting:

Lot no. 4.1 "MISURATA - AL KHUMS-2"

- i. that they carried out and completed public or private works (in Italy and/or abroad) as construction contractor with a turnover not lower than **500,000,000.00** Euros in the best 5 years of the decade preceding the publication of the present pre-qualification tender;
- ii. that they carried out and completed public or private transport infrastructure works (in Italy and/or abroad) as construction contractor with a turnover not less than **400,000,000.00** Euros, during the last 10 years;
- iii. that they carried out and completed at least one single transport infrastructure work (in Italy and/or abroad) as construction contractor for a value not less than **80,000,000.00** Euros during the last 10 years.

Lot no. 4.2 "AL KHUMS-2 - AL AZIZIYAH"

- i. that they carried out and completed public or private works (in Italy and/or abroad) as construction contractor with a turnover not lower than **600,000,000.00** Euros in the best 5 years of the decade preceding the publication of the present pre-qualification tender;
- ii. that they carried out and completed public or private transport infrastructure works (in Italy and/or abroad) as construction contractor with a turnover not lower than **500,000,000.00** Euros, during the last 10 years;
- iii. that they carried out and completed at least one single transport infrastructure works (in Italy and/or abroad) as construction contractor for a value not lower than **110,000,000.00** Euros during the last 10 years.

Lot no. 4.3 "RAS EJDYER - AZ ZAWIYAH"

- i. that they carried out and completed public or private works (in Italy and/or abroad) as construction contractor with a turnover not lower than **700,000,000.00** Euros in the best 5 years of the decade preceding the publication of the present pre-qualification tender;
- ii. that they carried out and completed public or private transport infrastructure works (in Italy and/or abroad) as construction contractor with a turnover not lower than **600,000,000.00** Euros, during the last 10 years;
- iii. that they carried out and completed at least one single transport infrastructure works (in Italy and/or abroad) as construction contractor for a value not less than **130,000,000.00** Euros during the last 10 years.

Regarding the possession of the above requirements, it is underlined that the required global turnover is purely indicative of the Applicant technical/financial capability and does not refer to the actual construction works estimate for each sub-lot.

For each set of infrastructural works mentioned in the above items *ii* - if required - and *iii*, the declaration must include the value, the description of the performed works, specifying the different types and methodologies of works, the client and the period of execution. Works properly performed and with a successful outcome are considered valid if started and completed in the decade preceding the date of publication of this notice. For contracts started prior to the above period, the value of the works completed prior to the reference period will not be taken into consideration.

The supporting documents shall be provided at the request of the Contracting Authority.

An individual Applicant must possess all the above-mentioned requirements. In the case of associated Applicants, the requirements must be possessed as established below:

- the leading company must possess at least 40% of requirements reported in item *i*, each of the other components in the measure of at least 10% of the requirements reported in item *i*, until 100% of the overall required value is reached;
- the leading company must possess at least 40% of requirements reported in item *ii*, each of the other components in the measure of at least 10% of the requirements reported in item *ii*, until 100% of the overall required value is reached;
- the requirement reported in item *iii*, must be entirely possessed by the leading company.

Consortia must indicate on behalf of which member companies the Consortium applies. Each Consortium's company member appointed to perform the tender must submit the declarations referred in SECTION III.3: SELECTION CRITERIA.

SECTION IV: SUBMISSION OF APPLICATIONS

Applications must be prepared in English and signed according to point **III.3.1** of this notice (i.e. jointly with a suitable documentation proving the powers of signature and a copy of a valid identification document of the subscriber).

The deadline for application submission is: Date: 30th June 2021 Time: 01:00 pm.

Applications (including all documents) must be fully uploaded and received before the above deadline **exclusively via the Portal** (<https://acquisti.stradeanas.it/web/libyaerma.html>)

In order to have access to the Portal, Applicants need to register on it.

Applicants who are not already registered on the “Portale Acquisti di Anas S.p.A.” can create an account at any moment, following instructions given in the “Operating Instructions”. Registration of a new account on the Portal must be made within 7 (seven) days prior to the deadline for applications submission. After this date, registration cannot be guaranteed. Registration on the Portal is a necessary condition for the submission of applications and it is free.

In case of Joint Venture or Consortium, both the registration on the Portal and the upload of all the documentation regarding the procedure must be submitted only by the leading company.

In order to guarantee the authenticity of all the documents requested, the legal representative of the Applicant must sign with an *advanced electronic signature based on qualified certificates* according to the specifications given in the “Operating Instructions”.

In any case, Applications must contain the following items:

- i. the application;

- ii. one or more declarations concerning the prequalification requirements established in this notice;
- iii. any other additional document required by this pre-qualification tender.

The Application shall contain the following information:

- Applicant's legal name [*insert full legal name*]
- In case of Joint Venture (JV), legal name of each partner: [*insert full legal name of each partner in JV*]
- Applicant's legal address in country of constitution: [*insert street/ number/ town or city/ country*]
- Applicant's authorized representative information Name: [*insert full legal name*] Address: [*insert street/ number/ town or city/ country*] Telephone numbers: [*insert telephone numbers*] E-mail address: [*indicate E-mail address*]

The Applicant is expected to examine all instructions, terms and information in the Prequalification Document. Failure to furnish all information or documentation required by the Prequalification Document may result in the rejection of the application.

SECTION V: OTHER INFORMATION

V.I CONFIDENTIALITY OF THE PROCEDURE

The Contracting Authority will not make public any information concerning the assessment of received applications until the completion of the prequalification procedure.

In the period between the deadline for submission of applications and the notification of results of prequalification, Applicants may contact the

Contracting Authority only through the “Messages” area of the rfi available in the reserved area.

V.2 REQUESTS FOR CLARIFICATIONS AND INTEGRATIONS

The Contracting Authority has the right to request additional information and clarifications from Applicants with regard to their application and the submitted documentation through the “Messages” area of the rfi available in the reserved area. Should Applicant refuse to provide the requested information within the specified deadline, his application may be rejected.

V.2BIS CLARIFICATION OF PREQUALIFICATION DOCUMENT

Applicants requiring any clarification regarding the Prequalification Documents shall contact the Contracting Authority exclusively through the “Messages” area of the rfi available in the reserved area. Questions concerning the interpretation of the regulations in force will not be taken into consideration.

Requests for clarifications must be submitted no later than Date: 01:00 pm of 17th June 2021 Responses to queries and requests will be published through the features of the Portal. A notification to all Applicants will be sent to warn of responses to queries.

V.3 GENERAL INFORMATION, DEPOSITS AND GUARANTEES REQUIRED FOR THE NEXT BIDDING STAGE

The qualified bidders, who will be invited by the Contracting Authority to submit their proposal, shall consider the following major information for the next bidding stage:

1. The entire tender procedure and contractual documentation will fully comply with Libyan Laws and Regulations.
2. The reference draft of contract will be a modified FIDIC Red Book (last edition). The indicated modifications were made in order to suit and to avoid any conflict with the Libyan Laws and Regulations.

3. Bid Bond Bank Guarantee shall be submitted by each bidder along with their proposal and shall be issued by an internationally reputed Bank Institution for a total amount of 5,000,000.00 Euro for each sub-lot. The bid bond shall be valid for not less than 3 months and shall be irrevocable, unconditioned and payable on first demand. The validity period of the bid bond shall be renewable, upon simple request of the Contracting Authority.
4. Performance Bond shall be submitted by Contractor within 30 calendar days from the issue of “Letter of Acceptance” and before contract signature. The Performance Bond bank guarantee shall be issued by an internationally reputed Bank Institution for a total amount of 2% of the Contract value of each sub-lot. The Performance Bond shall be confirmed/endorsed by a bank operating in Libya and shall be irrevocable, unconditioned, payable on first demand and valid for the project duration.
5. The Down payment bank guarantee shall be submitted by Contractor within 45 calendar days from contract signature. The Down Payment Bank Guarantee shall be issued by an internationally reputed Bank Institution for a total amount of 15% of the Contract value of each sub-Lot. The Down Payment Bank Guarantee shall be confirmed/endorsed by a bank operating in Libya and shall be irrevocable, unconditioned, payable on first demand and valid for the project duration.
6. Contract registration in Libya shall be undertaken by Contractor within two months from contract signature.
7. The down payment will not be released by ERMA until the relevant bank guarantee has been submitted and contract registration is done.
8. The down payment may be released in three parts, upon fulfilling the required relevant conditions.

9. ERMA has the right to change the conditions according to possible variations of the Libyan Law before contract signature.
10. Construction sites areas will be fully or partially handed over to the Contractor within four weeks from contract signature, providing that they are free from obstacles.
11. Contractor shall submit the overall project schedule within 3 weeks from contract signature.
12. The commercial proposal shall be delivered in a sealed and closed envelope to the Libyan Embassy in Rome (using sealing wax) within the bid due date, whilst the technical and administrative profiles/proposals shall be uploaded in the dedicated portal. ERMA later on will officially announce the date and time of the envelopes' opening congressional session. Bidders' representatives are allowed to attend and withstand the outcomes of the opening procedures.
13. The successful bidder shall be evaluated on the base of the most competitive price, proposed time schedule and technical/organizational characteristics, according to tender rules, which shall be clarified in the Letter of Invitation & Instruction to Bidders.

The above information shall be considered preliminary and may change according to possible variations of the Libyan Law and/or specific requirements of the Contracting Authority.

V.4 REJECTION OF APPLICATIONS AND CANCELLATION OF THE PROCEDURE

The Contracting Authority may, at its sole discretion, reject applications that do not respond to the requirements specified in this notice.

This notice does not oblige Contracting Authority neither to send out invitations nor to subsequently assign the tender.

The Contracting Authority expressly reserves the possibility to cancel the tender or to modify it or postpone it at any moment and at its sole discretion without the Applicants being able to claim any rights of any kind and nature.

The Contracting Authority may also decide not to proceed or to recommence the entire procedure for one or more lots and to continue the procedure for the others.

Tender and contractual procedures shall fully comply with the Libyan State Contractual Regulations.

V.5 RESULTS OF PREQUALIFICATION

After completing the assessment of the applications and of the required documentation, the Contracting Authority, in case of negative result, will give notice to the Applicants that will not take part to the bidding phase. Prequalified firms will be subsequently invited to submit their bids for the specific sub-lot for which they have been qualified.

The criteria, for tender awarding will be specified in the invitation letter, together with the technical specifications and other project documents.

The Contracting Authority may, even where tenders submit for several or all lots, limit the number of lots that may be awarded to one tenderer. The Contracting Authority will indicate in the invitation letter the objective and non - discriminatory criteria or rules it intends to apply for determining which lots will be awarded.

V.6 PERSONNEL CHANGES TO PREQUALIFIED FIRMS

The Contracting Authority can admit during the bidding phase the Joint Ventures or the Consortia which, as long as the leading company remains the same, may need to replace one or more components with others, provided that they own requirements equal to or greater than those of the firm(s) to be replaced.

V.7 EVIDENCES TO BE PROVIDED BY THE SUCCESSFUL BIDDER

The winning bidder will be required to provide proof of the prerequisites of an economic/financial and technical/organizational nature by producing true copies of documentation stated below, self-certified with a photocopy of the valid identification document:

- Certificates issued by clients stating that the successful bidder has carried out and completed, in the last 10 years, at least one project in the field of transportation infrastructures for the amount indicated in point **III.3.4 iii** of this notice.
- copies of regularly approved and registered financial statements – also in abbreviated form – related to the five best years in the decade prior to the publication of this notice, as well as copies of regularly approved and registered financial statements – also in abbreviated form – related to the latest three-year period prior to the publication of this notice.

Tripoli, 10th June 2021

THE CONTRACTING AUTHORITY

Emsaad - RasEjdyer Motorway
Authority (ERMA)

Dr. Sami Omar Assadi
ERMA President