

ISLAMIC REPUBLIC OF AFGHANISTAN

MINISTRY OF MINES AND PETROLEUM

TENDERS FOR NEW CEMENT PRODUCTION FACILITIES

REQUEST FOR PROPOSAL¹

Note: This Request for Proposal document relates to the Project or Projects for which the Bidder has successfully qualified pursuant to qualification letters issued by the Ministry to Bidders. For the avoidance of doubt, Bidders are only eligible to submit Bids in relation to the Project or Projects for which they have successfully qualified pursuant to those letters.

PRIVATE AND CONFIDENTIAL

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DEFINITIONS

Unless the context otherwise requires, the following words and expressions used within this Request for Proposal shall have the following meanings:

Afghanistan	Means the Islamic Republic of Afghanistan.
Applicable Law	Means the laws and regulations of Afghanistan, including applicable international treaties, conventions, and bilateral investment treaties to which Afghanistan is a party, and shall for the avoidance of doubt include any consolidation or re-enactment, modification, amendment, extension or replacement of the same.
Association	Means a Bidder that is a consortium, joint venture, special purpose vehicle or other arrangement, and/or that is intending to use Significant Sub-Contractors.
Association Member	Means each member or sponsor of an Association, including for the avoidance of doubt any intended Significant Sub-Contractors.
License	Has the meaning set out at paragraph 2.3 of this RFP.
Base Date	The date that is twenty-eight (28) days prior to the Bid Submission Deadline.
Bid	Means the bid to be submitted by a Bidder to the Ministry in accordance with the terms of this RFP and received on or before the Bid Submission Deadline including, without limitation, the Bid Bond in accordance with paragraph 5.5(a) of this RFP and the Model Cement Contract in accordance with paragraph 5.5(b) of this RFP.
Bid Bond	Is as detailed in paragraph 5.5(a) of this RFP.
Bid Letter	Means the letter to be submitted by the Bidder with its Bid confirming it agrees to be bound by the terms of this RFP and its Bid for the period set out in paragraph 6.2 of this RFP, in the form set out at Appendix 2 hereto.
Bid Submission Deadline	Means the time and date prior to which Bids must be received by the Ministry in accordance with the Bid Submission Timetable and the terms of this RFP.
Bid Requirements	Means the bid requirements set out in this RFP and in particular, those bid requirements set out at Appendix 6 to this RFP.
Beneficial Ownership	Is a legal term where specific property rights (“use” and “title”) in equity belongs to a person even though legal title of the property belongs to another person. The term also includes first or second degree heirs by blood or law.
Bid Submission Timetable	The proposed tender timetable referred to in paragraph 3.1 of this RFP and as set out in Appendix 4 to this RFP.

Bidder	Means an entity or arrangement of entities (if acting in a consortium, joint venture or other arrangement) that has requested and received a copy of this RFP having qualified to submit a Bid following successful evaluation of the PQQ and which also intends to submit its Bid in accordance with the terms of this RFP.
Cement Contract	Means the agreement referred to in paragraph 2.2.
Change in Composition	Means (i) in relation to a Bidder which is a single entity, the subsequent creation of an Association or the changing of a Bidder to an alternative entity; or (ii) in relation to a Bidder which is an Association, any addition, removal, replacement, change in role or responsibility or change in percentage participation of an Association Member, including any change from one to the other of a consortium, joint venture, special purpose vehicle or other arrangement.
Commencement Date	Means: (i) in respect of the Preferred Bidder the date specified in the notification to the Preferred Bidder of its selection as Preferred Bidder (or if no date is specified, such date as notified by the Ministry); or (ii) in respect of the Reserve Bidder the date of notification by the Ministry to the Reserve Bidder that it wishes to commence negotiations with the Reserve Bidder (if applicable); or (iii) in respect of any other Bidder the date of notification by the Ministry to the Bidder that it wishes to commence negotiations with the Bidder (if applicable).
Large Scale Mining Unit (LSMU)	Is a recently established unit at Ministry of Mines and Petroleum being responsible for tendering, documentation and bidding processes of large scale mining contracts. The unit works under the Directorate of Mines Cadastre.
Due Diligence	Means any activity which a Bidder carries out prior to search and to discover indications of the existence of quarry materials by studying the information observable from the surface, including by means of physical observation, remote or aerial sensing techniques or rock sampling without disturbing the land or the surface of land and without harming the environment.
Evaluation Committee	Means the committee to be appointed by the Commission and/or the Ministry which will evaluate the Bids in accordance with the Evaluation Criteria.
Evaluation Criteria	Means the criteria upon which the Bids will be evaluated as detailed in paragraph 7.4 of this RFP.
Exploration Areas	Means the areas within the province where the Project is located over which the Ministry may grant Licenses for Quarry Exploration pursuant to the Cement Contract and Applicable Law.
Extended Negotiation Period	Means the additional period by which the Ministry, in its sole Discretion, may extend the Negotiation Period.

Extractive Industry Transparency Initiative or EITI	Means the EITI Association and Secretariat which operates under Norwegian law as a non-profit organisation.
First Extension Period	Is as defined in paragraph 6.2 of this RFP.
Further Extension Periods	Are as defined in paragraph 6.2 of this RFP.
Government	Means the Government of Afghanistan, any ministry (including but not limited to the Ministry), department or subdivision thereof, and any entity wholly or partially controlled by any of them.
Ministry	Means the Ministry of Mines and Petroleum of Afghanistan.
Ministry Website	Means the Ministry website (www.mom.gov.af).
Model Cement Contract	Means the draft Cement Contract which has been made available to Bidders with this RFP.
Negotiation Period	Means the period of 30 days immediately following the Commencement Date.
Power	Means an electricity supply that satisfies the cement production facility's electricity requirements.
Preferred Bidder	Means a Bidder with whom negotiations for the Cement Contract may be entered into first.
Pre-Qualification Questionnaire or PQQ	Means the questionnaire completed by the Bidders to assess each Bidder's technical ability and financial standing to undertake the Project.
Project	Means the design, construction, financing, insurance, ownership, operation, maintenance and management of a new cement production facility, the exploration, assessment and exploitation and transportation of quarry materials to be used for the production of cement, the transformation of such quarry materials into cement and the sale of such cement in relation to Herat (Zinda Jan) Cement Project which the Bidder has successfully qualified for
Request for Proposal or RFP	Means this document, and any documents accompanying it or to which it refers.
Reserve Bidder	Means the Bidder notified as such and with whom negotiations may take place should the Ministry not proceed with the Preferred Bidder.

RFP Statement of Compliance	Means the certificate by each Bidder to be submitted with the Bid and in the form set out at Appendix 1 hereto.
Rules for the Conduct of Negotiations for the Cement Contract	Means the rules for the conduct of negotiations as set out in Appendix 5 of this RFP.
Significant Sub-Contractor	Means any sub-contractor appointed or to be appointed by the Bidder to undertake or perform a significant amount (whether as a percentage, by value or otherwise) of the Bidder's obligations under any of the Cement Contract or any license or License to be granted in connection with the Projects.
Site	Means the location of the cement production facility.

In the event that this Definition section does not contain definitions of terms used in this RFP, then the definition as commonly used first in the international mining industry, and then as used in The Oxford English Dictionary, Second Edition (1989) ISBN: 0198611862 shall apply.

Save where expressed to be "business days", all references to "days" in this RFP shall mean calendar days.

References to "including" in this RFP mean "including, but not limited to" (with related words being construed accordingly) and other general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things.

References to "cement" in this RFP mean "Cement" as defined in the Model Cement Contract.

1. INTRODUCTION

1.1 Background and objective of the tender

The Ministry has identified a number of opportunities for private sector investment to help fulfil the needs of Afghanistan's increasing demand for cement. The Ministry is therefore looking for private sector investors to design, construct and operate new cement production facilities in Herat (Zinda Jan District). The Project includes:

- The exploration and the exploitation and transportation of quarry material located within a specified quarrying area to the processing plant;
- The design, construction, financing, insurance, ownership, operation, maintenance and management of a new cement production facility on the Site;
- The transformation of quarry material into cement at that cement production facility;
- The supply of Power to the cement production facility;
- The sale of the cement produced at the cement production facility; and
- The payment of royalties.

In accordance with Applicable Laws, the Ministry is implementing a transparent, standards-based, competitive tender process which will result in the selection of the best qualified bidder for the Project.

The Project will demand that the successful Bidder possesses, demonstrates and dedicates to the Project qualified management personnel and resources, adherence to principles of sustainability, conformity with the laws of Afghanistan and compliance with the EITI requirements. The Bidder should demonstrate that it is committed to working with the Government to make the Project a source of regional economic growth.

To that end, the Ministry suggests that the following points be seriously considered by the Bidders in preparing their Bids:

- A clear commitment to achieve the commercial operation of the new cement production facility as quickly as possible, coupled with the technical and financial capability to do so;
- The provision of employment for the local population with a particular focus on the education and training of those hired locally.

1.2 Overview of this RFP

This RFP defines the bidding requirements, submission procedures and evaluation criteria for the Project. It should be read in conjunction with all associated documents and information that have been or will be made available to Bidders including any documents/information made available to the Bidders:

- With this RFP;
- On the Ministry Website; and
- In the Data Room.

This RFP relates to the Project which the Bidder has qualified pursuant to qualification letters issued by the Ministry to Bidders. For the avoidance of doubt, Bidders are only eligible to submit Bids in relation to the Project which they have successfully qualified pursuant to those letters.

The original of this RFP is drafted in English. If this RFP is translated into any other language, the English language text shall prevail.

It is important that Bidders provide all the information requested by this RFP in the format specified. All responses should be unambiguous and, unless otherwise specified, include detailed information.

Bidders must read this RFP carefully before completing the Bid. Failure to comply with the requirements for completion and submission of the Bid may, at the Ministry's sole and absolute discretion, result in the rejection of the Bid or the Bidder receiving a lower score during Bid evaluation.

Bidders are required to submit a sealed envelope for their Bid addressing the requirements of this RFP in its entirety.

Bidders should note that the Ministry may take into account information already provided to the Ministry by the Bidders, whether as part of the PQQ or otherwise, that addresses a specific requirement in evaluating Bids, or information which is generally available in the public domain relating to the Bidder and which the Ministry believes may impact on the Bidder's suitability to undertake the Project. Notwithstanding this, to the extent that this RFP requires information already provided by the Bidder in the PQQ and which the Bidder wishes to be taken into account in the evaluation of the Bid, the Bidder must restate such information or proposals in its Bid (and not simply cross-refer back to the PQQ).

1.3 **Qualification**

Bidders were notified of successful qualification following evaluation of the PQQs. Bidders should note that evaluation was undertaken on the basis of answers provided in the PQQ (and any clarifications sought in relation to the PQQ) and any further enquiries and investigations by the Ministry. The Bidder's attention is drawn to paragraph 5.4 of this RFP as to any Change in Composition following submission of the PQQ. Any Change in Composition may result in the Bidder's Bid not meeting the required technical or financial standing for the Project.

Bidders should also note that successful qualification does not, in itself, mean that the Bidder shall automatically meet the Ministry's requirements for financial standing and technical ability for the Project at the Bid evaluation stage.

2. **THE PROJECT**

2.1 **Project details**

Further details about the Project can be found online at the Ministry Website and in the Data Room.

2.2 Cement Contract

The successful Bidder will be required to enter into the Cement Contract.

The Ministry intends that the Cement Contract shall be substantially in the form of the Model Cement Contract, a copy of which has been provided to Bidders along with this RFP.

Bidders are required to make any comments and to suggest any amendments that they require to the Model Cement Contract as part of the Bid. Such comments and suggested amendments shall be in the form of a comprehensive electronic mark-up to the Model Cement Contract in Microsoft Word format, with associated explanatory notes. Such comments and suggested amendments shall include those comments and amendments required to ensure that the Model Cement Contract reflects the terms of the Bid. The comprehensive mark-up to the Model Cement Contract shall be evaluated as part of the Bid evaluation process. Bidders acknowledge and agree that the Cement Contract that may be awarded to the successful Bidder will need to reflect the terms of the successful Bidder's Bid. However, for the avoidance of doubt, the Ministry gives no assurance or undertaking that any proposed amendments that Bidders require to the Model Cement Contract or comments Bidders make regarding the Model Cement Contract will be accepted by the Ministry.

All Bidders shall be required to confirm with their Bid agreement to the terms of the Model Cement Contract, save only in respect of those terms commented upon and amended in the mark-up to the Model Cement Contract submitted as part of the Bid. Bidders shall not be entitled to raise any comments or amendments to the Model Cement Contract after the Bid Submission Deadline, save in respect of those which are expressly identified in the mark up to the Model Cement Contract submitted as part of the Bid. Subject to the foregoing, the Preferred Bidder (or subsequently the Reserve Bidder, or subsequently any other Bidder as the case may be) will then be required to enter into negotiations with the Ministry in accordance with the Rules for the Conduct of Negotiations for the Cement Contract set out in Appendix 5 in order to agree and enter into the final form of the Cement Contract prior to the expiry of the Negotiation Period (or Extended Negotiation Period as the case may be), as further defined in the Rules for the Conduct of Negotiations for the Cement Contract.

Clarifications or information requests in relation to the Model Cement Contract must be submitted prior to the Information Request Deadline in accordance with paragraph 3.2 of this RFP. However, such clarifications or information requests shall not contain requests to amend the terms of the Model Cement Contract; such requests need to be made as part of the mark-up to the Model Cement Contract submitted as part of the Bid.

For the avoidance of any doubt, the Ministry may in its sole and absolute discretion make amendments to the Model Cement Contract. Such amendments made prior to the Bid Submission Deadline will be issued as addenda to this RFP and communicated in writing to all Bidders simultaneously.

2.3 Licenses

The successful Bidder will be issued with the following Licenses following the conclusion of the tender process and the execution of the Cement Contract and in accordance with the terms of the Cement Contract:

- (i) Exploration License; and
- (ii) Exploitation License;

The Licenses at paragraphs 2.3 (i) and (ii) above (the "**Licenses**") will be issued and registered in accordance with the Applicable Laws and the terms of the Cement Contract.

2.4 **Applicable laws**

The Applicable Laws provide the framework for the regulation of the mineral rights (which includes the holding of Licenses) being offered through this tender process. Other laws, including tax, customs and environmental laws, will also be applicable to the mineral rights and tender process. Therefore, all Bidders should review the Applicable Laws when compiling their respective Bids. Bidders should refer to official versions of the laws which are published in the Official Gazette of Afghanistan.

This RFP and the tender process are designed to comply with the requirements of the Applicable Laws as in force at the date of issue of this RFP. However, the Ministry anticipates that the Applicable Laws may undergo revision so that revised Applicable Laws may be in force prior to the Bid Submission Deadline. In the event that revised Applicable Laws come into force as described above, the Ministry will issue an addendum to this RFP confirming such revisions to the Applicable Laws and setting out the changes to the RFP and/or tender process that need to be made as a result of such revisions. In the event that the revised Applicable Laws come into force after the Bid Submission Deadline but before the execution of the Cement Contract the Ministry may, at its sole and absolute discretion amend the Model Cement Contract to make it compliant with the revisions to the Applicable Laws. Whilst the Ministry anticipates that revisions will be made to the Applicable Laws, it gives no warranty, undertaking or guarantee that any revisions to the Applicable Law this will occur.

2.5 **Data Room**

Additional data and documentation on the Projects will be available for inspection by the Bidders in the physical data room.

If the Bidder so requests, access to the physical data room will be scheduled and arranged by the Ministry for each Bidder but on one occasion only. Bidders who require access to the physical data room should contact Large Scale Mining Unit, Ministry of Mines and Petroleum, Charayi Abdulhaq (Abdulhaq Square), Kabul, Afghanistan in writing or by email to lsmc@momp.gov.af any other visits which Bidders may require will need to be discussed further with the Ministry. Visitors to the physical data room must sign in and out and comply fully with the physical data room rules, which will include, without limitation, the logging of all copies and the searching of all briefcases, suitcases, or other bags upon entry and/or exit from the physical data room, and that cameras and telephones will not be allowed to be taken into the physical data room.

The Ministry is providing the information, documents, and other data contained in the Data Room solely for the convenience of and assistance to the Bidders and all information, documents and other data are provided subject to the confidentiality provisions in paragraph 10.2 of this RFP and the disclaimer in paragraph 10.1 of this RFP.

3. **BID PROCESS AND TIMETABLE**

3.1 **Bid Submission Timetable**

The proposed Bid Submission Timetable for each of the Projects is shown in Appendix 4 of this RFP. The Bid Submission Timetable sets out the proposed key stages of the tender process and proposed timing. This is intended as a guide and changes may be made to the timetable by the Ministry at any stage in its sole and absolute discretion, if the Ministry

considers such changes to be necessary. Any and all changes will be communicated in writing to all Bidders simultaneously.

3.2 **Bidders' information requests and clarifications**

Bidders may wish to raise clarifications or request further information concerning this RFP.

All clarification and information requests concerning this RFP shall be written in English and either Dari or Pashto and sent to the Ministry. Such clarification and information requests may be submitted at any stage up to the Information Request Deadline.

Bidders should not contact any person within, or associated with, the Ministry, its advisers or the Government, in connection with any requests for additional information or clarifications relating to this RFP.

Such clarification and information requests shall receive written responses by email communication as soon as practicable and where the Ministry considers the clarification or information request would be of relevance to all Bidders, the question (either in full or a summary) and response may be distributed to all Bidders, preserving the anonymity of the requesting Bidder. Bidders should note that the Ministry may not respond to clarification or information requests submitted after the Information Request Deadline.

Bidders should seek their own advice, whether legal, technical, financial or otherwise in relation to any clarification or information requests and any answers provided. Any answers, clarifications or information provided are subject to the confidentiality provisions in paragraph 10.2 of this RFP and the disclaimer in paragraph 10.1 of this RFP.

3.3 **Ministry clarifications and amendments**

The Ministry may, in its sole and absolute discretion, issue to the Bidders at any time clarifications or amendments to any information or documents including any information contained in this RFP or the terms of this RFP. Any clarifications or amendments will be distributed to all Bidders simultaneously.

3.4 **Bidder meeting**

It is anticipated that all Bidders will be invited to a bidder meeting which will include a presentation given by the Ministry and a question and answer session with the Ministry.

3.5 **Site visits**

Bidders may undertake site visits to potential Exploration Areas and potential locations for their cement production facility in order to assist with their Due Diligence. Bidders may contact the Ministry to such site visits and the Ministry will use reasonable endeavours to assist the Bidder with access to such sites.

The Ministry is under no obligation to pay for site visits, reimburse Bidders' costs of undertaking site visits or provide transportation, security or other assistance or resource for such site visits. Bidders should note that they undertake site visits at their own risk and the Ministry shall not be responsible or liable for any aspect of Bidders' site visits.

For the avoidance of doubt, the Bidder shall not be entitled to undertake any site visits after the earlier of:

- (i) The submission of its Bid prior to the Bid Submission Deadline; and
- (ii) The Bid Submission Deadline.

3.6 Selection of Preferred Bidder and Reserve Bidder

The Preferred Bidder and Reserve Bidder will be selected in accordance with the Bid evaluation process set out in paragraph 7 of this RFP.

4. BIDDER REQUIREMENTS

4.1 Bidder eligibility to hold mineral rights

Bidders' attention is drawn to the following requirements for the holding of mineral rights in Afghanistan (which includes the holding of Licenses).

The following persons or entities **are** eligible to hold mineral rights pursuant to Applicable Laws:

- (a) Any Afghan natural person who has attained the age of (18) years and has obtained an investment license.
- (b) Any Afghan legal person established in accordance with the applicable laws of Afghanistan who has obtained an investment license.
- (c) Any foreign legal person organized under the applicable Laws of the country of its citizenship that has obtained an investment License in Afghanistan in accordance with the applicable Law.
- (d) Any person who demonstrates the capability of providing capital, machinery, equipment and the expertise required for the implementation of the License terms and conditions.

Bidders must comply with the requirements of Applicable Laws in this regard.

4.2 Bidder ineligibility to obtain mineral rights

Bidders' attention is drawn to the following restrictions on holding mineral rights in Afghanistan (which includes restrictions on the holding of Licenses).

The following persons or entities **are not** eligible to obtain mineral rights pursuant to Applicable Laws:

- (a) The President, Vice-Presidents, Ministers, Chief Justice and members of Supreme Court, Attorney General, members of the National Assembly, Heads and members of the Independent Government Commissions, Governor of the Central Bank and General Director of National Directorate of Security, Provincial Governors, Mayors, and General Directors of the Government Independent Agencies, advisors, experts and Deputy Ministers of the Ministry of Mines and Petroleum and their relatives up to the second degree of consanguinity or by marriage.
- (b) Judges, Prosecutors, Members of Provincial and District Councils, any Employee of the Ministry of Defence or Ministry of Interior Affairs or of the General Directorate of National Security, advisors, as well as experts and staff of the Commission, stipulated in Article nine (9) of this Law;

- (c) Any person who has been declared bankrupt and who continues to be bankrupt under the laws of Afghanistan;
- (d) Any person whose License has been prematurely revoked, based on Justifiable reasons, by the Ministry of Mines and Petroleum prior to the expiry of the License term.;
- (e) Companies in which the listed figures in Article (151) of the Constitution of Afghanistan, have obtained direct or indirect benefits;
- (f) A natural person who has been convicted [by a competent court of jurisdiction] to more than ten (10) years in prison or has been convicted of administrative corruption [who has covered his or her prison term] but not yet restored his or her prestige;
- (g) Any legal person which is under a liquidation process, unless the liquidation is for the restructuring of such legal person;
- (h) Any legal person that is subject to an order of dissolution issued by a competent court of jurisdiction;
- (i) Any legal person in which one or more of its major shareholders, member of executive board or member of its board of directors would be legally disqualified.
- (j) Where one or more major shareholders of a legal person has been convicted of violation of the provisions of this Law; and/or
- (k) Any major shareholder of a legal person or a member of its executive board, is an existing employee of the Ministry of Mines and Petroleum.

Bidders must comply with the requirements of Applicable Laws in this regard.

4.3 **Registration and establishment in Afghanistan**

Bidders should note that any company doing business in Afghanistan must obtain, either through the Afghanistan Investment Support Agency ("**AISA**"), or the Ministry of Commerce and Industry ("**MoCI**") a business licence, as far as mining sector is concerned an extra license for **environment clearances** must be obtained.

In addition, it is a requirement of Applicable Laws that all non-Afghan entities shall be obliged to establish and maintain a permanent representative office in Afghanistan or to appoint and maintain an authorized agent resident in Afghanistan in order to obtain a mineral right and present information to the relevant authorities.

For the purposes of the foregoing, it will be a requirement that the successful Bidder has obtained a business licence and complies with Applicable Laws (and has provided formal evidence of having done so) prior to entering into the Cement Contract and prior to being awarded any License for the Project.

4.4 **Restriction on the number of Licenses**

Bidders should be aware that the Applicable Laws contain a restriction on the number of Licenses a person, can hold at any one time to ten (10) Exploration Licenses and ten (10) Exploitation License.

4.5 **Investigation of bidders**

The Ministry may investigate the qualifications of any Bidder. The Ministry may in its sole and absolute discretion require confirmation of any information submitted by a Bidder or may require additional information or documentation from any Bidder.

The Ministry reserves the right to request Bidders to attend meetings in order to provide such additional information or documentation or to confirm information already submitted. However, the Ministry envisages that such requests will ordinarily be made via email communication. Responses to such requests shall be submitted by Bidders within the time period set out in the request or if no time period is set out within 5 days of receipt of the request and shall be submitted via email to lsmc@momp.gov.af

Bidders must ensure that all information submitted with the Bid or in response to an information or confirmation request is true and accurate. A Bidder shall be disqualified and its Bid rejected if it intentionally submits false information or intentionally omits information concerning its eligibility and qualifications. If a Bidder, through no fault of its own, submits information concerning its eligibility and qualifications that is inaccurate or incomplete, and fails to correct such deficiencies promptly upon the request of the Ministry, then the Ministry may in its sole and absolute discretion, disqualify the Bidder and/or reject the Bid.

4.6 **Changes in Composition**

Where a Bidder wishes to propose any Change in Composition the Bidder shall promptly provide the Ministry with complete details of such proposed Change in Composition and shall seek the consent of the Ministry prior to effecting such Change in Composition. The information to be provided in respect of any proposed Change in Composition shall, unless otherwise specified by the Ministry, be as required to be provided for in the PQQ. After giving effect to the proposed Change in Composition, the Bidder shall still meet or exceed the Ministry's requirements for pre-qualification.

Notwithstanding the contents of this paragraph 4.6 of this RFP, the Ministry reserves the right, in its sole and absolute discretion, to reject any Change in Composition at any time. The Ministry reserves the right, in its sole and absolute discretion, to disqualify a Bidder if the Bidder makes a Change in Composition without the Ministry's prior written consent.

5. **BID REQUIREMENTS**

5.1 **Composition of Bid**

Bidders are required to submit, in accordance with the requirements of paragraph 6.1 of this RFP, the following by the Bid Submission Deadline:

- (a) Bid Letter;
- (b) The Bid;
- (c) RFP Statement of Compliance; and
- (d) Any documents referred to in the Bid Letter and the Bid.
- (e) The company shall be responsible for providing detail information regarding their beneficiaries and they are responsible to take the Ministry in account.

Further details on each of the above are set out in the following paragraphs of this RFP.

The Bid and all information that accompanies the Bid must be in English and either Dari or Pashto.

5.2 Bid Letter

Bidders must submit with their Bid a completed and signed Bid Letter which confirms the Bidder's commitment to be bound by the terms of the RFP and its Bid for the period stated in paragraph 6.2 of this RFP. Appendix 2 to this RFP provides the form of Bid Letter to be submitted.

5.3 The Bid

This section of the RFP sets out the Ministry's requirements relating to content of the Bid for the Project.

Executive summary

Bidders must provide an executive summary of the Bid. The executive summary should provide the Ministry with a clear, concise and complete summary of the Bid.

The executive summary:

- **Must be no more than five A4 pages;**
- **Must be in English and either Dari or Pashto; and**
- **Must only contain information drawn from other areas of the Bid and must not contain any new material.**

The executive summary will be scrutinized for consistency with the Bid and clarification will be sought if required.

The Bid Requirements

The Bidder must provide the information and documentation set out in Appendix 6 as part of its Bid. Bidders will note that the information is split into four main categories: (i) general requirements (Part 1 of Appendix 6); (ii) exploration and exploitation (Part 2 of Appendix 6); (iii) processing (Part 3 of Appendix 6); and (iv) design, build and operation (Part 4 of Appendix 6). Bidders should ensure that their Bid is similarly split into the same four main categories and that the information and documentation provided in the Bid follows the same order as the information and documentation set out in Appendix 6. In relation to Part 1B of Appendix 6 (generally applicable Bid Requirements) Bidders must clearly identify their responses to each of these Bid Requirements and must demonstrate that their Bid is responsive to each of these Bid Requirements during the exploration and exploitation, processing, design, build and operation stages.

Bidders should note in particular that:

- (a) They will be required to conduct their own Due Diligence and review the materials within the Data Room before the Bid Submission Deadline in order to select, subject to paragraph 4.4, potential Exploration Areas within their Bid. When making such selection Bidders should have particular regard to:

- (i) The feasibility of the potential Exploration Areas from a geographical, geological, financial and technical perspective, as well as in relation to the Bidder's Bid as a whole; and
- (ii) The Ministry's discretion to accept or reject the Bidder's choice of potential Exploration Areas when evaluating Bids. The Ministry has full discretion to accept or reject Bidders' proposed Exploration Areas. In the event the Bidders require guidance from the Ministry as to the potential Exploration Areas they propose to select Bidders may use the data room to request such guidance from the Ministry.

For the avoidance of doubt, Bidders are not permitted to undertake:

- (i) Any exploration activities (including but not limited to drilling, pitting and trenching) as part of their Due Diligence; and
 - (ii) Any Due Diligence after earlier of the: (i) submission of its Bid prior to the Bid Submission Deadline; and (ii) the Bid Submission Deadline.
- (b) Bidders are required as part of their Bids to propose a Site. In the event the Bidders require guidance from the Ministry as to the Site they propose to select Bidders may use the Data Room to request such guidance from the Ministry;
- (c) They shall be required to design and build **high quality cement** production facilities with a minimum production capacity of at least one million (1,000,000) tonnes per annum and to produce cement at, or in excess of, this production capacity. Bidders must comply with the requirements at paragraphs (i) to (iv) below and provide in their Bid the amount of Limestone they propose will be extracted to meet these requirements:
- (i) During the 12 calendar months from the Date of Commencement of Commercial Production, extract sufficient Limestone (the amount of such Limestone must be set out in the Bid) to produce 250,000 metric tonnes (or any higher amount that the Bidder may propose) of Cement each calendar quarter at the Cement Production Facility;
 - (ii) From the expiry of the 12 calendar month period at paragraph (i) above to the expiry of 24 calendar months from the Date of Commencement of Commercial Production, extract sufficient Limestone (the amount of such Limestone must be set out in the Bid) to produce 250,000 metric tonnes (or any higher amount that the Bidder may propose) of **high quality Cement** each calendar quarter at the Cement Production Facility;
 - (iii) From the expiry of the 24 calendar month period at paragraph (ii) above to the expiry of 36 calendar months from the Date of Commencement of Commercial Production, extract sufficient Limestone (the amount of such Limestone must be set out in the Bid) to produce 250,000 metric tonnes (or any higher amount that the Bidder may propose) of **high quality Cement** each calendar quarter at the Cement Production Facility;
 - (iv) From the expiry of the 36 calendar month period at paragraph (iii) above to the expiry of 48 calendar months from the Date of Commencement of Commercial Production, extract sufficient Limestone (the amount of such Limestone must be set out in the Bid) to produce 300,000 metric tonnes (or

any higher amount that the Bidder may propose) of **high quality Cement** each calendar quarter at the Cement Production Facility.

Further details of this production capacity can be found in the Model Cement Contract; and

- (d) They are required as part of their Bids to provide proposals for: (i) the supply of Power for the cement production facility; (ii) fuelling the heating of the kiln; (iii) providing sufficient quantity of water.

5.4 **RFP Statement of Compliance**

As part of the Bid, each Bidder must complete and submit an RFP Statement of Compliance in the form appended hereto at Appendix 1 with the completed Bid in order to certify, amongst other things, compliance with the requirements of this RFP and to certify that any statement made by such Bidder in its PQQ remains true and accurate in all material respects, unless otherwise stated in such RFP Statement of Compliance.

If a Bidder's statement or qualifications materially change at any stage in the tender process after submission of the PQQ, including after submission of its Bid and including as a result of a Change in Composition in accordance with paragraph 4.7 of this RFP, that Bidder must promptly notify the Ministry of any and all such changes. Such changes must also be detailed and explained in full in the RFP Statement of Compliance, if they occur before the submission of such statement.

5.5 **Additional Bid requirements**

(a) **Bid Bond and Bid Bond verification**

This section of the Bid requirements sets out the Ministry's requirements in relation to tender security for the Project.

- (i) Bidders must provide:

- (A) A Bid Bond as part of the Bid.

The Bid Bond shall be:

- i. In an amount equal to US\$ two hundred and fifty thousand (250,000 US dollars) for the Project;
- ii. In the form and terms of the template Bid Bond set out in Appendix 3 to this RFP, subject to any amendments requested and agreed to by the Ministry pursuant to clause 5.5(a)(ii) below; and
- iii. From a bank or financial institution which is:
 - (A) Incorporated in Afghanistan or which has an Afghan branch;
 - (B) Subject to the jurisdiction of, and regulated by, the Government (including the Da Afghanistan Bank ("**DAB**")); and
 - (C) Acceptable to the Ministry and the DAB.

(B) Verification of their Bid Bond.

The Bid Bond verification shall comprise a copy of the banks or financial institution's banking licence from the DAB bearing the stamp of that organisation.

- (ii) **Bidders are required to provide a draft of the completed Bid Bond and Bid Bond verification by email with all details completed and details of the bank or financial institution which will provide the bond to the Ministry for approval prior to the Base Date. To the extent the Bidder wishes to request amendments to the form and terms of the template Bid Bond set out in Appendix 3 to this RFP, it shall request those amendments when submitting the draft of the completed Bid Bond for approval. The Ministry is under no obligation to agree to any amendments;**
- (iii) Bidders shall ensure that the Bid Bond submitted as part of the Bid by the Bid Submission Deadline is in the required form, from the approved bank or financial institution, fully executed and completed and in full force and effect without further condition or action required either on the part of the Bidder, the bank or financial institution providing the Bid Bond or the Ministry;
- (iv) In the event that a Bid is received after the Bid Submission Deadline, the Bid Bond shall be returned to the Bidder with the unopened Bid in accordance with paragraph 6.1 of this RFP;
- (v) In the event that the Ministry requires Bidders (or a Bidder as the case may be) to extend the validity of their Bid:
- (A) for the First Extension Period pursuant to paragraph 6.2 of this RFP, then the Bidders shall, no later than 10 days prior to the expiry date of the Bid Bond, extend the validity of the Bid Bond for the duration of the First Extension Period and provide written evidence thereof to the Ministry (and the Bid Bond shall provide for this extension);
- (B) for the Further Extension Period pursuant to paragraph 6.2 of this RFP, then Bidders shall, no later than 10 days prior to the expiry date of the Bid Bond (as extended for the First Extension Period), extend the validity of their Bid Bonds for a further period, as determined by the Ministry, from the expiry of the First Extension Period and provide written evidence thereof to the Ministry (and the Bid Bond shall provide for this extension);

Bidders may also be required to provide further Bid Bond verification when extending their Bid Bonds, in the form required by paragraph 5.5(a)(i)(B) of this RFP.

- (vi) Provided no call for payment has been made on the Bid Bond, the Bid Bond will be returned to the Bidder within 15 business days of the completion of the tender process. For the avoidance of any doubt, the tender process shall be deemed to be complete upon the earlier of the full execution of all the Cement Contract by the Ministry and the successful Bidder or the expiry date of the Bid Bond as set out in paragraph 5.5(a)(v) of this RFP;

- (vii) Without prejudice to the terms of the Bid Bond, the Ministry may in its sole and absolute discretion elect to call for payment under the Bid Bond in circumstances that include, but are not limited to, the following:
- (A) If the Bidder has intentionally submitted with the Bid false information concerning its eligibility and qualifications; or
 - (B) If the Bidder fails to promptly correct inaccurate or incomplete information upon the request of the Ministry; or
 - (C) If the Bidder makes a Change in Composition without the Ministry's prior written consent at any time after the Bid Submission Deadline; or
 - (D) If the Bidder unilaterally withdraws its Bid after the Bid Submission Deadline and before the expiry of its period of validity as referred to in paragraph 6.2 of this RFP; or
 - (E) If the Bidder fails to extend the validity of the Bid Bond and provide written evidence thereof to the Ministry in accordance with paragraph 5.5(a)(v) of this RFP; or
 - (F) If the Bidder fails to comply with the Rules for the Conduct of Negotiations for the Cement Contract and thereby prevents the granting of any of the Cement Contract to the Bidder; or
 - (G) If the Bidder terminates negotiations in respect of any of the Cement Contract except such termination: (i) "for cause" as defined in paragraph 8 of the Rules for the Conduct of Negotiations for the Cement Contract; or (ii) "by mutual agreement" as defined in paragraph 9 of the Rules for the Conduct of Negotiations for the Cement Contract; or
 - (H) If the Ministry terminates negotiations in respect of the Cement Contract "for cause" as defined in paragraph 8 of the Rules for the Conduct of Negotiations for the Cement Contract; or
 - (I) If, in the Ministry's reasonable opinion, the Bidder has breached the terms of paragraph 10.4 and/or 10.5 of this RFP.

(b) **Model Cement Contract including the performance bond**

As part of the Bid, each Bidder must provide the Bidder's comments and suggested amendments that are required to the Model Cement Contract in the form of a mark-up to the Model Cement Contract with associated explanatory notes.

Successful Bidders shall be required to provide a performance bond in the following amounts:

- (i) Ten per cent (10%) of the total amount of capital expenditure for the Project from the date the Model Cement Contract comes into effect to the Date of Commencement of Commercial Production; and

- (ii) Two per cent (2%) of the total amount of capital expenditure for the Project from the Date of Commencement of Commercial Production to the end of the Term.

Further details on the performance bond, including its form and timing of provision are set out in the Model Cement Contract.

To the extent Bidders require any amendment to the form of performance bond set out in the Model Cement Contracts or the terms upon which it is to be provided they will need to make comment and amend the form of performance bond as part of the mark-up to the Model Cement Contract.

6. BID SUBMISSION

All Bids must be submitted in accordance with the following procedures.

The Bid and all information that accompanies the Bid must be in English and either Dari or Pashto.

6.1 Delivery requirements and media

In the manner specified below, Bidders must submit:

- (a) one original, signed hard copy of:
 - (i) The Bid Letter; and
 - (ii) the RFP Statement of Compliance; and
 - (iii) the Bid;
- (b) four additional hard copies of each of the Bid Letter, RFP Statement of Compliance and the Bid; and
- (c) An electronic copy of each of the Bid Letter, RFP Statement of Compliance and the Bid on electronic flash drive or CD ROM.

It is the Bidder's responsibility to ensure that all copies of the documents noted above are identical to the original. If there are discrepancies between the original hard copy, the four additional hard copies and/or the electronic copy of the Bid, the original hard copy will take precedence.

An authorised representative from the Bidder must initial each page of the Bid.

Bidders should not include any extraneous information that has not been specifically requested in this RFP including, for example, sales literature or Bidders' standard terms and conditions.

The original signed hard copy and additional hard copies of the Bid shall be placed in a sealed envelope marked "the Bid". The envelope, the Bid Letter, the RFP Statement of Compliance and the electronic flash drive or CD ROM of the Bid referred to paragraph 6.1(c) above shall be placed into an outer sealed envelope bearing the Bidder's name and contact information, submission address, and clearly marked "**Bid - Do Not Open except In The Presence Of the Evaluation Committee**". This envelope must be delivered to the LSMU at the following address:

LSMU
Ministry of Mines and Petroleum
Charayi Abdulhaq(Abdulhaq Square)
Kabul
Afghanistan

The outer sealed envelope and its required contents must be received at the above address no later than **12 noon (Kabul Local Time) on the Bid Submission Deadline**. The Ministry may at its sole and absolute discretion extend the Bid Submission Deadline and the time for receipt of Bids at any point during the tender process and all Bidders will be notified in writing of any such extension simultaneously. **It is the Bidder's responsibility to make sure it has allowed sufficient time for the Bids to arrive at the above address before the Bid Submission Deadline (taking into account likely courier/delivery times).**

All Bidders should send an email confirmation of sending stating the date of sending and, as far as applicable, the courier tracking number to the Inter-Ministerial Commission at the email address lsmc@momp.gov.af.

Bids will be formally logged upon receipt in accordance with the Ministry's tender/procurement procedures.

Any Bid received after the Bid Submission Deadline shall be rejected and returned unopened to the Bidder. Bids that are received before this deadline will be retained in a secure environment, unopened, until the Bid opening date.

The Ministry does not accept any responsibility for the premature opening or mishandling of any Bids that are not submitted in accordance with these instructions.

6.2 Validity of Bid

All Bids shall be legal and binding offers and shall remain valid for 120 days from the Bid Submission Deadline and be capable of being extended in accordance with this paragraph 6.2 of this RFP.

If the Ministry, in its sole and absolute discretion, determines that it cannot grant the Cement Contract to the Preferred Bidder or Reserve Bidder within 120 days from the Bid Submission Deadline, the Ministry may require that the Bidders extend the validity of their Bid for any additional period or periods (the "**First Extension Period**"). In addition, the First Extension Period may be further extended thereafter by such periods as the Ministry may determine, until a Cement Contract has been granted for the Project (the "**Further Extension Periods**").

Once extended, a Bid shall remain valid for the First Extension Period and Second Extension period, as the case may be. By submitting a Bid, Bidders agree that the validity of the Bids shall be as provided for in this paragraph 6.2 of this RFP. Notwithstanding the foregoing, the Ministry may in its sole and absolute discretion agree with the Bidders to further extend the validity of their Bids (and any extension to the validity of the Bid Bond).

6.3 Modification and withdrawal of Bids

In the case of submission of a Bid prior to the Bid Submission Deadline, Bidders may withdraw their Bid at any time prior to the Bid Submission Deadline. Any Bid that is withdrawn before the Bid Submission Deadline will be returned unopened to the Bidder. Bidders may not withdraw their Bid at any time after the Bid Submission Deadline.

Bidders may not request any modification to their Bid once it has been submitted without the prior written consent of the Ministry. Bidders may not request any modification to their Bid after the Bid Submission Deadline.

Any notice to withdraw or amend the Bid must be in writing and delivered by courier or equivalent service to the Ministry at the following address:

LSMU office
Ministry of Mines and Petroleum
Charayi Abdulhaq(Abdulhaq Square)
Kabul
Afghanistan

With an email copy to lsmc@momp.gov.af.

Bidders who have withdrawn their Bid may not submit any further Bid in connection with the tender process.

7. **BID EVALUATION**

The evaluation process will be conducted so that Bidders are evaluated against a common set of criteria and in accordance with the process set out in this paragraph 7 of this RFP.

7.1 **Bid opening**

As soon as possible after the Bid Submission Deadline, the Bidders will be invited to, **and shall be required to attend either in person or acting through their legal representative**, a public opening proceeding which shall be held at a venue to be confirmed by the Ministry in due course. The Evaluation Committee will at such proceeding open the Bids in the presence of the Bidders or their legal representatives that attend, all of whom shall be officially introduced to the Ministry prior to the date of the opening of the Bids. The names and addresses of all Bidders or their legal representatives and the respective Bid elements shall be recorded by the Evaluation Committee in minutes. Such minutes shall be signed by all participating Bidders or their legal representatives.

7.2 **Compliant/non-compliant Bids**

Following the public Bid opening proceeding, Bids will be checked to ensure that they are compliant with the requirements of this RFP. Bids that are deemed by the Ministry to be fully compliant will proceed to evaluation by the Evaluation Committee.

If a Bid does not comply with the requirements of this RFP then it may be rejected by the Ministry or, in the Ministry's sole and absolute discretion, may proceed to evaluation by the Evaluation Committee.

Bidders should identify in the RFP Statement of Compliance any aspects of their Bid that do not comply with the requirements of this RFP.

7.3 **Evaluation process**

The Evaluation Committee will open and evaluate the Bid in accordance with the Evaluation Criteria.

Account may also be taken of any factors that emerge from the tender process which may impact on the Bidder's suitability to undertake the Project and that relate to information

previously provided by the Bidder as part of the PQQ process. Account will also be taken of any changes to information previously provided by the Bidder as part of the PQQ process as set out in the RFP Statement of Compliance. If the Bidder's circumstances have changed materially from the position stated in the PQQ, the Ministry may reject the Bid.

If all the submitted Bids are evaluated by the Evaluation Committee as insufficient to match the requirements of the Ministry, the Ministry reserves the right in its sole discretion to reject all the Bids and to request resubmission of Bids by all Bidders for the purpose of achieving a sufficient bid. Under these circumstances, the financial elements of the Bids may only be revised upwards.

7.4 **Bid evaluation criteria**

In relation to those Bids which proceed to evaluation, Bidders' Bids and any other information specifically related to the evaluation of Bids and requested by the Ministry in this RFP will be evaluated against six high-level criteria, details of which can be found in the table below:

CRITERION
Quality of technical elements of the Bid (but excluding elements which relate to the social criteria below)
Quality/Quantity of financial elements of the Bid (but excluding elements which relate to the social criteria below)
Quality/Quantity of social elements of the Bid
Quality/Quantity of the elements of the Bid dealing with the bidder's sales and marketing plan for cement
Quality/Quantity of the elements of the Bid dealing with the bidder's proposals for integration of its supply chain
The bidder's suggested comments and amendments to the Model Cement Contract and the consistency of such comments and amendments with the Bid

7.5 **References, reports and approval**

Following evaluation in accordance with paragraphs 7.3 and 7.4 of this RFP, the Ministry shall:

- (a) If the Ministry deems necessary, undertake reference site visits and take up written references;
- (b) Prepare an internal evaluation report with recommendations; and
- (c) Seek the approval of the High Economic Council (HEC).

7.6 **Clarification of Bids**

The Ministry reserves the right in its sole and absolute discretion to ask Bidders for clarifications or additional information to assist the Evaluation Committee with evaluating the

Bid. In order to obtain such clarifications or additional information, the Ministry reserves the right to request Bidders to attend meetings, although the Ministry envisages that such requests will ordinarily be made via email communication. Responses to such requests shall be submitted by Bidders within the time period set out in the request or if no time period is set out within 5 days of receipt of the request and shall be submitted via email to both of lsmc@momp.gov.af.

7.7 Contact during the evaluation phase

In addition to the other requirements of this RFP, Bidders must not contact any person within, or associated with, the Ministry, its advisers or the Government (including the Evaluation Committee) during the evaluation process in order to discuss or influence the outcome of the evaluation process. Any such contact shall result in the relevant Bidder's Bid being rejected. Nothing in this paragraph shall preclude a Bidder from responding to requests for clarification or information under paragraph 7.6 of this RFP.

8. NOTIFICATION OF PREFERRED BIDDER AND RESERVE BIDDER

The Ministry will notify each of the successful Preferred Bidder and Reserve Bidder in writing as soon as reasonably practicable after obtaining approvals for such notification and a copy of such notification will be posted on the Ministry Website. The notification to the Preferred Bidder will include the Commencement Date for the Negotiation Period (or if no such date is included, the Commencement Date shall be such date as subsequently notified by the Ministry). The Ministry shall at the same time as notifying the Preferred Bidder and Reserve Bidder notify the other Bidders of the fact that they were unsuccessful and provide to those other Bidders the name of the Preferred Bidder and the Reserve Bidder.

In the event that a Bidder is entitled to bring a claim against the Ministry following announcement of the Preferred Bidder and Reserve Bidder then it must bring this claim within one month of the Preferred Bidder and Reserve Bidder being announced. The Bidder shall not be entitled to bring any such claim after the expiry of one month from the date of issue of the notification by the Ministry of the Preferred Bidder and Reserve Bidder to such Bidders.

9. NEGOTIATION AND AWARD OF THE CEMENT CONTRACT

The Preferred Bidder (and where negotiations with the Preferred Bidder are unsuccessful, the Reserve Bidder, and where negotiations with the Reserve Bidder are unsuccessful, any other designated Bidder) will be required to enter into negotiations with the Ministry in accordance with the Rules for the Conduct of Negotiations for the Cement Contract set out in Appendix 5 of this RFP in order to agree the final form of the Cement Contract prior to the expiry of the Negotiation Period (or Extended Negotiation Period as the case may be), as further described in the Rules for the Conduct of Negotiations for the Cement Contract.

Details of the negotiation process for conclusion of the Cement Contract are included in the Rules for the Conduct of Negotiations for the Cement Contract. Bidders agree to comply with the Rules for the Conduct of Negotiations for the Cement Contract following submission of a Bid.

Following the conclusion of the negotiations but prior to the execution of the Cement Contract, the Cement Contract may require the final approval of the Ministry, the High Economic Council and/or the National Procurement Authority and/or reporting to Houses of National Assembly before it can be executed. During such approval process the Bidder agrees that, until such time as approval is obtained, the period of validity of the Bidder's Bid shall remain open, the Bidder shall extend its Bid Bond when required to do so by the Ministry and that the Bidder shall remain bound by the outcome of the negotiations.

10. MISCELLANEOUS

10.1 Disclaimers

Reasonable diligence and care has been exercised by the Ministry and/or its advisers in ascertaining the reliability of the available information. Whilst the information included in and/or accompanying this RFP, the PQQ, the data in the Data Room, the Ministry Website and any other technical or other information and/or supporting documents arising in connection with the Projects, has been prepared in good faith, they do not purport to be comprehensive nor have they been independently verified. None of the Ministry, its advisers, the Government or any of their respective directors, members, officers or employees warrants or represents the completeness or accuracy of this RFP or any information and/or data contained in the RFP, the PQQ, the data in the Data Room, the Ministry Website and any technical or other information and/or supporting documents, nor accepts any liability (whether in contract or tort (including negligence), under statute or otherwise) with respect to the accuracy or completeness of this RFP, the PQQ, the data in the Data Room, the Ministry Website and any technical or other information and/or supporting documents, or for the reasonableness of any assumptions.

Bidders are solely responsible for carrying out their own independent investigation, due diligence and all other work necessary to establish the basis for their interest and decisions related to the Project. Bidders are also expected to seek their own financial, technical and legal advice.

No information contained in this RFP or in any communication made between the Ministry, the Government and any Bidder in connection with this RFP shall be relied upon as constituting a contract, agreement or representation that any contract shall be offered in accordance with this RFP.

Receipt of the RFP, other bid documents, access to the Data Room and/or notification of Preferred Bidder and Reserve Bidder shall not establish a binding agreement on the part of the Ministry to enter into any of the Cement Contract and/or any License. Furthermore, any statement by the Ministry, their agents, or advisers not communicated in writing shall not be of any effect and should not be relied upon by the Bidders.

For the avoidance of doubt, the provision of clarifications or further information in relation to the RFP or any other associated documents is only authorised to be provided following an information request made in accordance with paragraph 3.2 of this RFP.

All materials and documentation submitted to the Ministry in response to this RFP or as part of this tender process shall become the sole property of the Ministry. Subject to the requirements of paragraph 10.2 of this RFP, the Ministry reserves the right to use, in its sole and absolute discretion subject to the Applicable Laws all or part of any such information.

The Ministry will not reimburse any costs incurred by Bidders in connection with the preparation or submission of a Bid or any negotiations which may ensue, and by submitting a Bid; Bidders acknowledge and agree that the Ministry, its advisers and the Government will be discharged from any such liability to the fullest extent permitted by law.

10.2 Confidentiality

The contents of this RFP and any discussions arising in connection with this RFP are confidential. Bidders shall treat as strictly confidential:

- (a) The existence, provisions or subject matter of this RFP, or any document or agreement entered into pursuant to this RFP;
- (b) The discussions relating to this RFP and any document or agreement entered into pursuant to this RFP; and
- (c) All information received or obtained as a result of participating in the Bid process, which relates to any of the Ministry, the Government or the business, financial or other affairs of the foregoing.

Without prejudice to the foregoing, by the submission of their Bid, Bidders are deemed to have agreed to the terms of this paragraph 10.2. The restrictions contained in this paragraph 10.2 shall continue to apply without limit in time. In the event a Bidder breaches its obligations under this RFP as to confidentiality, the Bidder may be disqualified and its Bid rejected by the Ministry.

All information received from and any communications with Bidders shall, subject to the Applicable Laws be treated in confidence. However, Bidders acknowledge and agree that:

- (a) All information provided to the Ministry in connection with this RFP and the Bid may be made available to any person who is assisting the Ministry in respect of the Project, including its advisers;
- (b) The names of the Bidders may be announced and published on the Ministry Website;
- (c) Certain aspects of the bidder meeting and site visits may occur at the same time for all Bidders and therefore Bidders may ascertain the identities of other Bidders;
- (d) Bids may be opened and checked for compliance at a Bid opening ceremony during which Bidders may become aware of the identities of other Bidders and certain element of the other Bidders' Bids;
- (e) Following evaluation, the names of the Preferred Bidder and the Reserve Bidder may be announced and published on the Ministry Website;
- (f) As set out in paragraph 3.2 of this RFP, information requests and responses may be distributed via email communication to all Bidders, preserving the anonymity of the requesting Bidder;
- (g) Such information may be contained in the record and report to be prepared by the Ministry in accordance with Applicable Law; and
- (h) A copy of the Cement Contract, License and the names of the parties may be disclosed and published on the Ministry Website.

10.3 Debriefing

In accordance with Applicable Law, following acceptance of a Bid, unsuccessful Bidders are able to request sight of a record and report prepared by the Ministry.

In accordance with Applicable Law, the Ministry shall, upon request, communicate promptly to an unsuccessful Bidder the reason for the rejection of its Bid, at the expense of the Bidder.

10.4 **Improper actions**

Any improper approaching of, or any attempt to procure information from, any Government official, public sector employee, or agent of the Ministry or Government including any consultants, contractors or advisers of the foregoing by any Bidder concerning this RFP may result in the disqualification of the Bidder and/or rejection of the Bid. For the purposes of this paragraph 'improper' shall mean dishonest and/or against a law or a rule and/or which is outside of the ordinary course of reasonable professional conduct in respect of such matters.

10.5 **Collusive behaviour**

Any Bidder who:

- (a) Provides false and/or misrepresents information and/or documents on beneficial ownership.
- (b) Fixes or adjusts the amount of its Bid by or in accordance with any agreement or arrangement with any other party;
- (c) Communicates to any party other than an Association Member, the Ministry or its advisers the content, amount or approximate amount of its proposed Bid or information which would enable the amount or approximate amount to be calculated (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the Bid or insurance or any necessary security);
- (d) Enters into any agreement or arrangement with any other party as to the content or amount of any Bid submitted;
- (e) Engages in collusion to monopolise procurement procedures;
- (f) Provides false information in order to influence the outcome of the bidding (for the avoidance of doubt, this includes information concerning its eligibility and qualifications);
- (g) Engages in practices which establish Bid elements at uncompetitive levels or which prevent the promotion of a free, open and competitive tender process;
- (h) Offers or agrees to pay or give or does pay or give any sum or sums of money, inducement or valuable consideration directly or indirectly to any party for doing or having done or causing or having caused to be done in relation to itself or any other Bidder any act or omission in relation to the tender; or
- (i) Directly or indirectly, during the execution or award of the Project or for a related activity, provides any gratuity, gift or any favour to any public official, employee or agent of the Ministry or the Government or any other public agency or to any member of their families,

Shall (without prejudice to any other remedies available to the Ministry) be disqualified and/or such Bidder's Bid shall be rejected.

10.6 No inducement or incentive

This RFP is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall it have in any other way persuaded a Bidder to submit a Bid, enter into negotiations or enter into any of the Cement Contract or any other contractual arrangement.

10.7 Rights of the Ministry

The Ministry reserves all rights with respect to materials submitted in response to the RFP and/or this tender process. The Ministry's reservation of rights includes, but is not limited to the following:

- (a) The right to disqualify any or all Bidders and/or reject, in whole or in part, any or all Bids;
- (b) The right to establish the rules and procedures governing the bid preparation, submission, evaluation, and selection processes;
- (c) The right to cancel or modify the terms and conditions of the RFP and/or cancel the evaluation process at any stage;
- (d) The right to select the Preferred Bidder and Reserve Bidder;
- (e) The right to appoint an Evaluation Committee;
- (f) The right to use its advisers and/or third-party consultants to assist with any aspect of the bid submission, evaluation, selection, and/or negotiation processes;
- (g) The right to waive any deficiency, irregularity, or omission in any Bid provided that such waiver does not materially affect the substance or validity of the tender process as outlined in this RFP;
- (h) The right to determine which Bidders are qualified;
- (i) The right to disclose information submitted in response to the RFP or related to the tender process in accordance with the RFP and/or Applicable Laws;
- (j) The right to seek clarification of any Bid, to interview, or to hold discussions with any Bidder at any time after the Bid Submission Deadline; and
- (k) The right not to grant any of the Cement Contract or Licenses or enter into any agreement relating to the Project with any of the Bidders.

The Ministry and its advisers shall incur no liability to the Bidders by reason of any of the foregoing. In the event that all Bids are rejected or the tender process is cancelled, the Ministry shall note the reason in the record of tender proceedings, shall communicate the fact promptly to the Bidders and in the event that the tender process is cancelled before the Bid Submission Deadline, any Bids received shall be returned unopened to the respective Bidders.

10.8 Waiver by Bidders

Any Bidder submitting a Bid in response to the RFP related to the tender process for the Project waives any right to reimbursement for costs and expenses incurred in relation to the Bid preparation, generation of information, submission and negotiation of the Bid including the costs or expenses associated with:

- (a) Site visits, Due Diligence, independent research, and interviews;
- (b) Attendance at any pre-bid conferences and/or any bidder meeting or site visit;
- (c) Review of the Model Cement Contract and preparation of comments thereon;
- (d) Preparation and submission of additional information, responses to questions, and clarifications;
- (e) Preparation and submission of the PQQ and the Bid;
- (f) Negotiation of any agreement related to the RFP or this tender process, including negotiation of the Cement Contract;
- (g) The procurement of the Bid Bond; and
- (h) Anything related to the RFP and this tender process.

Notwithstanding any other provision of the RFP, the Ministry will not enter into any negotiation or agreement to pay or reimburse any Bidder for costs or expenses related to the RFP or this tender process.

APPENDICES

APPENDIX 1

RFP STATEMENT OF COMPLIANCE

TO BE TYPED ON THE BIDDER'S HEADED NOTEPAPER

Defined terms shall have the meanings ascribed to them in the Request for Proposal.

We confirm that, to the best of our knowledge:

- (a) The completed Bid complies fully with all requirements set out in the Request for Proposal save as specified below: -

.....

- (b) All information provided with the Bid is true and correct and we are not guilty of misrepresentation in providing any information required of us under the Request for Proposal;

- (c) The completed Bid complies fully with the requirements of the Applicable Laws;

- (d) Any statement made in the PQQ remains true and accurate in all material respects save as specified below: -

.....

- (e) Except as has been consented to by the Ministry and as is detailed below, there has been no Change in Composition (as defined in the Request for Proposal) since the submission of the PQQ: -

.....

We confirm that there are no actions, suits, investigations or proceedings pending or, to our knowledge, threatened, against or affecting us or any of our property in any court or before any arbitrator of any kind or before or by any governmental authority that:

- (a) Calls into question our right to enter into and perform our obligations under the Cement Contract; or
- (b) Would, if resolved against us, materially adversely affect our ability to perform our obligations under the Cement Contract.

Organisation's name	
Signature	
Name	
Position	

Date

APPENDIX 2

BID LETTER

TO BE TYPED ON THE BIDDER'S HEADED NOTEPAPER

**To the Ministry of Mines and Petroleum of the Islamic Republic of Afghanistan ("The Ministry")
Charayi Abdulhaq(Abdulhaq Square).
Kabul
Afghanistan**

[Insert date]

Dear Sir/s

1. We have examined and understood the requirements of the RFP. Accordingly we offer to undertake the Project in conformity with the requirements of the RFP and our enclosed Bid (including this letter).
2. We agree to abide by this Bid until [●]² and it shall remain binding upon us and may be accepted at any time before that date. Further, where requested so to do, we agree to extend the validity of this Bid in accordance with the requirements set out in paragraph 6.2 of the RFP.
3. We hereby unconditionally commit that:
 - a) If selected as the Preferred Bidder; or
 - b) If selected as Reserve Bidder and where so requested by the Ministry; or
 - c) Where negotiations are unsuccessful with the Preferred Bidder and Reserve Bidder and where so requested by the Ministry,

We will enter into negotiations in accordance with the Rules for the Conduct of Negotiations for the Cement Contract.

4. We acknowledge that failure to comply with the obligations in this letter may result in the Ministry calling for payment under the Bid Bond.
5. Any defined terms used in this letter shall, unless defined in this letter, have the meaning ascribed to them in the RFP.

Signature..... in the capacity of.....

Duly authorised to sign tenders for and on behalf of

.....
.....

² Insert date 120 days after the Bid Submission Deadline.

APPENDIX 3

BID BOND

The contract for the exploration, quarrying and transformation of quarry material into cement and for the design, build, financing, insurance, ownership, operation, maintenance and management of a new cement production facility in [Herat] (the "**Cement Contract**").

Name and address of Beneficiary: Ministry of Mines and Petroleum for the Government of Afghanistan
Charayi Abdulhaq (Abdulhaq Square)
Kabul
Afghanistan

We have been informed that [*name of the Bidder*] a [*specify type of entity*] organized under the laws of [*insert relevant jurisdiction*] and duly licensed in [*insert relevant jurisdiction*] (hereinafter called the "**Principal**") is submitting a bid (the "**Bid**") in response to your request for proposal ("**RFP**"), and that the conditions of your RFP require this Bid to be supported by a bid bond. Any defined terms used in this Bond shall, unless defined in this Bond, have the meaning ascribed to them in the RFP.

At the request of the Principal, we [*insert name of issuing surety*] a [*specify type of entity*] organized under the laws of [*insert relevant jurisdiction*] and duly licensed or authorized to transact business in [*insert relevant jurisdiction*] (the "**Surety**") hereby unconditionally and irrevocably undertake to pay you (waiving all rights of objection and defence save in the case of fraudulent demand) any sum or sums not exceeding in total the amount of **USD 250,000 (Two hundred and fifty thousand US dollars)** ("**Bond Amount**"), upon receipt by us of your demand in writing ("**Demand**") and containing in such Demand your written statement that:

- (a) The Principal has intentionally submitted with the Bid false information concerning its eligibility and qualifications; or
- (b) The Principal has failed to promptly correct inaccurate or incomplete information upon your request; or
- (c) The Principal has made a Change in Composition (as defined in the RFP) without your prior written consent at any time after the Bid Submission Deadline; or
- (d) the Principal has unilaterally withdrawn his Bid after the Bid Submission Deadline and before the expiry of its period of validity as referred to in paragraph 6.2 of the RFP; or
- (e) The Principal has failed to extend the validity of this Bond and provide written evidence thereof to you in accordance with paragraph 5.5(a)(v) of the RFP; or
- (f) The Principal has failed to comply with the Rules for the Conduct of Negotiations for the Cement Contract and thereby prevents the granting of the Cement Contract; or
- (g) The Principal terminates negotiations in respect of the Cement Contract except such termination: (i) "for cause" as defined in paragraph 8 of the Rules for the Conduct of Negotiations for the Cement Contract; or (ii) "by mutual agreement" as defined in paragraph 9 of the Rules for the Conduct of Negotiations for the Cement Contract; or
- (h) You terminate negotiations in respect of the Cement Contract "for cause" as defined in paragraph 8 of the Rules for the Conduct of Negotiations for the Cement Contract; or

- (i) in your reasonable opinion, the Principal has breached the terms of paragraph 10.4 and/or 10.5 of the RFP.

Any Demand must contain a signature of your authorized representative. We agree that we will fulfil our obligations under this Bond without proof or conditions and that receipt by us of a Demand in accordance with this paragraph shall be conclusive evidence of our liability to pay you the sum demanded provided such sum, together with the amounts of any previous Demands, do not in the aggregate exceed the Bond Amount.

Any Demand shall be in writing and either delivered by hand or sent by recorded post to us at [*insert address*], marked for the attention of [*insert name*]. The Demand will be deemed to be received by us:

- (j) If delivery by hand, on the date it is delivered;
- (k) If sent by recorded post or internationally recognised courier, on the day it is received.

Any Demand must be received by us at this office on or before:

- (l) [*insert date that is 120 days after the Bid Submission Deadline*]; or
- (m) where an extension to the time for expiry of this Bond is required in accordance with paragraph 5.5(a)(v) of the RFP, the expiry of the First Extension Period pursuant to paragraph 5.5(a)(v)(A) or the expiry of the Further Extension Period pursuant to paragraph 5.5(a)(v)(B),

(The "**Expiry Date**").

Upon the Expiry Date this Bond shall expire and no later than 21 days from the Expiry Date this Bond shall be returned to us, provided always that this Bond shall remain in full force and effect in respect of any Demand received up to and including the Expiry Date.

We agree that all sums payable under this Bond shall be paid to you in full and shall be free of any present or future taxes, levies, duties, charges, fees or withholdings and without any deduction, restriction, conditions, withholding, set-off or counterclaim or cross-claim whatsoever.

We confirm that this Bond shall not be impaired, reduced, discharged or affected by:

- (n) any amendments, alterations or supplements to the RFP, the Bid or the Cement Contract or any concession, release, waiver or other indulgence granted to the Principal; or
- (o) any invalidity, illegality or unenforceability in or of the terms of any other agreement or arrangement to which the Principal is or may become a party; or
- (p) any disability, incapacity, change in ownership or change in status of the Principal; or
- (q) any bankruptcy, insolvency or other such proceedings or any change in the constitution of the Principal; or
- (r) any dispute between you and the Principal or any compromise of a dispute; or
- (s) any other security or bond taken, or granted or released by the Principal and/or you to us or by any other person; or

- (t) any other act or omission which in the absence of this provision, might operate to exonerate us;

And we hereby waive any requirement for notice to be given to us of any such event.

No failure or delay by you in exercising any right or remedy shall operate as a waiver and nor shall any single or partial exercise or waiver of any right or remedy preclude its further exercise or the exercise of any other right or remedy.

This Bond shall be governed by and construed in accordance with the laws of the Islamic Republic of Afghanistan ("**Afghanistan**") including international treaties and bilateral investment treaties to which Afghanistan is a party. Any dispute, controversy or claim arising out of, under or in connection with this Bond shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

The original of this Bond is drafted in English. If this Bond is translated into any other language, the English language text shall prevail.

IN WITNESS WHEREOF, the authorized representatives of the parties have indicated their agreement to be firmly bound by these presents by having signed below:

Date:

For the Beneficiary:

For the Surety:

By_____

By:_____

APPENDIX 4

BID SUBMISSION TIMETABLE³

DATE	STAGE	MAIN RFP PARAGRAPH REFERENCE
[18 th August, 2018]	Pre-bid Meeting	3.4
[28 th August, 2018]	Base Date	5.5(a)(ii)
[1st September, 2018]	Information Request Deadline	3.2
[25 th September, 2018]	Bid Submission Deadline	6.1

³ These dates are to be inserted.

APPENDIX 5

RULES FOR THE CONDUCT OF NEGOTIATIONS FOR THE CEMENT CONTRACT

1. DEFINITIONS

The definitions contained in the Glossary of Terms to the Request for Proposal contained in the virtual data room ("**RFP**") shall apply to these Rules for the Conduct of Negotiations for the Cement Contract ("**Rules for Negotiation**").

2. STRUCTURE OF NEGOTIATIONS

Negotiations will commence with the Preferred Bidder immediately upon the date stated in the notification of Preferred Bidder status (or if no such date is specified, upon the date of the notification itself) and there shall be no negotiations at this time with the Reserve Bidder. If such negotiations with the Preferred Bidder fail or have been terminated, negotiations will cease with the Preferred Bidder following written notification by the Ministry and shall commence as soon as practicable thereafter with the Reserve Bidder. If the negotiations with the Reserved Bidder fail or have been terminated, the Ministry in its sole discretion may reopen the tender process or conduct negotiations with one of the other Bidders. These Rules for Negotiation therefore apply to any negotiations with the Preferred Bidder, Reserve Bidder and any other designated Bidder (as the case may be).

3. PLACE OF NEGOTIATIONS

The negotiations shall take place in Kabul, Afghanistan or in such other location as the parties may agree.

4. LANGUAGE OF NEGOTIATIONS

The official language of the negotiations (including all written text) shall be either in Pashto or Dari or English. Each party to the negotiations shall provide their own translator and translations as needed (including translation of any written text). In the event of any discrepancy between the English language version of any written text and the version of that written text in any other language, the English language version shall prevail.

5. SUBSTANCE OF NEGOTIATIONS

The Bid shall provide the framework for the negotiations. Bidders are bound by the content of the Bids and therefore no material changes to the Bids shall be considered. In particular, in relation to the terms of the Model Cement Contract and as noted in paragraph 2.2 of the RFP, the Bidder shall only be entitled to negotiate those items commented upon and amended in the mark-up to the Cement Contract submitted as part of the Bid.

6. CONFIDENTIALITY

The negotiations shall be closed to the public. All parties to the negotiations acknowledge that the negotiations are confidential, will involve confidential information and shall be subject to paragraph 10.2 of the RFP.

7. TERMINATION OF NEGOTIATIONS WITHOUT CAUSE

Any Bidder or the Ministry may terminate the negotiations "without cause". If the Ministry terminates the negotiations "without cause", the Bid Bond(s) shall be returned to the

appropriate Bidder(s). If a Bidder terminates the negotiations "without cause", the Ministry shall be entitled to elect to call for payment under the Bid Bond. "Without cause" shall for the purposes of these Rules for Negotiation be for any reason other than a reason that is "for cause".

8. TERMINATION OF THE NEGOTIATIONS FOR CAUSE

Any Bidder or the Ministry may terminate the negotiations "for cause". If the Ministry terminates "for cause", the Ministry shall be entitled to elect to call for payment under the Bid Bond. If a Bidder terminates "for cause", its Bid Bond shall be returned. "For cause" shall for the purposes of these Rules for Negotiation are limited (save as further set out below of this paragraph 8 of the Rules for Negotiation) to the following:

- Material breach of the terms of these Rules for Negotiation; and/or
- Fraud or wilful default by act or omission; and/or

Further, the Ministry may terminate the negotiations "for cause" and be entitled to elect to call for payment under the Bid Bond if the Bidder:

8.1. Makes contact with any person within, or associated with, the Ministry, its advisers or the Government (including the Evaluation Committee) in order to discuss or influence the outcome of the negotiations, save as expressly provided for in the Rules for Negotiation, or

8.2. Is appointed as a person listed under Article 151 and 152 of the Constitution of the Afghanistan, during the negotiations and/or prior to the award of the Contract.

9. TERMINATION BY MUTUAL AGREEMENT

Notwithstanding any other provision in these Rules for Negotiation, any Bidder and the Ministry may terminate the negotiations by mutual written agreement subject to whatever terms they deem appropriate.

10. DISPUTE RESOLUTION

These Rules for Negotiation shall be governed and construed in accordance with the laws of Afghanistan, including international treaties and bilateral investment treaties to which Afghanistan is a party.

11. TIMING

Any unreasonable delay by the Bidder in completing the negotiations or executing the Cement Contract shall be a material breach of these Rules for Negotiation.

12. NEGOTIATE IN GOOD FAITH

By participating in the negotiations, all parties to the negotiations agree that they shall negotiate in good faith which shall include, but not be limited to, the Bidder complying with the requirements of paragraphs 10.4, 10.5 (g) and 10.5 (h) of the RFP. Any negotiations that are not in good faith shall be a material breach of these Rules for Negotiation.

13. DURATION OF NEGOTIATIONS

The Ministry and the Preferred Bidder shall use their best efforts to complete the negotiations and execute the Cement Contract within 30 days after the Commencement Date (the "**Negotiation Period**"). The Ministry in its sole discretion may extend the Negotiation Period

by any additional period (the "**Extended Negotiation Period**"). If the Ministry and the Preferred Bidder have not concluded the negotiations and executed Cement Contract before the end of the Extended Negotiation Period for whatever reason, the negotiations between the Ministry and the Preferred Bidder may, in the Ministry's sole and absolute discretion be terminated by the Ministry or, in the Ministry's sole and absolute discretion, be continued with the Preferred Bidder. Any such termination shall be treated as "without cause" on the part of the Ministry and nothing in this paragraph shall prejudice the Ministry's rights to terminate "for cause" on the part of the Bidder pursuant to paragraph 8 of these Rules for Negotiation. If negotiations are continued, the Ministry shall communicate to the Preferred Bidder an additional period for completion of negotiations which shall be a further Extended Negotiation Period for the purpose of this paragraph.

If negotiations with a Preferred Bidder are terminated as aforesaid the Ministry shall be entitled at its sole and absolute discretion to undertake negotiations with the Reserve Bidder, re-open the tender process or abandon the tender process. Any such negotiation with the Reserved Bidder shall be subject to the same Negotiation Period and Extended Negotiation Period process and the Commencement Date shall for such purposes be the date of notification by the Ministry to the Reserve Bidder that it wishes to commence negotiations with the Reserve Bidder. If negotiations are terminated with the Reserved Bidder as aforesaid, the Ministry shall be entitled at its sole and absolute discretion to undertake negotiations with any of the other Bidders re-open the tender process or abandon the tender process. Any such negotiation with another Bidder shall be subject to the same Negotiation Period and Extended Negotiation Period process and the Commencement Date shall for such purposes be the date of notification by the Ministry to the Bidder that it wishes to commence negotiations with the Bidder.

14. **ADVICE OF COUNSEL**

Any party participating in the negotiations agrees that by participating in the negotiations it is acknowledging that it has reviewed these Rules for Negotiation with legal counsel and has agreed to be bound by these Rules for Negotiation during the negotiations.

15. **DEADLINES DURING THE NEGOTIATIONS**

If the deadline for the completion of a task or delivery of a document falls on a legal holiday applicable in the home jurisdiction of a party to the negotiations, that deadline shall be extended to the next day which is not a legal holiday in any such jurisdiction.

16. **PARTICIPANTS IN THE NEGOTIATIONS**

No other persons except the following may attend the negotiations:

- Representatives of a party;
- Advisers to a party; and
- Administrative personnel, interpreters and translators of a party.

Only representatives and advisors of a party may substantively participate in the negotiations and the names of all Bidder's representatives, advisers, administrative personnel, interpreters and translators ("**Bidder's Personnel**") shall be provided to the Ministry prior to such negotiation commencing. The Ministry reserves the right at its sole discretion not to permit any particular Bidder's Personnel to attend the negotiations. Representatives and advisers (including, without limitation, legal representatives and/or advisers) may not represent more than one Bidder. Subject to the requirements of the Ministry, the Parties shall be responsible

for making their own arrangements to attend the negotiations and shall do so at their own cost.

17. NEGOTIATING PROCESS

The negotiating process shall be as directed by the Ministry taking into account the reasonable requirements of the Bidder and may include, without limitation, the following:

- Selection of representatives, advisors, administrative personnel, interpreters and translators;
- Scheduling of meeting sessions;
- Information requests;
- Establishing procedures for communication between the parties;
- Establishing procedures for making and memorializing agreements between the parties; and
- Establishing procedures for declaring and resolving an impasse.

18. APPROVAL OF THE CEMENT CONTRACT

Following the conclusion of the negotiations but prior to the execution of the Cement Contract, the Cement Contract may require the final approval of the Ministry, and the High Economic Council, and/or the National Procurement Commission before it can be executed. During such approval process, the Bidder agrees to remain bound by the outcome of the negotiations until such approval is obtained. During such time the Bidder agrees that the period of validity of the Bidder's Bid shall remain open until such time as approval is obtained. The Bidder shall provide the Ministry with such assistance as the Ministry may require in order obtaining such approval.

APPENDIX 6
BID REQUIREMENTS

Part 1

General Bid Requirements

Terms used in these general Bid Requirements but not defined within the Request for Proposal shall have the same meaning as is ascribed to them in the Model Cement Contract.

Part 1A: Proposals as to selection of Exploration Areas and the Site, Power requirements and production capacity

The following general Bid Requirements are required to be provided in relation to the Exploration Areas, the location of the Site and Power for the Processing and Quarrying:

- 1) subject to paragraph 4.4 of this RFP, a list of potential Exploration Areas which the Bidder considers following its Due Diligence are prospective to exploit the quarry materials required to produce cement, including co-ordinates of each potential Exploration Area and the Bidder's reasons for selecting these locations. The potential Exploration Areas which the Bidder selects may in total cover an area of up to (250) square kilometres (i.e. ten (10) Licenses of up to fifty (50) square kilometres each) subject to Applicable Law. Bidders who are successful in the tender process and negotiate a Cement Contract with the Ministry will be entitled to apply for Exploration license over the potential Exploration Areas that they have selected as part of their Bid, provided these potential Exploration Areas have been approved by the Ministry;
- 2) A proposed location for the Site, including co-ordinates for the proposed Site and the Bidder's reasons for selecting that location;
- 3) Proposals as to how Power requirements for the Processing will be met and how the kiln will be heated during Processing; and
- 4) A proposal as to the production capacity of the Cement Production Facility which complies with the parameters set out in paragraph 5.3(c) of this RFP.

Part 1B: Generally applicable Bid Requirements

The following general Bid Requirements are required to be provided in respect of all sections of the Bidder's Bid (namely: (i) exploration of Quarry Materials; (ii) exploitation of Quarry Materials; (iii) Processing of Quarry Materials into Cement; and (iv) Design-Build and operation of the Cement Production Facility), (v) surface topography:

- 1) The financial and technical capacity of the Bidder [**Applicable Law and Regulations**];
- 2) Previous experience of the Bidder [**Applicable Law and Regulation**];
- 3) Details of any Afghan partner(s) included in the Bid [**Applicable Law and Regulation**];
- 4) Technical specifications, performance criteria, requirements as to minimum work program, safety processes and methods and environmental impact [**Art. 21 (L)**]

- 5) The name, address and nationality of each Bidder [**Art. 21 (L)**]
- 6) In the case of a Bidder organized as a corporation [**Applicable Law and Regulation**]:
 - (i) its place of registration or incorporation, its principal place of business, the names, addresses and nationality of the directors, principal officers and authorized signatories of the Bidder and its capital structure;
 - (ii) The corporate structure of the Bidder;
 - (iii) financial information of the Bidder, including annual reports, audited balance sheets and profit and loss statements for the past three (3) years and any reports of relevance for the mineral activities which the Bidder may have filed with government agencies responsible for securities regulation during that period;
- 7) Details as to how the Project would be financed and method of performance security [**Applicable Law and Regulations**];
- 8) The Bidder's previous experience and technical expertise in respect of all aspects of the Project [**Applicable Law and Regulation**];
- 9) A description of the organization and expertise which the Bidder will have available in Afghanistan and elsewhere for activities in connection with the quarrying area for which the Bid is submitted [**Applicable Law and Regulation**] together with a description of the organization and expertise which the Bidder will have available in Afghanistan and elsewhere for activities in connection with processing;
- 10) A description of the Bidder's experience and procedures that will apply for securing the health, safety and welfare of persons involved in or affected by the Project [**Applicable Law and Regulation**];
- 11) A description of the Bidder's experience and procedures that will apply for protecting the environment, preventing, minimizing and remedying pollution and other impacts from the Project [**Applicable Law and Regulation**]; and
- 12) Proposals with respect to the training of Afghan nationals and expenditures to be incurred therein [**Applicable Law and Regulation**].
- 13) Proposals in respect of the types of Cement to be produced.
- 14) Proposals in respect of each Subcontractor to be appointed [**Clause 1.1 of the Model Cement Contract**]
- 15) Proposals in respect of the Financing Plan [**Clause 4.4 of the Model Cement Contract**].

- 16) Proposals in respect of the form of report [**Clause 7.1(b) of the Model Cement Contract**].
- 17) Proposals in respect of the Operation Service [**Clause 7.2 of the Model Cement Contract**].
- 18) Proposals in respect of the senior members of the Company's Personnel [**Clause 20.5(a)(ii) of the Model Cement Contract**].
- 19) Proposals in respect of the date when if the Date of Commencement of Commercial Production has not occurred the Contract may be terminated [**Clause 24.1(g) of the Model Cement Contract**].
- 20) Proposals in respect of any Other Cement Raw Materials that the Bidder proposes to extract in relation to the Project.

Part 2

Exploration and Exploitation Bid Requirements

This Exploration and Exploitation Bid Requirements table reflects the requirements for bidding for Exploration License and Exploitation License.

Terms used in this Exploration and Exploitation Bid Requirements table shall be construed as follows:

“**General**” shall mean:

- (a) a bid requirement to provide proposals in respect of the relevant bid requirement in an appropriate level of detail consistent with: (i) any explanatory comments in this table; (ii) Good Industry Practice; and (iii) all of the information available to the Bidder at the time of its Bid; and
- (b) a commitment to provide further detailed proposals that are connected with such original proposal and which, subject to the Ministry’s absolute discretion, shall not include any terms less favourable to the Ministry than those contained within such original proposal.

“**Detailed**” shall mean a bid requirement to provide a detailed proposal in accordance with all of the terms of the relevant bid requirement in this table and any explanatory comments relating to such bid requirement.

“**General Policies and Procedures**” shall mean a bid requirement to provide details of the relevant policies and procedures the Bidder proposes are applicable to the relevant bid requirement in this table. This shall also include the bid requirement for Case Studies as defined below.

“**Case Studies**” shall mean a minimum of 2 case studies and a maximum of 3 case studies which the Bidder proposes are applicable to the relevant bid requirement in this table.

“**Commitment**” shall mean a commitment by the Bidder to provide the relevant bid requirement in accordance with the terms of the Model Cement Contract and in accordance with any relevant explanatory comments in respect of such bid requirement.

Any terms used in this Part 2 of Appendix 6 to the RFP, but not defined above or in the RFP shall have the meaning ascribed to such terms in the Model Cement Contract.

	Exploration Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
(a)	An Exploration plan, which shall include details on a (i) reconnaissance survey (literature resource, sampling and site selections), (ii) a detailed survey (drilling methods, expected borehole spacing, expected number of boreholes, sampling techniques, sample preparation and analytical techniques, pitting, trenching, geophysical, bulk sampling, reporting and blending data); and (iii) a feasibility study ahead of exploitation;	Detailed	N/A	N/A	Details shall include a proposed time schedule, staffing requirements and expertise, assaying laboratory details, data storage and details on resource estimation and results reporting.
(b)	Details as to the proposed expenditure to be incurred during the exploration period;	Detailed	N/A	N/A	
(c)	The exploration plan shall show details on the proposed process to define sufficient qualities of Limestone, Clay and Other Cement Raw Materials of sufficient quality for the full proposed life of the cement production facility.	Detailed	N/A	N/A	
(d)	A rehabilitation and harm reduction plan;	Detailed	N/A	N/A	
(e)	A commitment to comply with the requirements of clause 3.1 of the Model Cement Contract.	N/A	N/A	Yes	

	Exploitation Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
(a)	a plan of work, which shall include details as to the manner of implementation and the amount of investment committed thereto [Art. 59(1) (L)], which shall include extraction plans to demonstrate that the raw materials can be produced with consistent chemical boundaries;	Detailed	N/A	N/A	Following the Bid a revised plan may be submitted to the Ministry if necessary.
(b)	a detailed description of the proposed investigations the Bidder will need to carry out prior to commencing exploitation, including minimum work obligations, timescale and estimated expenditures [Art.12(1).5 (R)]. This shall include geotechnical and engineering investigations in relation to crushers, blending stockpiles, access roads	Detailed	N/A	N/A	

	Exploitation Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	and transport of stone from the extraction site;				
(c)	evidence of the Bidder's financial capability [Art. 59(7) (L)]	Detailed	N/A	N/A	
(d)	a Development Plan, which shall include details as to any proposed investments and socio-economic contributions of any type for the communities concerned. <i>A Development Plan which shall establish appropriate sustainable development and social protection programs and structures, taking into account international best practice. A Development Plan should propose approaches for ensuring adequate housing, sanitation, roads, medical facilities, power and water supply, educational facilities, religious facilities and recreational opportunities. A Development Plan should also address economic development, employment and job creation in local communities, taking into account employment requirements established under the Minerals Law. Finally, a Development Plan must establish funding and implementation commitments.</i> [Art.87(1).3 (R)];	General	Yes	N/A	The General proposal is to include the amount of the financial commitment proposed by the Bidder.
(e)	An Environmental Impact Assessment (including a social impact assessment) Regulations [Regulation 87(1).I: An Environmental clearance Report/Environmental Impact Assessment ("EIA")]. <i>An EIA shall include: (i) A description of the natural and human environment to be affected by the proposed exploitation activity; (ii) An identification and analysis of the type, duration, and intensity of potential environmental and social impacts of the proposed exploitation activity, including cumulative impacts of other mineral activities in the vicinity of the proposed exploitation activity; and (iii) An identification of appropriate mitigation measures to address the identified impacts of the proposed exploitation activity.</i> [Art.87(1).1 (R)];	General	Yes	N/A	
(f)	an Environmental Management Plan (including social mitigation, rehabilitation of the sites to be exploited and quarry closure plan) [Art. 89(2) (L)]: <i>shall include the measures and methods planned for the protection of the environment and local populations, mitigation of social impacts, an emergency response plan, the elimination or mitigation of pollution, Mine or Quarry closure plan, the rehabilitation and restoration of the sites upon cessation or suspension of mineral activities, reclamation and the protection, resettlement and/or compensation of affected local populations and affected communities, and a description of the effectiveness of said measures.</i> [Wording from Regulation (): <i>An Environmental Management Plan which shall describe how the License or License Holder will address the anticipated impacts of the proposed exploitation activities through the implementation of appropriate and coordinated environmental management mechanisms. Environmental Management Plans shall be based on international best practice and shall describe in detail how the License or License Holder will conduct its construction, operation, closure and rehabilitation of its exploitation activities and associated impacted land. In particular, an environmental management plan shall: (i) Describe specific measures to address identified environmental, human health and social impacts of the exploitation activities identified in the EIA, including</i>	General	Yes	N/A	

	Exploitation Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	<i>measures to avoid or minimize impacts associated with construction and operation of the exploitation activities; (ii) Making use of proper and effective natural procedures consistent with the requirements of these Regulations for protection of water and soil quality; (iii) Present a mine closure plan; and (iv) Establish a monitoring program with regularly scheduled compliance assessment and reporting to Ministry of Mines to ensure implementation of and compliance with the Environmental Management Plan. .] [Art. 89(1).2 (L)]</i>				
(g)	a Bidder must submit an Environmental Impact Statement and implement it upon the approval of the Environmental Protection Department as set out in Minerals Law[Art. 89(1).2 (L)]: " <i>Environmental Impact Statement (EIS)</i> " means a prior scientific foreseeable analysis of potential effects of an activity that would affect the environment and social conditions: (i) Analysis of the acceptable levels of these impacts on the environment and the mitigation measures for them; (ii) Mitigating the major impacts on the environment and social issues or other severe impacts; and (iii) Compensation of the damages to the affected communities.]: <i>The Environmental Impact Statement shall contain the following before commencement of Mineral Activities: (i) A description of the ecosystem including the flora and fauna, topography of the area, air quality, underground and surface water, a description of the social conditions in the area, and the direct and indirect impact of the proposed Mineral Activities on them; (ii) An analysis of the direct and indirect cumulative environmental and social impacts and risks of the proposed Mineral Activities, the natural aspects of the ecosystem which are affected qualitatively and quantitatively by the Mineral Activity; and (iii) the impacts of the Mineral Activity on local populations, affected communities and existing social conditions.]</i>	General	Yes	N/A	
(h)	a commitment to prepare an environmental plan and evaluation of its impact according to provision of the Mining Regulations[Art.37(1).4 (R)];	N/A	N/A	Yes	
(i)	a commitment to prepare a development plan including proposed investments and any socio-economic contributions proposed for affected communities [Art.37(1).5 (R)];	N/A	N/A	Yes	
(j)	bankable feasibility study (the study must be at a level acceptable to a donor bank) [Art.37(1).6 (R)];	N/A	N/A	Yes	The Commitment is to prepare a detailed bankable feasibility study in accordance with the Model Cement Contract.
(k)	proof of technical competence, expertise and track records in mining operations and environmental management of the senior technical and management personnel proposed to undertake the exploitation activities	Detailed	N/A	N/A	This is to include details of who will develop, extract and transport the quarry

Exploitation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
					materials and who will design, build and operate the Cement Production Facility where such person is not the Bidder.
(l)	proof of financial capability and financial assurance to undertake the exploitation activities [Art.37(1).8 (R)];	Detailed	N/A	N/A	
(m)	business or corporate documentation confirming eligibility to hold exploitation rights [Art.37(1).9 (R)];	Detailed	N/A	N/A	
(n)	for Bidders that hold existing exploitation rights, the following shall be submitted in addition to the Bid requirements which are identified in this paragraph 5.3, whenever applicable [Art.37(3) (R)]:				
(i)	certification that the Bidder's other exploitation activities are in compliance with all applicable laws and regulations, including the payment of applicable royalties, taxes and surface rights fees;	Detailed	N/A	N/A	
(ii)	a report on the status of mitigation and rehabilitation efforts in areas of existing exploration or exploitation activities;	Detailed	N/A	N/A	
(iii)	copies of annual activity reports;	Detailed	N/A	N/A	
(o)	other following document and papers as the Ministry may require [Art.37(4) (R)]:				
(i)	a statement of the technical qualifications and financial resources of the Bidder;	Detailed	N/A	N/A	
(ii)	if the Bid is on behalf of 2 or more persons, an explanation of each person's interest in the permit (including the percentage of the share of the permit that each person will hold);	Detailed	N/A	N/A	
(iii)	a statement of the proposed work program that provides an overview of how the quarrying area will be worked that includes:				
A.	the size, extent, type and location of the proposed exploitation operations;	General	No	N/A	

Exploitation Bid Requirements			General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	B.	the proposed exploitation methods to be used;	General	No	N/A	
	C.	the proposed exploitation and production schedule;	General	No	N/A	
	D.	the expected production and long-term exploitation scheme for exploitation of mineable resource;	General	No	N/A	
	E.	the proposed start date for production;	Detailed	No	N/A	
	F.	the proposed expenditure under the License for quarry exploitation; and	Detailed	No	N/A	
	G.	if applicable, the point of valuation for calculation of royalty purposes; [Art.37 (R)]	Detailed	No	N/A	
(p)	Feasibility Study Art.37 (1).6 (R) In connection with any application by the Company to grant an License for Quarry Exploitation, the Company shall produce a study relating to the feasibility of the conduct of Quarrying within the Quarrying Areas prepared by: (i) an independent third-party agreed to by the Parties in writing; or (ii) by the Company and verified by an Independent Expert, on the basis of sound engineering and economic principles in accordance with Good Industry Practice. The Feasibility Study shall include those elements as the Parties may agree, but shall in any event include the following:					
	a.	in respect of an License for Quarry Exploitation:				
	(i)	a description and plan of the area over which License for Quarry Exploitation is sought;	General	No	N/A	
	(ii)	a description of the technology processes to be used, in each case with the results of any laboratory or other tests designed to identify technologically appropriate methods for processing the quarrying materials involved;	General	No	N/A	
	(iii)	a general description of requirements associated with obtaining required permits, including the estimated cost of compliance and implementation of the Environmental Management Plan and Social Impact Assessment and Action Plan;	General	Yes	N/A	The Bid should include details as to the estimated costs in particular.
	(iv)	plans for electricity supply for Quarrying, including reliability and cost of services that includes an assessment of the potential for sharing electrical supplies and infrastructure with other users in ways that	General	Yes	N/A	This requirement should indicate the Bidder's plan for sourcing coal

Exploitation Bid Requirements			General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
		promote sustainable development of the communities in the local areas;				and/or gas whether it be through extraction or purchasing from a third party.
	(v)	plans for disposal of waste rock and materials from Quarrying and its usage in backfilling and restoration;	General	Yes	N/A	
	(vi)	a description, plans and list of the proposed facilities (which include all infrastructure and associated facilities (such as power, communication, transportation, roads, and fresh and reclaimed water), the main structures, and the machinery and equipment), a specification of the raw materials and services (including electrical requirements and water) required, and an assessment of the potential for sharing such facilities and services with other users in ways that promote sustainable development of the communities in and around the Quarrying Areas and/or local areas (as applicable);	General	No	N/A	
	(vii)	an organisation chart and requirements for personnel;	General	No	N/A	
	(viii)	schedules to initiate construction and construction timetables;	General	No	N/A	
	(ix)	estimates, intended to be accurate to within fifteen per cent (15%), of capital costs and operation costs;	Detailed	No	N/A	
	(x)	an economic evaluation and financial analysis (including an estimated rate of return of investment and cash flow for the various phases of Quarrying), including probable future capital investments and an analysis of the financial viability of the Quarrying during the period of validity of the License for Quarry Exploitation; and	General	No	N/A	
	(xi)	a plan for the development of, and access to, infrastructure required and necessary for the development of the Quarrying and in a manner which is consistent with the obligations of the Company contained in Clause 8 (Infrastructure) of the Model Cement Contract.	General	No	N/A	
	b.	in addition, in respect of an License for Quarry Exploitation:				
	(i)	an estimate of resources and reserves scheduled for cement production that may be quarried in	N/A	N/A	Yes	

Exploitation Bid Requirements			General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
		accordance with internationally accepted standards;				
	(ii)	a market study for all of the Quarry Materials to be produced in the Quarrying Areas along with details of any material to be extracted for other products unrelated to the Company's cement production facility;	General	No	N/A	
	(iii)	an evaluation of the known deposits of Quarry Materials within the boundaries of the Quarrying Area, as well as the Quarry Materials which can be exploited in the Quarrying Areas; and	N/A	N/A	Yes	
	(iv)	an initial quarrying plan indicating expected recovery rates. Art.37(1).6 (R)	N/A	N/A	Yes	
(q)	Environmental Impact assessment and Environmental Management Plan [Art. 89(1).2 (L)]: In connection with any application by the Company to grant an License for Quarry Exploitation, the Company shall produce:					
	a.	an assessment of the impact of the proposed Quarrying on the Environment prepared in accordance with Applicable Law and based on sound engineering and economic principles, and having regard to Good Industry Practice and the Agreed Environmental and Social Standards, establishing a baseline of Environmental conditions existing at the Effective Date, and assessing the Quarrying-related Environmental effects and impacts	N/A	N/A	Yes	
	b.	a plan for the management of Environmental matters at the Quarrying Areas (which if prepared by the Bidder is verified by an independent environmental consulting firm recognised as having expertise in the international quarrying industry), based on the Environmental Impact Assessment and sound engineering and economic principles, and having regard to Good Industry Practice and the Agreed Environmental and Social Standards. The Environmental Management Plan shall, upon request by the Ministry, be made publicly available in a language and in a form that is accessible to affected communities in the Quarrying Areas, and shall be placed in the document files identified in Clause 28.1 of the Model Cement Contract. The Environmental Management Plan shall include those elements as the Parties may agree, but shall in any event include the following:	N/A	N/A	Yes	
	(i)	measures that the Bidder intends to use to mitigate adverse consequences of the Quarrying as described in the Feasibility Study;	General	Yes	N/A	
	(ii)	plans for the management, remediation, rehabilitation and control of all Environmental aspects of the Quarrying, including:				

Exploitation Bid Requirements				General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
		A.	a plan to avoid, minimise, mitigate, rehabilitate and offset, where appropriate, impacts on biological diversity within the Quarrying Areas;	General	Yes	N/A	
		B.	a plan for preventing, minimising or mitigating adverse Environmental impacts to rivers and other potable water and ensuring that pollution does not cause unnecessary harm or destruction to human or animal life or fresh water fish or vegetation;	General	Yes	N/A	
		C.	a plan to avoid or minimise greenhouse gas air emissions from the Quarrying taking into account economically and commercially feasible technology; and	General	Yes	N/A	
		D.	in respect of Quarrying only, opportunities for the improved management and conservation of natural resources in the Quarrying Areas;	General	Yes	N/A	
		E.	in respect of Quarrying only, a plan to effectively manage soil resources to allow future use of the surface land consistent with the proposed post Quarrying land use;	General	Yes	N/A	
	(iii)		a description of the actions to be taken during any periods of temporary closure or cessation of operations and for the closure activities to be performed should closure be required prior to completion of the planned life of the Quarry Materials; and	General	Yes	N/A	
	(iv)		In respect of Quarrying only, a plan for concurrent reclamation to the extent practicable.	General	Yes	N/A	
(r)	the Social Impact Assessment and Action Plan (as set out in Clause 4.3 of the Model Cement Contract)] In connection with any application to grant an License for Quarry Exploitation, the Company shall produce an impact assessment and action plan relating to Social issues in connection with the Quarrying in accordance with Good Industry Practice and the Agreed Environmental and Social Standards, which shall include those elements as the Parties may agree, but shall in any event include the following:			General	Yes	N/A	
	a.	provisions to prevent or minimise the potential adverse impact of Quarrying on the individuals and communities resident in and around: (i) the Quarrying Areas; and (ii) areas affected by the extraction or transport of Quarry Materials whether using Company owned infrastructure or infrastructure provided by the State or third parties;		General	Yes	N/A	
	b.	provisions to prevent or minimise unreasonable interference with the living conditions of the population lawfully settled within the Quarrying Areas and surroundings, and to cause the Company's employees and		General	Yes	N/A	

Exploitation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	contractors to respect the customs of the local populations;				
c.	provisions to mitigate negative social impacts on the local community, including housing, sanitation and public health measures of any temporary or permanent work force engaged by the Company;	General	Yes	N/A	
d.	provisions (with guidance from IFC Performance Standards, where appropriate or relevant) to:				
(i)	avoid or minimise displacement of persons or involuntary resettlement wherever feasible;	General	Yes	N/A	
(ii)	make satisfactory arrangements for payment of fair and reasonable compensation for any prospective damage to any crops, buildings, trees or works;	N/A	N/A	Yes	
(iii)	compensate the holders for the use of the surface area, where the surface rights to any land within the Quarrying Areas are held or owned by local or indigenous or tribal populations as recognised by Applicable Law or relevant customary law, at a rate agreed by the holder and the Company;	N/A	N/A	Yes	
(iv)	recognise the rights of surface right owners and occupiers, the rights of indigenous or tribal populations, or other communities in the Quarrying Areas, to continue utilising land within the Quarrying Areas for subsistence purposes, including grazing livestock, using water, cultivating crops, hunting game, and collecting fruits and fuel wood, provided that such subsistence use would not be unsafe and does not substantially interfere with Quarrying;	N/A	N/A	Yes	
(v)	provisions for developing a plan of resettlement if at any point a resettlement of the local population appears to be essential, having regard to the requirements of IFC Performance Standards including provisions to;	N/A	N/A	Yes	
A.	conduct full Consultation with local Governments and all persons who may be displaced or relocated, with the goal of developing a resettlement programme to which they consent;	General	Yes	N/A	
B.	mitigate adverse social and economic impacts by ensuring that resettlement activities are implemented with appropriate disclosure of information and Consultation;	General	Yes	N/A	
C.	improve, replace or restore the livelihoods of displaced persons to ensure in all material respects the availability of means of livelihood adequate to maintain an appropriate quality of life in the	General	Yes	N/A	

Exploitation Bid Requirements				General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
			community; and				
		D.	improve, replace or restore living conditions among displaced persons through provision of adequate housing with security of tenure at resettlement sites;	General	Yes	N/A	
	(vi)	a procedure where, if the surface of the Quarrying Areas is occupied by artisanal miners or persons conducting small scale mining and/or quarrying activity, the Company shall treat such persons as displaced persons and implement the resettlement under the provisions of paragraph (v) above, including a procedure to ensure that the resettlement plan is developed in Consultation with those artisanal miners or persons conducting small scale mining and/or quarrying activity; provided, however (subject to the Applicable Law) that the Company shall not be liable to compensate or resettle any artisanal miners who first occupy the Quarrying Areas after the Effective Date; and further provided that information regarding the Effective Date is well documented and disseminated throughout the Quarrying Areas in a culturally accepted manner; and		N/A	N/A	Yes	
	(vii)	a plan for the transition of the Quarrying Areas to a post Quarrying economy;		General	Yes	N/A	
	(viii)	a plan to establish appropriate sustainable development and social protection programmes and structures including the following:		General	Yes	N/A	
		A.	approaches to provide adequate housing, sanitation, roads, medical facilities, power and water supply, educational facilities, religious facilities and recreational opportunities; and	General	Yes	N/A	
		B.	measures to be adopted for economic development, employment, job creation in local communities, taking into account employment requirements established under the Applicable Law;	General	Yes	N/A	
(s)	the Financing Plan (as set out in Clause 4.4 of the Model Cement Contract) In connection with any application to grant an License for Quarry Exploitation, the Company shall provide a plan relating to the financing of the Quarrying during the period of the License for Quarry Exploitation including such provisions as the Company may determine consistent with its commercial requirements and Good Industry Practice, including (but not limited to) in reasonable detail:			N/A	N/A	Yes	
	(i)	the identity and credit standing of the proposed Investors;		Detailed	N/A	N/A	This should include details

Exploitation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
					of any proposed investors.
(ii)	the amount and form of equity to be contributed by the Investors in the Company;	Detailed	N/A	N/A	
(iii)	the amount of all loans to be provided to the Company by the Lenders;	Detailed	N/A	N/A	
(iv)	the maximum proposed debt;	Detailed	N/A	N/A	
(v)	the debt equity ratio (which shall be equal to or less than the Required Ratio); and	Detailed	N/A	N/A	
(vi)	confirmation that under the repayment schedule for all initial debt financing such debt shall be amortised to zero within not more than 12 years from the date of initial drawdown,	Detailed	N/A	N/A	
	as such Financing Plan may be amended from time to time in accordance with this Contract. The Company shall be responsible for raising all of the financing necessary to implement the Financing Plan;	N/A	N/A	Yes	
(t)	the Closure Plan (as set out in Clause 4.6 of the Model Cement Contract) In connection with any application to grant an License for Quarry Exploitation, the Company shall provide a plan with respect to:	N/A	N/A	Yes	
a.	the closure of the Quarrying and rehabilitation of the Quarrying Areas; and/or	N/A	N/A	Yes	
	The Closure Plan shall address the anticipated Environmental, Social and economic state of the Quarrying Areas during the period of the License for Quarry Exploitation, and shall be prepared in Consultation with communities in the Quarrying Areas and local areas (as applicable). It shall be consistent with any Community Development Agreements, and prepared in a manner which is consistent with guidance provided by the planning for integrated mine closure toolkit and related guidance published by the International Council on Mining and Metals; and	N/A	N/A	Yes	
(u)	the Life of Quarry Plan (as set out in Clause 4.5 of the Model Cement Contract). In connection with any application to grant an License for Quarry Exploitation the Company shall provide a plan of the proposed work programme that provides an overview of how the Quarrying Areas shall be exploited, which shall include those elements as the Parties may agree but shall in any event include the following:	N/A	N/A	Yes	
a.	the size, extent, type and location of the proposed Quarrying;	General	N/A	N/A	

Exploitation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
b.	the proposed quarrying methods to be used;	General	N/A	N/A	
c.	the proposed exploitation and production schedule;	General	N/A	N/A	
d.	the expected production and long-term quarrying scheme for Quarrying within the Quarrying Area;	General	N/A	N/A	
e.	the proposed Date of Commencement of Commercial Production (clause 1.1, “Date of Commencement of Commercial Production” of the Model Cement Contract);	General	N/A	N/A	
f.	any proposed further Quarrying; and	General	N/A	N/A	
g.	The proposed expenditure for the Quarrying.	General	N/A	N/A	
The Environmental Management Plan shall be updated prior to any major change to the Life of Quarry Plan.		General	N/A	N/A	

Part 3

Processing Bid Requirements

Processing Bid Requirements

This Processing Bid Requirements table reflects the requirements for bidding for a Processing License.

Terms used in this Processing Bid Requirements table shall be construed as follows:

“General” shall mean:

- (a) A bid requirement to provide proposals in respect of the relevant bid requirement in an appropriate level of detail consistent with: (i) any explanatory comments in this table; (ii) Good Industry Practice; and (iii) all of the information available to the Bidder at the time of its Bid; and
- (b) A commitment to provide further detailed proposals that are connected with such original proposal and which, subject to the Ministry’s absolute discretion, shall not include any terms less favourable to the Ministry than those contained within such original proposal.

“Detailed” shall mean a bid requirement to provide a detailed proposal in accordance with all of the terms of the relevant bid requirement in this table and any explanatory comments relating to such bid requirement.

“General Policies and Procedures” shall mean a bid requirement to provide details of the relevant policies and procedures the Bidder proposes are applicable to the relevant bid requirement in this table. This shall also include the bid requirement for Case Studies as defined below.

“Case Studies” shall mean a minimum of 2 case studies and a maximum of 3 case studies which the Bidder proposes are applicable to the relevant bid requirement in this table.

“Commitment” shall mean a commitment by the Bidder to provide the relevant bid requirement in accordance with the terms of the Model Cement Contract and in accordance with any relevant explanatory comments in respect of such bid requirement.

Any terms used in this Part 3 of Appendix 6 to the RFP, but not defined above or in the RFP shall have the meaning ascribed to such terms in the Model Cement Contract.

	Processing Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
(a)	a plan of work, which shall include details as to the manner of implementation and the amount of investment committed thereto	Detailed	N/A	N/A	Following the Bid a revised plan may be submitted to the Ministry

	Processing Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
					if necessary.
(b)	a detailed description of the proposed investigations the Bidder will need to carry out prior to commencing processing, including minimum work obligations, timescale and estimated expenditures [Art.12(1).5 (R)];	Detailed	N/A	N/A	
(c)	Evidence of the Bidder's financial capability [Art. 59(7). (L)]:	Detailed	N/A	N/A	
(d)	a Development Plan, which shall include details as to any proposed investments and socio-economic contributions of any type for the communities concerned] and as set out in Article Regulations [<i>Regulation 87(1).3: A Development Plan which shall establish appropriate sustainable development and social protection programs and structures, taking into account international best practice. A Development Plan should propose approaches for ensuring adequate housing, sanitation, roads, medical facilities, power and water supply, educational facilities, religious facilities and recreational opportunities. A Development Plan should also address economic development, employment and job creation in local communities, taking into account employment requirements established under the Minerals Law. Finally, a Development Plan must establish funding and implementation commitments.</i>] [<i>Regulation 87(1).3</i>]	General	Yes	N/A	The General proposal is to include the amount of the financial commitment proposed by the Bidder.
(e)	An Environmental Impact Assessment (including a social impact assessment) as set out in Article of the Mining Regulations [<i>Regulation 87(1).1: An Environmental clearances Report/Environmental Impact Assessment ("EIA")</i>]. <i>An EIA shall include: (i) A description of the natural and human environment to be affected by the proposed processing activity; (ii) An identification and analysis of the type, duration, and intensity of potential environmental and social impacts of the proposed processing activity, including cumulative impacts of other mineral activities in the vicinity of the proposed processing activity; and (iii) An identification of appropriate mitigation measures to address the identified impacts of the proposed processing activity.</i>] [Art.87(1).1 (R)];	General	Yes	N/A	
(f)	an Environmental Management Plan (including social mitigation, rehabilitation of the sites to be exploited and quarry closure plan) [Art. 89(1).2 (L)]: <i>re Environmental Management Plan: shall include the measures and methods planned for the protection of the environment and local populations, mitigation of social impacts, an emergency response plan, the elimination or mitigation of pollution, Mine or Quarry closure plan, the rehabilitation and restoration of the sites upon cessation or suspension of mineral activities, and the protection, resettlement and/or compensation of affected local populations and affected communities, and a description of the effectiveness of said measures.</i>] [<i>Wording from Regulation 87(1).2: An Environmental Management Plan which shall describe how the License or License Holder will address the anticipated impacts of the proposed processing activities through the implementation of appropriate and coordinated environmental management mechanisms. Environmental</i>	General	Yes	N/A	

	Processing Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	<i>Management Plans shall be based on international best practice and shall describe in detail how the License or License Holder will conduct its construction, operation, closure and rehabilitation of its processing activities and associated impacted land. In particular, an environmental management plan shall: (i) Describe specific measures to address identified environmental, human health and social impacts of the processing activities identified in the EIA, including measures to avoid or minimize impacts associated with construction and operation of the processing activities; (ii) Making use of proper and effective natural procedures consistent with the requirements of these Regulations for protection of water and soil quality; (iii) Present a mine closure plan; and (iv) Establish a monitoring program with regularly scheduled compliance assessment and reporting to Ministry of Mines to ensure implementation of and compliance with the Environmental Management Plan.]</i>				
(g)	a Bidder must submit an Environmental Impact Statement and implement it upon the approval of the Environmental Protection Department as set out in [Art. 89(1).2 (L)]; "Environmental Impact Statement (EIS)" means a prior scientific foreseeable analysis of potential effects of an activity that would affect the environment and social conditions: (i) Analysis of the acceptable levels of these impacts on the environment and the mitigation measures for them; (ii) Mitigating the major impacts on the environment and social issues or other severe impacts; and (iii) Compensation of the damages to the affected communities.][Article () wording: The Environmental Impact Statement shall contain the following before commencement of Mineral Activities: (i) A description of the ecosystem including the flora and fauna, topography of the area, air quality, underground and surface water, a description of the social conditions in the area, and the direct and indirect impact of the proposed Mineral Activities on them; (ii) An analysis of the direct and indirect cumulative environmental and social impacts and risks of the proposed Mineral Activities, the natural aspects of the ecosystem which are affected qualitatively and quantitatively by the Mineral Activity; and (iii) the impacts of the Mineral Activity on local populations, affected communities and existing social conditions.]	General	Yes	N/A	
(h)	a financial proposal for the exploitation and processing rights according the terms specified in the invitation to Bid, as prepared by the Ministry. The financial proposal must include the amount of royalty per metric tonne of Limestone, Clay and Other Cement Raw Materials extracted and the amount of premium which the Bidder is willing to grant to the Ministry in exchange for the exploitation and processing rights and other concessions [Art.37(1).1 (R)];	General	No	N/A	Each royalty amount shall be a fixed sum per metric tonne with an agreed escalator and premium. For further details, see clause 10 of the Model Cement Contract.
(i)	a commitment to prepare an environmental plan and evaluation of its impact according to provision of the Mining Regulations [Art.37(1).4 (R)];	N/A	N/A	Yes	

	Processing Bid Requirements	General/ Detailed	General Policies & Procedures	Commitment	Explanatory Comments
(j)	a commitment to prepare a development plan including proposed investments and any socio-economic contributions proposed for affected communities [Art.37(1).5 (R)];	N/A	N/A	Yes	
(k)	bankable feasibility study (the study must be at a level acceptable to a donor bank) [Art.37(1).6 (R)];	N/A	N/A	Yes	The Commitment is to prepare a detailed bankable feasibility study in accordance with the Model Cement Contract.
(l)	proof of technical competence, expertise and track records in mining operations and environmental management of the senior technical and management personnel proposed to undertake the processing [Art.37(1).7 (R)];	Detailed	N/A	N/A	This is to include details of who will develop, extract and transport the quarry materials and who will design, build and operate the Cement Production Facility where such person is not the Bidder.
(m)	proof of financial capability and financial assurance to undertake the processing [Art.37(1).8 (R)];	Detailed	N/A	N/A	
(n)	business or corporate documentation confirming eligibility to hold processing rights[Art.37(1).9 (R)];	Detailed	N/A	N/A	
(o)	for Bidders that hold existing processing rights, the following shall be submitted in addition to the Bid requirements which are identified in this Part 3 of Appendix 6, whenever applicable [Art.37(3) (R)]:				
	(i) certification that the Bidder's other processing activities are in compliance with all applicable laws and regulations, including the payment of applicable royalties, taxes and surface rights fees;	Detailed	N/A	N/A	
	(ii) a report on the status of mitigation and rehabilitation efforts in areas of processing activities;	Detailed	N/A	N/A	
	(iii) copies of annual activity reports;	Detailed	N/A	N/A	
(p)	other following document and papers as the Ministry may require [Art.37(4) (R)]:				

Processing Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
(i)	a statement of the technical qualifications and financial resources of the Bidder;	Detailed	N/A	N/A	
(ii)	if the Bid is on behalf of 2 or more persons, an explanation of each person's interest in the permit (including the percentage of the share of the permit that each person will hold);	Detailed	N/A	N/A	
(iii)	a statement of the proposed work program that provides an overview of how the Site will be worked that includes:				
A.	the size, extent, type and location of the proposed processing operations;	General	No	N/A	
B.	the proposed processing methods to be used;	General	No	N/A	
C.	the proposed processing and production schedule;	General	No	N/A	
D.	the expected production and long-term processing scheme for processing of mineable resource;	General	No	N/A	
E.	the proposed start date for production;	Detailed	No	N/A	
F.	the proposed expenditure under the processing License; and	Detailed	No	N/A	
G.	if applicable, the point of valuation for calculation of royalty purposes; [Art.37 (R)]	Detailed	No	N/A	
(q)	Feasibility Study Art.37 (1).6 (R)] In connection with any application by the Company to grant a Processing License, the Company shall produce a study relating to the feasibility of the conduct of Processing within the Site prepared by: (i) an independent third-party agreed to by the Parties in writing; or (ii) by the Company and verified by an Independent Expert, on the basis of sound engineering and economic principles in accordance with Good Industry Practice. The Feasibility Study shall include those elements as the Parties may agree, but shall in any event include the following:				
a.	in respect of a Processing License:				
(i)	a description and plan of the area over which the Processing License is sought;	General	No	N/A	

Processing Bid Requirements			General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	(ii)	a description of the technology processes to be used, in each case with the results of any laboratory or other tests designed to identify technologically appropriate methods for processing the quarrying materials involved;	General	No	N/A	
	(iii)	a general description of requirements associated with obtaining required permits, including the estimated cost of compliance and implementation of the Environmental Management Plan and Social Impact Assessment and Action Plan;	General	Yes	N/A	The Bid should include details as to the estimated costs in particular.
	(iv)	plans for electricity supply for Processing, including reliability and cost of services that includes an assessment of the potential for sharing electrical supplies and infrastructure with other users in ways that promote sustainable development of the communities in the local areas;	General	Yes	N/A	This requirement should indicate the Bidder's plan for sourcing coal and/or gas whether it be through extraction or purchasing from a third party.
	(v)	plans for potential reprocessing and disposal of tailings, waste residue and materials from the Processing;	General	Yes	N/A	
	(vi)	a description of plans for any potential reprocessing of materials or tailings;	General	Yes	N/A	
	(vii)	a description, plans and list of the proposed facilities (which include all infrastructure and associated facilities (such as power, communication, transportation, roads, and fresh and reclaimed water), the main structures, and the machinery and equipment), a specification of the raw materials and services (including electrical requirements and water) required, and an assessment of the potential for sharing such facilities and services with other users in ways that promote sustainable development of the communities in and around the Quarrying Areas, the Site and/or local areas (as applicable);	General	No	N/A	
	(viii)	an organisation chart and requirements for personnel;	General	No	N/A	
	(ix)	schedules to initiate construction and construction timetables;	General	No	N/A	
	(x)	estimates, intended to be accurate to within fifteen per cent (15%), of capital costs and operation costs;	Detailed	No	N/A	

		Processing Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	(xi)	an economic evaluation and financial analysis (including an estimated rate of return of investment and cash flow for the various phases of Processing), including probable future capital investments and an analysis of the financial viability of the Processing during the period of validity of the Processing License;	General	No	N/A	
	(xii)	a plan for the development of, and access to, infrastructure required and necessary for the development of the Processing and in a manner which is consistent with the obligations of the Company contained in Clause 8 (Infrastructure) of the Model Cement Contract; and	General	No	N/A	
	(xiii)	The information required at clause 8.1(a) of the Model Cement Contract.	Detailed	Yes	N/A	
(r)	Environmental Impact assessment and Environmental Management Plan [Art. 89(1).2 (L)]: In connection with any application by the Company to grant a Processing License, the Company shall produce:					
	a.	an assessment of the impact of the proposed Processing on the Environment prepared in accordance with Applicable Law and based on sound engineering and economic principles, and having regard to Good Industry Practice and the Agreed Environmental and Social Standards, establishing a baseline of Environmental conditions existing at the Effective Date, and assessing the Processing-related Environmental effects and impacts	N/A	N/A	Yes	
	b.	a plan for the management of Environmental matters at the Site (which if prepared by the Bidder is verified by an independent environmental consulting firm recognised as having expertise in the international processing industry), based on the Environmental Impact Assessment and sound engineering and economic principles, and having regard to Good Industry Practice and the Agreed Environmental and Social Standards. The Environmental Management Plan shall, upon request by the Ministry, be made publicly available in a language and in a form that is accessible to affected communities in the Site, and shall be placed in the document files identified in Clause 28.1 of the Model Cement Contract. The Environmental Management Plan shall include those elements as the Parties may agree, but shall in any event include the following:	N/A	N/A	Yes	
	(i)	measures that the Bidder intends to use to mitigate adverse consequences of the Processing as described in the Feasibility Study;	General	Yes	N/A	
	(ii)	plans for the management, remediation, rehabilitation and control of all Environmental aspects of the				

Processing Bid Requirements			General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
		Processing, including:				
	A.	a plan to avoid, minimise, mitigate, rehabilitate and offset, where appropriate, impacts on biological diversity within the Site;	General	Yes	N/A	
	B.	a plan for preventing, minimising or mitigating adverse Environmental impacts to rivers and other potable water and ensuring that pollution does not cause unnecessary harm or destruction to human or animal life or fresh water fish or vegetation;	General	Yes	N/A	
	C.	a plan to avoid or minimise greenhouse gas air emissions from the Processing taking into account economically and commercially feasible technology; and	General	Yes	N/A	
	(iii)	a description of the actions to be taken during any periods of temporary closure or cessation of operations and for the closure activities to be performed should closure be required prior to completion of the planned life of the Quarry Materials; and	General	Yes	N/A	
(s)		the Social Impact Assessment and Action Plan (as set out in Clause 4.3 of the Model Cement Contract) In connection with any application to grant a Processing License, the Company shall produce an impact assessment and action plan relating to Social issues in connection with the Quarrying in accordance with Good Industry Practice and the Agreed Environmental and Social Standards, which shall include those elements as the Parties may agree, but shall in any event include the following:	General	Yes	N/A	
	a.	provisions to prevent or minimise the potential adverse impact of Processing on the individuals and communities resident in and around: (i) the Site; and (ii) areas affected by the processing of Quarry Materials whether using Company owned infrastructure or infrastructure provided by the State or third parties;	General	Yes	N/A	
	b.	provisions to prevent or minimise unreasonable interference with the living conditions of the population lawfully settled within the Site and surroundings, and to cause the Company's employees and contractors to respect the customs of the local populations;	General	Yes	N/A	
	c.	provisions to mitigate negative social impacts on the local community, including housing, sanitation and public health measures of any temporary or permanent work force engaged by the Company;	General	Yes	N/A	

Processing Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
d.	provisions (with guidance from IFC Performance Standards, where appropriate or relevant) to:				
	(i) avoid or minimise displacement of persons or involuntary resettlement wherever feasible;	General	Yes	N/A	
	(ii) make satisfactory arrangements for payment of fair and reasonable compensation for any prospective damage to any crops, buildings, trees or works;	N/A	N/A	Yes	
	(iii) compensate the holders for the use of the surface area, where the surface rights to any land within the Site are held or owned by local or indigenous or tribal populations as recognised by Applicable Law or relevant customary law, at a rate agreed by the holder and the Company;	N/A	N/A	Yes	
	(iv) recognise the rights of surface right owners and occupiers, the rights of indigenous or tribal populations, or other communities in the Site, to continue utilising land within the Site for subsistence purposes, including grazing livestock, using water, cultivating crops, hunting game, and collecting fruits and fuel wood, provided that such subsistence use would not be unsafe and does not substantially interfere with Processing;	N/A	N/A	Yes	
	(v) provisions for developing a plan of resettlement if at any point a resettlement of the local population appears to be essential, having regard to the requirements of IFC Performance Standards including provisions to;	N/A	N/A	Yes	
	A. conduct full Consultation with local Governments and all persons who may be displaced or relocated, with the goal of developing a resettlement programme to which they consent;	General	Yes	N/A	
	B. mitigate adverse social and economic impacts by ensuring that resettlement activities are implemented with appropriate disclosure of information and Consultation;	General	Yes	N/A	
	C. improve, replace or restore the livelihoods of displaced persons to ensure in all material respects the availability of means of livelihood adequate to maintain an appropriate quality of life in the community; and	General	Yes	N/A	
	D. improve, replace or restore living conditions among displaced persons through provision of adequate housing with security of tenure at resettlement sites;	General	Yes	N/A	

Processing Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	(vi) a procedure where, if the surface of the Site is occupied by artisanal miners or persons conducting small scale mining and/or quarrying activity, the Company shall treat such persons as displaced persons and implement the resettlement under the provisions of paragraph (v) above, including a procedure to ensure that the resettlement plan is developed in Consultation with those artisanal miners or persons conducting small scale mining and/or quarrying activity; provided, however (subject to the Applicable Law) that the Company shall not be liable to compensate or resettle any artisanal miners who first occupy the Site after the Effective Date; and further provided that information regarding the Effective Date is well documented and disseminated throughout the Site in a culturally accepted manner; and	N/A	N/A	Yes	
	(vii) a plan for the transition of the Site to a post Processing economy;	General	Yes	N/A	
	(viii) a plan to establish appropriate sustainable development and social protection programmes and structures including the following:	General	Yes	N/A	
	A. approaches to provide adequate housing, sanitation, roads, medical facilities, power and water supply, educational facilities, religious facilities and recreational opportunities; and	General	Yes	N/A	
	B. measures to be adopted for economic development, employment, job creation in local communities, taking into account employment requirements established under the Applicable Law;	General	Yes	N/A	
(t)	the Financing Plan (as set out in Clause 4.4 of the Model Cement Contract) [Applicable Law and Regulation] In connection with any application to grant a Processing License, the Company shall provide a plan relating to the financing of the Processing during the period of the Processing License including such provisions as the Company may determine consistent with its commercial requirements and Good Industry Practice, including (but not limited to) in reasonable detail:	N/A	N/A	Yes	
	(i) the identity and credit standing of the proposed Investors;	Detailed	N/A	N/A	This should include details of any proposed investors.
	(ii) the amount and form of equity to be contributed by the Investors in the Company;	Detailed	N/A	N/A	
	(iii) the amount of all loans to be provided to the Company by the Lenders;	Detailed	N/A	N/A	

Processing Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
(iv)	the maximum proposed debt;	Detailed	N/A	N/A	
(v)	the debt equity ratio (which shall be equal to or less than the Required Ratio); and	Detailed	N/A	N/A	
(vi)	confirmation that under the repayment schedule for all initial debt financing such debt shall be amortised to zero within not more than 12 years from the date of initial drawdown,	Detailed	N/A	N/A	
	as such Financing Plan may be amended from time to time in accordance with this Contract. The Company shall be responsible for raising all of the financing necessary to implement the Financing Plan;	N/A	N/A	Yes	
(u)	the Closure Plan (as set out in Clause 4.6 of the Model Cement Contract) In connection with any application to grant a Processing License, the Company shall provide a plan with respect to:	N/A	N/A	Yes	
a.	the closure of the Processing and rehabilitation of the Site.	N/A	N/A	Yes	
	The Closure Plan shall address the anticipated Environmental, Social and economic state of the Site during the period of the Processing License, and shall be prepared in Consultation with communities in the Site and local areas. It shall be consistent with any Community Development Agreements, and prepared in a manner which is consistent with guidance provided by the planning for integrated mine closure toolkit and related guidance published by the International Council on Mining and Metals; and [Applicable Law and Regulation]	N/A	N/A	Yes	

Part 4

Design-Build and Operation Bid Requirements

Design-Build and Operation Bid Requirements

This Design-Build and Operation Bid Requirements table reflects the requirements for bidding for the right to design, build and operate a new cement production facility.

Terms used in this Design-Build and Operation Bid Requirements table shall be construed as follows:

“General” shall mean:

- (a) a bid requirement to provide proposals in respect of the relevant bid requirement in an appropriate level of detail consistent with: (i) any explanatory comments in this table; (ii) Good Industry Practice; and (iii) all of the information available to the Bidder at the time of its Bid; and
- (b) a commitment to provide further detailed proposals that are connected with such original proposal and which, subject to the Ministry’s absolute discretion, shall not include any terms less favourable to the Ministry than those contained within such original proposal.

“Detailed” shall mean a bid requirement to provide a detailed proposal in accordance with all of the terms of the relevant bid requirement in this table and any explanatory comments relating to such bid requirement.

“General Policies and Procedures” shall mean a bid requirement to provide details of the relevant policies and procedures the Bidder proposes are applicable to the relevant bid requirement in this table. This shall also include the bid requirement for Case Studies as defined below.

“Case Studies” shall mean a minimum of 2 case studies and a maximum of 3 case studies which the Bidder proposes are applicable to the relevant bid requirement in this table.

“Commitment” shall mean a commitment by the Bidder to provide the relevant bid requirement in accordance with the terms of the Model Cement Contract and in accordance with any relevant explanatory comments in respect of such bid requirement.

Any terms used in this Part 4 of Appendix 6 to the RFP, but not defined above or in the RFP shall have the meaning ascribed to such terms in the Model Cement Contract.

	Design-Build and Operation Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
(a)	a detailed description of the proposed investigations the Bidder will need to carry out prior to commencing design, build and operation of the cement production facility, including minimum work obligations, timescale and estimated	Detailed	N/A	N/A	

		Design-Build and Operation Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
		expenditures;				
(b)		proof of technical competence, expertise and track records in design, build and operation of cement production facilities (to include chemical and mechanical engineering and quality control) and environmental management of the senior technical and management personnel proposed to undertake the design, build and operation;	Detailed	N/A	N/A	This is to include details of who will develop, extract and transport the quarry materials and who will design, build and operate the Cement Production Facility where such person is not the Bidder.
(c)		proof of financial capability and financial assurance to undertake the design, build and operation;	Detailed	N/A	N/A	
(d)	(i)	if the Bid is on behalf of 2 or more persons, an explanation of each person's interest in the design, build and operation;	Detailed	N/A	N/A	
	(ii)	a statement of the proposed work program that provides an overview of how the Site will be worked that includes:				
	A.	the size, extent, type and location of the proposed cement production facility;	General	No	N/A	
	B.	the proposed methods to be used for design, build and operation of the cement production facility to include information on the proposed process type (wet, semi-dry, dry), proposed kiln type, proposed fuel source and where this fuel is to be obtained from and water extraction details if relevant; and	Detailed	No	N/A	
	C.	the proposed design, build and operation schedule.	General	No	N/A	
(e)	(i)	a description and plan of the area where the cement production facility will be situated;	General	No	N/A	
	(ii)	a general description of requirements associated with obtaining required permits, including the estimated cost of compliance and implementation of the Environmental Management Plan and Social Impact Assessment and Action Plan;	General	Yes	N/A	The Bid should include details as to the estimated costs in particular.

Design-Build and Operation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	(iii) plans for electricity supply for design, build and operation of the cement production facility, including reliability and cost of services that includes an assessment of the potential for sharing electrical supplies and infrastructure with other users in ways that promote sustainable development of the communities in the local areas;	General	Yes	N/A	This requirement should indicate the Bidder's plan for sourcing coal whether it be through extraction or purchasing from a third party.
	(iv) plans for the disposal of waste residue and materials from the design, build and operation of the cement production facility;	General	Yes	N/A	
	(v) a description, plans and list of the proposed facilities (which include all infrastructure and associated facilities (such as power, communication, transportation, roads, and fresh and reclaimed water), the main structures, and the machinery and equipment), a specification of the raw materials and services (including electrical requirements and water) required, and an assessment of the potential for sharing such facilities and services with other users in ways that promote sustainable development of the communities in and around the cement production facility;	General	No	N/A	
	(vi) an organisation chart and requirements for personnel;	General	No	N/A	
	(vii) estimates, together with a proposal of cash flow, intended to be accurate to within fifteen percent (15%), of capital costs and operation costs;	Detailed	No	N/A	
	(viii) a plan for the development of, and access to, infrastructure required and necessary for the development of the cement production facility and in a manner which is consistent with the obligations of the Company contained in Clause 8 (Infrastructure) of the Model Cement Contract; and	General	No	N/A	
	(ix) The information required at clause 8.1(a) of the Model Cement Contract.	Detailed	Yes	N/A	
(f)	Environmental Impact assessment and Environmental Management Plan In connection with any application by the Company to design, build and operate the cement production facility, the Company shall produce:				
a.	an assessment of the impact of the proposed cement production facility on the Environment prepared in accordance with Applicable Law and based on sound engineering and economic principles, and having regard to Good Industry Practice and the Agreed Environmental and Social Standards, establishing a baseline of	N/A	N/A	Yes	

Design-Build and Operation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	Environmental conditions existing at the Effective Date, and assessing the facility-related Environmental effects and impacts				
b.	a plan for the management of Environmental matters at the cement production facility (which if prepared by the Bidder is verified by an independent environmental consulting firm recognised as having expertise in the international cement production industry), based on the Environmental Impact Assessment and sound engineering and economic principles, and having regard to Good Industry Practice and the Agreed Environmental and Social Standards. The Environmental Management Plan shall, upon request by the Ministry, be made publicly available in a language and in a form that is accessible to affected communities in the cement production facility, and shall be placed in the document files identified in Clause 28.1 of the Model Cement Contract. The Environmental Management Plan shall include those elements as the Parties may agree, but shall in any event include the following:	N/A	N/A	Yes	
	(i) measures that the Bidder intends to use to mitigate adverse consequences of the design, build and operation of the cement production facility as described in the Feasibility Study;	General	Yes	N/A	
	(ii) plans for the management, remediation, rehabilitation and control of all Environmental aspects of the design, build and operation of the cement production facility, including:				
	A. a plan to avoid, minimise, mitigate, rehabilitate and offset, where appropriate, impacts on biological diversity within the cement production facility;	General	Yes	N/A	
	B. a plan for preventing, minimising or mitigating adverse Environmental impacts to rivers and other potable water and ensuring that pollution does not cause unnecessary harm or destruction to human or animal life or fresh water fish or vegetation;	General	Yes	N/A	
	C. a plan to avoid or minimise greenhouse gas air emissions from the cement production facility taking into account economically and commercially feasible technology;	General	Yes	N/A	
	D. the adequacy, stability and safety of all construction and maintenance operations;	General	Yes	N/A	
	E. The procurement of the requisite raw materials, fuels, consumables, Goods and other such items required for the design, build and operation of the cement production facility; and	General	Yes	N/A	

Design-Build and Operation Bid Requirements			General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	(iii)	a description of the actions to be taken during any periods of temporary closure or cessation of operations and for the closure activities to be performed should closure be required prior to completion of the planned life of the Quarry Materials.	General	Yes	N/A	
(g)	the Social Impact Assessment and Action Plan (as set out in Clause 4.3 of the Model Cement Contract) In connection with any application to design, build and operate the cement production facility, the Company shall produce an impact assessment and action plan relating to Social issues in connection with the Quarrying in accordance with Good Industry Practice and the Agreed Environmental and Social Standards, which shall include those elements as the Parties may agree, but shall in any event include the following:		General	Yes	N/A	
	a.	provisions to prevent or minimise the potential adverse impact of the design, build and operation of the cement production facility on the individuals and communities resident in and around: (i) the cement production facility; and (ii) areas affected by the design, build and operation of the cement production facility whether using Company owned infrastructure or infrastructure provided by the State or third parties;	General	Yes	N/A	
	b.	provisions to prevent or minimise unreasonable interference with the living conditions of the population lawfully settled within the Site and surroundings, and to cause the Company's employees and contractors to respect the customs of the local populations;	General	Yes	N/A	
	c.	provisions to mitigate negative social impacts on the local community, including housing, sanitation and public health measures of any temporary or permanent work force engaged by the Company;	General	Yes	N/A	
	d.	provisions (with guidance from IFC Performance Standards, where appropriate or relevant) to:				
	(i)	avoid or minimise displacement of persons or involuntary resettlement wherever feasible;	General	Yes	N/A	
	(ii)	make satisfactory arrangements for payment of fair and reasonable compensation for any prospective damage to any crops, buildings, trees or works;	N/A	N/A	Yes	
	(iii)	compensate the holders for the use of the surface area, where the surface rights to any land within the Site are held or owned by local or indigenous or tribal populations as recognised by Applicable Law or relevant customary law, at a rate agreed by the holder and the Company;	N/A	N/A	Yes	

		Design-Build and Operation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
	(iv)	recognise the rights of surface right owners and occupiers, the rights of indigenous or tribal populations, or other communities in the Site, to continue utilising land within the Site for subsistence purposes, including grazing livestock, using water, cultivating crops, hunting game, and collecting fruits and fuel wood, provided that such subsistence use would not be unsafe and does not substantially interfere with design, build and operation of the cement production facility; [Art. 38(1) (L)]		N/A	N/A	Yes	
	(v)	provisions for developing a plan of resettlement if at any point a resettlement of the local population appears to be essential, having regard to the requirements of IFC Performance Standards including provisions to;		N/A	N/A	Yes	
		A.	conduct full Consultation with local Governments and all persons who may be displaced or relocated, with the goal of developing a resettlement programme to which they consent;	General	Yes	N/A	
		B.	mitigate adverse social and economic impacts by ensuring that resettlement activities are implemented with appropriate disclosure of information and Consultation;	General	Yes	N/A	
		C.	improve, replace or restore the livelihoods of displaced persons to ensure in all material respects the availability of means of livelihood adequate to maintain an appropriate quality of life in the community; and	General	Yes	N/A	
		D.	improve, replace or restore living conditions among displaced persons through provision of adequate housing with security of tenure at resettlement sites;	General	Yes	N/A	
	(vi)	a plan for the transition of the cement production facility to a post Processing economy;		General	Yes	N/A	
	(vii)	a plan to establish appropriate sustainable development and social protection programmes and structures including the following:		General	Yes	N/A	
		A.	approaches to provide adequate housing, sanitation, roads, medical facilities, power and water supply, educational facilities, religious facilities and recreational opportunities; and	General	Yes	N/A	
		B.	measures to be adopted for economic development, employment, job creation in local communities, taking into account employment requirements established under the Applicable Law;	General	Yes	N/A	

	Design-Build and Operation Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
(h)	the Financing Plan (as set out in Clause 4.4 of the Model Cement Contract) In connection with any application to design, build and operate the cement production facility, the Company shall provide a plan relating to the financing of the cement production facility including such provisions as the Company may determine consistent with its commercial requirements and Good Industry Practice, including (but not limited to) in reasonable detail:	N/A	N/A	Yes	
	(i) the identity and credit standing of the proposed Investors;	Detailed	N/A	N/A	This should include details of any proposed investors.
	(ii) the amount and form of equity to be contributed by the Investors in the Company;	Detailed	N/A	N/A	
	(iii) the amount of all loans to be provided to the Company by the Lenders;	Detailed	N/A	N/A	Bidder to provide an indicative letter or term sheet from lender(s) showing a summary of the principal terms and conditions, including conditions precedent to commitment, closing and initial drawdown.
	(iv) the maximum proposed debt;	Detailed	N/A	N/A	
	(v) the debt equity ratio (which shall be equal to or less than the Required Ratio); and	Detailed	N/A	N/A	
	(vi) confirmation that under the repayment schedule for all initial debt financing such debt shall be amortised to zero within not more than 12 years from the date of initial drawdown,	Detailed	N/A	N/A	
	as such Financing Plan may be amended from time to time in accordance with this Contract. The Company shall be responsible for raising all of the financing necessary to implement the Financing Plan;	N/A	N/A	Yes	
(i)	the Closure Plan (as set out in Clause 4.6 of the Model Cement Contract) In connection with any application to design, build and operate the cement production facility, the Company shall provide a plan with respect to:	N/A	N/A	Yes	

Design-Build and Operation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
a.	The closure of the cement production facility and rehabilitation of the Site.	N/A	N/A	Yes	
	The Closure Plan shall address the anticipated Environmental, Social and economic state of the Site during the period of design, build and operation, and shall be prepared in Consultation with communities in the Site and local areas. It shall be consistent with any Community Development Agreements, and prepared in a manner which is consistent with guidance provided by the planning for integrated mine closure toolkit and related guidance published by the International Council on Mining and Metals; and	N/A	N/A	Yes	
(j)	the Bidder shall provide details as to how many Afghan locals would be employed in relation to the design, build and operation of the cement production facility;	Detailed	No	N/A	
(k)	a statement setting out the form in which the Cement will be sold (e.g. bags or bulk) and how this is to be transported from the cement production facility;	General	N/A	N/A	
(l)	A commitment to conform with modern standards of low fuel and energy consumption, acceptable levels of particulate and gaseous emissions and a high uniform quality of product;	General	N/A	Yes	
(m)	A commitment to design, build and operate a cement production facility that uses a dry process and as a minimum a rotary kiln with four stage suspension pre-heater. Similarly it is expected that the clinker cooling system will be both energy efficient in reclaiming the heat from the clinker as well as being efficient in terms of minimal environmental emissions;	General	N/A	Yes	Bidder to provide a statement setting out cost, fuel efficiency, emissions and product quality reasons should the design, build and operation of a wet process and/or vertical shaft kiln be proposed,
(n)	Details on how a minimum of two weeks supply of crushed raw materials are to be stockpiled at the cement production facility to include details on and reasoning for the proposed stockpiling and blending systems;	Detailed	N/A	Yes	
(o)	Details on how a minimum of two weeks supply of coal or other suitable fuel is to be stockpiled at the cement production facility;	Detailed	N/A	Yes	This should include details on the proposed source, mode of transport and frequency of delivery of this fuel along with details

	Design-Build and Operation Bid Requirements	General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
					on the size of the fuel storage facility and the proposed blending of this fuel to ensure uniform flame and ash conditions.
(p)	Details on how a minimum of one week's production of clinker and finished cement is to be stored at the cement production facility;	Detailed	N/A	Yes	
(q)	Details on how gas and particulate emissions will be controlled and measured in accordance with the guidelines set out by the European Integrated Pollution Prevention and Control Bureau (EIPPC);	Detailed	Yes	Yes	
(r)	Details on cement product quality control procedures;	Detailed	N/A	Yes	To include details on the sampling points of both raw materials and final products.
(s)	Details on the proposed onsite assaying laboratory;	Detailed	N/A	Yes	This onsite laboratory should utilise X-ray fluorescence techniques, include equipment for the analysis of sulphur content of the coal or other fuel, provide sufficient check and calibration analyses and be full time operational. Details should include proposed laboratory staffing and staff training.
(t)	A commitment that the bidder will provide full access to the Ministry to the bidder's records and quarry(s) and cement production facility;	N/A	N/A	Yes	

Design-Build and Operation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
(u)	The Bidder is to provide a commitment to a detailed completion test schedule. The testing regime will need to include, as a minimum:	Detailed	N/A	Yes	Test schedule will need to be sufficient to demonstrate that the cement production facility and its associated raw material extraction sites have achieved and can continue to achieve their design ratings
(i)	Daily logging sheets to illustrate that drilling and blasting, transport of blasted raw material to the crusher, crushing of the raw material to the required size have all been accomplished to the design parameters over a continuous period of a least two weeks;	Detailed	N/A	Yes	
(ii)	Daily log sheets to evidence that transport systems from the quarry(s) to the cement production facility has provided the design throughput required over a continuous period of two weeks;	Detailed	N/A	Yes	
(iii)	Daily log sheets to evidence that the raw mill(s) have operated continuously and have produced the design output of milled raw materials to the design output and fineness over a continuous period of two weeks;	Detailed	N/A	Yes	
(iv)	Regular chemical analyses to evidence the sampled input and output steams that the raw material blending and storage facilities are capable of reducing the ex-quarry chemical variation to the required raw material input variation over a continuous period of two weeks;	Detailed	N/A	Yes	
(v)	Regular chemical analyses to evidence the sampled input and output steams that each and every homogenisation silo is capable of reducing the re-raw mill chemical variation to the required design kiln feed chemical variation over a continuous period of two weeks;	Detailed	N/A	Yes	
(vi)	Kiln control data to demonstrate that the pre-heater system and the pre-calciner facility were installed and operated both to the design throughput and calcining efficiency over a continuous period of two weeks;	Detailed	N/A	Yes	Such tests must show all instances of raw material flow problems, gas temperature fluctuation problems and other instances which may

Design-Build and Operation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
					indicate build-up of material within the pre-heater and/or pre-calciner.
(vii)	Kiln control data to demonstrate that the kiln operates both to the design throughput and produces clinker of an acceptable size and uniform quality over a continuous period of two weeks;	Detailed	N/A	Yes	Such test must show all instances of raw material flow problems, flame temperature fluctuations problems and the stability of the coating.
(viii)	Laboratory analyses to indicate the fuel chemistry, ash content and calorific value is acceptable and uniform over a continuous period of two weeks;	Detailed	N/A	Yes	Such tests must show fineness of the fuel and efficiency of the fuel mill.
(ix)	Records to demonstrate that the clinker cooler has achieving its designed output, its planned cooling efficiency and that the exhaust gases are being utilized efficiently in the process a continuous period of two weeks;	Detailed	N/A	Yes	
(x)	Daily log sheets to evidence that the cement mill(s) have operated continuously and have produced the design output of cement to the planned chemistry and fineness over a continuous period of two weeks;	Detailed	N/A	Yes	
(xi)	Evidence to demonstrate that the packing facilities can achieve the throughput required to meet the planned target output of the cement production facility over a continuous period of two weeks;	Detailed	N/A	Yes	
(xii)	Daily laboratory logs to demonstrate that the sampling locations and frequency of sampling are adequate for control purposes, that the control parameters are being achieved and that the quality of the final product(s) all fall within the relevant standards;	Detailed	N/A	Yes	
(xiii)	Records to demonstrate that the clinker cooler has achieving its designed output, its planned cooling efficiency and that the exhaust gases are being utilized efficiently in the process a continuous period of two weeks;	Detailed	N/A	Yes	

Design-Build and Operation Bid Requirements		General/ Detailed	General Policies & Procedures	Commit ment	Explanatory Comments
(xiv)	Laboratory analyses to indicate the fuel chemistry, ash content and calorific value is acceptable and uniform over a continuous period of two week;	Detailed	N/A	Yes	Documentation should be provided to illustrate that equipment calibration is being undertaken on a regular basis.
(xv)	Pollution control records to show both gaseous and particulate emissions over a continuous period of two weeks; and	Detailed	N/A	Yes	
(xvi)	Full details of any corrective measures for any identified production problems.	Detailed	N/A	Yes	These details should include timeframes for these corrective measures