

GREATER ACCRA RESILIENT AND INTEGRATED DEVELOPMENT PROJECT

Terms of Reference for Probity Assurance Provider for Probity Audit for the Performance Based Dredging of the Odaw Drainage Works.

1.0 Purpose and Project Background

The Greater Accra Resilient and Integrated Development Project (GARID) is being financed by the World Bank with credit funds of USD 200 million over a period of five years. The facility has been secured for the project with the main objective of improving flood risk and solid waste management in the Odaw River Basin of the Greater Accra Region and improving access to basic infrastructure and services in the targeted communities within the Odaw River Basin.

Parts of the Greater Accra Region, and particularly within the Odaw Basin, have been subjected to perennial flooding occasioned by annual rain season, overcrowded spaces, poor sanitation and drainage infrastructure, and weak regulatory enforcement in respect of sanitation, drainage and waste management. The GARID Project has been designed to address most of these challenges especially in the targeted flood prone vulnerable communities in the Odaw Basin.

Several factors contribute to flooding in the Odaw Basin including heavy rain, high sea levels, limited and low capacity of drains, heavy silting and waste accumulation, poor drainage in built-up areas, and unregulated land use. In addition, increase in impervious surfaces, which reduces the absorption of storm water runoff, have contributed to the increase in flooding.

The main objective of the project is to improve flood risk and solid waste management in the Odaw River Basin of the Greater Accra Region and improve access to basic infrastructure and services in the targeted communities within the Odaw River Basin.

In order to achieve this objective, the GARID Project is focusing on five strategic components. These are:

The Project consists of the following components.

Component 1: Climate Resilient Drainage and Flood Mitigation Measures. This comprises

- 1.1. Structural measures to mitigate flood impacts in the Odaw River Basin (Carrying out of deferred and periodic maintenance dredging works in drainage channels of the Odaw Basin)
- 1.2. Non-structural measures to improve flood warning and preparedness

Component 2: Solid Waste Management Capacity Improvements

- 2.1. Community-based solid waste management interventions and community campaign
- 2.2. Waste transfer stations, materials recovery facility and center of excellence for solid waste management
- 2.3. Capping of old dump sites
- 2.4. Extending final disposal capacity for the Greater Accra Region

Component 3: Participatory Upgrading of Targeted Flood Prone Low-Income Communities and Local Government Support

- 3.1. Participatory community upgrading
- 3.2. Community engagement and technical advisory services

3.3. Metropolitan governance and operation and maintenance improvement

Component 4: Project Management: Provision of technical assistance to support Project management and implementation activities

Component 5: Contingency Emergency Response Component (CERC): Providing immediate response to an Eligible Crisis or Emergency, as needed.

2.0 Objectives of the Assignment

The Probity Assurance Provider will provide probity assurance services in relation to the Negotiation of the contract for GARID Project to ensure that:

- a) The Negotiation process is consistent with the applicable World Bank Procurement Regulations, the Procurement Documents as issued to the Bidders/Proposers and any applicable national policies or procedures;
- b) The Negotiation process as conducted is fair, balanced, transparent and conducted with integrity, so that no party is treated unfairly;
- c) Risks are identified and mitigating actions are taken in a timely and effective manner; and
- d) Probity principles practices are applied with integrity.

3.0 Scope of Work

The Probity Assurance Provider shall:

3.1 Examine and evaluate documentation, information and processes:

- (a) Review the Request for Proposals (RFP) document, draft form of contract and the Bidders/Proposers submission;
- (b) Reviewing the Procurement Document and advising the MWH PIU on any identified aspects therein that may compromise probity;
- (c) Observing the Proposal opening and signing the minutes of opening;
- (d) Confirm that the price information as evaluated by the MWH PIU fully reflects the Proposers prices as observed at the closed opening;
- (e) Observe that no undue advantage was given to any Proposer during the Negotiation process;
- (f) Observe that the MWH PIU maintained appropriate confidentiality throughout the Negotiation process;
- (g) Noting that the MWH PIU has already evaluated the Proposers Proposal as substantially technically responsive and taking into account the terms and conditions of the Procurement Documents as issued and the draft form of contract as subsequently

provided by the MWH PIU to the Proposer on August 6, 2021, identify potential areas of vulnerability in the Negotiation process, such as issues which might give rise to the risk of failure of the contract Negotiations; these might include areas where certain aspects of the Proposers Proposal may not be entirely consistent with the technical or commercial requirements of the Procurement Documents or draft form of contract. The Consultant must pay attention to these issues in the observation of the contract Negotiations process to ensure that, to the greatest extent possible, they are appropriately handled, negotiated and resolved by the parties during contract Negotiations process;

(h) Act as an independent observer of the Negotiation process, including written and face-to-face communications between the MWH PIU and Proposer and comment on all aspects of the negation including:

i. briefing meetings and evaluation committee meetings held among MWH PIU officials to discuss the Negotiations;

ii. Negotiation between the MWH PIU and the Proposer; and

iii. correspondence and documentation recording the Negotiation process.

(i) Scrutinize the Negotiation process to determine whether the applicable World Bank Procurement Regulations and any applicable Government of Ghana guidelines or policies are followed and that best practice has been applied;

(j) Ensure that the process has been impartial and fair, with no party being given advantage over another or unfairly discriminated against;

(k) Ensure that participants in the process are aware of their responsibilities to disclose any potential or actual conflicts of interest;

(l) Review and assess all relevant documentation to ensure accountability. For example, check that MWH PIU decisions have been correctly recorded, that participating officials are duly authorized to make decisions and commit their part(ies) to agreements reached with the Proposer, check that any departures from applicable guidelines or procedures have been correctly recorded and approved, as necessary. Check that clearances are obtained from the Bank, as and when required; and

(m) Monitor the procedures used by the MWH PIU to protect confidential information.

3.2 Advise on the management of probity issues that may arise.

(a) Conduct a risk assessment and identify possible probity issues that may arise before the Negotiation process commences (for more detailed information on risk assessment, refer to the ICAC's publication Practical Guide to Corruption Prevention: Module 2 - Corruption Risk Assessment and Management);

(b) Provide impartial probity advice to the MWH PIU, as necessary or as requested, on how emerging issues can be resolved or managed, for example, conflicts of interest.

However, it must be emphasized that the Probity Auditor is not part of the decision-making process;

- (c) Assist with improving the level of decision-making, if the circumstances so warrant;
- (d) Observe and document the process followed and document and report on any probity issues that may arise; and
- (e) Liaise with other departments of the Government of Ghana, if appropriate, for example, Attorney General's Department, Ghana Revenue Authority, etc.

3.3 Document information and report to the organization

- (a) Obtain, analyze, interpret and document information to support the outcomes of the probity assurance process;
- (b) Submit reports to management based on predetermined Negotiation milestones or as requested or, when considered necessary, provide a record of the process confirming that probity has been observed;
- (c) Document matters, obtain sufficient and appropriate information to support any conclusions on which reports are based, and identify any areas where information has been withheld by either party; and
- (d) Prepare a signed, written final report describing the MWH PIU's performance when conducting the process.

The report should present the purpose, scope and results of the probity assurance audit and include an expression of the Probity Auditor's opinion regarding the Objective of Assignment set out in paragraph 2.0 above. Reports should highlight significant findings and recommendations and inform the Ministry of Works and Housing of any major deviation from the applicable Procurement Regulations and the reason for those deviations.

4.0 List of Reports, Schedule of Deliveries & Period of Performance

Probity Assurance Provider shall prepare a Probity Report in three copies with a softcopy on pen drive. The report should be ready for submission to the World Bank within one week after negotiations.

The duration of the assignment is four weeks, starting in September 2021.

5.0 Data, Documents, Local Services, Personnel and Facilities to be Provided by the Client

The PIU would provide copies of the following documents to the Probity Assurance Provider:

- a) Initial Selection Evaluation Report.
- b) Final Request for Proposal Document.
- c) Proposals received from Proposers

In addition, the PIU would provide a temporary office space with internet facility for the duration of the evaluation.

6.0 Institutional and Organizational Arrangements and Reporting Relationship

The Probity Assurance Provider will be contracted by the Ministry of Works and Housing and will report to the PIU Lead. All reports prepared by the Probity Assurance Provider will be delivered to the PIU Lead.

The Probity Assurance Provider would be required to provide written assurance that they have no conflict of interest in the procurement, will remain objective and impartial throughout the engagement, and will provide notification of any conflict of interest, or compromise to independence, that arises during the Probity Services engagement.

7.0 Timeframes

Probity Assurance Services will be required when the Proposals have been received from Proposers. It is anticipated that Proposals will be received by September 3, 2021.

8.0 Outputs of the Services

On completion of the Project the Probity Assurance Provider will provide a report outlining the following:

- (a) Compliance with the timeline, scope and the cost of the completed services;
- (b) Prepare a signed, written final report of each procurement process, describing any probity issues that arose, how those issues were managed, and agency's performance when conducting that stage or process. The final report should present the purpose, scope and results of the procurement assessment and include an expression of the Procurement Adviser's opinion of the process. The report should highlight significant findings and recommendations and inform the MWH and the Bank of any major deviations from the approved process and the reason for those deviations.
A breakdown of the cost for the completed contract; and any recommendations for future contracts.

The relevant reports submitted by the Probity Assurance Provider should be appended to the documents/evaluation report submitted to the MWH and the Bank.

9.0 Qualification Requirements

The Probity Assurance Provider should meet the following requirements:

- (a) Master's degree in Auditing, Procurement, Law, Civil Engineering, Quantity Surveying, or a related field;
- (b) Minimum of 10 years of demonstrable relevant auditing/probity experience covering large infrastructure projects;
- (c) Experience of working in the country or region;
- (d) Fluent in English; and
- (e) The Probity Assurance Provider must be an experienced, qualified and reputable Probity Auditor who is familiar working in the public sector.