

**RFP# CCP272 – 02, Consultancy Services for Gardabani III 272 MW Combined Cycle Power Plant Project.**

S. No.	Section	Page No.	Clause No.	RFP Clause wordings	Bidder's CONSULTANTS Proposed Resolution / Query	EMPLOYERS comments / acceptance
1.	Section 4 - Contract	23 / 130 of RFP	7.3	EMPLOYER is not obliged to provide CONSULTANT with any other information than the readily available data and information, <i>in the original language of such data or information</i> , which is under possession of EMPLOYER by the date of the request.	Clause 29.1.2 (page no. 37/130 of the RFP) states that the ruling language of the contract shall be English. We therefore understand that all data made available to the Consultant by the EMPLOYER shall be in English language and therefore CONSULTANT requests EMPLOYER to amend Clause 7.3 as under: EMPLOYER is not obliged to provide CONSULTANT with any other information than the readily available data and information, <i>in ENGLISH language of such data or information</i> , which is under possession of EMPLOYER by the date of the request.	Suggested change is not accepted by the EMPLOYER.  The express provision of the contract assigning the English language as a ruling language of the contract cannot lead to a conclusion as if "all data made available to the Consultant by the EMPLOYER shall be in English language ". Clause 29.1.2 implies that the English language shall be used for contract interpretation purposes. As to the language of the information, Clause 7.3 clearly and unequivocally states that <i>the EMPLOYER is obliged to provide CONSULTANT with readily available data and information, in the original language of such data or information</i> , which is under possession of the EMPLOYER by the date of the request.
2.	Section 4 - Contract	29 / 130 of RFP	12.3.6	The currency of the CONTRACT shall be US Dollar (USD) for International CONSULTANT	CONSULTANT is proposing to avail services of a local company as its sub-contractor. In order, to optimise the tax burden, the CONSULTANT proposes the following: 1. The payments to the CONSULTANT shall be made in USD for the component quoted in USD. and 2. Payments in local currency (GEL) be made by EMPLOYER directly to the nominated local sub-contractors local bank account upon receipt of written instructions from the CONSULTANT for the respective eligible payment milestone against the quotation made in GEL for local portion of the services. EMPLOYER is requested to kindly consider this matter on its merit for optimisation of the overall contract price. A line of confirmation is requested in the confirmation.	Suggested change is not accepted by the EMPLOYER.  Please be guided by sub-clause 12.3.
3.	Section 4 - Contract	31 / 130 of RFP	15.3	XXXXXXXXXX	CONSULTANT understands that: a) in case the CONSULTANT is not registered in Georgia, the applicable VAT on Contract Price shall be calculated and paid directly by the EMPLOYER to the concerned tax authorities in Georgia, on behalf of the CONSULTANT and the requisite proof shall be provided to the CONSULTANT. b) In case the CONSULTANT is registered in Georgia prior to the effective date, the EMPLOYER shall add the applicable VAT amount in the Contract Price and pay the CONSULTANT the Contract Price together with applicable VAT. Further in this case the CONSULTANT shall deposit the VAT to the Government Tax authorities upon receipt of the VAT amount from the EMPLOYER.  EMPLOYER is requested to confirm both a) and b) above or suggest any alternative arrangements.	a) In case if CONSULTANT is not registered in Georgia (in other words, is not a resident of Georgia for tax purposes), the EMPLOYER is required under the law to bear VAT burden. Currently, the applicable legislation does not impose on the EMPLOYER an obligation to pay VAT. In case if as a result of any change in the law the EMPLOYER is required to pay VAT, this will not affect the CONSULTANT and have any effect on the amount of the payment due to the CONSULTANT. <b>Note:</b> In case if CONSULTANT, which is not registered in Georgia by the EFFECTIVE DATE, later become Georgian tax resident then the CONTRACT PRICE shall be deemed to be inclusive of VAT (the CONTRACT PRICE will not be adjusted to accommodate the VAT amount) and the CONSULTANT shall pay the respective amount. Please refer to Clause 15.3 of the CONTRACT included in the RFP. b) In case the CONSULTANT is registered in Georgia, the CONTRACT PRICE shall be inclusive VAT. However, the amount of VAT will be paid progressively based on VAT invoice served by the CONSULTANT upon the EMPLOYER and approved by the latter.
4.	Section 4 - Contract	34 / 130 of RFP	22.1.2	In the event of termination of the CONTRACT under paragraphs "a" through "e" of Sub-Clause 22.1.1 above, any additional costs, expenses or damages incurred by EMPLOYER as a result of the occurrences set out in said paragraphs shall be a debt due and recoverable from CONSULTANT.	CONSULTANT requests EMPLOYER to confirm that the debt due and recoverable from the CONSULTANT under this clause shall not exceed the Contract Price only for the Phase for which the Notice to Proceed has been issued to the CONSULTANT by the EMPLOYER. Example – if NTP is issued only for Phase 1 services, then the applicable limit shall be the corresponding Contract Price for Phase 1 only. EMPLOYER is requested to please confirm.	The EMPLOYER cannot confirm this as the Governing law excludes possibility for limitation of liability in case of wilful misconduct of a party in breach.

5.	Section 4 - Contract	36 / 130 of RFP	26.2	Except in case of gross negligence or wilful misconduct on the part of the CONSULTANT or on the part of any person or firm acting on behalf of the CONSULTANT in carrying out the SERVICES, the CONSULTANT, with respect to damage caused by CONSULTANT to the EMPLOYER'S property including the CCTPP PROJECT, shall not be liable to the EMPLOYER for any direct or indirect losses or damages exceeding the CONTRACT PRICE.	CONSULTANT requests EMPLOYER to accept the following minor changes in the clause (highlighted in yellow and the deletions in strikethrough): "Except in case of gross negligence or wilful misconduct on the part of the CONSULTANT or on the part of any person or firm acting on behalf of the CONSULTANT in carrying out the SERVICES, the CONSULTANT, with respect to damage caused by CONSULTANT to the EMPLOYER'S property including the CCTPP PROJECT, shall not be liable to the EMPLOYER for any direct or indirect losses or damages exceeding the CONTRACT PRICE."	Suggested change is not accepted by the EMPLOYER.
6.	Section 4 - Contract		New Clause proposed as 26.4 of the RFP		CONSULTANT requests EMPLOYER to accept the addition of the following new clause as 26.4: <b>"Neither Party shall be liable, whether as a result of breach of contract, warranty, indemnity, tort (including negligence), strict liability, or otherwise, for any special, consequential, incidental, or indirect damages, or any loss of revenue, loss of profit, loss of production, loss of contract, loss of goodwill or business, third-party punitive damages, loss of financing expenses (including interest), or loss of data (including the cost of its retrieval) suffered by the other Party or the other Party's contracting parties, arising out of or in connection with this Contract. The limitations set out in this clause shall not operate to exclude either Party's liability (i) to the extent it cannot be excluded by law or (ii) for "gross negligence or wilful misconduct"</b>	Suggested change is not accepted by the EMPLOYER.
7.	Section 4 - Contract	36 / 130 of RFP	27		CONSULTANT suggests that the Penalties should be segregated and applicable for the 3 phases separately. Example: if the Penalty is payable of Phase 1, the EMPLOYER shall levy the same based on the corresponding price for Phase 1. Similarly, for Phase 2 services are not affected, Penalty shall be applicable on the corresponding price for Phase 2 services. EMPLOYER is requested to please confirm the above.	Suggested change is not accepted by the EMPLOYER.
8.	Section 4 - Contract	38 / 130 of RFP	29.4	All Clauses or Clauses providing for indemnity, taxes, confidentiality, insurance, exclusion or limitation of liability, dispute resolution, payment, and governing law shall survive after the completion or any termination of the CONTRACT.	CONSULTANT suggests that there should be a time period for the survival. CONSULTANT therefore proposes that the period shall be capped as follows: Till the end of the warranty period or 2 years after the completion of Phase 2 services, whichever is earlier. EMPLOYER is requested to please confirm the above.	Suggested change is not accepted by the EMPLOYER. Periods of Limitation is regulated under the mandatory norms of Governing Law.

9.	Section 4 – Contract	43 / 130 of RFP	3	1 <sup>st</sup> PHASE of CONSULTANCY SERVICES – main activity: Review Services for Engineering Design (ED)	<p>CONSULTANT requests EMPLOYER to confirm that during this phase the responsibility of the CONSULTANT shall be limited to providing Technical services as described in the TOR only. CONSULTANT further understands the submission of permitting application(s) to concerned authorities in Georgia shall be prepared and submitted by either the EMPLOYER or the EPC contractor along with the requisite fees and will be subsequently followed up for approval by the authorities.</p> <p>Upon receipt of any advice from the EMPLOYER, the CONSULTANT shall accompany EMPLOYER and/or EPC contractor for any technical meetings with concerned authorities.</p> <p>No liaison work with the local authorities are in CONSULTANTS scope of services.</p> <p>EMPLOYER is requested to please confirm the above.</p>	The CONSULTANT shall execute CONSULTANTS SERVICES in accordance with the RFP DOCUMENTATION, Governing Law, applicable standards and international best practices.
10.	Section 4 - Contract	47 / 130 of RFP	6	Consultant's Personnel – requirements of M.Sc. degree	<p>CONSULTANT wishes to submit to the EMPLOYER that in India we have degree program in bachelor's in engineering which is a 4-year full time program. Therefore, the engineers typically hold a bachelor's in engineering or Technology (BE / BTECH) degree as there professional engineering qualifications which is accepted internationally in all projects.</p> <p>CONSULTANT therefore requests EMPLOYER to consider and confirm that "BE/BTECH" degree in ENGINEERING shall be acceptable in lieu of M. Sc degree.</p> <p>Additionally, CONSULTANT proposes to offer that for these personnel the overall experience shall be 15 years and Power plant experience of 10 years for BE/BTECH candidates against the RFP requirements of 10 and 5 years, respectively for M Sc candidates.</p> <p>EMPLOYER is requested to please confirm the above.</p>	Suggested change is not accepted by the EMPLOYER.
11.	Section 1 – Letter of Invitation	3 / 130 of RFP	6	Date of submission of proposals	<p>CONSULTANT wishes to submit that a substantial amount of work needs to be undertaken in the preparation of the proposal including the appointment of a local sub-contractor in Georgia.</p> <p>It is therefore submitted that the bid closing date may be extended from 29 January 2021 to 12 February 2021.</p> <p>EMPLOYER is requested to please confirm the above.</p>	Suggested change is not accepted by the EMPLOYER.
12.	Section 1 – Letter of Invitation	3 / 130 of RFP	6	Mode of submission of the Proposal – Electronic	<p>EMPLOYER to please confirm the maximum size of mail that can be accepted by the mailbox on which we have to submit the proposal.</p>	EMPLOYER recommends a single e-mail size to be maximum of 20 MB. PROPOSAL can be provided in multiple e-mails.

13.	Section 4 - Contract	44 / 130 of RFP	Exhibit A – Terms of Reference, Clause 4.3	<p>The CONSULTANT shall ensure that all of its PERSONNEL (SITE team), who has been intended for SITE supervision services, are fully mobilized at SITE within maximum 2 (two) months upon respective NOTICE with regard to the commencement of the second phase of CONSULTANCY SERVICES has been given to him as per Sub-Clause 5.3 of the CONTRACT.</p>	<p>CONSULTANT invites EMPLOYERS attention on the following:</p> <ol style="list-style-type: none"> <li>All the site personnel are not required for the entire duration of the Phase 2 activity. Example Commissioning Engineer will be required only for commissioning activities, Mechanical Engineer will be required during the Mechanical installation works etc.</li> <li>As per Clause 3.5.1 © of Section 2- Instructions, CONSULTANT is required to submit information / documentation on proposed key personnel. CONSULTANT understands that it is required to submit the proposed deployment Schedule of its key personnel for Home office services and its SITE team in alignment with the overall project schedule for Gardabani III. Such project schedule shall provide optimum resource planning and shall be the basis for deployment of key personnel by the CONSULTANT.</li> </ol> <p>In view of the above CONSULTANT requests the EMPLOYER to modify the clause as under:</p> <p>The CONSULTANT shall ensure that all of its PERSONNEL (SITE team), who has been intended for SITE supervision services, are fully mobilized at SITE as per the respective mobilization plan specified in CONSULTANTS technical proposal in Exhibit E, which shall be an integral part of the CONTRACT. <del>Within maximum 2 (two) months upon respective NOTICE with regard to the commencement of the second phase of CONSULTANCY SERVICES has been given to him as per Sub-Clause 5.3 of the CONTRACT.</del> EMPLOYER is requested to please confirm the above.</p>	Please see amended RFP DOCUMENTATION (the changes are highlighted in yellow).
14.	Section 4 - Contract	128 / 130 of RFP	Exhibit E	List of proposed Key Personnel and Qualifications	<p>CONSULTANT understands that the various positions given in Exhibit E are indicative only and it is not mandatory for the CONSULTANT to provide all the positions at SITE as per the list in Exhibit E.</p> <p>CONSULTANT further understands that it is free to modify / alter / add / replace any of the positions listed in Exhibit E under "SITE personnel" to match its proposed manning schedule at site, without any dilution / change in the CONSULTANTS obligation to GOGC under the CONTRACT towards performance of services as OE for successful implementation of Gardabani III CCTPP.</p> <p>EMPLOYER is requested to please confirm the above.</p>	<p>Exhibit E consists of Office and Site Personnel of CONSULTANT and EMPLOYER assumes necessary site personnel to be at SITE after appropriate NOTICE.</p> <p>About replacement/substitution of the CONSULTANT PERSONNEL listed in Exhibit E please refer to the Clause 10.</p>
15.	Section 4 - Contract	120/ 130 of RFP	Exhibit B – Pricing – Clause 1.4	<p>Break down of Prices:</p> <p>3. <b>Price for Kick-off meetings, Design Review Meetings, Project Progress Review Meetings</b> - applicable to 1st and 2nd PHASES of CONSULTANCY SERVICES and indicating the sum of amounts as specified in Clause 2 of EXHIBIT B – Cap of Price Bid 3%</p> <p>4. <b>Factory Inspection SERVICES</b> - applicable to 2nd PHASE of CONSULTANCY SERVICES and indicating the sum of amounts as specified in Clause 3 of EXHIBIT B – Cap of Price Bid 4%</p>	<p>CONSULTANT wishes to submit that that the number of man trips during:</p> <ol style="list-style-type: none"> <li>Kick off and Design Review meetings is 44</li> <li>Factory inspection services is 15</li> </ol> <p>Therefore, CONSULTANT requests the EMPLOYER to consider the following % Cap of Price Bid:</p> <p>3. <b>Price for Kick-off meetings, Design Review Meetings, Project Progress Review Meetings</b> - applicable to 1st and 2nd PHASES of CONSULTANCY SERVICES and indicating the sum of amounts as specified in Clause 2 of EXHIBIT B – Cap of Price Bid 3% 4%</p> <p>4. <b>Factory Inspection SERVICES</b> - applicable to 2nd PHASE of CONSULTANCY SERVICES and indicating the sum of amounts as specified in Clause 3 of EXHIBIT B – Cap of Price Bid 4% 3%</p> <p>EMPLOYER is requested to please confirm the above.</p>	Suggested change is not accepted by the EMPLOYER.

16.	Section 4 - Contract	121/130 of RFP	Exhibit B – Pricing – Clause 2.4	<p>Clause 2.4: The unit price per each meeting/trip shall be calculated based on to the amount provided in Column 6, maximum and/or minimum limits as defined in Columns 5 to 3 and specific location (Column 2) per relevant line item in the table above and charged to the EMPLOYER in accordance to the actual number of meetings/trips completed, at specific location.</p>	<p>CONSULTANT understands that in case the number of meetings exceed the number of meetings detailed in the Table under clause 2, EMPLOYER shall pay the CONSULTANT as per the unit rate for each meeting as detailed under Column 6 of the respective Table.</p> <p>EMPLOYER is requested to please confirm the above.</p>	<p>Necessity of additional Meetings/Visits shall be agreed between the parties and paid accordingly.</p>
17.	Section 4 - Contract	122/130 of RFP	Exhibit B – Pricing – Clause 3.4	<p>Clause 3.4: The unit price per each surveillance/inspection visit shall be calculated based on the amount provided in Column 6, maximum and/or minimum limits as defined in Columns 5 to 2 and specific location (Column 1) per relevant line item in the table above and charged to the EMPLOYER in accordance to the actual number of visits completed, at specific location.</p>	<p>CONSULTANT understands that in case the number of meetings exceed the number of meetings detailed in the Table under clause 3, EMPLOYER shall pay the CONSULTANT as per the unit rate for each meeting as detailed under Column 6 of the Table.</p> <p>EMPLOYER is requested to please confirm the above.</p>	<p>Necessity of additional Meetings/Visits shall be agreed between the parties and paid accordingly.</p>
18.					<p>What is the number of required working hours per week for OE experts on site (with respect to Georgian labour law and project requirements)?</p>	<p>The total amount of working hours to be allocated by the CONSULTANT shall secure proper performance of the SERVICES in accordance with the requirement of the CONTRACT (including the Project Requirements), the GOVERNING LAW, applicable standards and international best practices. Accordingly, to achieve this goal the CONSULTANT is required to make OE experts available through conclusion of appropriate labour contracts taking into account and based on the provision of a law applicable to such contracts.</p>