



# Selection Instructions



## **DBFM Agreement**

### **A6 Almere Havendreef – Almere buiten-Oost**

*(Schiphol – Amsterdam - Almere)*

**Issue date: 3 March 2015**

**Case number: 31096659**

## **Imprint**

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# 1 Introduction

## **Disclaimer:**

These selection guidelines provided in English are meant as a translation of the official 'Selectieleidraad' in Dutch to facilitate interested foreign or English speaking parties. The English version is not binding and may contain mistakes. The Dutch 'Selectieleidraad' is the leading document.

## **1.1 Selection Instructions**

The tender procedure for the A6 Almere Havendreef – Almere Buiten Oost project is described in these Selection Instructions and the Tender and Assessment Instructions that shall follow from this. The Selection Instructions cover the period from placing the announcement to the invitation to participate in the First phase of the Dialogue. The Tender and Assessment Instructions cover the period from the Invitation to Participate in the First phase of Dialogue up to and including the Contract Close and Financial Close.

The Candidate is responsible for checking the proper receipt of the Tender Documents where applicable in the Selection Phase. Any Candidate who fails to receive (all) the Tender Documents must report this failure to the Contracting Authority via the website cited in paragraph 1.4.

The Tender Documents have been prepared with great care. However, if a Candidate has any reservations about any alleged contradictions, inaccuracies, possible violations of the law or (other) irregularities, the Candidate should notify the Contracting Authority of these issues in writing as soon as possible or seek further clarification by submitting a request for clarification (in accordance with paragraph 2.10). If the Candidate fails to promptly notify the Contracting Authority of contradictions, inaccuracies or possible violations of law, the Candidate may not invoke them at a later date.

## **1.2 Definitions**

Terms that are capitalised in these Selection Instructions are defined in schedule 1 to these Selection Instructions or in Schedule 1 to the (draft) DBFM Agreement. When a capitalised term is defined in schedule 1 to these Selection Instructions and in Schedule 1 to the DBFM Agreement, the definition in question applies only to the document to which it is appended. The Schedules linked to the DBFM Agreement are capitalised ("Schedule [.]"), while schedules for these Tender Instructions are not capitalised ("schedule [.]").

## **1.3 Tendering via TenderNed**

A part of the tendering procedure is conducted in a digital manner via TenderNed: [www.tenderned.nl](http://www.tenderned.nl)

For participation in the tendering procedure, a business must be registered as a user on TenderNed. The 'User conditions for TenderNed' apply.

A business is expected to have all of the necessary knowledge of TenderNed in order to make their tender in the correct manner.

Use of TenderNed is for the account and risk of the business, except the details set forth in par. 3.4.a.

If the request to participate is submitted digitally, the documents must be signed via a validated, electronic signature with security level IV (PKI certificate).

If there is **no** electronic signature with security level IV, you must scan original, signed documents.

Questions relating to this tendering procedure can only be asked via TenderNed.

#### **1.4 Contracting Authority**

The Contracting Authority is: The State of the Netherlands  
Ministry of Infrastructure and the Environment  
Rijkswaterstaat - Large Projects and Maintenance

Project Organisation: A6 Almere Havendreef – Almere Buiten Oost SAA  
Contact: M. Anneeze (ir.)  
Office address: Burgemeester Stramanweg 100B  
1101 EM Amsterdam SE

The address where the request to participate must be submitted by the Candidate is:

##### Written

Rijkswaterstaat Tendering Team RWS GPO  
Contact: Mr. F. den Boer  
Office address: Griffioenlaan 2  
3526 LA Utrecht

##### Tendered

Rijkswaterstaat Tendering Team RWS GPO  
Contact: Mr. F. den Boer  
Website: [www.tenderned.nl](http://www.tenderned.nl)

The address for all other items to be submitted by Candidates and not to be communicated by electronic means is:

Contact: Mr. M. Anneeze, MSc  
Office address: Burgemeester Stramanweg 100B  
1101 EM Amsterdam SE  
Postal address: PO Box 3119  
2001 DC Haarlem

The delivery address for all items to be submitted by Candidates by electronic means is:

Contact: Mr. F. den Boer  
Website: [www.tenderned.nl](http://www.tenderned.nl)

#### **1.5 Project and objectives**

Below a general description of the project is included. This description is indicative and its purpose is to provide Candidates with an overview of the work to be performed.

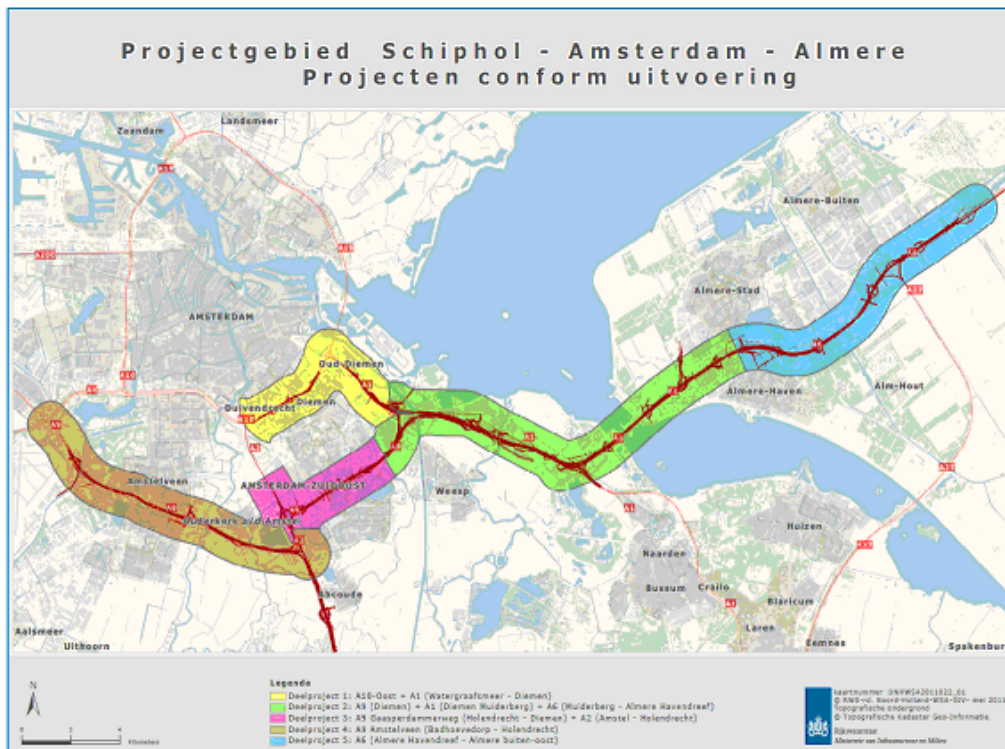
The Schiphol – Amsterdam - Almere (SAA) corridor is located in an economically important area that should be easily accessible. In 2004, Rijkswaterstaat initiated a planning study into possible solutions for the accessibility issues along the route, solutions that would also do justice to the liveability demands in the region. Based on the study and in line with the Route Memorandum / EIA, a choice was made for the Streamline alternative. This option is elaborated in the Route Decision on the road expansion Schiphol – Amsterdam – Almere dated 24 March 2010, which became irrevocable on 4 January 2012.

The objective of the SAA programme is to improve the flow on the corridor by expanding the road capacity to ensure that good accessibility of the region can be continued to be guaranteed and to also improve the living environment. The flow of this section of the road network must also be retained during the implementation of the programme. Preconditions for achieving this objective include realisation before 31 December 2020 and within the available budget.

The programme is divided into five subprojects, namely:

1	A10 east / A1	Watergraafsmeer interchange – Diemen interchange
2	A1 / A6	Diemen - Almere Havendreef interchange
3	A9 GDW	Holendrecht / Diemen
4	A6 Almere	Almere Havendreef – Almere Buiten Oost
5	A9 Amstelveen	Badhoevedorp – Holendrecht

The following diagram provides a general overview of these projects.



**Figure Context of the Schiphol - Amsterdam - Almere project**

The biggest challenges for the SAA programme are:

- Construction in an administratively sensitive environment on and around an intensively used infrastructure;
- Ensuring traffic flow across the entire corridor;
- Minimising traffic disruption, especially during the implementation phase;
- Managing the interfaces with adjoining projects as well as the interfaces with the adjacent main road network and the environment;
- Managing the logistics of the transition from the existing to the new infrastructure;
- Designing and implementing technical solutions.

The A10 East/A1 project has already been tendered, awarded and, according to planning, completed at the end of 2014. The A1/A6 project has also been tendered; the implementation shall take place between 2014 and 2020. The A9 Gaasperdammerweg is the third project that has been tendered. The start of construction is scheduled in 2015 after completion of the A10 East / A1 project (which will function as the alternative route). The fourth A6 Almere Havendreef – Almere Buiten Oost SAA project (shortened to: A6 Almere) forms the third SAA DBFM Agreement. The A6 Almere project must be ready before the opening of Floriade in 2022.

The Schiphol-Amsterdam-Almere website (see paragraph 2.8.1) contains further explanation of the programme

#### A6 Almere Havendreef – Almere Buiten Oost Project

The fourth A6 Almere Havendreef – Almere Buiten Oost SAA project (shortened to: A6 Almere) forms the third SAA DBFM Agreement. The A6 Almere project must be ready before the opening of Floriade in 2022.

The Project consists of all works, supplies and services that need to be carried out under the DBFM Agreement in relation to the widening of the A6 motorway between Almere Havendreef and Almere Buiten-Oost over a length of approximately 13 kilometres. Specifically, this means that the motorway between Almere Havendreef (km 49.5) and Almere Buiten-Oost (km 63.1) shall be widened from 2 x 2 lanes to 4x2 lanes + HD (main and parallel lane structure, both with a hard shoulder). The flow of traffic must be retained as much as possible during the implementation work.

The A6 Almere project forms an important link in the total traffic system in the SAA corridor. The road section fits in with the A1/A6, the A27 and the N702. In view of the growth of Almere, the expected increase of traffic intensities on the Almere-Amsterdam road section, it is essential that the road capacity is expanded. In addition, it is important that the A6 Almere project is integrated in the correct manner in the environment; in connection with the underlying road network and Floriade.

The widening of the A6 motorway shall take place on the south side in Weerwatergebied. Part of this is a wide central reservation so that there is space for tunnel walls or reculverting in the future. The widening of the A6 to the east of Weerwatergebied has been partly positioned in the current wide central reservation. This ensures that the current road is optimally integrated in the widened route. There will be a bundling of the main and parallel lanes (2x4+HS) in the section between the Veluwedreef and Tussenring connections so that you can change lanes. The A6 Almere will be laid in a lowered position where Weerwater can be found so that the barrier effect of the A6 is reduced. The existing connection (Almere Haven) in Weerwatergebied shall be replaced by two halves where the underlying network (Steigerdreef and Noorderdreef) shall also be modified.



The DBFM Agreement has a laying and a maintenance component. Specifically, the building scope mainly focuses on:

1. The capacity expansion from 2 x 2 to 4 x 2 with a main and parallel lane structure;
2. Good and user-friendly intercommunication passages and link-up with the underlying road network;
3. The lowering of the A6 and the moving of the Almere Port connection to two half connections;
4. Keeping space for future area development.

The building work also includes noise measures, moving specific cables and pipes and mitigating and compensating measures for nature and forest in addition to route and interchange changes, new engineering works and adjustments to the existing engineering works and other infrastructural facilities and measures (such as the underlying road network and cycle paths). Attention is also paid to landscape integration, taking water management measures and traffic safety measures, demolishing objects and possibly installing Dynamic Traffic Management systems.

The DBFM Agreement also contains a maintenance obligation during the construction phase and the operation phase. The maintenance scope mainly focuses on paving and marking, engineering works, greenery and sites.

## **1.6 DBFM Agreement**

The draft DBFM Agreement is attached as schedule 3. At the end of the Dialogue, the draft DBFM Agreement shall be supplemented with the results of the Dialogue.

The [•] symbol in the DBFM Agreement and Schedules indicates that further details shall be added by the Contracting Authority in a manner that shall be identical for all Candidates.

[The symbol [••] indicates where items for specific candidates are included in the DBFM Agreement.]

## **1.7 Payment regime and project financing**

During the term of the DBFM Agreement the Contractor shall receive a performance-dependent availability payment.

In addition, the Contractor shall receive a Lump-Sum Payment upon issue of the Completion Certificate.

The Contractor is responsible for the financing of the Project. The financing must be structured in such a way that Financiers make loan capital available to the Contractor, or at least guarantee such, based on the basic principles of project financing.

The Contracting Authority shall enter into a Direct Agreement with the Contractor and the relevant Financiers and, if necessary, shall cooperate in pledging the Net Availability Payment as collateral. A draft of the Direct Agreement shall be attached to the DBFM Agreement as schedule 6 (Direct Agreement).

The Tenderers must submit a Financing Plan with their Tender which specifies how they shall attract sufficient financing for the Project to fulfil all the obligations arising from the DBFM Agreement. The Candidate shall be asked to submit its Financing Plan (in draft

form) during the Second Phase of Dialogue for the purpose of discussion with the Contracting Authority. Additionally, the Financing Plan must be submitted by the Tenderer as part of its Tender; the Contracting Authority stresses that due diligence must have taken place prior to the Tender, assuming that the DBFM Agreement shall not undergo any further changes.

The interest rate risk during the period between Submission and Financial Close remains under conditions with the Contracting Authority.

This specifically means that only changes in respect of the Reference Rates, with regard to the Reference Rates specified by the Contracting Authority for the purpose of the Tender, shall lead to the adjustment of the Gross Availability Payment.

The Contracting Authority shall discuss the process of obtaining financing for the Project with the Candidates and shall closely follow the situation on financial markets. The evolving situation may lead to certain adaptations in the Tender Documents. The Contracting Authority furthermore reserves the right to change the process for obtaining financing for the Project if prompted by circumstances on the financial markets.

For the time being, the Contracting Authority assumes that financing with an inflation-related component and/or Hard Mini Perm financing shall not be made permissible for the Project.

## **1.8 Abridged description of tender procedure**

### **1.8.1 Phasing of the tender procedure**

The tendering procedure, as set out in these Selection Instructions and the following Tendering and Assessment Instructions, shall take place in a number of phases. These phases are indicated in the table below. The dates are provisional and may be changed in the course of the tender procedure.

<b>Selection Phase</b>	
Publication of Announcement and dispatch of TED	03 March 2015
Submission (final) of requests for clarification	24 March 2015
Publication of the (final) Summary of Additional Information and Changes	31 March 2015
Submission of requests to participate	08 April 2015
Assessment of requests to participate	8 April – 21 April 2015
Selection	21 April 2015
Non-selected Candidate Appeal Period	21 April – 28 April 2015
<b>First phase of Dialogue</b> (n Candidates)	
Invitation to Participate in the First Phase of Dialogue.	21 April 2015
Starting conference	29 April 2015
Decision on participation in Second Phase of Dialogue	July 2015
<b>Second Phase of Dialogue</b> (three Candidates)	
Invitation to Participate in the Second Phase of Dialogue.	July 2015
Conclusion of Dialogue and formation of DBFM Agreement	February 2016
<b>Submission Phase</b> (three Tenderers)	
Delivery of Submission (qualitative part)	March 2016

Delivery of Submission (quantitative part)	April 2016
Completion (one Candidate)	
Contract Close	June 2016
Financial Close	July 2016

## **1.8.2. Procedure Description**

### ***Selection Phase***

The tender procedure starts with the Selection Phase. Selection takes place on the basis of an evaluation of grounds for exclusion and of suitability requirements. The Contracting Authority shall invite Candidates to participate in the Dialogue in the absence of any grounds for their exclusion and on condition that they have met the suitability requirements.

This Selection Phase is further described in Chapter 3.

### ***Dialogue***

The Contracting Authority avails itself of the option of conducting the Dialogue in successive phases as per Article 29, paragraph 4 of Directive 2004/18/EC. In the present tendering procedure, the Dialogue consists of the following phases:

- First Phase of Dialogue
- Second Phase of Dialogue

The First Phase of Dialogue, including further investigation of the Risk Management Plan Outlines and the method for its assessment and evaluation, shall be described in more detail in the Tender and Assessment Instructions. In the First Phase of Dialogue, the number of Candidates invited for the continuation of the Tender Procedure is reduced to three - in so far as more than three Candidates appear to meet the minimum requirements. This selection shall take place by means of an assessment of the Candidates' Risk Management Plan Outline.

If no short-listing needs to occur in the First Phase of Dialogue and this phase is undertaken with three Candidates or less, the Contracting Authority retains the right to modify the First Phase of Dialogue.

The Contracting Authority shall invite the three Candidates it has selected on the basis of its assessment of their Risk Management Plan Outline to participate in the Second Phase of Dialogue.

The Second Phase of Dialogue shall be described in more detail in the Tender and Assessment Instructions. During the Second Phase of Dialogue, the Contracting Authority shall further harmonise and, if required, adjust the contents of the DBFM Agreement with the Candidates. No selection shall take place during the Second Phase of Dialogue.

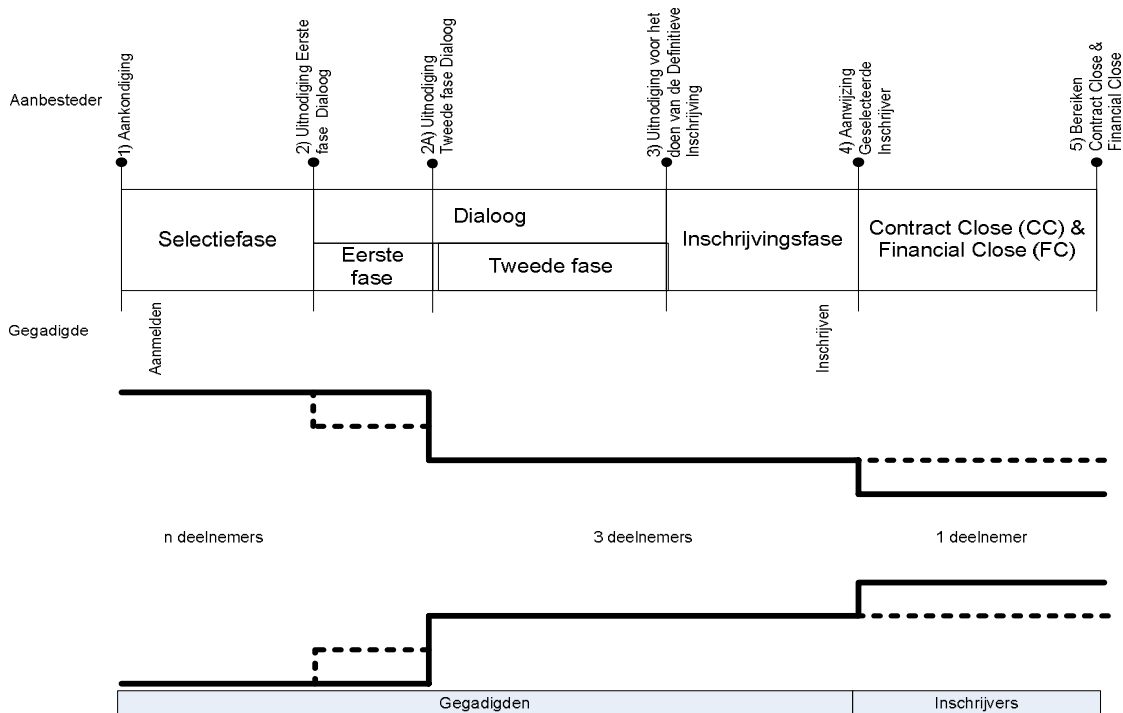
Based on the results of the Second Phase of the Dialogue, the Contracting Authority can review the Tender Documents for all Candidates on an equal basis.

**Submission Phase**

The Submission phase follows the Contracting Authority's completion of the Second Phase of Dialogue. This phase shall be further described in the Tender and Assessment Instructions.

The Project is awarded according to the criterion of the economically most advantageous submission (EMAS).

Schematic representation of tender procedure



**1.9 Planning procedure(s)**

On 21 March 2011, the Minister of Infrastructure and Environment signed the Route Decision, and the Route Decision (RD) became irrevocable in January 2012.

The Route Decision has been elaborated into the Zoning Plan. As a consequence of the allocation of Floriade to the municipality of Almere and the adjustments as a result of the Area Development Plan of Weerwatergebied, the area development design that underpinned the Route Decision was no longer desirable for the municipality of Almere. This is the reason why a Zoning Plan Amendment was started to ensure that the preferred changes of the municipality of Almere could be realised. In the spring of 2015 this will be put on display. The planned adjustments will be part of the contractscope.

**1.10 Administrative agreement(s)**

In preparation for this tendering process the Contracting Authority and a number of public parties have made administrative or implementation agreements or are intending to do so.

the Parties	Description of agreement	Date of agreement
The Minister of Transport, Public Works and Water Management, the Province of Noord-Holland, the Province of Flevoland, the municipalities of Amsterdam, Amstelveen and Almere and Amsterdam Metropolitan Area	Schiphol - Amsterdam - Almere Plan Study Streamline Alternative Agreement	29/10/2007
Rijkswaterstaat, municipality of Almere	Cooperation Agreement between the Kingdom of the Netherlands and the municipality of Almere about the expansion of the A6 motorway road capacity within the framework of the Schiphol - Amsterdam - Almere project	06/07/2012
Rijkswaterstaat, Province of Flevoland	Nature compensation agreement regarding the A6 Motorway in Oostvaarderswold	28/09/2010
Rijkswaterstaat, Province of Flevoland	Additional A6 widening compensation specification	09/01/2012
Rijkswaterstaat, State Property and Development Agency, municipality of Almere	Almere Centrum Weerwater administrative agreement	20/03/2013
Rijkswaterstaat, State Property Agency, municipality of Almere	Cooperation, implementation and contracting agreement between the Kingdom of the Netherlands and the municipality of Almere regarding the Area Development and Road Widening at Almere Centrum Weerwater	14/10/2014
Ministry of Infrastructure and the Environment, municipality of Almere, Province of Flevoland	Implementation agreement for the underpass between Almere Stad and Almere Hout	In preparation
Rijkswaterstaat, municipality of Almere	Implementation agreement with the Municipality of Almere	In preparation
Rijkswaterstaat, Province of Flevoland	Implementation agreement with the Province of Flevoland	In preparation
Rijkswaterstaat, Zuiderzeeland Water Board	Implementation agreement with Zuiderzeeland Water Board	In preparation
Rijkswaterstaat Staatsbosbeheer (State Forest Management)	Implementation agreement with Staatsbosbeheer	In preparation

The Requirements deriving from the administrative agreement shall be included in the DBFM Agreement.

## 2 General Information

### 2.1 Candidates' declaration of consent

In submitting a request to participate, the Candidates declare their unconditional consent with the tender procedure described in these Selection Instructions.

### 2.2 Applicable regulations

The tender procedure shall be conducted as a competitive Dialogue (Articles 2.28 and 2.29 of the Public Procurement Act and Chapter 4 of the Works Procurement Regulations 2012).

Unless otherwise stated in the Selection Instructions or the Tender and Assessment Instructions, the laws and regulations shall applicable to the tender procedure shall include the following:

- Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for public works, supplies and service contracts;
- Directive 89/665/EEC of the Council of 21 December 1989 on the coordination of laws, regulations and administrative provisions relating to the application of review procedures in the matter of the award of public supply and public works contracts;
- The Public Procurement Act 2012;
- The Public Procurement Decree;
- The Dutch Tender Regulations for Public Works 2012 (ARW 2012);
- The Public Administration (Probity in Decision-Making) Act (BIBOB Act).

### 2.3 Safeguarding of legal rights – choice of court

The Contracting Authority shall notify the Candidates in writing of decisions concerned with the observance of law, in the meaning of Article 1, paragraph 1 of Directive 89/665/EEC, with regard to the tender procedure.

All periods mentioned in the Tender Documents shall begin at 12:00 AM on the day following the issue of the decision and all deadlines are expiry dates. This means that if a Candidate does not actually file an appeal against a decision within the stated period following issue of the decision then the Candidate can no longer lodge an appeal against the decision. In such a case the Contracting Authority would be free to (further) implement the decision. Should any legally valid decision fail to indicate a specific appeal period, the appeal period for said decision is then 20 Calendar Days.

A Candidate that has objected to any decision must also initiate interim injunction proceedings against the decision within 20 Calendar Days following the date on which Contracting Authority issued the decision. Proceedings are pending starting on the day of the summons (Article 125 of the Code of Civil Procedure).

Any dispute between the parties involved in the tender procedure arising on account of the tender procedure, to which the Selection Instructions apply, must be submitted to the civil courts at The Hague.

### 2.4 Discontinuation of the procedure, Candidates' withdrawal

The Contracting Authority may prematurely discontinue the tender procedure.

Should the Contracting Authority discontinue the tendering procedure after the Selection Phase, the Contracting Authority shall pay Candidates reasonable compensation, to be determined by the Contracting Authority, for the (design) costs incurred by them, according to the stage of the tendering procedure reached and according to the efforts devoted by the Candidate up to that point.

Candidates may withdraw from the tender procedure prior to submitting their Tender without being liable for compensation with regard to the Contracting Authority.

Candidates that have been invited to participate in a subsequent phase of the tender procedure but that nonetheless withdraw of their own accord shall have no claim to any compensation for (preliminary) costs.

## **2.5 Notice and Announcement**

The notice was announced on **3 March 2015** on the internet site [www.tenderned.nl](http://www.tenderned.nl) and sent to the Office for Official Publications of the European Communities

## **2.6 Language**

This tender procedure is to be conducted in the Dutch language. Insofar as the Contracting Authority does not specify otherwise, all documents to be submitted in Dutch. In the event that certain declarations originally formulated in a foreign language have to be submitted in Dutch, the Candidate is required to submit the declaration in both the original (foreign) language with a translation into Dutch.

The Contracting Authority permits the following documents to be submitted in English, German or French without a translation:

- Certificate of Conduct for Procurement (GVA) or equivalent certificate;
- Extract from a Trade Register;
- Copy of valid proof of identity;
- Statement of economic and financial standing;
- Power of attorney.

If the Candidate is asked to submit a Certificate of Conduct for Procurement, extract from a trade register or copy of valid proof of identity and the Candidate wishes to submit the document in a language other than Dutch, English, German or French without a translation, it must first obtain permission from the Contracting Authority.

The Contracting Authority permits the following documents to be submitted in English without a translation:

- Original Financial Model;
- Financing plan;
- Financial Advisor's supporting statement
- Supporting statement (external) credit capital provider (Mandated Lead Arranger)
- European Investment Bank supporting statement

Furthermore, the Contracting Authority allows information about reference projects to be submitted in English.

## **2.7 Ceiling Price**

The Ceiling Price for the execution of the DBFM Agreement shall be indicated in the Tender and Assessment Instructions.

## **2.8 Provision of information**

### **2.8.1 Website**

For the purpose of this tender procedure, the Contracting Authority has set up a website with the URL

[http://www.rijkswaterstaat.nl/wegen/plannen\\_en\\_projecten/a\\_wegen/a6/a6\\_almere/index.aspx](http://www.rijkswaterstaat.nl/wegen/plannen_en_projecten/a_wegen/a6/a6_almere/index.aspx)

### **2.8.2 Data Room – Dissemination of information**

The Contracting Authority shall set up a Data Room to facilitate this tender procedure as from the start of the First Phase of Dialogue. The Candidates shall have to conclude an agreement with the Contracting Authority based on which they will be given access to this Data Room.

The Contracting Authority shall supply the data digitally to facilitate this tender procedure. This shall mainly be in a PDF file format and, when the case arises, also in Work or Excel format. In the case of discrepancies between formats, the PDF version shall prevail.

During the Dialogue, the Contracting Authority shall promptly determine which information in the Data Room is to be designated as being “Disseminated Information” in the meaning of the DBFM Agreement.

### **2.8.3 Electronic communication**

This tender procedure makes use of the possibility of communication between the Contract Authority and the Candidates by electronic means.

Information exchanged between the Contracting Authority and the Candidates by electronic means will primarily be communicated in pdf<sup>1</sup> format and, in some cases, also in Word or Excel format. In the case of discrepancies between formats, the PDF version shall prevail.

## **2.9 Confidentiality and intellectual property rights**

### **2.9.1 Confidentiality to be observed by the Candidates**

By participating in the tender procedure, the Candidates place themselves under obligation to maintain the confidentiality of all the information they receive from the Contracting Authority, provided the information is not in the public domain, and not to disclose it to third parties. Candidates must protect information received from the Contracting Authority against unauthorised use. Candidates may, however, make such information available to subcontractors involved in the tender procedure, provided they subject them to this condition of confidentiality. This obligation is not valid if the Selection and Tender and Assessment Instructions, or any other communications of the Contracting Authority, explicitly state otherwise. The confidential information provided may only be used for the purpose for which it was intended.

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<sup>1</sup> Portable Document Format from Adobe Systems, the formal open standard for digital documents, known as ISO 32000.



## **2.9.2 Confidentiality to be observed by the Contracting Authority and intellectual property rights**

The following are designated as being confidential:

- a) Reference materials, outline Risk Management Plan Outlines, dialogue products and Final Submissions;
- b) Confidential Clarifications as referred to in 2.10.2;
- c) All other information that, by its nature, is confidential

Confidential information shall be treated by the Contracting Authority as such. The Contracting Authority shall therefore not disclose confidential information to third parties (including other Candidates) unless the Contracting Authority is reasonably bound to disclosure on account of a legal obligation or within the context of a lawsuit. Before the Contracting Authority supplies third parties with confidential information in such situations, it shall consult with the respective Candidate concerning the form of disclosure least objectionable to the latter, without prejudice to the Contracting Authority's fulfilment of the aforementioned obligations.

By participating in the tender procedure, the Candidates contingent intellectual property rights are not transferred to the Contracting Authority, unless agreed otherwise.

## **2.10 General and Confidential Clarifications**

During the tender procedure, Candidates may submit requests for clarification of the Project and the Tender Documents to the Contracting Authority. Requests for clarification may give cause to the Contracting Authority's issue of General and Confidential Clarification.

The Contracting Authority may also provide the Candidates with clarification at its discretion.

The Contracting Authority shall state the deadline date for each phase of the tender procedure for the submission of requests for clarification.

### **2.10.1 General Clarification**

In principle, the Contracting Authority shall respond to requests for clarification by providing General Clarifications. General Clarifications are adaptations, consequences and explanatory statements, or any other type of information about the Project or the Tendering Documents, which are identically worded and equally valid for each Candidate.

If the Contracting Authority responds to a Candidate's request for clarification by means of General Clarification then the Contracting Authority will publish this request anonymously and answer it in a way accessible to all Candidates.

### **2.10.2 Confidential Clarification**

In principle, no Confidential Clarification shall be issued in the Selection Phase.

## **2.11 Communication**

Candidates are not permitted to communicate about the tender procedure and the Project with the employees of the Contracting Authority, advisers of the Contracting Authority, other (legal) persons that are involved on the side of the Contracting Authority in the tender procedure and the preparation of the Project, or other

stakeholders concerned with the Project, in a manner different from the one stipulated in these Selection Instructions or the Tender and Assessment Instructions, except after written permission from the Contracting Authority. A request for the granting of this written permission must be submitted to the Contracting Authority by a Candidate as a "request for clarification". Candidates who act in breach of the provisions of this paragraph can be excluded from (further) participation in the call to tender.

## **2.12 Inside information and conflicts of interest**

The guidelines from the Rijkswaterstaat [Directorate-General for Public Works and Water Management] to prevent insider trading and conflicts of interest, as contained in the memorandum "Segregation of Interest: Policy Against Conflicts of Interest in the Tender Procedure" dated 14 September 2007 (see schedule 4) are fully applicable to this tender procedure.

Every Candidate and Significant Subcontractor must indicate in the Supplementary Self-Declaration (schedule 2.3 B) whether there is (was) involvement in the preparation of the Project. If there was any involvement in the preparation of the Project, the Candidate is presumed to have advanced knowledge and/or a conflict of interest.

The Contracting Authority shall allow the Candidate the opportunity to refute, to the satisfaction of the Contracting Authority, the presumption referred to in the preceding paragraph and to show that fair competition is not affected by the (previous) involvement.

A Candidate may be excluded from participation in the tender procedure if the presumption referred to in the second subparagraph is not refuted.

## **2.13 Complaints regarding the tender procedure**

In response to the report "Handling Complaints during Tender Procedures", the Contracting Authority has set up a complaints office.<sup>1</sup> Complaints regarding the Tender Procedure can be submitted to the Rijkswaterstaat Tender Complaints Committee at [klachtenmeldpunt@rws.nl](mailto:klachtenmeldpunt@rws.nl) and [Aanbestedingsteam-gww@rws.nl](mailto:Aanbestedingsteam-gww@rws.nl).

Complaints may relate to non-compliance with statutory requirements or violation of the general tender principles.

Complaints must be submitted in writing and must clearly state the specific aspect of the tender procedure to which the complaint relates, supported by reasoned arguments.

Complaints will be handled by expert officers who are not, nor will be, involved in the present tender procedure.

Complaints will be handled as soon as possible and the complainant informed accordingly.

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<sup>1</sup> For more information about the complaints office and the report "Handling Complaints During Tender Procedures" see the Rijkswaterstaat website. Go to: " [www.rijkswaterstaat.nl/zakelijk](http://www.rijkswaterstaat.nl/zakelijk)" and make the following selections: Zakendoen met Rijkswaterstaat > Inkoopbeleid > Aanbesteden > Klachtenmeldpunt aanbesteden.

The filing of a complaint shall not have suspensive effect and shall not exempt the Candidate from having to submit a formal appeal on time or to initiate proceedings if and to the extent required (see paragraph 2.3).

#### **2.14 Motivations in the context of the Public Procurement Act**

The present tender procedure involves a contract in which different types of work and/or construction phases are integrated in accordance with the procurement strategy of Rijkswaterstaat.

The decision to apply the DBFM Agreement for the Project has been made on the basis of careful analysis using the Public Private Comparator (PPC), whereby the DBFM is chosen only if sufficient numbers of market parties can participate.

The decision to apply the DBFM contract type for the project has been made on the basis of the PPC and thus meets the requirements of proportionality, transparency and objectivity.

DBFM is in essence an integrated contract. The various components within the DBFM structure are inextricably linked and together form one unit within which the private financier frequently assumes management responsibility for the project.

DBFM is a strategic tool used across government to facilitate the efficient use of government resources and achieve savings. The Rutte II Government also encourages the use of DBFM and this policy is not inconsistent with the objective that Article 1.5 of the Public Procurement Act seeks to achieve.

This offers the following advantages:

- Due to its specific nature, DBFM does not lend itself to being split up into component parts for integrated projects which, by definition, have a logically coherent scope. On location of the Weerwaterzone and the future Floriade the underlying road network is also inextricably linked to the main work staging of the national road A6, and plays a crucial role with regard to traffic hinder, traffic flow and the accessibility of the municipality of Almere;
- Combining design, development, maintenance and financing:
  - affords market parties more room for product and process innovations leading to better performance at lower costs;
  - leads to more maintenance-friendly designs and higher quality;
  - offers market parties optimal opportunities to reduce the construction and maintenance costs;
  - leads to better project management, shorter lead times and higher quality of services;
  - leads to a clear allocation of area responsibility to one party, promoting the safety and flow of traffic;
  - leads to higher design quality as the (financial) consequences of errors in the design rest with the contractor.
- DBFM contracts have fewer interfaces so they require less coordination;
- The combination of an integrated contract and award on price and quality (MEAT) offers tenderers more opportunities to compete on quality.

## 3 Selection Phase

### 3.1 General

It is during this phase that Candidates qualify as participants in the First Phase of Dialogue. For this purpose, the Contracting Authority shall evaluate Candidates that have submitted a request to participate based on the grounds for exclusion and suitability requirements described in this chapter.

The Candidate must fulfil the requirements set forth in this chapter and must completely fill out the forms covered in Schedule 2. Incompletely filled out forms may lead to exclusion from (further) participation in the tender procedure.

### 3.2 Registration

Interested parties may register with the Contracting Authority until **30 March 2015 at 5 p.m.** via the website stated in paragraph 1.4.

Registration of an SPV in process of incorporation is not a condition for one or more (legal) person(s) (joint parties) acting on behalf of the SPV in process of incorporation to make a request.

### 3.3 Clarifications

Further information about the tendering procedure and the relevant documents required can be requested until **3 p.m. on 24 March 2015** via TenderNed, under the tab 'Vragen over de aanbesteding' ('Questions about tendering').

The provisions of Subsection 2.10 are applicable to this clarification.

In principle, requests not submitted in time shall not be accepted by the Contracting Authority.

The information provided, which serves to clarify, supplement or modify the tendering documents, shall be used by the Contracting Authority to draw up a memo of information. This memo shall be published by 31 March 2015, at the latest, on TenderNed, under the tab 'Nota van Inlichtingen' ('Memo of Information').

### 3.4 Requests to participate

Interested parties must provide their requests to participate in writing and on TenderNed.<sup>1</sup>

#### Written:

Interested parties must provide their requests to participate with reference to:

"Confidential – Request to participate in the tender procedure for the Almere Havendreef – Almere Buiten Oost A6 – Case Number 31096659."

and submit it to the Contracting Authority **between 10 a.m. and 3 p.m. on 8 April 2015** at the office address indicated in paragraph 1.4.

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<sup>1</sup> This concerns a transition period to full digital tendering.

The Contracting Authority shall afford interested parties the opportunity to submit the request to participate at an earlier time. Interested parties shall make an arrangement with the Contracting Authority for this purpose via email.

A request to participate should consist of an original copy of all documents to be submitted in accordance with the overview of the tabs included in schedule 2.1. One copy of all original documents must also be included, as well as a copy of all documents on data carrier in PDF file format.

Requests to participate must entirely adhere to the model prescribed in schedule 2.1 and must be signed by an authorised representative.

Requests to participate not received by the Contracting Authority within the time limit specified in this paragraph, are null and shall not be accepted by the Contracting Authority.

TenderNed:

Interested parties must register their requests to participate via TenderNed and by **8 April 2015 at 15.00** at the latest. The safe will be closed at the time given. The time and date given are the last time and date for receipt of the requests to participate.

All of the documents that are to be provided with the request to participate must be submitted digitally via TenderNed.

Documents must be equipped with an electronically certified signature (security level IV) or must be a scan of a signed original.

The original, signed document (hard copy) of all documents that are scanned (i.e. not equipped with an electronically certified signature) must be submitted to the Contracting Authority.

Paper documents must be submitted to the Contracting Authority before closure of the registration period.

### **3.4.a Force majeure and delay with regard to TenderNed**

Only in the event that TenderNed is inaccessible for a reason that cannot be attributed to the business/applicant at the last moment before receipt of the requests to participate, can we refer to a situation of force majeure.

In this instance, the closure of the registration period **on TenderNed** shall be postponed by at least 24 hours. The Contracting Authority shall notify the business/applicant of the modified time of closure of the registration period via TenderNed, under the tab 'Berichten' ('Messages').

### **3.5 Single instance of involvement of (legal) persons**

Natural or legal persons may only participate as Candidates once and may only be involved as a Significant Subcontractor (other than the Candidate itself) or a Shareholder via a single Candidate.

In terms of the applicability of this condition, (legal) persons that meet the conditions given below are considered as being one (legal) person:

1. natural or legal persons affiliated with each other in some manner as per Article 2: 24a of the Dutch Civil Code;
2. or natural or legal persons associated with each other as a group as per Article 2: 24b of the Dutch Civil Code;
3. or (legal) persons affiliated with each other in ways comparable to subsections a or b according to foreign laws.

### **3.6 Candidates: SPVs, SPVs in process of incorporation**

The Contractor must be an SPV (Special Purpose Vehicle). The DBFM Agreement shall be signed with the SPV.

The following may apply as Candidates:

- (a) the SPV, when already incorporated or – if the SPV has not yet been incorporated,
- (b) one or more natural or legal person(s) (joint parties) acting on behalf of the SPV in process of incorporation.

Should the situation under b. above involve *two or more* legal persons (joint parties) applying on behalf of the SPV in process of incorporation then one of those parties must be designated as the SPVs representative in the model form for request to participate supplied in Schedule 2.1 under A. The lead party must be able to legally represent the other legal persons applying on behalf of the SPV in the process of incorporation as far as matters affected by this tender procedure are concerned. The Candidate vouches for said authorisation vis-à-vis the Contracting Authority.

In the case cited under (b) above, the SPV must be operational no later than the day prior to Contract Close and must by then have certified the legal procedures undertaken on account of it by the (legal) person(s) cited under (b) above. The Contracting Authority must – without submitting any request to that effect, receive, immediately upon incorporation and certification, evidence of said incorporation and certification.

If Candidates make their request as an SPV in process of incorporation, entry in the trade register is not required at the time of the request to participate. All (legal) persons (and/or future Shareholders) who will participate in the SPV in process of incorporation must submit the required information.

### **3.7 Article 6 of the Dutch Competitive Trading Act**

The Contracting Authority makes Candidates abundantly aware that it is prohibited to enter into agreements having the aim or effect of reducing, restricting or disrupting competition on the Dutch market or any portion of it.

The Contracting Authority reserves the right to report Candidates to the Dutch Authority for Consumers & Markets if the Contracting authority suspects they are in breach of the Dutch Competitive Trading Act with regard to the Project because they have entered into an agreement, contributed to a decision by a business association or undertaken concerted practices in collaboration with one or more companies to the effect that, or with the result that, competition on the Dutch market or part of the market is hindered, limited or falsified.

### **3.8 Demonstrating suitability**

#### **3.8.1 General**

Candidates must provide proof that, either on their own or by availing themselves of the technical expertise of one (or more) third parties, they fulfil the suitability requirements cited in Paragraphs 3.13.1 and 3.13.2.

Should a Candidate avail itself of one or more third parties – the Significant Subcontractor(s) – it must then provide proof when submitting its request to participate that and the manner in which it shall (or might) indeed avail itself of the experience of the third parties. It is for this purpose that the model statement supplied in Schedule 2.2 shall be completed and signed by the relevant Significant Subcontractor.

#### **3.8.2 Use of third parties: Significant Subcontractors**

A Significant Subcontractor is considered to be a natural or legal person whose technical expertise is employed by a Candidate to fulfil one or more requirements with regard to expertise.

Significant Subcontractors must actually be used in activities that relate to the requirements for which the Significant Subcontractor is hired.

#### **3.8.3 Attribution of experience**

With regard to the suitability requirements laid down in paragraphs 3.13.1 and 3.13.2, a Candidate or Significant Subcontractor may only claim a particular type of experience if and to the extent that the Candidate or Significant Subcontractor has personally done the work pertaining to that type of experience.

### **3.9 Changes in the composition of Candidates, Significant Subcontractors, and Shareholders**

In the event of unforeseen circumstances, such as the withdrawal of a participant in the SPV or a Significant Subcontractor due to events beyond the Candidate's control or for organisational reasons provided there are no unnecessary additions to the parties involved, the Candidates may propose changes to their composition or to the designation of Significant Subcontractors. Candidates that propose a change of this nature must explain the reasons for this change in their proposal.

The Contracting Authority must give its explicit written consent to such changes, and certain conditions may be attached to said consent. The Contracting Authority shall verify if the change in composition has consequences affecting, for example:

- applicability of grounds for exclusion;
- compliance with suitability requirements or further selection criteria;
- inside information or conflict of interests;
- other factors relating to competition law.

The Contracting Authority shall, however, not withhold its consent on unreasonable grounds.

In any event this consent requires that the Candidate demonstrate that after the changes all the requirements placed on Candidates and Significant Subcontractors. If a selection has taken place, in order to obtain approval the Candidates must also demonstrate that they, in the new composition and in applying the criteria for selection, would achieve at least the same or a higher total score.

### **3.10 Information to be submitted**

In requests to participate, Candidates must submit the following information about themselves (the SPV or all the participants in the SPV in process of incorporation) and the Significant Subcontractor(s) and Shareholders:

- a. Request to participate including all documents pertaining thereto (schedule 2.1).
- b. Declaration(s) of availability of Significant Subcontractors (paragraph 3.8) including all documents pertaining thereto (schedule 2.2).
- c. From the SPV or every (legal) person participating in the SPV in process of incorporation: a Self-declaration for tender procedures of contracting authorities (Schedule 2.3 A, that is, the standard declaration in accordance with the Public Procurement Act 2012<sup>1</sup>) and a Supplementary Self-declaration (schedule 2.3).
- d. From every Significant Subcontractor: a "Third-party declaration on grounds for exclusion" (Schedule 2.6.) and a Supplementary Self-Declaration (Schedule 2.3.B).
- e. Statement of financial and economic standing (paragraph 3.12) including all documents pertaining thereto (schedule 2.4).
- f. References regarding project management experience (paragraph 3.13.1) including all documents pertaining thereto (Schedule 2.5).
- g. Any reference(s) regarding project financing experience (paragraph 3.13.2) including all documents pertaining thereto (schedule 2.5).

A list of documents to be submitted is included in the overview of the tabs in schedule 2.1.

### **3.11 Grounds for Exclusion**

#### **3.11.1 Compulsory grounds for exclusion**

The Contracting Authority will exclude any Candidate or Significant Subcontractor from participation or involvement in the tender procedure if one of more of the circumstances mentioned in Article 4.5.1 of the Works Procurement Regulation 2012 apply, without prejudice to the provisions in Article 4.5.7 of the Works Procurement Regulation 2012.

#### **3.11.2 Optional grounds for exclusion**

The Contracting Authority may exclude any Candidate or Significant Subcontractor from participation or involvement in the tender procedure if one of the circumstances as referred to in Article 4.5.4 of the Works Procurement Regulation 2012 applies, without prejudice to the provisions in Article 4.5.7 of the Works Procurement Regulation 2012.

#### **3.11.3 Declarations to be submitted**

A Candidate shall append the following complete and truthful declarations to its request to participate:

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<sup>1</sup> see the website: <http://www.rijksoverheid.nl/documenten-en-publicaties/formulieren/2013/03/22/eigen-verklaring-aanbestedingsprocedure-aanbestedende-diensten.html>



- From the SPV or every natural person or legal entity participating in the SPV in the process of incorporation: a Self-Declaration for Tender Procedures of contracting authorities (Schedule 2.3.A) and a Supplementary Self-declaration (schedule 2.3.B).
- From every Significant Subcontractor: a Third-party declaration on grounds for exclusion (schedule 2.6.) and a Supplementary Self-Declaration (schedule 2.3.B).

The above-mentioned parties are required to continue to comply with the declarations throughout the tender.

A completed Self-declaration for tender procedures of contracting authorities, Third-party Declaration on grounds for exclusion or Supplementary Self-declaration functions as a self-declaration by the party that submitted the declaration. The supporting documentation specified in Articles 4.5.3 and 4.5.5 of the Works Procurement Regulation 2012 must be submitted at the Contracting Authority's request. A Candidate must provide the Contracting Authority with the supporting evidence within two working days<sup>1</sup> via TenderNed. The documents listed under Tab C in schedule 2.1 have to be submitted along with the request to participate.

Failure to truthfully complete a Self-declaration for tender procedures of contracting authorities or a Supplementary Self-declaration may result in exclusion of the Candidate from (further) participation in the tender procedure.

*Certificate of conduct for procurement:*

As proof of non-existence of grounds for exclusion, the Contracting Authority may ask the Candidate to provide a certificate of conduct for procurement, as referred to in Article 2.89, subsection 2 of Public Procurement Act 2012, which at the time of submission is not older than two years.

A certificate of conduct for procurement must pertain to the current situation of the Candidate

If a certificate comparable to the certificate of conduct for procurement is not issued in the country of origin, it shall suffice to submit a statement under oath or a solemn declaration made before an authorised legal or administrative body, a civil notary or a qualified professional organisation in the country of origin.

**3.11.4 BIBOB Advisory Bureau**

Should the Contracting Authority have reason to believe that a Candidate, Significant Subcontractor, or Shareholder is subject to the circumstances cited in Articles 2.86 and 2.87 of Public Procurement Act 2012, but should sufficient information for the exclusion from participation or further involvement not be available, then the Contracting Authority may seek the advice of the BIBOB Bureau (see Article 8 of the Public Administration Probity in Decision-Making Act (BIBOB)). The Candidate, Significant Subcontractor, or Shareholder concerning whom advice is solicited shall be informed of the contents of said advice by the Contracting Authority via TenderNed under the tab 'Berichten' ('Messages').

**3.11.5 Exclusion**

During the tender and awarding of the contract, a Candidate may be requested to demonstrate to the Contracting Authority that the grounds for exclusion referred to in paragraphs 3.11.1 and 3.11.2 do not apply to the Candidate or its Significant

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<sup>1</sup> Note: It may take several weeks to obtain a certificate of conduct for procurement

Subcontractors, failing which the Candidate may be excluded from (further) participation in the tender procedure. If, during the tender procedure, grounds for exclusion referred to in paragraphs 3.11.1 and 3.11.2 become applicable to a Candidate or one of its Significant Subcontractors, this Candidate must immediately notify the Contracting Authority in writing via TenderNed under the tab 'Berichten' ('Messages').

Candidates who, in the view of the Contracting Authority, act in breach of the terms and requirements stipulated in the Tender Documents can be excluded from (further) participation in the invitation to tender.

If, at any time, it becomes evident that a Candidate has provided incorrect information, the Candidate may be excluded from (further) participation in the invitation to tender.

If the Contracting Authority proceeds with the exclusion of a Candidate due to grounds for exclusion pertaining to a participant involved in the SPV in process of incorporation or a Significant Subcontractor, the Candidate in question shall be allowed the opportunity during a period of 15 Calendar days of submitting a proposal for modification in the sense of paragraph 3.9 with regard to replacement of the participant or Significant Subcontractor in question.

Candidates that are excluded on the basis of the provisions in this paragraph shall not receive any compensation.

### **3.12 Financial and economic standing**

#### **3.12.1 Financial and economic standing requirement**

Candidates must show that the Shareholders are willing and able to provide the Candidate with a minimum amount of EUR 20,000,000 (twenty million euros) for funding the Project.

In case of a request as an SPV in process of incorporation, the participants in the prospective SPV must individually declare the amount they are making available to the Candidate for the Project, and the requirement is satisfied if the amounts of the provided declarations add up to at least the required EUR 20,000,000 (twenty million euros).

#### **3.12.2 Proof of financial and economic standing**

For the purpose of proving that it meets the financial and economic standing requirement, the Candidate must submit a statement in full conformity with schedule 2.4, signed by an authorised representative of a financial institution which:

- (a) is not an institutional investor and which is under the supervision of a regulatory body or a regulatory agency of another member state, or of a regulatory agency from a state that is not a member state but imposes at least comparable requirements as a regulatory agency of a member state (all the above as defined in Article 1.1 of the Dutch Financial Supervision Act); or
- (b) is an institutional investor under the supervision of a regulatory body or a regulatory agency of another member state, or of a regulatory agency from a state that is not a member state but imposes at least comparable requirements as a regulatory agency of a member state (all the above as defined in Article 1.1 of the Dutch Financial Supervision Act).

In case of a request made by (the participants in) an SPV (in the process of incorporation), multiple statements may be submitted on behalf of the SPV in the process of incorporation, providing the accumulated amounts involved in the statements meet the requirement. If multiple statements are submitted, [Name of Candidate] indicated in the 2<sup>nd</sup> paragraph of schedule 2.4 must be read as [Name of Legal Entity/ies] and only the amount may be otherwise changed.

This declaration only needs to be provided for the participants in the SPV (in the process of incorporation), not for the Significant Subcontractors.

### **3.13 Technical and organisational ability**

#### **3.13.1. Project management experience requirement**

The Candidate must show that it can indeed avail itself of the following experience in carrying out the Project:

In the preceding five years (counted from the deadline for submitting a request to participate; see paragraph 3.4), the Candidate must have been responsible for the project management of a project. This project must comply with the following requirements:

- a. Infrastructure project in groundwork, road and hydraulic engineering (GWW) with regard to (line) infrastructure, or in residential and non-residential construction (B&U), water purification, water production or water distribution;
- b. Integrated execution of design and construction works including environmental and stakeholder management carried out under certified quality assurance (based on the NEN-EN-ISO-9001 standard or equivalent);
- c. The total contract value of the specified work indicated in *b* above shall be at least EUR 30,000,000 (thirty million euros) (in real euros, excluding VAT);
- d. At the time of submitting the request to participate, the construction work must be at least 25% completed in the judgement of the commissioning party.

Project management in the sense of this suitability requirement is defined as the demonstrable assumption of responsibility at the level where the design and construction work was integrated or which required involvement in an executive capacity with regard to all of the following tasks:

- i. The day-to-day execution of activities;
- ii. Risk management;
- iii. Quality management;
- iv. Financial management;
- v. Scheduling;
- vi. Implementation of modifications.

#### **3.13.2 Project financing experience requirement**

The Candidate is to show that it can indeed avail itself of the following experience in carrying out the Project.

The Candidate must have been involved to a significant extent in the signing of financial agreements between a project company and providers of external capital for purposes of financing at least one project having a contract value of at least EUR 30,000,000 (thirty million euros) to be paid by the principal (in real euros, VAT not included), where the

facilities made available to the project company must have amounted to at least 50% of the contract value cited in this context. If applicable, one of the reference projects mentioned in the context of 3.13.1 may also be presented here.

The requisite experience may have been acquired on the part of the project company or on the part of the providers of external capital, also as financial advisers.

### **3.13.3 Information to be submitted**

The Candidate must show that it meets the requirements cited in Paragraphs 3.13.1 and 3.13.2 with regard to experience in the areas of project management and project financing by means of the model statement enclosed as Schedule 2.5. A separate statement is to be submitted for each reference project.

### **3.14 Verification by the Contracting Authority**

The Contracting Authority reserves the right to verify the reliability of references presented. The Candidate is obliged to cooperate in this regard.

### **3.15 Evaluation of request to participate - invitation to Dialogue**

The Contracting Authority shall invite Candidates to participate in the Dialogue according to the absence of any grounds for their exclusion under paragraph 3.11 and on condition that they meet the suitability requirements as specified in paragraphs 3.12 and 3.13.

Paragraph 2.3 applies to decisions by the Contracting Authority to not invite Candidates to the Dialogue. If a Candidate objects to this decision, it must notify the Contracting Authority of these objections in writing within ten Calendar Days after the mailing date of the decision.

## Schedule 1 Definitions

### **Contracting Authority**

The State of the Netherlands  
Ministry of Infrastructure and the Environment,  
Rijkswaterstaat Large Projects and Maintenance

### **Tender Documents**

The Selection Instructions, the Tender and Assessment Instructions, the DBFM Agreement, the General and Confidential Clarification, invitations to participate in a (subsequent) phase of the tender procedure, and all other documents supplied to Candidates by the Contracting Authority in the context of the tender procedure and designated as such.

### **Shareholder**

A (legal) person who has a holding in the Candidate.

### **Supplementary Self-Declaration**

The supplementary self-declaration in schedule 2.3 B.

### **General Clarification**

Information supplied to Candidates by the Contracting Authority as per paragraph 2.10 of the Selection Instructions.

### **Significant Subcontractor**

A (legal) person whose technical competence is employed by a Candidate for purposes of fulfilling technical expertise requirements.

### **Contract Close**

The moment of signing the DBFM Contract.

### **Data Room**

The digital archive containing documents and data related to the tender procedure for the Project.

### **Data Room Regulations**

The regulations in which access to and use of the Data Room are set forth.

### **DBFM Agreement**

The (draft) Design, Build, Finance and Maintain Agreement as enclosed in schedule 3, including all Schedules.

### **Third party declaration on grounds for exclusion**

The declaration that is included as schedule 2.6 and must be completed by the Significant Subcontractor in accordance with paragraph 3.11.3 of the Selection Instructions.

### **Dialogue**

The First and Second Phases of Dialogue in combination.

### **First Phase of Dialogue**

The phase of the Tender and Assessment Instructions, which starts the dialogue.

**Self-Declaration**

The Self-Declaration for tender procedures of contracting authorities or the Third party declaration on grounds for exclusion together with the Supplementary self-declaration, as indicated in paragraph 3.11.3 of the Selection Instructions.

**Self-Declaration for tender procedures of contracting authorities**

The self-declaration (Schedule 2.3 A) established in accordance with Article 2, paragraph 2 of the Dutch Public Procurement Decree.<sup>1</sup>

**Candidate**

An SPV, or one or more (legal) persons who will participate in, and act on behalf of, an SPV which is in the process of incorporation and which has registered for participating in the present tender procedure.

**Successful Tenderer**

The Tenderer with whom the Contracting Authority intends to sign the DBFM Agreement.

**Tenderer**

An SPV, or one or more (legal) persons who shall participate in, and act on behalf of, an SPV which is in the process of incorporation and which has submitted a Tender.

**Tender**

The submission tendered by the Candidates that are invited to do so upon conclusion of the Dialogue In case of phased submission of parts of the Tender, the "date of Tender" is the date on which the last parts of the Tender are and have to be submitted.

**Tender and Assessment Instructions**

The instructions that cover the tender procedure from Invitation to Participation in the First Phase of Dialogue up to and including the submission of a Final Tender. The period prior to this is covered in the Selection Instructions.

**Original Financial Model**

The financial model to be submitted by Tenderers at the time of submission of the Tender.

**Ceiling Price**

The amount determined by the Contracting Authority indicating uppermost limit under which the actual value of a Tender must remain in order to be valid.

**Project**

All work, deliveries and services that must be carried out under the DBFM Contract.

**Risk Management Plan Outline**

The item submitted by Candidates during the First Phase of Dialogue, evaluated on the basis of one or more of the EMAS criteria and used as a basis for selecting Candidates to continue to the following phase of Dialogue.

**Selection Phase**

The phase of the tender procedure described in Chapter 3 of the Selection Instructions.

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<sup>1</sup> see the website: <http://www.rijksoverheid.nl/documenten-en-publicaties/formulieren/2013/03/22/eigen-verklaring-aanbestedingsprocedure-aanbestedende-diensten.html>

**Selection Instructions**

The separate instructions according to which the Contracting Authority selects the Candidates who participate in the Dialogue.

**SPV**

Special Purpose Vehicle organised in the form of a private company with limited liability under Dutch law (besloten vennootschap).

**Second Phase of Dialogue**

The final phase of Dialogue, described in the Tender and Assessment Instructions

**Confidential Clarification**

Confidential information supplied to Candidates by the Contracting Authority in accordance with paragraph 2.10 of the Selection Instructions.

## Schedule 2 Model forms for request to participate

### A. Candidate Information<sup>1</sup>

Name	
Legal form of the company	
Location of registered seat	
Country of registered seat	
Office address	
E-mail	
Fax	
Telephone no.	
Name of lead party (where applicable)	

### B. Shareholder information (to be supplied by each Shareholder)

Name	
Legal form of the company	
Location of registered seat	
Country of registered seat	
Office address	
E-mail	
Fax	
Telephone no.	
Percentage of current or future participation in SPV (approximate percentage may be indicated)	

---

<sup>1</sup> In the case of an SPV, the information requested under A. must be supplied by the SPV. In the case of an SPV in process of incorporation, all the (legal) persons (joint parties) acting on behalf of the SPV in process of incorporation must supply the information requested under A. and one of them shall be designated as their representative (see paragraph 3.6 of the Selection Instructions).



**C. Significant Subcontractor(s) information (to be supplied by each Significant Subcontractor)**

Name	
Legal form of the company	
Location of registered seat	
Country of registered seat	
Office address	
E-mail	
Fax	
Telephone no.	

**D. Information on the authorised natural person that signs the request to participate on behalf of the Candidate<sup>1</sup>.**

Name of natural person authorised as representative	
Date and place of birth	
Position	
Name of legal person represented	

**E. Candidate's declaration regarding the procedure and accuracy of information**

[name of Candidate] declares that:

1. It has read the Selection Instructions and is in unconditional agreement with the procedure set forth therein.
2. All information it has provided or shall provide the Contracting Authority within the context of this tender procedure is accurate.

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<sup>1</sup> In the case of an SPV, the information requested under D. is to be supplied by the SPV and the designated natural person (or persons) is to sign this request to participate on behalf of the SPV.  
In the case of a SPV in process of incorporation, all (legal) persons (joint parties) acting on behalf of the SPV in process of incorporation are to supply the information requested under D. and the natural person designated by said legal persons (joint parties) is to sign this request to participate on their behalf.

Signed at [place] on [date]

**Name [Candidate<sup>1</sup>]**

On behalf of

[name of natural person or persons cited under D.]

[signature of natural person or persons cited under D.]

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<sup>1</sup> In the case of an SPV, the natural person (or persons) cited under D. is to sign this request to participate on behalf of the SPV.  
In the case of an SPV in process of incorporation, the natural persons referred to under D. are to sign this request to participate on behalf of the (legal) persons (joint parties) acting on behalf of the SPV in process of incorporation.

## **Schedules to request to participate:**

### **Tab A: Request to participate**

A request, completely filled out and validly signed by the Candidate, to participate in accordance with the model enclosed in **schedule 2.1**, with:

- A copy of a valid proof of identity of the natural person or persons acting as authorised representative(s) in signing the request to participate on behalf of the Candidate.
- Contingent (special) power of attorney granted the aforementioned natural person for the purpose of validly signing the request to participate. Said power of attorney is only required if the signatories' authorisation of representation is not already integrally demonstrated from the register of companies. In such a case a copy of a valid proof of identity of the person(s) signing the authorisation for the power of attorney must also be submitted.
- If necessary a power of attorney from the other (legal) persons to the lead party, if the request is submitted by more than one legal person acting on behalf of the SPV in process of incorporation.

### **Tab B: Statement of availability of Significant Subcontractors (paragraph 3.8)**

A statement of availability, completely filled out and validly signed by each Significant Subcontractor, in conformity with the model supplied in **schedule 2.2**, including:

- A copy of a valid proof of identity of the natural person or persons acting as authorised representative in signing the statement of availability of the Significant Subcontractor on behalf of that Significant Subcontractor.
- Contingent power of attorney granted the aforementioned natural person for the purpose of validly signing the statement of availability of the Significant Subcontractor. Said power of attorney is only required if the signatories' authorisation of representation is not already demonstrated by the register of companies. In such a case a copy of a valid proof of identity of the person(s) signing the authorisation of the power(s) of attorney must also be submitted.

### **Tab C: Self-declarations (paragraph 3.11)**

<sup>1</sup>A Self-declaration which has been completed and validly signed by the Candidate and each Significant Subcontractor, consisting of the Self-declaration for tender procedures of contracting authorities (Candidate) (**schedule 2.3 A**) or a Third-party Declaration on grounds for exclusion (Significant Subcontractor) (**schedule 2.6**) (see paragraph 3.11.3 of the Selection Instructions) and the Supplementary Self-declaration (**schedule 2.3 B**) The Self-declaration must be submitted along with:

- A copy of a valid proof of identity of the natural person or persons acting as authorised representative in signing a Self-declaration on behalf of the SPV, the relevant participant in the SPV in process of incorporation or the Significant Subcontractor.

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<sup>1</sup> In the case of an SPV in process of incorporation, all (legal) persons (joint parties) acting on behalf of the SPV in process of incorporation and/or future shareholders of the SPV in process of incorporation, must fill in the Self-declaration for tender procedures of contracting authorities.

- Contingent power of attorney granted to the aforementioned natural persons for the purpose of validly signing a Self-declaration. Said power of attorney is only required if the signatories' authorisation of representation is not already demonstrated by the register of companies. In such a case a copy of a valid proof of identity of the person(s) signing the authorisation of the power(s) of attorney must also be submitted.

**Tab D: Statement of economic and financial strength (paragraph 3.12)**

A statement of economic and financial standing, completely filled out and validly signed by the financial institution – in the sense of paragraph 3.12.2 of the Selection Instructions – in conformity with the model supplied in **schedule 2.4**, including:

- Extract from the register of companies for the financial institution.
- A copy of a valid proof of identity of the natural person or persons acting as authorised representative in signing the statement of economic and financial standing of availability of the Significant Subcontractor on behalf of the financial institution.
- Contingent power of attorney granted to the aforementioned natural persons for the purpose of validly signing the statement of economic and financial standing. Said power of attorney is only required if the signatories' authorisation of representation is not already demonstrated by the register of companies. In such a case a copy of a valid proof of identity of the person(s) signing the authorisation of the power(s) of attorney must also be submitted.

**Tab E: Declaration of technical and organisational expertise (Subsection 3.13)**

One reference project, completely filled in and validly signed by the Candidate in accordance with the model enclosed in **schedule 2.5, subsections A and B**, including for each reference project:

- A copy of a valid proof of identity of the natural person or persons acting as authorised representative in signing the reference on behalf of the Candidate, should a copy of valid proof of identity of the natural person signing not already have been submitted.
- Contingent power of attorney granted to the aforementioned natural persons for the purpose of validly signing the reference. Said power of attorney is only required if the signatories' authorisation of representation is not already demonstrated by the register of companies. In such a case a copy of a valid proof of identity of the person(s) signing the authorisation of the power(s) of attorney must also be submitted.

**Schedule 2.2      Model statement for availability of Significant Subcontractor<sup>1</sup>**

**Significant Subcontractor information**

Name

Legal form of the company

Address

E-mail

Telephone no.

[Name of Significant Subcontractor] declares:

- 1,      that it is familiar with the Selection Instructions for this tendering procedure, and that it is in unconditional agreement with the procedure set forth therein;
2.      that all information it has supplied and shall supply to the Contracting Authority in the context of this tender procedure is accurate, and that it is aware that possible inaccuracies detected by the Contracting Authority may lead to the exclusion of the Candidate from further participation in this tender procedure.
3.      that, should the Project be awarded to [name of Candidate], the Candidate shall be able to call on the knowledge, experience and resources available to the signatory for the purpose of carrying out the Project. In this connection it agrees that the experience of the signatory shall be designated as being the experience of the Candidate.

Signed at [place] on [date]

[Significant Subcontractor],

[name of natural person authorised as representative]

[position]

[signature]

---

<sup>1</sup> To be completed by each Significant Subcontractor on whose experience the Candidate draws.

### **Schedule 2.3.A Self-declaration for tender procedures of contracting authorities**

The Self-declaration for tender procedures of contracting authorities shall be made available as a separate document in PDF format.

**Schedule 2.3.B Supplementary Self-declaration Model**

*(To be submitted with the Self-declaration for tender procedures of contracting authorities or with the Third-party Declaration on grounds for exclusion)*

All participants in the SPV (in process of incorporation) must submit a completed and signed *Supplementary Self-declaration*.

Significant Subcontractors should only submit a completed and signed *Supplementary Self-declaration* for the section "Questions about insider trading and conflicts of interest".

The Contracting Authority reserves the right to instigate a closer examination by the BIBOB Bureau of Candidates, Shareholders, Significant Subcontractors, or other subcontractors, to the extent that such is permissible under the limitations set forth in Directive 2004/18/EC.

*Company* refers to the Candidate or Significant Subcontractor that fills out the declaration

*Contracting* department in the Self-declaration where applicable means the Contracting Authority.

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**SUPPLEMENTARY SELF-DECLARATION**

In the framework of the tendering procedure for the "Almere Havendreef – Almere Buiten Oost A6" contract.

Name and address of the company:  
.....

Registration number in the Chamber of Commerce (registration number in the trade register or a similar registration from the country in which the company is established)  
.....

Contact person of the organisation (name, email, telephone number):  
.....

**1. QUESTIONS REGARDING INSIDE INFORMATION AND CONFLICTS OF INTERESTS**

1.1. Prior to this tender procedure, has the company more of the companies been in some other way directly or indirectly involved company in some other way directly or indirectly involved in the preparation of the contract?

Yes/no (please cross out the answer that does not apply)  
If yes, please indicate the nature of the respective work or services or the nature of the involvement.  
.....  
.....  
.....

1.2. Are there persons who work within the company who have worked or have performed services to prepare the contract and/or have there been persons who have worked within the company who are or have been involved in some other way directly or indirectly in the preparation of this contract prior to this tendering procedure the contract?

Yes/no (please cross out the answer that does not apply)

If yes, please provide the following information for each person:

- a. name and position in the company
- b. the nature of the respective work or services or the nature of the involvement.

.....  
.....  
.....

1.3. With regard to this tender procedure, has the company hired subcontractors who have carried out work or services in preparation of the contract, or is/was the company in some other way directly or indirectly involved in the preparation of the contract?

Yes/no (please cross out the answer that does not apply)

If yes, please provide the following information for each subcontractor:

- a. the name, address, legal form and registration number in the trade register (or a similar registration from the country in which the company is established);
- b. the nature of the respective work or services or the nature of the involvement.

.....  
.....  
.....

1.4. With regard to this tender procedure, has the company hired advisers (both natural and legal persons) who have carried out work or services in preparation of the order, or is/was the company in some other way directly or indirectly involved in the preparation of the contract?

Yes/no (please cross out the answer that does not apply)

If yes, please provide the following information for each consultant:

- a. the name, address, legal form and registration number in the trade register (or a similar registration from the country in which the company is established);
- b. the nature of the respective work or services or the nature of the involvement.

.....  
.....  
.....

1.5. Is the company allied to one or more other companies and/or does the company form part of a group, in the context of Articles 2: 24a, 2:24b and 2:24c of the Netherlands Civil Code, or comparable



legal forms under foreign law?

Yes/no (please cross out the answer that does not apply)

If yes, have one or more of the affiliated or group companies performed work or services in preparation of the order prior to the tender procedure or has one or more of the companies been in some other way directly or indirectly involved (or is currently involved) in the preparation of the order of the contract?

Yes/no (please cross out the answer that does not apply)

If yes, please provide the following information for each company:

- a. the name, address, legal form and registration number in the trade register (or a similar registration from the country in which the company is established);
- b. the nature of the respective work or services or the nature of the involvement.

.....  
.....  
.....

**2. QUESTIONS REGARDING THE FORMATION OF CONSORTIUMS FOR PLACING TENDERS OR APPLICATIONS BY MEANS OF JOINT ENTREPRENEURIAL VENTURES\*)**

*\*) These questions need only be answered if Submission or applications are made by means of a joint business venture (a consortium), whether the latter is an ordinary partnership or not, or as a Special Purpose Vehicle (SPV). Special Purpose Vehicle.*

2.1. Please indicate which factors prevent the company from being able to place a submission for the Project individually.

.....  
.....  
.....

2.2. Please indicate why the nature and scope of the joint entrepreneurial venture (consortium) formed is necessary with regard to the nature and scope of the contract to be executed, taking the significance and capacity of each operator in the joint venture into consideration.

.....  
.....  
.....

2.3. Please indicate which part(s) of the contract shall be executed by the enterprise itself.

.....  
.....  
.....

**DECLARATION**

The undersigned declares that:

- the questions in this questionnaire have been answered in a complete and truthful manner;
- it has signed the completed questionnaire of its own free will, without the fear of threat, coercion, or undue influence being placed upon it; it understands that providing false or incomplete information may be regarded by the contracting authority as a misrepresentation and that this may result in outright exclusion from the remainder of this tender procedure;
- no changes have been made to the text of this questionnaire;
  - this questionnaire is signed by a duly authorised representative, as revealed by the trade register or a similar registration from the country in which the company is established:

Name(s), authorised signatories:

.....

Date : .....

Signature: .....

## Schedule 2.4 Model declaration of financial-economic capacity

This declaration must be signed by an authorised representative of a financial institution which:

- (a) is not an institutional investor and which is under the supervision of a regulatory body or a regulatory agency of another member state, or of a regulatory agency from a state that is not a member state but imposes at least comparable requirements as a regulatory agency of a member state (all the above as defined in Article 1.1 of the Dutch Financial Supervision Act); or
- (b) is an institutional investor under the supervision of a regulatory body or a regulatory agency of another member state, or of a regulatory agency from a state that is not a member state but imposes at least comparable requirements as a regulatory agency of a member state (all the above as defined in Article 1.1 of the Dutch Financial Supervision Act).

The statement below must be issued on the financial institution's institutional stationary.

---

To Contracting Authority

Ministry of Infrastructure and the Environment  
Rijkswaterstaat - Large Projects and Maintenance  
Almere Havendreef – Almere Buiten Oost A6 SAA Project Organisation  
Attn. Mr M. Anneeze (ir.)  
Burgemeester Stramanweg 100B  
1101 EM Amsterdam SE

The undersigned, [**name of financial institution**], with registered seat in [**city**], declares the following in connection with the call to tender issued by the State of the Netherlands (Ministry of Infrastructure and the Environment, Rijkswaterstaat, Large Projects and Maintenance) for the Almere Havendreef – Almere Buiten Oost A6 Project, hereinafter referred to as "the Project".

The undersigned declares on the basis of facts known at the present time to [**name of financial institution**], that [name of Candidate] is to be considered capable of raising the sum of EUR 20,000,000 as a capital base, available either from its own funds/share capital/share premium, or by way of a subordinated loan.

This statement does not constitute a guaranty on the part of [**name of financial institution**] vis-à-vis the Contracting Authority. This statement has been prepared on the basis of careful consideration on the part of [**name of financial institution**] of the information made available to [**name of financial institution**] by Candidate, in particular as regards the Project and the financial situation of [**names of parties concerned at Candidate**].

[**Name of financial institution**] is aware that this statement shall be used by the Contracting Authority to determine whether [**name of Candidate**] meets the minimum financial and economic requirements placed upon it.

Signed at [**place**] on [**date**]

[**Name of financial institution**]

[**name of natural person authorised as representative**]

[**position**]

[**signature**]

## Schedule 2.5 Model declaration of technical and organisationability

This statement must be completed and signed by the Candidate. A separate statement must be completed, signed, and submitted for each reference project.

The Contracting Authority reserves the right to request further information from the contact person of the contractor as indicated on this form.

<b>REFERENCE PROJECT</b>		
Name of reference project		
Contract amount (in Euros, not including VAT)		
Place of execution		
Time period of execution		
Client	Name	
	Address	
	Name of contact person	
	Telephone no.	
	E-mail	
Contractor <sup>1</sup>		
Description of reference project (maximum 500 words)		
With this reference project Candidate proves that, for the purpose of executing the project, it can indeed avail itself of experience in the area of: Project management / project financing / Project management & Project financing <sup>2</sup> .		
<b>A. Project management</b>		
Infrastructure project	Is it a case of an infrastructure project in the meaning of paragraph 3.13.1 of the Selection Instructions?	Yes/no
Project management	In the preceding five years, counted as of the deadline date for submitting a request to participate, has the aforementioned contractor executed the project management – in the meaning of Paragraph 3.13.1 of the Selection Instructions - for this project?	Yes/no

<sup>1</sup> The Contractor must be (a participant in (and/or (future)) Shareholder of) the Candidate or a Significant Subcontractor.

<sup>2</sup> Cross out the inappropriate answer.

Integrated Execution	Does this reference project at least comprise an integrated execution of design and construction work carried out under certified quality assurance (based on Norm ISO9001 or equivalent)?	Yes/no
Value	Is the total value of the design and construction works at least EUR 30,000,000 (not including VAT)?	Yes/no If yes, what is the value of the design and construction work?
Completion of construction work	Has the 25% of the construction work referred to in the reference project been completed at the time of submitting the request to participate?	Yes/no
Satisfactory execution	Has the construction work (as of the present) been executed to the satisfaction of the principal?	Yes/no
<b>B Project financing</b>		
Infrastructure or analogous project	Is it a case of an infrastructure project in the meaning of Article 3.13.1 of the Selection Instructions?	Yes/no
Contract value	Is the contract value at least EUR 30,000,000 (in real euros, excluding VAT)?	Yes/no
Project Financing	Was the contractor involved in a significant way in the signing of the financing agreement(s) for purposes of project financing between a project company and providers of external capital, where the facilities made available to the project company had a combined value of at least 50% of the contract value?	Yes/no

**Signed at [place] on [date]**

**[Name of Candidate / Significant Subcontractor],**

**[name of natural person authorised as representative]**

**[position]**

**[signature]**

**Schedule 2.6. Third-party declaration on grounds for exclusion**

*(To be submitted by all parties who are not one of the Candidates (SPV or SPV in process of incorporation), but who are called on by the Candidate to meet the suitability requirements)*

Name and address of the company:

.....

Registration number in the Chamber of Commerce (registration number in the trade register or a similar registration from the country in which the company is established):

.....

Contact person of the organisation (name, email, telephone number):

.....

**The undersigned declares that:**

1. Neither the company nor any of its directors has been convicted in a conclusive judicial ruling due to involvement in a criminal organisation in the four years preceding the submission of this declaration; this includes the following actions:
  1. conduct by any person who, with intent and with knowledge of either the aim and general criminal activity of the organisation or the intention of the organisation to commit the offences in question, actively takes part in:
    - a. activities of a criminal organisation, whereby a criminal organisation shall mean a structured association, established over a period of time, of more than two persons acting in concert with a view to committing offences that are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, whether such crimes or offences are an end in themselves or a means of obtaining material benefits and, if necessary, of improperly influencing the operation of public authorities, even where that person does not take part in the actual execution of the offences concerned and, subject to the general principles of the criminal law of the Member State concerned, even where the offences concerned are not actually committed;
    - b. The organisation's other activities in the further knowledge that his participation shall contribute to the achievement of the organisation's criminal activities as set out above.
  2. Conduct by any person consisting in an agreement with one or more persons that an activity should be pursued which, if carried out, would amount to the commission of the above-mentioned offences, even if that person does not take part in the actual execution of the activity.
  
2. Within the four years preceding the submission of the application for participation or the Tender, neither the company nor any of its directors has been the subject of a judgement which has the force of res judicata for corruption; corruption being defined as the deliberate action of promising or giving, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for

a third party, to act or refrain from acting in accordance with his duty or in the exercise of his function in breach of his official duties; or in the private sector, promising, offering or providing, directly or through an intermediary, an undue advantage of any kind whatsoever to an individual or a third party with regard to his business activities, for him to perform or refrain from performing an act, in breach of his duties;

- 3 Within the four years preceding the submission of application for participation or the Tender, neither it nor any of its directors has been the subject of a judgement which has the force of res judicata for fraud; fraud shall mean fraud in respect of expenditures and revenues. In other words, any intentional act or omission relating to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities, or, non-disclosure of information in violation of a specific obligation, with the same effect, or, the misapplication of such funds for purposes other than those for which they are originally granted.
- 4 Within the four years preceding the submission of application for participation or the Tender, neither it nor any of its directors has been the subject of a judgement which has the force of res judicata for money laundering, whereby money laundering shall mean:
  1. the conversion or transfer of property, with the knowledge that such property is derived from criminal activity or participation in such activity, for the purpose of concealing or disguising the origin of the property or assisting a person involved in criminal activity;
  2. concealing or disguising the true nature, source, location, disposal, movement, right over or the ownership of property with the knowledge that such property is derived from criminal activity or any participation therein;
  3. acquiring, possessing or using property with the knowledge that such property is derived from criminal activity or any participation therein;
  4. any attempt at or complicity in any of the above matters or activities.
- 5 It is not bankrupt or being wound up, under liquidation, subject to suspension of payments or a moratorium and has not ceased its business operations and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- 6 Within the four years preceding the submission of application for participation or the Tender, neither it nor any of its directors has been convicted of an offence concerning its professional conduct by a judgement which has the force of res judicata;
- 7 Neither it nor any of its directors has been guilty of grave professional misconduct within the four years preceding the submission of application for participation or the Tender;
- 8 It has fulfilled all its obligations relating to the payment of social security contributions and taxes in accordance with the legal provisions of the country in which it is established;
9. It is not guilty of misrepresentation in supplying the information required by the contracting authority or of failing to supply this information during the tender procedures.



**Declaration**

The undersigned declares that:

- It has signed this declaration without any conditions or reservations; it understands that providing false or incomplete information may be regarded by the contracting authority as a misrepresentation in the sense of section 9 of this self-declaration and that this could lead to outright exclusion from the remainder of this tender procedure or participation in the contract;
- It has not made any changes to the text of this declaration;
- The declaration is signed by a duly authorised signatory, as revealed by the trade register or a similar registration from the country in which the company is established:

Name(s), authorised signatories:

.....

Date : .....

Signature(s): .....

### **Schedule 3 DBFM Agreement Draft**

The project-specific DBFM Agreement including the Schedules shall be made available at the start of the first phase of the Dialogue. The standard DBFM Agreement including the Schedules can be downloaded from: [www.ppsbijhetrijk.nl](http://www.ppsbijhetrijk.nl)

## Schedule 4 Policy Document on Separation of Interests