



Invitation to Bid

Public Private Partnership for Operation and Maintenance (O&M), Bang Pa-In – Nakhon Ratchasima Intercity Motorway Project

1. Project Outline

1.1 Project Background

(1) Cabinet Resolution

On 22 August, 2017, the Cabinet approved an implementation of the public private partnership for operation and maintenance (O&M) of the Bang Pa-In – Nakhon Ratchasima and Bang Yai – Kanchanaburi Intercity Motorway Projects of the Department of Highways (DOH). Regarding this, the private entity shall be responsible for the design and construction of the motorway system works and related facilities, whereas ownerships of the properties constructed by the private entity and the toll revenues shall be with the public sector. Having the project implemented, the private entity shall be responsible for the operation and maintenance services for the entire project, including the civil works undertaken by the public sector and the works undertaken by the private entity itself, in addition to the toll collection and operation services. The private entity shall be entitled to receive availability payment as remuneration for the construction of the systems and other relevant elements, maintenance services, toll collection and operation services as well as all other works specified in the scopes and conditions. The contract duration from the commercial operation date shall not exceed 30 years. The budget expenditures to be remunerated to the private entities shall not exceed Baht 33,258 million (Thirty-Three Billion Two Hundred and Fifty-Eight Million Baht Only) for the Bang Pa-In - Nakhon Ratchasima Intercity Motorway Project, and Baht 27,828 million (Twenty-Seven Billion Eight Hundred and Twenty-Eight Million Baht Only) for the Bang Yai – Kanchanaburi Intercity Motorway Project in the present values. Before proceeding, the Ministry of Transport (The Department of Highways) shall make sure that all the comments and suggestions obtained from the Ministry of Finance, Bureau of the Budget and the Office of the National Economic and Social Development Board, shall be taken into consideration.

(2) Project Overview

The Bang Pa-In - Nakhon Ratchasima Intercity Motorway Project covers the distance of approximately 196 km. in total. The project begins at the north section of Bangkok Outer Ring-Road (Kanchanapisek Road), Bang Pa-In District, Phra Nakhon Si Ayutthaya Province and ends in the vicinity of the Nakhon Ratchasima Bypass Road, Nakhon Ratchasima Province, with 9 toll plazas located along the project route (namely Bang Pa-In, Wang Noi, Hin Kong, Saraburi, Kaeng Khoi, Muak Lek, Pak Chong, Si Khiu and Kham Thale So), 10 Interchanges, 1 Service Center, 2 Service Areas and 5 Rest Stops.

(3) The DOH's Preparedness and Implementation

The implementation plan of the Bang Pa-In – Nakhon Ratchasima Intercity Motorway Project has been divided into 42 contracts as follows:

- Contracts 1 to 40: Civil Work Constructions (In Progress)
- Contract 41: Public Private Partnership for Operation and Maintenance
- Contract 42: Public Private Partnership for Rest Area Investment and Management (At Preparation Stage for Approval Request)

All the land acquisitions required for the implementation of the Bang Pa-In – Nakhon Ratchasima Intercity Motorway Project shall be undertaken by the DOH.

(4) Project Implementation Rules and Regulations

This project is in the form of a PPP contract and implemented under the DOH's authority, in accordance with the Highway Act, B.E.2535 (1992), the Act Fixing Tolls to be Levied on the Use of Highways and Bridges by Motor Vehicles, B.E. 2497 (1954), the DOH's Regulations Prescribing the Toll Revenue, B.E. 2549 (2006) and the Private Investments in State Undertakings Act, B.E. 2556 (2013), by appointing a Selection Committee under Section 35 of the Private Investments in State Undertakings Act, B.E. 2556 (2013), for the selection of the private entity to participate in the project investment, including negotiation and taking of any necessary actions related to the project as considered appropriate.

1.2 Objectives

It is the requirement of the DOH to invite the private entities to invest in the operation and maintenance of the Bang Pa-In – Nakhon Ratchasima Intercity Motorway Project (Contract 41), to minimize public investment burden and, at the same time, provide the intercity motorway users with convenience, efficiency and safety.

1.3 Scopes of Work

1.3.1 The DOH's Obligations

- (1) The DOH shall hand over the civil infrastructure constructed by the DOH's civil contractors and the construction site to the private party (the successful bidder who has been awarded a PPP contract by the DOH) for the design and construction of the motorway system works and related facilities, including the operation and maintenance services, as required by the PPP contract.
- (2) All the properties invested by the private party and the toll revenues shall be owned by the public sector.
- (3) The DOH shall remunerate the private party for the construction of facilities and systems, apart from the availability payment for operation and maintenance services, in Thai Baht, under the conditions specified in the PPP contract, from the commercial operation date until the end of the PPP contract period.

1.3.2 The Private Party's Obligations

The private party shall design and finance the construction of the motorway system works and the related facilities as well as provide operation and maintenance services for the entire project. The private party's scope of work is divided into 2 phases as follows:

(1) Phase 1: Design and Construction

The private party's obligations and responsibilities are to design, finance, and construct the motorway system works and the related facilities as well as carry out commissioning tests for all of them, in order to provide the services to the general public under the terms and conditions specified in the Request for Proposal (RFP), which include:

- The system works, comprising toll collection system with the civil works at toll plazas, traffic management and control system including weight control system and central control building, network communication system, power transmission and distribution system, rescue unit building, etc.
- Other relevant facilities, i.e. the civil works in addition to those constructed by the DOH, such as u-turn bridges, the works related to road safety measures, the works related to environmental impact mitigation measures, landscaping, high-voltage cable extension, maintenance warehouse, DOH's superintend building, highway police station, DOH staff housing, highway police housing, etc.
- Any other works to complement the operation and maintenance services of the intercity motorway according to objectives of the project, including being cooperative in performing any other tasks assigned by the DOH.

(2) Phase 2: Operation and Maintenance (O&M)

The private party shall be responsible for the operation and maintenance (O&M) of the entire project, including toll collection and operation, providing convenient and safe services to users, traffic management and control, supporting the DOH's operation and other agencies in traffic management and law enforcement, maintenance and improvement of civil works, system works, other works and all the project-related equipment and materials, as well as providing a sufficient number of personnel with relevant knowledge and expertise to operate the works specified in the O&M Performance Requirement throughout the PPP contract period, as well as any other tasks related to the Request for Proposal. The DOH shall set up a regular evaluation program for the private party's work performance in order to compare the private party's operation and maintenance capability with those required in the PPP contract.

Throughout the entire PPP contract period, the private party shall provide knowledge to the DOH via knowledge transfer processes, and support the DOH in terms of data, knowledge and experts for training programs, meetings and seminars, including lecturers in different activities at the private party's expense.

The private party shall employ as many Thai nationals as possible to work in various positions, including key technical personnel. This is except for the case when no Thai national is found to be sufficiently qualified for the work that requires specialized expertise. In such case, foreign experts may be employed to perform such work. However, the private party shall ensure that such technology and knowledge shall be transferred to Thai staff to replace the foreign experts within 5 years from the commercial operation date.

The private party shall be responsible for payment of all taxes as prescribed under Thai and foreign tax laws, as well as stamp duties, fees, and permits.

The private party shall be responsible for other project-related expenses that are deemed to be responsible by the private party as prescribed in the PPP contract.

1.4 Contract Period

The contract period granted to the private party is divided into 2 phases as follows:

- (1) Phase 1: Design and Construction. The period for phase 1 shall not exceed 2 years and 6 months from the date defined by the DOH as the commencement date in the Notice to Proceed (NTP) except in the case of a time extension as approved by the DOH. In the case of failure to complete the works according to the schedule, a penalty shall be imposed at the rates stipulated in the PPP contract.

- (2) Phase 2: Operation and Maintenance Services. The period for phase 2 shall not exceed 30 years from the commercial operation date until the end of the PPP contract period based on the Cabinet Resolution.

2. Waiver of Immunity

The bidders shall not be those who enjoy the Thai Court's special privileges or immunity whereby they can refuse to be brought before a Thai court. If the bidders do enjoy special privileges or immunity, they shall provide a letter expressing their intention to waive such Thai Court's special privileges or immunity issued by the governments of home countries.

3. Qualifications of the Bidders

The bidders who are interested in the operation and maintenance of the Bang Pa-In – Nakhon Ratchasima Intercity Motorway Project shall not be those private entities or persons with qualifications regarded as unsuitable for investments in state undertakings as follows:

- The bidders, both Thai and foreign juristic persons, shall enclose a letter certifying that they do not possess the characteristics of private entities who are regarded as unsuitable for investment in state undertakings according to clauses 4 and 5 in the Notification of the Private Investments in State Undertakings Policy Committee on Description of Unsuitable Private Entities for Investments in State Undertakings and Unsuitable Persons for Appointment as Consultants, B.E. 2557 (2014).
- The bidders who are Thai juristic persons shall enclose a letter certifying that they are not enlisted as a contractual party which did not submit the Revenue and Expense Accounts or submitted incomplete Revenue and Expense Accounts according to the Notification of National Anti-Corruption Commission Concerning Principles and Methods of Preparing Revenue and Expense Accounts of Project between Individual/Company and Government Agencies, B.E. 2554 (2011).

The bidders shall submit the qualifications as specified in the instructions to bidders in compliance with the following requirements:

3.1 General Qualifications

- (1) The bidders shall be a juristic person registered for not less than 3 years at the date of bid submission, in the case of the group of juristic persons, there must be at least 1 Thai juristic member with a shareholding proportion of not less than 35% of the whole and all other members with a shareholding proportion of not less than 10% each, while the total shareholding of Thai juristic persons in the group of juristic persons shall not be less than 51% of the whole.

Any foreign juristic person wishing to submit a bid shall combine with Thai juristic persons to form the group of juristic persons.

In the case that the bidder is a juristic person that has merged with another company for less than 3 years, the financial statements of the parties to the

merger shall be aggregated and presented as though the combining entities had always been part of the same reporting entity for the last 3 years.

During the bid submission process, the group of juristic persons shall appoint a Thai juristic person who possesses the above-stated qualifications as a lead member to submit the bid or to contact the DOH on behalf of the group of juristic persons.

- (2) In the case that the single juristic person bidder is chosen as the successful bidder, such bidder shall have a paid-up registered capital of not less than Baht 1,000 million (One Billion Baht Only) on the PPP contract signing date, which shall be increased to not less than Baht 2,000 million (Two Billion Baht Only) before the commercial operation date. An increase of the registered capital shall always be maintained not more than 3.0 Debt to Equity ratio (D/E ratio) throughout the contract period. There is no restriction on such a juristic person establishing a Special Purpose Vehicle (SPV) as long as the related letter of intent has been submitted at the time of bid submission in compliance with the criteria stipulated in Clause 3.1 (3).
- (3) The joint venture/consortium bidder who is awarded as the successful bidder shall establish a Special Purpose Vehicle (SPV) for the purpose of PPP contract awarding, having a paid-up registered capital of not less than Baht 1,000 million (One Billion Baht Only) on the PPP contract signing date, which shall be increased to not less than Baht 2,000 million (Two Billion Baht Only) before the commercial operation date. An increase of the paid-up registered capital shall always be maintained at not more than 3.0 Debt to Equity ratio (D/E ratio) throughout the contract period. Furthermore, the successful bidder shall provide suretyship and/or guarantee for the performance of the newly established SPV whose names, number of members and their shareholding proportions shall be maintained in a similar manner to those intended at the time of bid submission.

3.2 Financial Qualifications

- (1) Each bidder shall submit evidence of its annual net worth (total assets – (minus) total liabilities) of the last 3 years with a positive average value. In the case of a joint venture, the average net worth of each juristic member shall be weighted based on the shareholding proportion to calculate the average net worth of the joint venture, with the following evidences provided:
 - The financial statement audited by the certified auditor for the last 3 years; and
 - Annual tax certificate of each Thai juristic person member for the last 3 years

Calculation of the average net worth for the last 3 years in foreign currencies shall be based on the foreign exchange rate of the selling rate announced by the Bank of Thailand as of the date of such company's annual closing.

- (2) The bidder shall submit evidence of the guarantee and granting of a line of credit for the amount of not less than Baht 6,000 million (Six Billion Baht Only) issued by a Thai commercial bank or a reputable foreign bank which has branches in Thailand.

3.3 Technical Qualifications, Experience and Work Achievements

The bidders shall submit documents and evidence illustrating their technical qualifications, experience and work achievements as follows:

(1) Experience in Civil Work Construction or Construction Management

The bidders shall possess experiences in civil work construction or construction management in the following areas:

- a. Roads, bridges or underpasses with 4 or more lanes of traffic; or
- b. Interchanges; or
- c. Elevated structures of railway or road; or
- d. Airport runways, taxiways or aprons;

all of which must have been completed within the 10 years prior to the date of bid submission, with a construction value of not less than Baht 1,000 million (One Billion Baht Only) in one single contract.

Calculation of the construction value in foreign currencies shall be based on the foreign exchange rate of the selling rate announced by the Bank of Thailand as of the date the project is completed.

(2) Experience in System Supply or Installation

The bidder shall possess experience in supplying or installing the system components of toll roads which have been completed within the 20 years prior to the date of bid submission, including the following:

- (a) Toll collection system, including all the elements related to power supply and communication systems and
- (b) Traffic management and control system, including all the elements related to power supply and communication systems.

Proposals of the supply or installation of the system works can be made in one of the following forms:

- In the case of a one single contract, there shall be both systems combined ((a) and (b)), the value of the work under the contract shall not be less than Baht 650 million (Six Hundred and Fifty Million Baht Only); or
- In the case of a multi-contract proposal, both systems ((a) and (b)) shall be included therein, whereby the total value of all the contracts combined shall not be less than Baht 650 million (Six Hundred and Fifty Million Baht

Only), but each contract shall include (a) and/or (b) with the value of the work in each contract of not less than Baht 350 million (Three Hundred and Fifty Million Baht Only).

Calculation of the work value in foreign currencies shall be based on the foreign exchange selling rate announced by the Bank of Thailand as at the date the project is completed.

(3) Experience in Operation and Maintenance

The bidders shall possess all the following experiences:

- a. Operation and maintenance as either the self-operation and maintenance or the management of the toll road project (Toll Road Operator), which shall, at least, include toll collection and traffic management. In the case of an in-progress project, its commercial service should have continually been operated for at least 3 years prior to the date of bid submission, or in case of a project with an expired contract period, it shall be in the last 3 years' period prior to the date of bid submission, with a continual period of commercial operation of not less than 20 years.; and
- b. The construction, maintenance, rehabilitation or operation of the civil works with work features described in (1). Such works shall have been completed within the last 10 years prior to the date of bid submission, with the total value of all the contracts combined of not less than Baht 4,000 million (Four Billion Baht Only).

- 3.4 In the case that the bidder does not have any or all of the experience defined in Clause 3.3, the bidder may propose its contractor(s)'s experience to fulfill such requirement. The contractor(s) whose experience has been proposed by any bidder shall neither be enlisted on another bidder's contractor list nor take part in another bidder's bid preparation process. The bidder shall present evidences of the contract binding with his contractor that he proposed his contractor's experiences before the PPP contract signing and such contractor(s) shall not be changed during the period defined by the DOH. Any changes made to such contractor(s) are subject to the DOH's approval.
- 3.5 The bidders shall neither have any benefit sharing with other bidder(s) nor act in any way which will obstruct fair competition on the date of bid submission. Furthermore, members of the group of juristic persons (including companies it works with, parent or affiliate companies) shall not be members of any other group of juristic persons whereby such membership may cause unfair competition in the selection process. Submission of bids shall be in compliance with the Act on the Offences Related to Government Agency Price Bidding, B.E. 2542 (1999).
- 3.6 The bidders (including all members of the group of juristic persons), shall submit a letter certifying that they do not enjoy the Thai Court's special privileges or immunity

whereby they can refuse to be taken before the Thai court, or if they have such privilege or immunity, that such privilege or immunity shall be waived by the member concerned for the purpose of participating in the said bid.

- 3.7 The bidders, including all members of the group of juristic persons, shall provide accurate statements regarding the lawsuits (in court) or disputes (in arbitration) with which they have been involved because of work performance, either contract completed or ongoing, within the last 5 years from the date of bid submission. If it is found that a consistent history against the bidders or any members of the juristic person, their bids may not be considered by the DOH.
- 3.8 The bidders shall enclose a letter certifying that they do not employ a consultant for the project according to Notification of the Private Investments in State Undertakings Policy Committee prescribing the qualifications and forbidden characteristics of a consultant, B.E. 2557 (2014). If it is found that the consultant has been employed as mentioned, such bid may not be considered by the DOH.

4. Fees for Sale of Request for Proposal, Evaluation and Signing Fees

- 4.1 The DOH shall sell the first set of Request for Proposal at a fee of Baht 500,000 (Five Hundred Thousand Baht Only), inclusive of VAT. The bidders can purchase additional sets for a fee of Baht 40,000 (Forty Thousand Baht Only), inclusive of VAT, per set. The fee can be paid either in cash or by check payable to the “Off-Budgetary Fund, Department of Highways”. The bidders shall not request or claim a refund of the fee in any case.

The juristic persons who purchase the set of RFP are eligible to submit a bid.

- (1) In the case that the purchase of the RFP is carried out by the registered group of juristic persons, it shall declare all the names of its members in the group of juristic persons as a purchaser to the DOH at the time of purchase.
- (2) In the case that the purchase of the RFP is made by an individual firm that intends to join the group of juristic persons later, all of the group of juristic person members shall purchase the RFP in order to be entitled as a new group of juristic persons to submit a bid for the project.
- 4.2 On the date of bid submission, each bidder shall pay an evaluation fee to the DOH in the amount of Baht 1,000,000 (One Million Baht Only) in cash or by check payable to “Off-Budgetary Fund, Department of Highways”. The bidders shall not request or claim refund of the fee in any case.
- 4.3 On the PPP contract signing date, the successful bidder shall pay the signing fee to the DOH in the amount of Baht 35,000,000 (Thirty-Five Million Baht Only) in cash or by check payable to “Off-Budgetary Fund, Department of Highways”. The bidders shall not request or claim refund of the fee in any case.

5. Date, Time and Place for Request for Proposal Purchase

The Request for Proposal shall be available for purchase every working day, from 30 May 2018 to 27 June 2018, between 9.00 a.m. and 3.00 p.m., at the following address:

The Department of Highways

2/486 Si Ayutthaya Road, Thung Phaya Thai, Ratchathewi,

Bangkok 10400

Telephone No. : 66(2) 354 6753

Fax No. : 66(2) 354 0798

6. Date, Time and Place for Bid Submission, Closing and Opening

- 6.1 The date of bid submission is scheduled to be on 1 October 2018, from 9.00 a.m. (opening) to 3.00 p.m. (closing), based on the clock time of the bid submission authority (Refer to Thailand standard time as advised by the Hydrographic Department, Royal Thai Navy). The bids shall be submitted to the Bid Accepting Committee appointed by the Selection Committee under Section 35 of the Private Investments in State Undertakings Act, B.E. 2556 (2013). After the bid submission deadline, the DOH shall not accept any bid or any evidence from the bidders as specified in the RFP. The bids shall be submitted at the following address:

The Department of Highways

2/486 Si Ayutthaya Road, Thung Phaya Thai, Ratchathewi,

Bangkok 10400

Telephone No. : 66(2) 354 6753

Fax No. : 66(2) 354 0798

- 6.2 The bids shall be opened publicly in the presence of the bidders or their representatives on 5 October 2018, at 09:00 am., at the place of bid acceptance. The bid opening time shall be based on the clock time of the bid submission authority.

7. Bid Security

- 7.1 The bid shall be accompanied by a bid security in the amount of Baht 700 million (Seven Hundred Million Baht Only), which shall be in one of the following forms:
- (1) Domestic Bank Guarantee: In the case of a foreign juristic person, a bank guarantee shall be issued by a reputable foreign bank which has branches in Thailand; or
 - (2) Thai Government Bond or Thai State Enterprise Bond
- 7.2 The DOH shall return the bid security to the unsuccessful bidders or the guarantors within 10 days from the date of the Cabinet's approval of the private party selection

result, in accordance with Section 42 of the Private Investments in State Undertakings Act, B.E. 2556 (2013), or after 120 days from the date the Selection Committee has the resolution date on which to select the successful bidder, whichever happens first.

If the successful bidder fails to sign the PPP contract or agreement within the time stated by the DOH, the DOH shall immediately forfeit the bid security or request for payment from the issuer of the bank guarantee. The DOH may claim other damages (if any) and consider adding such successful bidder to the official list of work abandoners. In any case, the bid security shall be returned without interest.

- 7.3 The DOH shall return the bid security to the successful bidder after the bidder signs the contract and furnishes the required performance security.

8. Performance Security

The successful bidder (the private party) shall furnish to the DOH a performance security in the amount of Baht 1,700 million (One Billion and Seven Hundred Million Baht Only) for phase 1 of the contract. The performance security shall be submitted on the contract signing date and the DOH shall return the performance security for phase 1 to the private party upon completion of the works in phase 1. The DOH shall issue a commissioning certificate to the private party, and the private party shall submit a new performance security worth Baht 700 million (Seven Hundred Million Baht Only) to the DOH as a guarantee for the works in phase 2. The DOH shall return the performance security for phase 2 upon the expiration of the PPP contract and the private party's relief of its obligations under the PPP contract.

The performance security shall be furnished in any of the following forms:

- (1) Domestic Bank Guarantee. In the case of a foreign juristic person, a bank guarantee shall be issued by a reputable foreign bank which has branches in Thailand; or
- (2) Thai Government Bond or Thai State Enterprise Bond.

9. Bid Preparation and Basic Criteria for Evaluation

The bid shall be prepared and submitted completely and accurately in accordance with the forms contained in the RFP and shall be arranged in three separate envelopes as follows:

Envelope 1: Qualifications and Technical Proposal

Envelope 2: Investment and Availability Payment Proposal

Envelope 3: Other Proposals (that shall benefit the DOH's services and operations)

An evaluation shall be performed in the following order, from Clauses 9.1 to 9.4:

- 9.1 Upon receipt of the bids, the following documents shall be checked for their correctness and completeness as specified in the instructions to bidders issued by the DOH:

- (1) Power of Attorney
- (2) Bid Security

Should it be found that the bid is incomplete or incorrect; the DOH shall reject it and have it returned to the bidder. In such case, the bidder shall not be entitled to claim any expenses or damages from the DOH.

- 9.2 Evaluation of Envelope 1: Qualifications and Technical Proposal

Envelopes 1 of the bidders that meet the criteria in Clause 9.1 shall be considered and evaluated. At this stage, the bidders shall have conformance and credibility as specified in Clause 3.

After that, the qualifications and technical proposal shall be evaluated, based on the scoring system as described below.

- | | |
|--|----|
| (1) Financial readiness, support and capability | 10 |
| (2) Past experience, work achievements and credibility | 10 |
| (3) Organization structure and personnel's management competency | 10 |
| (4) Technical approach and methodology for the works in phase 1 and conformance of the proposal compared with the terms stated in the Request for Proposal. | 35 |
| (5) Technical approach and methodology for the works in phase 2, technology transfer, training and conformance of the proposal compared with the terms stated in the Request for Proposal. | 35 |

Each of the bidders shall obtain not less than 75% in each item; and not less than 80% of the total score. Otherwise, they shall not pass the Envelope 1 evaluation criteria and their Envelopes 2 shall not be opened.

- 9.3 Evaluation of Envelope 2: Investment and Availability Payment Proposal

The Investment and Availability Payment Proposal shall be correct and complete in the following areas:

- (1) An estimated cost of investment and the bills of quantities;
- (2) The business and financial plan which includes fund raising plan, expenditure plan, risk management plan and business investment analysis, etc.; and
- (3) The availability payment the bidder requested from the DOH.

Details of the above-stated documents shall be correct, complete and in compliance with the Request for Proposal. Otherwise, such bids shall not be considered.

An evaluation of this Investment and Availability Payment Proposal shall be calculated from the present value of the availability payment the bidder requested from the DOH, at 100% scoring rate.

9.4 Evaluation for the Preferred Bidder

The Envelopes 1 and 2 shall be considered and evaluated by the Selection Committee to determine the Preferred Bidder.

In the case that the Preferred Bidder fails to meet the terms of an agreement or enter into the PPP contract with the DOH within the time specified in the Request for Proposal, the bidder with the second rank shall be considered by the Selection Committee under Section 35 of the Private Investment in State Undertakings Act, B.E. 2556 (2013).

9.5 Evaluation of Envelope 3: Other proposals related to the Electronic Toll Collection (ETC) without barrier at the exit toll, in the characteristic of Single Lane Free Flow and/or Multilane Free Flow, and other proposals that may benefit the DOH's service and operation.

The DOH reserves the right to determine whether the Envelope 3 proposals shall be considered or not.

10. Clarifications

To assist in the examination, evaluation and comparison of the bids, the Selection Committee under Section 35 of the Private Investment in State Undertakings Act, B.E. 2556 (2013) may, at its discretion, request any bidder for clarification of its bid. However, no change in the substance of the bid shall be permitted.

11. Language

All kinds of the bidders' letters and the relevant documents shall be made in Thai while the bidders' proposals shall be made in Thai and/or English. Any documents in the languages other than Thai or English shall be accompanied by the related Thai and/or English translations certified by the Thai Embassy or Consulate in that country. To ensure compliance with the Ministry of Foreign Affairs' Regulations on Legalization of Documents, B.E. 2539 (1996); if the Thai and English versions are different, the Thai language version shall prevail.

12. Disclaimer

DOH reserves the rights as follows:

- 12.1 The DOH reserves the right, at its absolute discretion, to change, amend, add or cancel the invitation to bid, or to cancel the bid process without selecting any bidder, or not to be bound to accept the bid of the Preferred Bidder or the bidder who offers the best benefits to the DOH. Furthermore, the bidders shall not be entitled to claim any fees, expenses or damages incurred thereby from the DOH, Ministry of Transport, the Selection Committee, Thai Government and the relevant authorities.
- 12.2 The DOH reserves the right to change, amend or add details, including shortening or extending the selection period as specified in the instructions to bidders. The bidder shall not be entitled to claim any fees, expenses or damages incurred thereby from the DOH, Ministry of Transport, the Selection Committee, Thai Government and the relevant authorities.
- 12.3 The Selection Committee under Section 35 of the Private Investment in State Undertakings Act, B.E. 2556 (2013) has the right to negotiate with the successful bidder to maximize the benefits for the Kingdom of Thailand.
- 12.4 The DOH reserves the right to make changes, amendments or additions to the draft PPP contract to ensure compliance with the results of the bid evaluation and the negotiation between the Selection Committee under Section 35 of the Private Investment in State Undertakings Act, B.E. 2556 (2013) and the successful bidder, as well as the comments and results of the examination of the draft PPP contract (if any) from the Office of the Attorney General and the Cabinet Resolution.

Announced on April 20, 2018

(Mr. Thanin Somboon)
Director General
Department of Highways