



Invitation to Bid

Public Private Partnership for Operation and Maintenance (O&M)

Bang Yai – Kanchanaburi Intercity Motorway Project

1. Project Outline

1.1 Project Background

(1) Cabinet Resolution

On 22 August 2017, the Cabinet resolved to approve the implementation of the Bang Yai – Kanchanaburi Intercity Motorway Project in respect of the public-private partnership for the operation and maintenance (O&M), whereby the private entity shall be responsible for the design, funding, and construction of the motorway system works and related facilities. The public sector shall hold the ownership of the assets funded and constructed by the private entity, including all toll revenues. The private entity shall engage in all operation and maintenance aspects of the Projects, both in terms of the civil works funded by the public sector, as well as the works funded by the private entity, in addition to the collection of toll. The private entity shall be entitled to receive availability payment as remuneration for the construction of the motorway system works and related facilities, maintenance services, toll collection and operation services, as well as other relevant works in accordance with the prescribed scope and conditions of work. The term of the public-private partnership shall be a period of not more than 30 (thirty) years from the commercial operation date. The limit for the consideration that the private entity will receive under the Bang Yai – Kanchanaburi Intercity Motorway Project shall be the amounts equivalent to the present value of not exceeding THB 27,828 million (twenty-seven billion eight hundred and twenty-eight million Baht). Before proceeding, the Ministry of Transport (the Department of Highways) shall ensure 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 Yai - Kanchanaburi Intercity Motorway Project (M81) covers the distance of approximately 96 km. in total. The project begins at the west section of Highway No. 9, connected with Rattanathibet Road, Bang Yai District, Nonthaburi Province, in the vicinity of Bang Yai Elevated Interchange and ends at Highway No. 324 (Kanchanaburi Road - Phanom Thuan District), Tha Muang District, Kanchanaburi Province. This also includes an approximate 9-km. route alignment from Nakhon Chai Si Junction Interchange to connect with Nakhon Pathom – Cha-Am Intercity Motorway Project, which will be implemented in the future. There are 8 toll plazas (namely Bang Yai, Nakhon Chai Si, Nakhon Chai Si Junction, East Nakhon Pathom, West Nakhon Pathom, Tha Maka, Tha Muang, and Kanchanaburi), 8 interchanges, 2 service areas and 1 rest stop; located along the entire project alignment.

(3) The DOH's Preparedness and Implementation

The DOH has divided the contracts for the Bang Yai - Kanchanaburi Intercity Motorway Project into 27 contracts as follows:

- Contracts 1 to 25: Civil Work Constructions (In Progress)
- Contract 26: Public Private Partnership for Operation and Maintenance
- Contract 27: Public Private Partnership for Rest Area Investment and Management (In Preparation Stage for Approval Request)

All the land acquisitions required or rights of use for an implementation of the Bang Yai - Kanchanaburi Intercity Motorway Project shall be undertaken by the DOH.

(4) Project Implementation Rules and Regulations

This project is in the form of a Public Private Partnership (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 a selection of the private entity to participate in project investment, including negotiation and taking of any necessary actions related to the project as considered appropriate.

1.2 Objectives

It is the DOH's requirement to invite private entities to invest in the operation and maintenance of the Bang Yai - Kanchanaburi Intercity Motorway Project (Contract 26), to reduce the burdens of public budget and human resource management, while providing 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 related 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 under 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 constructions of the Motorway system works and related facilities and systems, apart from the availability payment for operation and maintenance services, in Thai Baht, under the terms and conditions specified in the PPP contract, from the commercial operation date to the expiration date of the PPP contract.

1.3.2 The Private Party's Obligations

The private party shall design and finance the constructions of the motorway system works and the related facilities as well as provide operation and maintenance services for the entire project, including the civil works undertaken by the public sector and the works undertaken by the private party itself, in addition to the toll collection and handing over all the toll revenue to the DOH. 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 services to general public under the terms and conditions specified in the Request for Proposal (RFP), which include:

- System works, which comprise toll collection system along with the civil works at toll plazas, traffic management and control system including weight control system, central control building, network communication system, power transmission and distribution system, rescue unit, etc.

- Other relevant facilities, i.e. the civil works in addition to those constructed by the DOH, such as U-turns, service roads, the works related to road safety measures, the works related to environmental impact mitigation measures, landscaping, high-voltage cable extension, maintenance warehouse, DOH's superintendent building, highway police station, residential building for DOH staff and highway police , etc.
- Any other works to complement the operation and maintenance services of the intercity motorway according to the project objectives, including cooperation rendered when being assigned by the DOH to perform any relevant tasks.

(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, provision of convenience and safety to users, traffic management and control, supporting the DOH's and other agencies' operation in the areas of traffic management and law enforcement, maintenance and improvement of civil works, motorway system works and related facilities, procurement of all the project-related equipment and materials, providing sufficient number of personnel with relevant knowledge and expertise to operate the works specified in the DOH's Requirement throughout the PPP contract period, as well as any other tasks specified in the RFP. 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 capabilities with those required in the PPP contract.

Throughout the PPP contract period, the private party shall provide technology and knowledge transfer 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 decently 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 staffs to replace the foreign experts within 5 years from the commercial operation date.

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

The private party shall be responsible for other related expenses for the project 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 phase 1 period shall not exceed 3 years from the date specified by DOH as the commencement date in the Notice to Proceed (NTP), except in the case of a time extension approved by the DOH. In case the successful bidder fails to complete the works as scheduled, a penalty shall be imposed at the rates stipulated in the PPP contract.
- (2) Phase 2: Operation and Maintenance Services. The phase 2 period shall be 30 years, starting from the commercial operation date to the expiration date of the PPP contract, per the Cabinet Resolution.

2. Waiver of Immunity

The bidders shall not be those who have the Thai Court's special privileges or immunity whereby they can refuse to be brought before a Thai court; except in the case where the governments of the bidders who have such Thai Court's special privileges or immunity express their intention to waive such privileges or immunity.

3. Qualifications of the Bidders

The bidders who are interested in the operation and maintenance of the Bang Yai - Kanchanaburi 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 of 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 who did not submit the Revenue and Expense Accounts or submitted incomplete Revenue and Expense Accounts according to the Notification of the National Anti-Corruption Commission Concerning Rules and Procedures of Preparing Revenue and Expense Accounts of Project between Individual or 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) A single juristic bidder and each member of the group bidder shall be a juristic person having registered for not less than 3 years on the bid submission date, with the following conditions:
 - a. A single juristic bidder shall have a paid-up capital of at least Baht 850,000,000 (Eight Hundred and Fifty Million Baht).
 - b. In case of a group bidder, the paid-up capitals of all the members combined shall not be less than Baht 850,000,000 (Eight Hundred and Fifty Million Baht). Lead member shall be a Thai juristic person with at least Baht 450,000,000 (Four Hundred and Fifty Million Baht) paid-up capital, while each of other juristic members shall have at least Baht 100,000,000 (One Hundred Million Baht) paid-up capital.

In case a group bidder is formed by several juristic persons, there shall be at least one (1) Thai juristic member having shareholding of not less than 35% while the total shareholdings of the Thai juristic persons in a group shall not be less than 51%. Regarding this, all juristic members shall have the minimum of 5% shareholding each.

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

In case the bidder is a juristic person who has been merged with another juristic person for less than 3 years, the financial statements of such juristic person shall be aggregated and presented as though the merges had been occurred for the last 3 years.

During the bid submission process, the group bidder 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 bidder.

- (2) In case the single juristic bidder is awarded as the successful bidder, such bidder shall have a paid-up capital of not less than Baht 850,000,000 (Eight Hundred and Fifty Million Baht) on the PPP contract signing date, which shall be increased to at least Baht 1,700,000,000 (One Billion and Seven Hundred Million Baht) before the commercial operation date. An increase of the registered capital shall always be maintained at the maximum of 3.0x 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 same criteria and conditions as those required for the group bidder as stipulated in Clause 3.1 (3).

- (3) The group 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 capital of not less than Baht 850,000,000 (Eight Hundred and Fifty Million Baht) on the PPP contract signing date, which shall be increased to at least Baht 1,700,000,000 (One Billion and Seven Hundred Million Baht) before the commercial operation date. An increase of the paid-up capital shall always be maintained at the maximum of 3.0x Debt to Equity ratio (D/E ratio) throughout the contract period. Furthermore, all members of the successful bidder shall also 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 same manner to those intended at the time of bid submission.

3.2 Financial Qualifications

- (1) A single juristic bidder and each member of the group bidder shall submit evidence of its annual net worth (total assets – (minus) total liabilities) of the last 3 years with a positive average value along with the following:

- The financial statement audited by the certified auditor for the last 3 years; and
- Evidence of tax payment of each Thai juristic 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 average selling rate announced by the Bank of Thailand as of the closing date of such company's annual financial statement.

- (2) The bidders shall submit an evidence of the guarantee and granting of line of credit in the amount of Baht 5,000,000,000 (Five Billion Baht) as a minimum, issued by a Thai commercial bank or a foreign bank which has a branche in Thailand.

3.3 Technical Qualifications, Experiences and Work Achievements

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

- (1) Experiences in Civil Works Construction or Construction Management

The bidders shall possess experiences in civil works 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 roads or elevated railways (excluding track work); or
- d. Airport runways, taxiways or aprons.

All of which shall have been completely accomplished up until the bid submission date, with construction value(s) of at least Baht 3,000,000,000 (Three Billion Baht) either in one single contract or for several contracts combined whereas the minimum construction value in each contract shall not be less than Baht 1,000,000,000 (One Billion Baht).

For any other works as parts of the contract that fall under the categories above specified, only the civil works shall be taken into consideration, excluding the construction value of the buildings.

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

(2) Experience in System Supply or Installation

The bidders shall possess experiences in supplying or installing the toll road-related systems for the project that has been completed within the past 20 years up until to the bid submission date, which shall include:

- 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.

The systems supply or installation experiences shall be proposed in one of the following forms:

- In case of one single contract, it shall contain both systems of (a) and (b), with the minimum total value of Baht 450,000,000 (Four Hundred and Fifty Million Baht) for the system works; or
- In case of multi-contract proposal, both systems of (a) and (b) shall be included therein, with the minimum total value of Baht 450,000,000 (Four Hundred and Fifty Million Baht) for all the contracts combined. In this regard, each contract shall contain the system(s) stated in (a) and/or (b), with the minimum value of Baht 250,000,000 (Two Hundred and Fifty Million Baht) for the system works under each contract.

Calculation of work values in foreign currencies shall be based on the average selling rates announced by the Bank of Thailand as of the date the project is completed.

(3) Experience in Operation and Maintenance

The bidders shall have experiences in operation and maintenance either as the operation and maintenance works undertaken by the bidders itself or the management of toll road project (Toll Road Operator), which shall, at least,

include the operation and maintenance of toll collection and traffic management systems, with the following conditions:

- a. In case the project is in progress, its commercial operation shall have been carried out for at least 3 years in a row, up until to the bid submission date.
- b. In case the project had been completed as specified under the contract, its completion shall be within the last 3 years up until to the bid submission date, with at least 20 years continuous period of commercial operation.

3.4 The bidders shall have at least one of its own experiences or work achievements stipulated in Clauses 3.3 (1), 3.3 (2), or 3.3 (3).

3.5 In case the bidders do not have some of the experiences and work achievements stated in Clauses 3.3 (1), 3.3 (2), or 3.3 (3), the bidders may propose his contractor(s)'s experiences to fulfill such requirement, with the following conditions:

- (1) The bidder shall not combine his contractor's experiences and work achievements with those of his own in order to fulfill the requirements stated in Clause 3.3 (1), 3.3 (2) or 3.3 (3). For example, the bidder with parts of experiences in Clause 3.3 (1) shall not have these combined with his contractor's experiences and work achievements to make himself qualified for the requirements prescribed in Clause 3.3 (1).
- (2) All the proposed experiences and work achievements stated under each Clause, i.e. 3.3 (1), 3.3 (2) or 3.3 (3), to qualify for the bidder's requirements, shall belong to one single contractor alone. No experiences or work achievements of each contractor shall be combined with the others' to fulfill such requirements. For example, the contractor proposed to qualify for the requirements stated in Clause 3.3(1) shall be one single contractor who has those experiences in civil works construction or management prescribed under Clause 3.3 (1), in terms of total construction value under the contract, etc.
- (3) The contractor whose experience has been proposed by any bidder shall neither be included on another bidder's contractor list nor take part in another bidder's bid preparation process.
- (4) The bidders shall present an evidence of the contract binding with its contractor, whose experiences and work achievements have been proposed, before the PPP contract signing; and such contractor shall not be changed during the period defined by the DOH. Any changes made to such contractor are subject to the DOH's prior approval.

- 3.6 The bidders shall neither have any benefit sharing with other bidder(s) nor act in any way that will obstruct fair competition on the bid submission date. Furthermore, members of the group bidder (including companies it works with, parent or affiliate companies) shall not be members of any other group bidder 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).
- 3.7 The bidders including all members of a group bidder shall not be those who have the Thai Court's special privileges or immunity whereby they can refuse to be brought before a Thai court; except in the case where the governments of the bidders who have such Thai Court's special privileges or immunity express their intention to waive such privileges or immunity in writing.
- 3.8 The bidders, including all members of the group bidder, 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 bid submission date. If a consistent history of awards has been found against the bidders or any members of the juristic person, their bids may not be considered by the DOH.
- 3.9 The bidders shall present letter certifying that they do not employ a consultant for the project, who has the qualifications and characteristics stated in the 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 later found that the consultant with such qualifications and characteristics has been employed by the bidder, such bid may not be considered by the DOH.

4. Fees for the Request for Proposal (RFP), Evaluation and PPP Contract Signing

- 4.1 The DOH shall sell the first set of RFP at a fee of Baht 500,000 (Five Hundred Thousand Baht), inclusive of VAT. Additional sets of RFP are available at a fee of Baht 40,000 (Forty Thousand Baht), inclusive of VAT, per set, payable either in cash or by cashier cheque to the "Off-Budgetary Fund, Department of Highways". The bidders shall not request or claim a refund of the fee in any case.

Only the juristic persons who purchase the RFP will be eligible for bid submission.

- (1) In case the purchase of RFP is made by the registered group bidder, it shall declare all the names of its group members to the DOH at the time of purchase.
- (2) In case the purchase of RFP is made by a single juristic person wishing to form a group bidder later, all members shall purchase the RFP in order that the group bidder will be eligible for bid submission.

- 4.2 On the bid submission date, each bidder shall pay an evaluation fee to the DOH in the amount of Baht 1,000,000 (One Million Baht) in cash or by cashier cheque 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) in cash or by cashier cheque 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 RFP Selling

The RFP shall be available for purchase every working day, from 27 February to 27 March, 2019, 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 bid submission date is scheduled to be on 27 June 2019, 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 no more accept any bid or evidence specified in the RFP from the bidders. The bids shall be submitted at:

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 2 July, 2019, at 09:00 a.m., 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 bidder shall provide a bid security in the amount of Baht 600,000,000 (Six Hundred Million Baht) together with his bid submissions, 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 a branch in Thailand; or
- (2) Thai Government Bond or Thai State Enterprise Bond.

7.2 The DOH shall return bid securities to unsuccessful bidders or guarantors within 10 days from the date the Cabinet has approved 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 under Section 35 has resolved to approve a selection of 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 also claim for 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 such bidder has entered into the PPP contract with and furnished the required performance security to the DOH.

8. Performance Security

For the works in phase 1, the successful bidder (the private party) shall furnish to the DOH a performance security in the amount of Baht 1,400,000,000 (One Billion and Four Hundred Million Baht) on the contract signing date which shall be returned to the private party upon completion of the works in phase 1. For the works in phase 2, upon the DOH's issuance of a commissioning certificate to the private party, the private party shall submit a new performance security worth Baht 600,000,000 (Six Hundred Million Baht) to the DOH as a guarantee for the works in phase 2 which shall be returned to the private party upon expiration of the PPP contract and the private party's relief of its obligations under it.

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

- (1) Domestic Bank Guarantee. In case of a foreign juristic person, a bank guarantee shall be issued by a reputable foreign bank which has a branch 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 sequences, 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) Form of Bid
- (2) Power of Attorney
- (3) Bid Security
- (4) RFP Purchasing Evidence

Should it be found that the documents contained in an unsealed envelope are incomplete or incorrect; the DOH shall reject and have them returned to the bidder. In such case, the bidder shall not be entitled to claim any expenses or damages.

9.2 Evaluation of Envelope 1: Qualifications and Technical Proposal

The bidders whose criteria in Clause 9.1 are met shall be eligible for Envelope 1: Qualifications and Technical Proposal, evaluation. In this regard, the bidders shall have all the credibilities and complied with all the requirements specified in Clause 3.

The qualifications and technical proposal shall then be evaluated, based on the scoring system described below.

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|--|----|
| (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 RFP. | 35 |
| (5) Technical approach and methodology for the works in phase 2 and conformance of the proposal compared with the terms stated in the RFP. | 35 |

The bidders shall obtain at least 75% in each subject; and not less than 80% of the total score. Otherwise, they shall not pass the Envelope 1 evaluation criteria hence 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 that the bidder requested from the DOH.

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

An evaluation of this Investment and Availability Payment Proposal shall be based on the minimum present value (PV) of the availability payment that the bidder requested from the DOH.

9.4 Evaluation for the Preferred Bidder

The Selection Committee shall take the evaluation results of Envelopes 2 into consideration for ranking and determining the preferred bidder. Regarding this, the bidder requesting for the lowest amount of availability payment, whose proposal has been verified as being complete and accurate, shall be considered, the “Preferred Bidder”.

In case the Preferred Bidder fails to meet the terms of an agreement or enter into the PPP contract with the DOH, the Selection Committee under Section 35 of the Private Investment in State Undertakings Act, B.E. 2556 (2013), reserves the right to consider the proposal of the next ranked bidder instead.

9.5 Evaluation of Envelope 3: Other Proposals (that shall benefit the DOH’s services and operations.)

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 the official correspondences shall be made in Thai, while the bidders’ proposals and other related documents 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, which shall ensure compliance with the Ministry of Foreign Affairs' Regulations on Legalization of Documents, B.E. 2539 (1996). In case of any discrepancy between the meanings of the Thai and English versions of any documents, the meaning of the Thai Language version shall prevail.

12. Disclaimer

The DOH reserves the following rights:

- 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 requests for the lowest availability payment from the DOH. Furthermore, the bidders shall not be entitled to claim any fees, expenses or damages incurred thereby from the DOH, the Ministry of Transport, the Selection Committee, Thai Government and the relevant authorities.
- 12.2 The DOH reserves the right, at its absolute discretion, to change, amend or add details, including shortening or extending the selection period as specified in the instructions to bidders. The bidders shall not be entitled to claim any fees, expenses or damages incurred thereby from the DOH, the 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, at its absolute discretion, 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 February 8, 2019

(Mr. Anon Luangboriboon)
Director General
Department of Highways

Note: This English translation is for reference purposes only, and it is not an officially and legally definitive translation of the original Thai texts. In the event a difference arises regarding the meaning herein, the original Thai version shall prevail as the official authoritative version.