Terms of Reference - Procurement and Contract Implementation Support

1. BACKGROUND

The Port of Brcko (the Port) is located in the north-eastern part of Bosnia and Herzegovina (BiH), on the right side of the Sava River waterway. The Port is a transit point for cargo traffic flows to and from the heavy industries in BiH.

The Port is operated by J.P. Luka Brcko (the “Company”, the “Client”), a public enterprise fully owned by the District of Brcko (the “District”) and established under a Law on Brcko Port. The District Assembly has direct supervision responsibility for the Company and is responsible for electing the Company’s management board as well as approving the Company’s business plans.

The European Bank for Reconstruction and Development (“EBRD”, the “Bank”) is considering co-financing an investment aiming to rehabilitate and upgrade of facilities at the Port of Brcko and improve of road and railway access to the Port (the “Project”). A consultant (the “Consultant”) is now required to assist the Client with undertaking Project related procurement activities in accordance with EBRD Procurement Policies and Rules (“PP&R”) and provide support with the management and implementation of the contracts related to the Project (the “Assignment”).

2. OBJECTIVES

The Assignment is divided into two phases and the Consultant has the following objectives for each Phase:

Phase 1

1. facilitate the timely and effective implementation of the Project in compliance with the loan agreement through assistance and advice on all procurement matters as described in the EBRD PP&R, which include amongst other the assistance to PIU with the prequalification documents preparation and process, tender document preparation, tender evaluation and contract award, reporting to the Bank. Particular attention shall be paid to the harmonization, interfacing and time linkages between the different aspects of the Project, including the project contracts interfaces.

Phase 2

2. support the PIU during the implementation of contracts, provide advisory services to assist the PIU in meeting the works schedule, assess any requests of change(s) variation orders and providing other technical input/advice as needed. The Consultant shall assist the PIU with the preparation of the Project progress reporting required under the EBRD Loan Agreement.

3. transfer of knowledge and skills to the PIU staff. The transfer of knowledge and skills is intended to result from collaborative working between the Consultant and the PIU staff – reinforcing the need for the Consultant to maintain a regular local presence.
The Consultant shall only progress to Phase 2 of the Assignment with the priori authorisation of both the Bank and Client.

3.  SCOPE OF SERVICES

The Consultant shall undertake the following tasks for each Phase:

**Phase 1**

The Consultant shall facilitate a process whereby Project goods, works and services are procured in a timely manner in accordance with the best international practice, agreed procurement strategy with the Bank, technically sound and economically efficient procedures and specifications and standard documentation of the EBRD and in compliance with the EBRD Procurement Policies and Rules and any other covenants in the loan agreement between the Client and the Bank.

The consultant will provide assistance and advice on the following tasks:

*Task 1:* The Consultant shall assist the Client with preparation of the Prequalification Documents and make sure that the EBRD no-objection is obtained. The Consultant shall further assist the Client in the organisation and administration of the prequalification process, including the clarification requests handling.

*Task 2:* The Consultant shall assist the Client with preparation of the Prequalification Evaluation Report for the Works and make sure that the EBRD no-objection is obtained. The Consultant shall further assist the Client with the handling the conditionally prequalified applicants matters, if any.

*Task 3:* The Consultant shall, in collaboration with the Client, prepare the draft tender documents in English for the contract including the Requirements finalisation as defined in the Standard tender documents which should contain the Specification, the Drawings, BoQ and Supplementary information that describe the works to be procured. The documents shall be developed in a manner to ensure their suitability for Open tendering as defined in Section 3 of the EBRD PP&R.

*Task 4:* The Consultant shall assist the Client in the organisation and administration of the tendering process, including:

- Organisation and participation in the pre-tender meeting (if applicable) and preparation of the minutes;
- Assistance in preparing responses to any clarification requests received in respect of the Tender Documents issued to the tenderers; ensuring that the Bank’s no–objection is obtained prior to issuance of any clarifications to the tenderers.
- Participation in and assistance to PIU with the evaluation of the Tenders and the preparation of any clarification requests.
- Preparation of the Tender Evaluation Report (TER) using the Bank’s standard TER;
- Support in liaison with the EBRD, as needed, to achieve the EBRD's ‘no objection’ to the TER and the award recommendations;
- Participation in and assistance in the resolution of any issues that may arise at any pre-contract clarification meetings (if required);
• Preparation of the Notification of Award and finalisation of the Contract documentation;
• Participation in the contract award/signing process, if needed; and,
• Assistance to the Client in addressing any procurement related complaints and in any debriefing meetings which may be required in accordance with the Bank’s PP&R.

**Phase 2**

The Consultant shall assist the PIU in the management and administration of the works and supervision engineer (“Engineer”) contracts. Tasks shall include, but shall not be limited to, the following:

1. Overall technical and financial management and administration of the contracts during implementation;
2. Monitoring progress of Project implementation based on the Project implementation plan. Promptly convey information to the PIU about any and every significant alteration, reasons of that alteration and its impact on Project completion, and, present proposals for remedy actions;
3. Monitoring of Project costs against the budget. Promptly convey information to the PIU about any and every significant alteration and give proposals for remedy actions.
4. Assessing the Contractor’s applications for change orders and providing a recommendation as to whether these should be accepted or not; reviewing the Engineer’s determinations in this respect;
5. Consideration of additional applications from the contractor to subcontract parts of the works;
6. Production and submission of all scheduled reports regarding Project progress and similar that are required by the EBRD;
7. Advising the PIU on all matters related to the execution of the contracts, including settlement of contractors’ claims that may be submitted within 12 months of substantial completion of the Project;
8. Assisting the PIU in preparing disbursement requests for drawdowns of loan funds;
9. Assisting the PIU with the preparation of regular reports to the Bank pursuant to the relevant financing documents.

**4. PROFILE OF THE CONSULTANT**

Corporate services are required. The Consultant will be a firm or a consortium of firm(s) with previous project experience:

- in the design, procurement and engineering supervision (including environmental and social requirements) of projects in the road sector financed by international financial institutions such as the EBRD, World Bank, ADB; and
- in providing consulting services for Project Implementation Support, including specific experience in railway, road and port projects in a similar environment.

Since knowledge of local legislation will be required, consulting firms are encouraged to associate with, or to subcontract to local companies or individuals with the relevant local expertise.
The Consultant's expert team is expected to include key experts as follows:

- A procurement specialist with preferably 5 years of professional experience in similar assignment in the infrastructure sector financed by international financial institutions and demonstrable experience in undertaking at least one procurement process in accordance with IFI (EBRD/EIB/etc) procurement rules;
- A railway engineer and project manager with preferably 5 years of professional experience in the railway sector;
- A port infrastructure engineer with preferably 5 years of professional experience in the port infrastructure sector;
- A road infrastructure engineer with preferably 5 years of professional experience in the road infrastructure sector.

All Key Experts shall be fluent in written and spoken English. It is essential that the Consultant’s team contains some experts fluent in Bosnian.

The experts are not required to reside in Brcko for the full duration of the assignment but should be available for attending meetings with the PIU and other stakeholders, as and when required, subject to the sufficiency of the budget.

5. IMPLEMENTATION ARRANGEMENTS

Responsibility for day-to-day management of the assignment is delegated to a Project Implementation Unit. The prevailing language for all documents shall be English. Consultant shall assist the PIU in the first instance, while also keeping the EBRD updated as to the status of the assignment and any issues which might arise.

As detailed above, the Consultant shall only start work on Phase 2 of the Assignment with the prior authorisation of both the EBRD and Client.

The Client shall provide the Consultant with adequately equipped office space. The Consultant is expected to provide his own means of transport, computer hardware and software, including access to telephone, fax and the Internet and other necessary equipment.

The duration of the assignment is estimated to be for twenty-four months.

6. DELIVERABLES

The Consultant shall submit the following deliverables in relation to each Phase:

**Phase 1**

The Deliverables will be treated as accepted only after the provision of the Bank’s ‘no-objection’ to the respective outcome and the Payments to the Consultant will be accordingly aligned. The tangible deliverables for this assignment are listed below:

| Deliverable |
All the comments to the documents listed are expected to be addressed within a week.

**Phase 2**

The Consultant will be responsible for ensuring adequate support to the PIU for the timely preparation and issue of Reports to EBRD. For regular Monthly and Quarterly Reports the consultant will prepare the initial reports in a form that can be readily updated and shall provide support with subsequent reports as needed.

Specifically the consultant shall be expected to prepare or provide a major contribution to the following Reports:

(a) Inception Report  
(b) Monthly Progress Report – by end of each month after starting work on site  
(c) Reports, technical specifications or submissions as required by the PIU or the Bank

All reports shall be prepared in English and French and shall be distributed to the PIU as well as EBRD.