



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

DATE: 03/04/2023

**REQUEST FOR PROPOSAL: HCR/IRQ/SUP/2023/RFP/170
FOR THE CONSTRUCTION OF A NEW UID BUILDING
IN AL- SADIYAH SIB-DISTRICT / KHANAQIN, DIYALA GOVERNORATE, IRAQ,
FOR UNHCR REPRESENTATION OFFICE IN BAGHDAD
CLOSING DATE AND TIME: - 23:59 HRS IRAQ LOCAL TIME ON 26/04/2023**

INTRODUCTION TO UNHCR

The Office of the United Nations High Commissioner for Refugees was established on December 14, 1950, by the United Nations General Assembly. The agency is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well-being of refugees. It also has a mandate to help stateless people.

In more than five decades, the agency has helped tens of millions of people restart their lives. Today, a staff of some 6,600 people in more than 110 countries continues to help about 60 million persons. To help and protect some of the world's most vulnerable people in so many places and types of environments, UNHCR must purchase goods and services worldwide. For further information on UNHCR, its mandate and operations please see <http://www.unhcr.org>.

1. REQUIREMENTS

The Office of the United Nations High Commissioner for Refugees (UNHCR), Iraq Operations, invites qualified construction firms to make a firm offer for the **Construction of a New UID Building in Al-Sadiyah Sub-District / Khanaqin District, Diyala Governorate, Iraq.**

IMPORTANT: Bill of Quantities (BOQs) are detailed in Annex A of this document.

2. BIDDING INFORMATION

2.1 RFP DOCUMENTS

The following annexes form an integral part of this Request for Proposal.

- Annex A: BOQ, Construction of New UID Building in Al-Sadiyah Sub-District / Khanaqin District, Diyala Governorate
- Annex B: Scope of Work (SOW)
- Annex C: Technical Evaluation Criteria
- Annex D: Technical Proposal Form
- Annex E: Vendor Registration Form
- Annex F: General conditions of Contracts for the provision of Goods and Services (July 2018)
- Annex G: UNHCR General Conditions of Contracts for Civil works (October 2000)
- Annex H: UN Supplier's Code of conduct
- Annex I: e-Tender Box Supplier user manual
- Annex J: How to Join Microsoft Teams without an account
- Annex K: Financial Offer Form
- Annex L: Tentative calendar of activities
- Annex M: Bid Data Sheet
- Annex N: Design and the structure (Drawings)
- Annex O: Financial Ratio Analysis Template

IMPORTANT: It is strongly recommended that this Request for Proposal and its annexes be read thoroughly.

2.2 ACKNOWLEDGEMENT

We would appreciate your informing us of the receipt of this RFP by return e-mail to IRQBASUP@UNHCR.ORG , CC: ALJUBOUR@UNHCR.ORG as to:

- Your confirmation of receipt of this RFP
- Whether or not you will be submitting a bid

IMPORTANT: Failure to send the above requested information may result in disqualification of your offer from further evaluation.

2.3 REQUESTS FOR CLARIFICATION

Bidders are required to submit any request for clarification or any question in respect of this RFP by e-mail to IRQBASUP@UNHCR.ORG , CC: ALJUBOUR@UNHCR.ORG The deadline for receipt of questions is **23:59 HRS IRAQ Local Time on 12/04/2023**. Bidders are requested to keep all questions concise. UNHCR may, at its discretion, copy any reply to a question to all other invited firms.

All the emails sent requesting clarification MUST have the following subject otherwise UNHCR reserves the right NOT TO REPLY.

EMAIL SUBJECT: **HCR/IRQ/BGD/2023/SUP/RFP/170 - Query**

UNHCR will compile all questions and reply to the questions received as soon as possible by means of publication on the UNGM, UNHCR websites and by email to all bidders participating in the tender competition.

IMPORTANT: Please note that Bid Submissions are NOT to be sent to the e-mail address above. Bid Submissions sent directly to the e-mail addresses above will result in disqualification of the offer.

2.3.1 PRE-BID CONFERENCE:

UNHCR will organize a supplier pre-bid conference on MS Teams, on **10/04/2023 at 14:00 HRS**. A maximum of ONE representative per company is allowed. Name and contact details of the company's representatives must be provided at least two working days in advance, by e-mail to IRQBASUP@UNHCR.ORG , CC: ALJUBOUR@UNHCR.ORG on or before **10/04/2023**. Changes in staff need to be shared in advance; otherwise, they will not be able to participate.

Participation to the pre-tender conference shall be at the bidders' own expenses. There will be no reimbursement from UNHCR.

Participation to the pre-tender conference is **STRONGLY RECOMMENDED** given the complexity of the requirements. However, after the supplier conference, a Questions & Answers document will be prepared and posted on UNGM and/or distributed by email to all invited bidders.

IMPORTANT: Please note that Bid Submissions are not to be sent to the e-mail address above.

2.4 YOUR OFFER

IMPORTANT: Cancellation of Solicitation: UNHCR reserves the right to cancel a Solicitation at any stage of the procurement process prior to final notice of award of a contract.

Your offer shall be prepared in English.

Please submit your offer using the Annexes provided. Offers not conforming to the requested formats may be not taken into consideration.

IMPORTANT: Inclusion of copies of your offer with any correspondence sent directly to the attention of the responsible buyer or any other UNHCR staff other than the submission e-mail address will result in disqualification of the offer. Please send your bid directly to the address provided in the "Submission of Bid" section 2.6) of this RFP.

Your offer shall comprise the following sets of documents:

- Technical offer
- Financial offer

IMPORTANT: No pricing information should be included in the Technical offer. Failure to comply may risk disqualification. The technical offer should contain all information required.

2.4.1 Content of the TECHNICAL OFFER

The Bill of quantities for the **Construction of New UID Building in Al-Sadiyah Sub-District / Khanaqin District, Diyala Governorate., Iraq**, can be found in **Annex A: Bill of Quantities & Annex B Scope of Work (SOW)**,

Your technical offer should be concisely presented and structured in the following order to include, but not necessarily limited to the following information:

Description of the company and the company's qualifications

A description of your company with the following documents: company profile, registration certificate and last audit reports:

- Year founded;
 - If multi location company, specify headquarters location;
 - Number of similar and successfully completed projects;
 - Number of similar projects currently underway;
 - Total number of clients; previous and current
- a. Valid Registration Documents / Certificate / Incorporation with **Iraqi Government or KRI Region**, Company Age Not less than 3 years from the date of registration / incorporation.
- b. Your technical offer should contain your acknowledgement of the following applicable conditions either by signing the below documents or acceptance of the following in writing on its letterhead as part of your technical:
- (i) **Annex F: General conditions of Contracts for the provision of Good and Services (July 2018)**
- (ii) **Annex G: UNHCR General Conditions of Contracts for Civil works (October 2000)**

However, please note that submitting an offer is deemed as full acceptance of UNHCR's Conditions above for Provision of required Services and UNHCR General Conditions of Contracts for Civil works (October 2000).

- c. Bid Security: All the bidders are required to submit a scanned copy of the bid security with its technical proposal in the shape of a certified bank check, and **the companies would be required to submit the original cheque/ Bid security to the UNHCR office in Erbil or to UNHCR warehouses in Baghdad 2 weeks after the closing date.**
- d. List of Equipment owned by the firm to be mobilized for the execution of works described in **Annex A: Bill of Quantities & Annex B: Scope of Work (SOW)**
- e. The organization structure or organizational chart;
- f. Frame-time for completion of the project including the main project milestones;
- g. Work Schedules; Gantt charts.
- h. Past experience and performance records with other UN Agencies, NGOs or any other major clients and other credentials;
- i. Experience on similar works
- j. List of references for similar projects performed by contractor;
- k. Project assumption's and constraints based on your understanding of the project;
- l. The methodology/approach to be used in addressing the issues outlined in the BoQ;
- m. Audited reports for last three years including balance sheets.
- n. **Vendor Registration Form:** If your company is **not** already registered with UNHCR, you should complete, sign and submit with your technical proposal the **Vendor Registration Form (Annex E)** however incase if your company is

registered, please clearly state your supplier/vendor ID. In-case if you are not sure about the status of your company, please send you're a duly filled Vendor Registration Form.

- o. Any information that will facilitate our evaluation of your company's substantive reliability, financial and managerial capacity to provide the requested requirements by UNHCR as specified in **Annex A: Bill of Quantities & Annex B: Scope of Work (SOW)**.

Understanding of the requirements of the services requested in the solicitation documents such as: proposed approach, solutions, methodology and outputs;

Any comments or suggestions on the project, as well as your detailed description of the manner in which your company would respond to the BOQs:

- A description of your organization's capacity to provide the required services.
- A description of your organization's experience in undertaking / implementing the project.
- Compliance to the requirements stated on the in the BOQ and/or technical proposal form.

Proposed personnel to carry out the assignment

- List of key personnel and their qualifications with Curriculum Vitae of core staff

p. **Award and bank guarantee:**

The Firm that submits the successful Proposal will be notified by "Letter of Award" prior to the expiration of the validity period. The letter, referred to as the "Letter of Award" will state the sum of the fees to be paid to the Firm for the services rendered and will indicate the terms under which the Contract must be finalized. The Contract must be signed within 14 days of the issuance of the Letter of Acceptance.

IMPORTANT:

Companies not submitting the mandatory documentations with their proposal may be contacted by UNHCR and given one more opportunity to submit them within two working days. Should these companies still not submit the missing documents, they will then be disqualified from further evaluation process.

2.4.2 Content of the FINANCIAL OFFER

Your separate Financial Offer must contain an overall offer in **USD**. The financial offer must cover all the services to be provided (price "all inclusive"). If no financial offer is received, the bid shall be automatically disqualified.

The Financial Offer is to be submitted as per the **Annex A: Bill of Quantities & Annex B: Scope of Work (SOW) BIDS THAT HAVE A DIFFERENT PRICE STRUCTURE MAY NOT BE ACCEPTED.**

UNHCR is exempt from all direct taxes and customs duties. With this regard, **price has to be given without VAT**

You are requested to hold your offer valid for a minimum of **180 Days** from the deadline for submission. UNHCR will make its best effort to select a company within this period. UNHCR's standard payment terms are within 30 days after satisfactory implementation and receipt of documents in order.

The cost of preparing a bid and of negotiating a contract, including any related travel, is not reimbursable nor can it be included as a direct cost of the assignment. Any activity undertaken or expenses incurred in preparation of a contract before an actual contract is signed shall be borne by the Bidder. An advance notice or information of award is not to be considered as a contract. UNHCR will not provide any advance payments or payments by letter of credit. The standard payment terms are by bank transfer net thirty (30) days after acceptance of contractor's invoice and delivery and acceptance of services by UNHCR in shape of a partial or substantial works completion certificate issued by the designated Project Manager / Engineer.

IMPORTANT: UNHCR can only facilitate payments through the local banks and not banks outside of Iraq and therefore the current market condition must be factored in before submitting your quote.

2.5 BID EVALUATION:

Each proposal from a Bidder will be considered separately and independently. Bidders shall submit a complete proposal for each solicitation in which they wish to participate. References to previous or on-going proposals will be not considered. Award of a

previous contract with UNHCR will not be considered in itself as a preference or guarantee for the award of future solicitations on the same subject.

2.5.1 Supplier Registration:

The qualified company (s) will be added to the Vendor Database after investigation of suitability based on the submitted Vendor Registration Form and supporting documents. The investigation involves consideration of several factors such as:

Financial standing;
Core business;
Track record;
Contract capacity.

2.5.2 Technical and Financial evaluation:

For the award of this project, UNHCR has established evaluation criteria which governs the selection of offers received. Evaluation is made on a technical and financial basis. The percentage assigned to each component is determined in advance as follows:

- Technical Offer will be weighed at 60 points (or 60%)
- Financial Offer will be weighed at 40 points (or 40%)

Technical Offer

The Technical offer will be evaluated using inter alia the following criteria and percentage distribution: 60% from the total score, with a minimum passing score of 36 points.

Mandatory Pre-qualification			
Main Criteria	Sub-Criteria	Specific Requirements	(Yes/NO)
Mandatory Pre-qualification	Mandatory Bid Security	Has the bidder submitted a scanned copy of Bid Security of USD 5,500 by "Certified Cheque" made out in the name of UNHCR covering the offer's validity (180 days after the closing date of the bid)? It should be a certified cheque (not personal). <u>The cheque should indicate the RFP number and must be issued under the company name.</u> The companies would be required to submit the original cheque.	
	Valid Business Registration Certificate	Is the company registered as a construction/general contracting company in IRAQ (Federal Government or Kurdistan Region)? <u>For Joint Venture, the companies should submit a legal JV contract endorsed by the government with a statement outlining the duties and responsibilities of each party otherwise, the joint venture will not be accepted.</u> <u>Any company with an age less than 3 years at the time of the submission will be disqualified.</u>	
The Bidders must meet all the above mandatory pre-qualification criteria for their proposal to be considered for further evaluation.			

Technical Evaluation				
Percentage distribution of 60% of the total score of technical evaluation has been allocated to Technical Proposal. Maximum scores are listed in the table below. Failure to achieve a minimum score of 36 points out of the 60 points will result in technical non-compliance and elimination from further evaluation.				
Main Criteria	Sub-Criteria	Specific Requirements		Score
General Company Qualification & experience	Company profile and Capability.	The company has ISO 9001 certification or equivalent recognized certifications. (1 Point)		1
		Company age from the registration date (min 3 years).	From 3 to 5 years (1 point)	2
			More than 5 years (2 points)	
	Company classification	The company has a valid construction classification ID issued by the Ministry of Planning (Central Government and/or KRI), classified range between 1-5 classes.	Classification from 1-3 (2 Points)	2
			Classification 4-5 (1 point)	
	Staff qualifications,	site engineer with a bachelor's academic degree in civil engineering (minimum of 5 years of experience) with proof of graduation like (Graduation certificate, syndicate ID, Union ID) (3 Points)		3
		Electrical Engineer (bachelor's degree) with a minimum of 5 years' experience with proof of graduation (Graduation certificate, syndicate ID, Union ID) (1 Point)		1
		Surveyor (diploma in Surveying) with a minimum of 3 years of experience. (1 Point)		1
	Financial Auditing report	The latest 2 consecutive years, financial audit reports for the years (2020-2021-2022). The audit financial reports (including the Balance Sheet) must be certified by the Iraqi Association of Accountants. Minimum cumulative turnover of USD (120,000). If the baseline turnover is not demonstrated, the bidder will receive zero points, and the calculation of the ratios will not be applicable.		
		Current ratio: $\frac{\text{Current Assets}}{\text{Current Liabilities}}$	(at least 1.0) (2 Points)	2
Debit to Equity Ratio: $\frac{\text{Total Debt}}{\text{Total Equity}}$		(Should be less than 2.0) (2 Points):	2	
Total score 14 points				
Relevant Experiences	Proof of relevant	experiences Copies of Purchase Orders (POs), contract agreements, or work orders attached <u>with proof of project completion certificate/ performance letter issued by the client (Showing value, time completed, organization or firm for which completed, contact details of the organizations) awarded and served within the past 10 years.</u> The actual copies of POs, contracts, or work orders should relate to similar projects (this includes new construction, rehabilitation, and sanitation projects) - 5 (and above) Projects = 5 Points - 4 Projects = 4 Points - 3 Projects = 3 Points - 2 Projects = 2 Points - 1 Projects = 1 Point - No project = 0 Points <u>Note:</u> The evaluation will not consider a PO or contract with a value below USD 10,000.		5

	Past experience with clients	List of similar projects showing (project name, client name, project cost, reference contact (phone No. or email)). UNHCR will conduct a reference check per project to be considered. - 3 or more different clients (3 Points) - 2 different clients (2 Points) - 1 client (1 Point) - No list (0 Points)	3	
Total score 8 points				
Technical Specifications of Works	Construction & Finishing Materials	Catalogues or Datasheet Confirming that the specification of the below items complies with the BoQ:		
		Acrylic Painting (internal & external) (2 Points)	2	
		Aluminum windows (2 Points)	2	
		Composite Wood Doors (2 point)	2	
	Sanitation Materials	western W.C (2 Point)	2	
		Water mixer and taps (2 Point)	2	
		PVC and PPR Pipes (2 Points)	2	
		water tank 1000 liters (2 Points)	2	
	Electrical fittings Materials	Electrical transformer (4 Points)	4	
		Fire alarm system (3 Points)	3	
		Air condition (3 Points)	3	
		Sockets and switches (2 Points)	2	
		Solar heater (2 Points)	2	
	CCTV system (2 Points)	2		
30 points (Min. Passing point is 20 Points)				
Work Plan & Method of Implementation	Works plan Detailed and realistic work plan with Work Schedule/ Gantt Chart showing the starting and end of each activity	Implement realistic timelines as indicated in the Scope of work (180) days. Including a Gantt Chart indicating a detailed sequence of activities. (3 Points).	3	
		Incomplete Gantt chart, no Gantt Chart or Proposed Gantt chart (more or less than 20%) of the indicated duration in (SoW) or Project Schedule not indicating a detailed sequence of activities (0 Point).		
	Method of implementation	Submission of the minimum equipment list, which should comprise 1 Truck, 1 Grader, 1 Excavator, 1 Pickup, 1 Loader, 1 Compactor, and 1 Concrete Mixture Machine	Full list (2 Points).	2
			Partial list (1 point)	
		The logistics plan includes access to the site and material delivery with the needed workforce. (1 Point)	1	
		Environmental Impact Assessment Plan. (1 Point)	1	
		Risk mitigation plan and insurance to ensure all risks are covered (1 Point).	1	
Total score 8 points				
Total Score for Technical Evaluation 60				

The Technical offer score will be calculated according to the percentage distribution for the technical and financial offers. The cut-off points for submissions to be considered technically compliant will be 60% of the total technical weightage **36 Points out of 60.**

Financial Offer:

The Financial offer will use the following percentage distribution: **40%** from the total score. The financial component will be analyzed only for those suppliers that pass the technical evaluation.

The maximum number of points will be allotted to the lowest price offer that is opened and compared among those invited firms. All other price offers will receive points in inverse proportion to the lowest price, e.g., $[\text{total Price Component}] \times [\text{US\$ lowest}] \setminus [\text{US\$ other}] = \text{points for other supplier's Price Component}$.

Clarifications of Proposals:

To assist in the examination, evaluation, and comparison of proposals UNHCR may at its discretion ask the Bidder for clarification about the content of the proposal. The request for clarification and the response shall be in writing and **no change in price or substance of the proposal shall be sought, offered, or accepted.**

2.6 SUBMISSION OF BID:

The offers must bear your official letter head, clearly identifying your company. The Technical and Financial offers shall be clearly separated.

Please submit your proposal through an online eTenderBox Tool, which can be accessed at <http://etenderbox.unhcr.org>.

To submit a proposal against UNHCR tender, the bidder needs to register in eTenderbox system. Please refer to the eTenderbox user manual for bidders at **Annex I: e-Tender Box Supplier user manual**. You are requested to get familiar with this tool and create a login by registering your company in the system for access to the current and upcoming UNHCR tenders.

Once the login is created, the bidder will be given access to the UNHCR available tenders. Bidders can access the specific tender by clicking on the "tender reference number", the system will then navigate to the detailed tender review page, where the separate technical and financial submissions can be done.

It is the bidder's responsibility to upload only technical documentation under the "Technical" category and Financial documentation under the "Financial" category. Failure to do so will result in disqualification.

Note: The official submission of the selected files for upload is done by clicking the 'Save & Submit' button, therefore, this button has to be clicked before the deadline expires. If done so, the selected files will be submitted and uploaded successfully even if the deadline expires during the file upload. It is the Supplier's responsibility to ensure that all files of the final offer are submitted before the tender expiration deadline. In order to ensure the safe submission of the full and final offer, it is recommended to have all files uploaded well before the tender deadline.

Allowed extensions for files to upload are .doc, .docx, .xls, .xlsx, .rtf, .png, .jpg, .jpeg, .pdf, .txt, .zip, .ppt, .pptx, .bmp, .rar, .gif, .tif and .tiff, however **it is preferable to upload PDF files. Executable files** (.exe, .bat, .cmd etc.) should not be uploaded. All files should be clearly labeled. **The maximum size limit per file is 10MB.**

IMPORTANT: The technical offer and financial offer are to be sent in separate documents. Failure to do so may result in disqualification.

IMPORTANT: DEADLINE TO SUBMIT YOUR BID: 26/04/2023 BY 23:59 HOURS LOCAL TIME: Any bid uploaded after this date and time will be rejected. UNHCR may, at its discretion, extend the deadline for the submission of bids by notifying through etenderbox.unhcr.org and WWW.UNGM.ORG.

IMPORTANT: Any bid received after this date or sent to another UNHCR address may be rejected. UNHCR may, at its discretion, extend the deadline for the submission of bids, by notifying all prospective bidders simultaneously.

UNHCR will not be responsible for locating or securing any information that is not identified in the bid. Accordingly, to ensure that sufficient information is available, the bidder shall furnish, as part of the bid, any descriptive material such as extracts, descriptions, and other necessary information it deems necessary for a comprehensive understanding of its proposal by UNHCR.

IMPORTANT: The Financial offer will only be opened for evaluation if the supplier's technical part of the offer has passed the test and has been accepted by UNHCR as meeting the technical specifications.

2.7 BID ACCEPTANCE:

UNHCR reserves the right to accept the whole or part of your bid or allow split or partial awards on this project. It is however important to note that the construction project cannot be split unless the various components are defined by LOT. All other projects are to be awarded on an all or nothing basis.

Important: Any missing cost for a line in Bill of Quantities & Financial Offer will be considered invalid.

UNHCR may at its discretion increase or decrease the proposed content when awarding the contract and would not expect a significant variation of the rate submitted. Any such increase or decrease in the contract duration would be negotiated with the successful bidder as part of the finalization of the Purchase Orders for Services.

Please note that UNHCR is not bound to select any of the firms submitting bids and does not bind itself in any way to select the firm offering the lowest price. Furthermore, the contract will be awarded to the bid considered most responsive to the needs, as well as conforming to UNHCR's general principles, including economy and efficiency and best value for money.

2.8 CURRENCY AND PAYMENT TERMS FOR PURCHASE ORDERS

Any Purchase Order (PO) issued as a result of this RFP will be made in the currency of the winning offer(s). Payment will be made in accordance to the General Conditions for the Provision of Goods and Services and in the currency in which the PO is issued. Payments shall only be initiated after confirmation of successful completion by UNHCR business owner.

Any Purchase Order (PO) issued as a result of this RFP will be made in USD dollar (**USD**). Payment will be as follows:

- **First Payment (30 %) will be conducted upon completion of at least 40% of the works stipulated in the BOQ.**
- **Second Payment (40 %) will be conducted upon completion of at least 80% of the works stipulated in the BOQ.**
- **Third Payment (20 %) will be conducted upon completion of at least 100% of the works stipulated in the BOQ.**

UNHCR engineers will determine the percentage of work executed.

A retention fee of 10% will be released after **6 months** of completion of 100% of works to observe the defect liability period. The retention fee of 10% will be released to the contractor upon inspection of works/site by UNHCR Engineer and issuance of Handover Certificate.

All works should be completed within **180** calendar days.

2.9 UNHCR GENERAL CONDITIONS OF CONTRACTS FOR CIVIL WORKS (OCTOBER 2000)

Please note that the UNHCR General Conditions of Contracts for Civil works (**October 2000**) (**Annex G**) will be strictly adhered to for the purpose of any future contract. The Bidder must confirm the acceptance of these terms and conditions in writing.

2.10 UNHCR GENERAL CONDITIONS OF CONTRACTS FOR THE PROVISION OF GOODS AND SERVICES

Please note that the **Annex F: General conditions of Contracts for the provision of Good and Services (July 2018)** will be strictly adhered to for the purpose of any future contract. The Bidder must confirm the acceptance of these terms and conditions in writing.

2.11 Liquidated Damages

- 2.11.1 In accordance with the provisions made in the Article 45 of (The UNHCR General Conditions of Contract for Civil Works (October 2000 version) and in Article 17 of the UNHCR Standard Contract for Construction Services. The Contractor acknowledges the requirement of UNHCR to be completed in accordance with the time frames stipulated contract resulting from this solicitation process with the successful bidder. The successful bidders will therefore be required to acknowledge, that time is of the essence in relation to performance of its obligations.
- 2.11.2 Should the Contractor be in delay, without prejudice to UNHCR's other rights and remedies, UNHCR may, at its sole option, demand liquidated damages for such delay, in an amount equal to 0.1% for each [DAY for the portion of

incomplete portion of the works] of delay beyond the date upon which the Services were due to be completed. The Parties agree and acknowledge that calculation of damages from a breach would be difficult to estimate accurately and that the foregoing [The assessment will not exceed 10 percent of the Contract value] is a reasonable approximation thereof and is intended as the fair allocation and liquidation of damages and not as a penalty against the Contractor.

- 2.11.3 UNHCR shall have the right to deduct any liquidated damages to which it is entitled under the terms of its standard contract for construction services from any monies due from UNHCR to the potential Contractor (resulting from this solicitation process), or to recover the same as a debt due from the Potential Contractor.
- 2.11.4 Liquidated damages shall be payable by virtue of the sole fact of the delay without the need for any previous notice or any legal or arbitral proceedings, or proof of damage, which shall in all cases be considered as ascertained.

Signature

UNHCR Representation Office IRAQ