



**Common Market for Eastern
and Southern Africa**

**Prequalification Document for
Procurement of:**

**Construction Firm (s) for the Construction
of the COMESA Competition Commission
Office Complex in Lilongwe, Malawi**

Issued on: 17 December 2024

**Invitation for Prequalification No:
CCC/REOI/12/02/2024**

**Employer: COMESA Competition
Commission**

Country: Malawi

PRE-QUALIFICATION DOCUMENT

COMESA Competition Commission

PART 1: PREQUALIFICATION PROCEDURES

Section I. Instructions to Applicants (ITA)

This Section specifies the procedures to be followed by Applicants in the preparation and submission of their Applications for Prequalification (AFPs). Information is also provided on opening and evaluation of AFPs. **Section I contains provisions that are to be used without modification.**

Section II. Prequalification Data Sheet (PDS)

This Section consists of provisions that are specific to each prequalification and supplement the information or requirements included in Section I, Instructions to Applicants.

Section III. Evaluation and Qualification Criteria

This Section contains the methods, criteria, and requirements to be used to determine how Applicants shall be prequalified and later invited to bid.

Section IV. Application Forms

This Section contains the Application Submission Form and all the forms required to be submitted with the Application.

Section V. Eligible Countries

This Section contains information on eligible countries.

PART 2. WORKS REQUIREMENTS

Section VI. Scope of Works

This Section includes a summary description, delivery and completion schedules, technical specifications, and drawings of the Works subject of this prequalification.

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PART 1 – Prequalification Procedures

Section I. Instructions to Applicants

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Section I. Instructions to Applicants

A. General

1. **Scope of Application**
 - 1.1 In connection with the Invitation for Prequalification indicated in Section II, Prequalification Data Sheet (**PDS**), the Employer, as defined in the **PDS**, issues this Prequalification Document (PQD) to Applicants interested in bidding for the works described in Section VI, Scope of Works. The number of contracts and the name and identification of each contract, and the International Competitive Bidding (ICB) number corresponding to this prequalification, are provided in the **PDS**.

2. **Source of Funds**
 - 2.1 The Project funds are sourced from the COMESA Competition Commission (“CCC”) as the Employer. The CCC intends to apply a portion of the funds to eligible payments under the contract (s) resulting from the bidding for which this prequalification is conducted.

3. **Fraud and Corruption**
 - 3.1 It is the CCC’s policy to require that the procuring entities, as well as bidders, suppliers, and contractors, and their agents (whether declared or not), subcontractors, sub-consultants, service providers or suppliers, and any personnel thereof under COMESA financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the CCC:
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) *“Corrupt Practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party³;*

¹ The specific financing institution shall be as stipulated in the **PDS**.

² *In this context, any action to influence the procurement process or contract execution for undue advantage is improper.*

³ *For the purpose of this sub-paragraph, “another party” refers to a public official acting in relation to the procurement process or contract execution. In this context, “public official” includes Bank staff and employees of other organizations taking or reviewing procurement decisions.*

- (ii) *“Fraudulent Practice” is any act or omission, including a misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;*
- (iii) *“Collusive Practice” is an arrangement between two or more parties⁴, designed to achieve an improper purpose, including to influence improperly the actions of another party; and*
- (iv) *“Coercive Practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party⁵;*
- (v) *“Obstructive practice” is*

(v.1) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a CCC’s investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or

(v.2) acts intended to materially impede the exercise of the CCC’s inspection and audit rights provided for under paragraph 3.1(e) below.

- (b) will reject a proposal for the award if it determines that the bidder recommended for award or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees has, directly or indirectly, engaged in Corrupt, Fraudulent, Collusive, Coercive or Obstructive Practices in competing for the contract in question;
- (c) will declare mis-procurement and cancel the portion of the Financing allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of such Financing engaged in Corrupt, Fraudulent,

4 For the purpose of this sub-paragraph, “parties” refers to participants in the procurement process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish bid prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions.

5 For the purpose of this sub-paragraph, “party” refers to a participant in the procurement process or contract execution.

Collusive, Coercive or Obstructive Practices during the procurement or the implementation of that contract, without the Borrower having taken timely and appropriate action satisfactory to the CCC to address such practices when they occur, including by failing to inform the CCC in a timely manner at the time they knew of the practices;

- (d) will sanction a firm or individual, at any time, in accordance with the prevailing Bank's sanctions procedures⁶ including by publicly declaring such firm or individual ineligible to bid for, or to be awarded COMESA-financed contracts either indefinitely or for a stated period of time, (i) to be awarded a COMESA financed contract; (ii) to be a nominated⁷ sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a COMESA financed contract; and
- (e) will require that a clause be included in bidding documents and in contracts financed by the COMESA, requiring bidders, suppliers and contractors and their sub-contractors, agents, personnel, consultants, service providers, or suppliers to permit the Bank to inspect all accounts, records and other documents relating to the submission of bids and contract performance and to have them audited by auditors appointed by the COMESA.

4. Eligible Applicants

- 4.1 An Applicant may be a natural person, private entity, government-owned entity subject to ITA 4.5 or any combination of such entities supported by a letter of intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association (JVCA). In the case of a joint venture, consortium, or association:

⁶ A firm or an individual may be declared ineligible to be awarded a COMESA financed contract: (i) upon completion of COMESA's sanctions proceedings as per its sanctions procedures, and (ii) as a result of temporary suspension or early temporary suspension in connection with an on-going sanction proceeding.

⁷ A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding documents) is one which has either been:

(i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirement for the particular bid; or (ii) appointed by the CCC."

- (a) *unless otherwise specified in the **PDS**, all partners shall be jointly and severally liable, and*
- (b) *the JVCA shall nominate a Representative who shall have the authority to conduct all businesses for and on behalf of any and all the partners of the JVCA during the prequalification process, during the bidding process (should the JVCA be prequalified) and, in the event the JVCA is awarded a contract, during contract execution.*

4.2 An Applicant and all parties constituting the Application, shall have the nationality of an eligible country, in accordance with the COMESA Competition Commission Procurement Rules, 2023 on **Rules and Procedures for Procurement of Goods and Works**, and as listed in Section V, Eligible Countries.⁸ An Applicant shall be deemed to have the nationality of a country if the Applicant is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of a contract including related services.

4.3 An Applicant shall not have a conflict of interest. All Applicants found to have a conflict of interest shall be disqualified. An Applicant may be considered to have a conflict of interest with one or more parties in this prequalification process, if:

- (a) they have controlling partners in common; or
- (b) they receive or have received any direct or indirect subsidy from any of them; or
- (c) they have the same legal representative for purposes of this prequalification; or
- (d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the application of another Applicant, or influence the decisions of the Employer regarding this prequalification process; or
- (e) an Applicant participates in more than one application in this prequalification process. Participation by an Applicant in more than one application will result in the disqualification of all applications in which it is involved. However, this does not limit

⁸ Including eligibility criteria for participation in the supply of goods, works and related services.

- the inclusion of the same subcontractor, not otherwise participating as an applicant, in more than one application; or
- (f) an Applicant participated as a consultant in the preparation of Section VI, Scope of Works, which is the subject of the prequalification process.
 - (g) an Applicant or any of its affiliates has been hired, or is proposed to be hired, by the Employer for the supervision of a works contract resulting, eventually, from this prequalification process.
- 4.4 An Applicant that is under a declaration of ineligibility by COMESA in accordance with **ITA** Clause 3, at the date of the deadline for submission of the application or thereafter, shall be disqualified.
- 4.5 Government-owned entities in the Employer' Country shall be eligible only if they can establish that they are (i) legally and financially autonomous, (ii) operate under the principles of commercial law, and (iii) are not dependent agencies of the Government.
- 4.6 Applicants shall not be under execution of a Bid–Securing Declaration in the Employer's Country.
- 4.7 Applicants shall provide such evidence of their continued eligibility satisfactorily to the Employer, as the Employer shall reasonably request.
- 4.8 A firm sanctioned by CCC in accordance with the above ITB Clause 3.1 (d), or in accordance with COMESA's policies on anti- corruption and fraud and CCC's sanctions procedures⁹, shall be ineligible to be awarded a COMESA financed contract, or to benefit from

⁹ See the *Proposal for the Implementation of a Sanctions Process within COMESA. The CCC's procedures are publicly disclosed on the CCC's external website.*"

a COMESA financed contract, financially or in any other manner, during the period of time determined by CCC.

5. Eligible Goods and Related Services

5.1 All goods and related services to be supplied under the Contract to be financed by COMESA shall have as their country of origin an eligible country in accordance with the CCC Procurement Rules, 2023 *for Procurement of Goods, Works and Services*, as listed in Section V, Eligible Countries.

B. Contents of the Prequalification Document

6. Sections of Prequalification Document

6.1 The Procurement Documents – Prequalification for Procurement of Works (hereinafter - “Prequalification Document”) consists of Parts 1 and 2, which comprise all the sections indicated below, and should be read in conjunction with any Addendum issued in accordance with **ITA 8**.

PART 1. Prequalification Procedures

- Section I. Instructions to Applicants (**ITA**)
- Section II. Prequalification Data Sheet (**PDS**)
- Section III. Evaluation and Qualification Criteria
- Section IV. Application Forms
- Section V. Eligible Countries

PART 2. Works Requirements

- Section VI. Scope of Works

6.2 The “Invitation for Prequalification” issued by the Employer is not part of the prequalification document.

6.3 The Applicant shall obtain the Prequalification Document from the source stated by the Employer in the Invitation for Prequalification; otherwise, the Employer is not responsible for the completeness of the Prequalification Document.

6.4 The Applicant is expected to examine all instructions, forms, and terms in the Prequalification Document and to furnish all information or documentation required by the Prequalification Document.

- 7. Clarification of Prequalification Document**
- 7.1 A prospective Applicant requiring any clarification of the Prequalification Document shall contact the Employer in writing at the Employer's address indicated in the **PDS**. The Employer will respond in writing to any request for clarification provided that such a request is received prior to the deadline for submission of bids, within the number of days specified in the **PDS**. The Employer shall forward copies of its response to all Applicants who have acquired the prequalification document directly from the Employer including a description of the inquiry but without identifying its source. Should the Employer deem it necessary to amend the prequalification document as a result of a clarification, it shall do so following the procedure under **ITA 8** and in accordance with the provisions of **ITA 17.2**.
- 8. Amendment of Prequalification Document**
- 8.1 At any time prior to the deadline for submission of Applications, the Employer may amend the Prequalification Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Prequalification Document and shall be communicated in writing to all who have obtained the pre-qualification document from the Employer, in accordance with **ITA 6.3**.
- 8.3 To give prospective Applicants reasonable time to take an addendum into account in preparing their Applications, the Employer may, at its discretion, extend the deadline for the submission of Applications, pursuant to **ITA 17.2**.

C. Preparation of Applications

- 9. Cost of Applications**
- 9.1 The Applicant shall bear all costs associated with the preparation and submission of its Application. The Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the prequalification process.
- 10. Language of Application**
- 10.1 The Application as well as all correspondence and documents relating to the prequalification exchanged by the Applicant and the Employer, shall be written in the language specified in the **PDS**. Supporting documents and printed literature that are part of the Application may be in another language, provided they are accompanied by an accurate translation of the relevant passages in the language specified in the **PDS**, in which case, for purposes of interpretation of the Application, the translation shall govern.
- 11. Documents Comprising the Application**
- 11.1 The Application shall comprise the following:
- (a) Application Submission Form, in accordance with **ITA 12**;
 - (b) documentary evidence establishing the Applicant's eligibility, in accordance with **ITA 13**;

- (c) documentary evidence establishing the Applicant's qualifications, in accordance with **ITA 14**; and
 - (d) any other document required as specified in the **PDS**.
- 12. Application Submission Form** 12.1 The Applicant shall prepare an Application Submission Sheet using the form furnished in Section IV, Application Forms. This Form must be completed without any alteration to its format.
- 13. Documents Establishing the Eligibility of the Applicant** 13.1 To establish its eligibility in accordance with **ITA 4**, the Applicant shall complete the eligibility declarations in the Application Submission Form and Forms ELI (Eligibility) 1.1 and 1.2, included in Section IV, Application Forms.
- 14. Documents Establishing the Qualifications of the Applicant** 14.1 To establish its qualifications to perform the contract(s) in accordance with Section III, Evaluation and Qualification Criteria, the Applicant shall provide the information requested in the corresponding Information Sheets included in Section IV, Application Forms.
- 15. Signing of the Application and Number of Copies** 15.1 The Applicant shall prepare one original of the documents comprising the Application as described in **ITA 11** and clearly mark it "ORIGINAL". The original of the Application shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Applicant.
- 15.2 The Applicant shall submit copies of the signed original Application, in the number specified in the **PDS**, and clearly mark them "COPY". In the event of any discrepancy between the original and the copies, the original shall prevail.

D. Submission of Applications

- 16. Sealing and Identification of Applications** 16.1 The Applicant shall enclose the original and the copies of the Application in an envelope that shall be sealed and shall:
- (a) bear the name and address of the Applicant.
 - (b) be addressed to the Employer, in accordance with **ITA 17.1**; and
 - (c) bear the specific identification of this prequalification process pursuant to **PDS 1.1**.
- 16.2 The Employer will accept no responsibility for not processing any Application whose envelope was not identified as required.

- 17. Deadline for Submission of Applications**
- 17.1 Applications must be received by the Employer at the address and no later than the date and time indicated in the **PDS**. **When so specified in the PDS**, Applicants shall have the option of submitting their Applications electronically, in accordance with electronic Application submission procedures specified in the **PDS**.
- 17.2 The Employer may, at its discretion, extend the deadline for the submission of Applications by amending the Prequalification Document in accordance with **ITA 8**, in which case all rights and obligations of the Employer and the Applicants subject to the previous deadline shall thereafter be subject to the deadline as extended.
- 18. Late Applications**
- 18.1 Any Application received by the Employer after the deadline for submission of Applications prescribed in **ITA 17** will be treated as indicated in the **PDS**.
- 19. Opening of Applications**
- 19.1 Any specific electronic Application opening procedures required, if electronic submission of Applications is permitted pursuant to **ITA 17.1**, shall be as specified in the **PDS**. The Employer shall prepare a record of the opening of Applications that shall include, as a minimum, the name of the Applicant. A copy of the record shall be distributed to all Applicants.

E. Procedures for Evaluation of Applications

- 20. Confidentiality**
- 20.1 Information relating to the evaluation of Applications, and recommendation for prequalification, shall not be disclosed to Applicants, or any other persons not officially concerned with such process, until the notification of prequalification is made to all Applicants.
- 20.2 From the deadline for submission of Applications to the time of notification of the results of the prequalification in accordance with **ITA 28**, any Applicant that wishes to contact the Employer on any matter related to the prequalification process, may do so but only in writing.
- 21. Clarification of Applications**
- 21.1 To assist in the evaluation of Applications, the Employer may, at its discretion, ask any Applicant for a clarification of its Application which shall be submitted within a stated reasonable period of time. Any request for clarification and all clarifications shall be in writing.
- 21.2 If an Applicant does not provide clarifications of the information requested by the date and time set in the Employer's request for clarification, its application may be rejected.
- 22. Responsiveness of applications**
- 22.1 The Employer may reject any Application which is not responsive to

the requirements of the prequalification document.

- 23. Domestic or Regional Preference** 23.1 Unless otherwise stipulated in the **PDS**, a margin of preference for domestic or regional bidders shall not apply in the bidding process resulting from this prequalification.
- 24. Subcontractors** 24.1 Applicants planning to subcontract any of the key activities indicated in Section III, Evaluation and Qualification Criteria, shall specify the activities or parts of the works to be subcontracted in the Application Submission Form. Applicants shall clearly identify the proposed specialist subcontractors in Forms ELI-1.2 and EXP (Experience)-4.2(b) in Section IV, Application Forms. Such proposed specialist subcontractor(s) shall meet the corresponding qualification requirements specified in Section III, Evaluation Qualification Criteria.
- 24.2 At this time, the Employer does not intend to execute certain specific parts of the Works by subcontractors selected in advance by the Employer (Nominated Subcontractors), unless otherwise stated in the **PDS**.

F. Evaluation of Applications and Prequalification of Applicants

- 25. Evaluation of Applications** 25.1 The Employer shall use the factors, methods, criteria, and requirements defined in Section III, Evaluation and Qualification Criteria to evaluate the qualifications of the Applicants. The use of other methods, criteria, or requirements shall not be permitted. The Employer reserves the right to waive minor deviations in the compliance with qualification criteria if they do not materially affect the capability of an Applicant to perform the contract.
- 25.2 Only the qualifications of subcontractors that have been identified in the Application may be considered in the evaluation of an Applicant. However, the general experience and financial resources of subcontractors may not be added to those of the Applicant for purposes of prequalification of the Applicant.
- 25.3 In case of multiple contracts, the Employer shall prequalify each Applicant for the maximum number and types of contracts for which the Applicant meets the appropriate aggregate requirements of such contracts, as specified in Section III, Evaluation and Qualification Criteria.
- 26. Employer's Right to Accept or Reject Applications** 26.1 The Employer reserves the right to accept or reject any Application, and to annul the prequalification process and reject all Applications at any time, without thereby incurring any liability to Applicants.

- 27. Prequalification of Applicants** 27.1 All Applicants whose applications have met or exceeded (“passed”) the specified threshold requirements will, to the exclusion of all others, be prequalified by the Employer.
- 28. Notification of Prequalification** 28.1 Once the Employer has completed the evaluation of the Applications it shall notify all Applicants in writing of the names of those Applicants who have been prequalified.
- 29. Invitation to Bid** 29.1 Promptly after the notification of the results of the prequalification the Employer shall invite bids from all the Applicants that have been prequalified.
- 29.2 In the bidding process, Bidders may be required to provide a Bid Security or a Bid-Securing Declaration acceptable to the Employer in the form and an amount to be specified in the Bidding Documents, and the successful Bidder shall be required to provide a Performance Security to be specified in the Bidding Documents.
- 30. Changes in Qualifications of Applicants** 30.1 Any change in the structure or formation of an Applicant, after being prequalified in accordance with **ITA 27**, and invited to bid, shall be subject to the written approval of the Employer, prior to the deadline for submission of bids. Such approval shall be denied if as a consequence of the change the Applicant no longer substantially meets the qualification criteria set forth in Section III, Evaluation and Qualification Criteria, or if in the opinion of the Employer, a substantial reduction in competition may result. Any such changes shall be submitted to the Employer not later than 14 days after the date of the Invitation for Bids.

Section II. Prequalification Data Sheet

A. General

ITA 1.1	The number of the Invitation for Prequalification is: <i>Eight (8)</i>
ITA 1.1	The Employer is <i>COMESA Competition Commission</i>
ITA 1.1	The list of contracts is One (1)
ITA 1.1	ICB name and number are <i>Construction of the COMESA Competition Commission Office Complex; CCC/REOI/12/02/2024</i>
ITA 2.1	The name of the Borrower is: <i>None</i>
ITA 2.1	The specific financing institution is <i>COMESA Competition Commission</i>
ITA 2.1	The name of the Project is: <i>Construction of the COMESA Competition Commission Office Complex and other related works</i>
ITA 4.1(a)	The individuals or firms in a joint venture, consortium or association <i>“shall be”</i> jointly and severally liable.

B. Contents of the Prequalification Document

ITA 7.1	<p>For <u>clarification purposes</u> only, the Employer’s address is: Attention: <i>The Chairperson, Evaluation Committee, COMESA Competition Commission</i> Address: <i>Kang’ombe house</i> Floor/Room number: <i>5th Floor</i> City: <i>Lilongwe</i> Country: <i>Malawi</i> Telephone: <i>+265 111 77246]</i></p> <p>Electronic mail address: <i>procurement@comesacompetition.org</i></p> <p>Requests for clarifications should be received by the Employer no later than <i>14 days</i>, prior to the deadline for submission of Bids.</p>
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C. Preparation of Applications	
ITA 10.1	The language of the Application as well as of all correspondence is: English
ITA 11.1 (d)	The Applicant shall submit with its Application, the following additional documents: <ul style="list-style-type: none"> ✓ A copy of certificate of incorporation or registration of the company as per the applicable laws of their country ✓ Copies of the last three (3) preceding years financial audited accounts ✓ A copy of valid and current tax compliance certificate ✓ Valid copy of registration with construction company’s regulator in their practicing country.
ITA 15.2	In addition to the original, the number of copies to be submitted with the Application is: Three (3)
D. Submission of Applications	
ITA 17.1	Applicants “shall” have the option of submitting their Applications electronically. If electronic submission of Applications shall be permitted, the electronic Application submission procedures shall be: A password protected document, whose password shall be provided during the opening of bids session
ITA 17.1	For Application submission purposes only, the Employer’s address is: Attention: The Chairperson, Evaluation Committee COMESA Competition Commission P O Box 30752 Street Address: Kang’ombe house Floor: 5th Floor City: Lilongwe Country: Malawi Email: procurement@comesacompetition.org The deadline for submission of Applications is: Date: 21 January 2025 Time: 11:00 hours, Malawi Time
ITA 17.1	For Opening session purposes only, the Employer’s address is: COMESA Competition Commission Kang’ombe house, 5th Floor, Lilongwe, Malawi Email: procurement@comesacompetition.org Date: 21 January 2025 Time: 14:00 hours Malawi Time

ITA 19.1	The electronic Application opening procedures shall be <i>submission of password protected bids, whose password shall be given during the opening session</i>
E. Procedures for Evaluation of Applications	
ITA 23.1	A margin of regional preference <i>“shall”</i> apply during the bidding process resulting from this prequalification.
	10% margin of preference shall apply for applications originating from the COMESA Member States.
ITA 24.2	At this time the Employer <i>“does not intend”</i> to execute certain specific parts of the Works by subcontractors selected in advance (Nominated Subcontractors).

Section III. Evaluation and Qualification Criteria

This Section contains all the methods, criteria, and requirements that the Employer shall use to evaluate Applications. The information to be provided in relation to each requirement and the definitions of the corresponding terms are included in the respective Application Forms.

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Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture, Consortium or Association (JVCA)			Submission Requirements
				All Parties Combined	Each Partner	At least One Partner	
1. Eligibility							
1.1	Nationality	Nationality in accordance with ITA Clause 4.2	Must meet requirement	Existing or intended JVCA must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments
1.2	Conflict of Interest	No conflicts of interest in accordance with ITA 4.3	Must meet requirement	Existing or intended JVCA must meet requirement	Must meet requirement	N/A	Application Submission on Form
1.3	COMESA Ineligibility	Not having been declared ineligible by COMESA, as described in ITA 4.4	Must meet requirement	Existing JVCA must meet requirement	Must meet requirement	N/A	Application Submission on Form
1.4	Government Owned Entity	Applicant required to meet conditions of ITA 4.5	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture, Consortium or Association (JVCA)			Submission Requirements
				All Parties Combined	Each Partner	At least One Partner	
2. Historical Contract Non-Performance							
2.1	History of Non-Performing Contracts	Non-performance of a contract did not occur within the last [insert number] years prior to the deadline for Application submission based on all information on fully settled disputes or litigation. A fully settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism under the respective contract and where all appeal instances available to the Applicant have been exhausted.	Must meet requirement by itself or as partner to past or existing JVCA	N/A	Must meet requirement by itself or as partner to past or existing JVCA	N/A	Form CON -2
2.2	Failure to Sign Contract	Not being under execution of a Bid- Securing Declaration pursuant to ITA 4.6 for [insert number] years	Must meet requirement	N/A	Must meet requirement by itself or as partner to past or existing JVCA	N/A	Application Submission Form
2.3	Pending Litigation	All pending litigation shall in total not represent more than [insert number] %, [insert percentage in words] of the Applicant's net worth and shall be treated as resolved against the Applicant	Must meet requirement by itself or as a partner to past or existing JVCA	N/A	Must meet requirement by itself or as a partner to past or existing JVCA	N/A	Form CON – 2

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture, Consortium or Association (JVCA)			Submission Requirements
				All Parties Combined	Each Partner	At least One Partner	
3. Financial Situation							
3.1	Historical Financial Performance and Financial Resources	Submission of audited balance sheets or if not required by the law of the Applicant's country, other financial statements acceptable to the Employer, for the last [insert number] years to demonstrate: (a) the current soundness of the Applicant's financial position and its prospective long-term profitability, and (b) capacity to have a cash flow amount of US\$ [insert number] equivalent	Must meet requirement (a) Must meet requirement (b) Must meet requirement	N/A (a) N/A (b) Must meet requirement	Must meet requirement (a) Must meet requirement (b) N/A	N/A (a) N/A (b) N/A	Form FIN – 3.1 with attachments
3.2	Average Annual Construction Turnover	Minimum average annual construction turnover of US\$ [insert amount in US\$ equivalent in words and figures] , calculated as total certified payments received for contracts in progress or completed, within the last [insert number] years, [insert number in words] years	Must meet requirement	Must meet requirement	Must meet [insert number] %, [insert percentage in words] of the requirement	Must meet [insert number] %, [insert percentage in words] of the requirement	Form FIN – 3.2

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture, Consortium or Association (JVCA)			Submission Requirements
				All Parties Combined	Each Partner	At least One Partner	
4. Experience							
4.1	General Construction Experience	Experience under construction contracts in the role of contractor, subcontractor, or management contractor for at least the last <i>[insert number]</i> years prior to the Application submission deadline, and with activity in at least nine (9) months in each year.	Must meet requirement	N/A	Must meet requirement	N/A	Form EXP – 4.1
4.2 (a)	Specific Construction Experience	Participation as contractor, management contractor or subcontractor, in at least <i>[insert number]</i> contracts within the last <i>[insert number]</i> years, each with a value of at least <i>[insert amount]</i> , that have been successfully and substantially completed and that are similar to the proposed works. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section IV, Application Forms	Must meet requirement	Must meet requirement	N/A	Must meet requirement for one characteristic (e.g., can be a specialist subcontractor)	Form EXP 4.2(a)
4.2 (b)		For the above or other contracts executed during the period stipulated in 4.2 (a) above, a minimum construction experience in the following key activities: <i>[list activities]</i>	Must meet requirements	Must meet requirements	N/A	Must meet the following requirements for the key activities listed below (e.g., can be a	Form EXP – 4.2 (b)

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture, Consortium or Association (JVCA)			Submission Requirements
				All Parties Combined	Each Partner	At least One Partner	
						specialist subcontractor) <i>[list key activities for this partner and the corresponding minimum requirements]</i>	

ADDITIONAL REQUIREMENTS:

Mandatory Requirements:

Any foreign construction company is required to partner with local Malawian construction firm during bidding (30% of the works value) as required by law (National Construction Industry Council of Malawi (NCIC - Amendment regulation 2023).

A) CORE BUSINESS AND YEARS OF EXPERIENCE IN BUSINESS

- Years of experience in the business of similar nature (at least 10 years – from 2014).
- Similar assignment (Construction of multi-storey buildings at least 3No. for the past 5 years – (Starting from year 2019)).
- Average turnover of US\$2,500,000.00 for the past 5 years – (Starting from year 2019).

B) LEGAL REGISTRATION STATUS

- Valid Registration with registrar of company's businesses by respective countries.
- Valid Construction company registration certificate (higher class or category in Building works) obtained from institution mandated to issue construction company practice certification in respective countries.
- Valid Tax Compliance Certificate (Tax Clearance Certificate) obtained from tax authorities in respective countries.
- In case of foreign construction firms (other than Malawian firm) must submit valid sub-contracting contract with local Malawian construction firm obtained from National Construction Industry Council of Malawi (NCIC) www.ncic.mw or email ncic@malawi.net

C) EQUIPMENT

- 2No. 10ton trucks
- 2No. 20ton Tippers
- 1No. Dump truck
- 1No. Excavator
- 1No. Motor Grader
- 1No. Loader
- 1No. Tower Crain
- 1No. First aid kit
- PPE's

Note: All vehicles and equipment must be substantiated by title holder's/Ownership certification obtained from a regulatory organization mandated to issue vehicle/plant registration certificates within firm's member states.

D) PERSONNEL – QUALIFICATION

- **Contracts Manager** – Degree in any construction related field with Ten (10) years of active experience in contracts management and **MUST** be registered and paid-up member (in any category) with relevant professional bodies and Institutions mandated to issue professional certifications in their field of specialization within COMESA Member States (Country).
- **Site Agent** – Diploma in Architecture, Civil Engineering, Structural Engineering or Quantity Surveying with Ten (10) years' experience in site management and **MUST** be registered and paid-up member (in any category) with relevant professional bodies and Institutions mandated to issue professional certifications in their field of specialization within COMESA Member State (Country).

Section IV. Application Forms

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Application Submission Form

Date: _____

Job No.: _____

To: _____

We, the undersigned, apply to be prequalified for the referenced ICB and declare that:

(a) We have examined and have no reservations to the Prequalification Documents, including Addenda No., issued in accordance with Instructions to Applicants (**ITA**) Clause 8:

(b) We, including any subcontractors or suppliers for any part of the contract resulting from this prequalification process, have nationalities from eligible countries, in accordance with **ITA** 4.2:

_____;

(c) We, including any subcontractors or suppliers for any part of the contract resulting from this prequalification, do not have any conflict of interest, in accordance with **ITA** 4.3;

(d) We, including any subcontractors or suppliers for any part of the contract resulting from this prequalification, have not been declared ineligible by CCC, or under execution of a Bid Securing Declaration in the Employer's Country, or under the Borrower's country laws, official regulations, or by an act of compliance with a decision of the United Nations Security Council, in accordance with **ITA** 4.4, 4.6, and 4.8, respectively;

(e) *[insert either "We are not a Government owned entity" or "We are a Government entity, and we meet the requirements of **ITA** 4.5];*

(f) We are / are not under sanction by any UN body for any action of corruption and fraud in accordance with ITB 3. [If under sanction, please provide details including date of start of sanction and duration].

(g) We, in accordance with **ITA** 24.1, plan to subcontract the following key activities and/or parts of the works:

(h) We declare that the following commissions, gratuities, or fees have been paid or are to be paid with respect to the prequalification process, the corresponding bidding process or execution of the Contract:¹⁰

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(i) We undertake that, in competing for (and, if the award is made to us, in executing) the contract resulting from this prequalification process, we will strictly observe the laws against fraud and corruption in force in the country of the Employer, as such laws shall be listed by the Employer in the bidding documents for the said contract.¹¹

(j) We understand that you may cancel the prequalification process at any time and that you are neither bound to accept any Application that you may receive nor to invite the prequalified Applicants to bid for the contract subject of this prequalification, without incurring any liability to the Applicants, in accordance with **ITA 26**.

Signed:

Name:

In the capacity of:

Duly authorized to
sign the Application
for and
on behalf of:

Applicant's Name:

Date:

¹⁰ If none has been paid or is to be paid, indicate "none".

Applicant Information Sheet

Form ELI - 1.1

Date: _____

ICB No. and title: _____

Page _____ of _____ pages

1. Applicant's Legal Name
2. In case of Joint Venture, Consortium or Association (JVCA), legal name of each party:
3. Applicant's actual or intended Country of Registration:
4. Applicant's actual or intended Year of Registration:
5. Applicant's Legal Address in Country of Registration:
6. Applicant's Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: <input type="checkbox"/> Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITA Clauses 4.1 and 4.2. <input type="checkbox"/> In case of JVCA, letter of intent to form JVCA including a draft agreement, or JVCA agreement, in accordance with ITA Clause 4.1. <input type="checkbox"/> In case of government owned entity from the Employer's country, documents establishing legal and financial autonomy and compliance with the principles of commercial law, in accordance with ITA Clause 4.5.

Party to JVCA Information Sheet

Form ELI - 1.2

Date: _____

ICB No. and title: _____

Page _____ of _____ pages

1. Applicant's Legal Name:

2. JVCA's Party legal name:

3. JVCA's Party Country of Registration:

4. JVCA's Party Year of Registration:

5. JVCA's Party Legal Address in Country of Registration:

6. JVCA's Party Authorized Representative Information

Name:

Address:

Telephone/Fax numbers:

Email Address:

7. Attached are copies of original documents of:

- Articles of Incorporation or Registration of firm named in 1, above, in accordance with **ITA** Clauses 4.1 and 4.2.
- In case of government owned entity from the Purchaser's country, documents establishing legal and financial autonomy and compliance with the principles of commercial law, in accordance with **ITA** Clause 4.5.

Historical Contract Non-Performance

Form CON – 2

Applicant's Legal Name: _____

Date: _____

JVCA Partner Legal Name: _____

ICB No. and title: _____

Page _____ of _____ pages

Non-Performing Contracts in accordance with (Evaluation and Qualification Criteria)			
<input type="checkbox"/> Contract non-performance did not occur during the stipulated period, in accordance with Sub- Factor 2.1 of Section III, Evaluation and Qualification Criteria.			
<input type="checkbox"/> Contract non-performance during the stipulated period, in accordance with Sub-Factor 2.1 of Section III, Evaluation and Qualification Criteria.			
Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount (current value, US\$ equivalent)
_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____
Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> No pending litigation in accordance with Sub-Factor 2.3 of Section III, Evaluation and Qualification Criteria.			
<input type="checkbox"/> Pending litigation in accordance with Sub-Factor 2.3 of Section III, Evaluation and Qualification Criteria, as indicated below			
Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount (current value, US\$ equivalent)

_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____
_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____

Financial Situation

Form FIN – 3.1

Historical Financial Performance

Applicant's Legal Name: _____

Date: _____

JVCA Partner Legal Name: _____

ICB No. and title: _____

Page _____ of _____ pages

To be completed by the Applicant and, if JVCA, by each partner

Financial information in US\$ equivalent	Historic information for previous ____ () years (US\$ equivalent in 000s)						
	Year 1	Year 2	Year 3	Year ...	Year n	Avg.	Avg. Ratio
Information from Balance Sheet							
Total Assets (TA)							
Total Liabilities (TL)							
Net Worth (NW)							
Current Assets (CA)							
Current Liabilities (CL)							
Information from Income Statement							
Total Revenue (TR)							

Profits Before Taxes (PBT)							

-
- Attached are copies of financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions:
- Must reflect the financial situation of the Applicant or partner to a JVCA, and not sister or parent companies
 - Historic financial statements must be audited by a certified accountant
 - Historic financial statements must be complete, including all notes to the financial statements
 - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted)

General Experience

Form EXP – 4.1

Applicant's Legal Name: _____

Date: _____

JVCA Partner Legal Name: _____

ICB No. and title: _____

Page _____ of _____ pages

Starting Month / Year	Ending Month / Year	Years*	Contract Identification	Role of Bidder
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____

Starting Month / Year	Ending Month / Year	Years*	Contract Identification	Role of Bidder
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____

*List calendar year for years with contracts *with at least nine (9) months activity* per year starting with the earliest year

Specific Experience

Form EXP – 4.2(a)

Applicant's Legal Name: _____

Date: _____

JVCA Partner Legal Name: _____

ICB No. and title: _____

Page _____ of _____ pages

Similar Contract Number: <i>_[insert specific number]_ of <u> </u>[insert total number of contracts required].</i>	Information		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
Total contract amount	_____		US\$ _____
If partner in a JVCA or subcontractor, specify participation of total contract amount	_____ %	_____ -	US\$ _____
Employer's Name:	_____		
Address:	_____		
Telephone/fax number:	_____		
E-mail:	_____		

Specific Experience (cont.)

Form EXP – 4.2(a) (cont.)

Applicant's Legal Name: _____

Page _____ of _____ pages

JVCA Partner Legal Name: _____

Similar Contract No. __[insert specific number] of __[insert total number of contracts] required	Information
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III, Evaluation and Qualification Criteria:	
<i>Amount</i>	_____
<i>Physical size</i>	_____
<i>Complexity</i>	_____
<i>Methods/Technology</i>	_____
<i>Physical Production Rate</i>	_____

Specific Experience in Key Activities

Form EXP – 4.2(b)

Applicant's Legal Name: _____ Date: _____

JVCA Partner Legal Name: _____ ICB No. and title: _____

Subcontractor's Legal Name (as per ITA 24.1): _____

Page _____ of _____ pages

	Information		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
Total contract amount	_____		US\$ _____
If partner in a JVCA or subcontractor, specify participation of total contract amount	_____ %	_____ —	US\$ _____
Employer's Name:	_____		
Address:	_____		
Telephone/fax number:	_____		
E-mail:	_____		

Specific Experience in Key Activities (cont.)

Form EXP – 4.2(b) (cont.)

Applicant’s Legal Name: _____

Page _____ of _____ pages

JVCA Partner Legal Name: _____

Subcontractor’s Legal Name: _____

	Information
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III, Evaluation and Qualification Criteria:	
<i>Amount</i>	
<i>Physical size</i>	
<i>Complexity</i>	
<i>Methods/Technology</i>	
<i>Physical Production Rate</i>	

2. Key Activity No. Two

3.

Section V. Eligible Countries

Open International Tendering in accordance with the COMESA Competition Commission Procurement Rules, 2023.

PART 2 – Works Requirements

Section VI. Scope of Works

Contents

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1. Description of the Works

The client's approved project brief contemplates an office complex comprising five (5) floors, two (2) of which would be occupied by the Procuring Entity Staff, one level will be occupied by the COMESA Competition Training Law Centre, while two (2) floors would be leased out to prospective tenants.

2. Construction Period

The Client would like the work to be completed within 12 months, but contractor may propose an alternative construction period based on detailed scope to be provided in the tender documents.

3. Site and Other Data

The project site is in an urban context of Area 20, in the City of Lilongwe (Capitol Hill). The Office Building will be constructed on **Plot Numbers 20/15 and 20/16** and the consolidated area is approximately **1.023 hectares**. Detailed site data will be shared with the tender documents.