

Terms of bidding: Industry Impact Fund (Dated 3 April 2023) ("the Fund")

This is a supporting legal document which you should read before completing an application form.

1. General

- 1.1 These instructions aim to provide guidance to enable CITB to consider your bid on its own merits.
- 1.2 Please provide all the information we request in the format and order specified. Please contact us at industryimpactfund@citb.co.uk or your local adviser if you have any queries about what is required.
- 1.3 Please read these instructions carefully before completing your bid. We may reject your bid if it is not submitted in the correct application form. Please also read the Application Guidance Notes thoroughly.
- 1.4 All of your sub-contractors, consortium members and/or advisers must also observe the Terms of Bidding. CITB reserve the right to contact any partners/parties named in the bid.
- 1.5 CITB are not committed to any course of action by:
 - 1.5.1 issuing an invitation to submit a bid or any bid documentation;
 - 1.5.2 communicating with a bidder or a bidder's representative or agent in respect of this exercise; or
 - 1.5.3 engaging in any other communication with any other party.
- 1.6 CITB reserves the right to amend, add to or withdraw all, or any part of, the bids at any time during the exercise. This may include, although is not limited to, the start date of a project.

2. Confidentiality

- 2.1 CITB may disclose detailed information relating to bids to its officers, employees, agents and/or advisers, members of the Nation's Council, the Industry Funding Committee and any other individuals or parties to whom CITB choose to share the information to assist with the evaluation of the bids and CITB may make any of the bids available for private inspection by them.
- 2.2 CITB reserves the right to share information that is relevant to the bid process to all bidders, even if the information has only been requested by one bidder.

3. Freedom of information

- 3.1 In accordance with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 we may have to disclose information in response to a request for any information submitted by the bidder to CITB.
- 3.2 You undertake to:

- (a) provide all necessary assistance and cooperation as reasonably requested by CITB and enable CITB to comply with its obligations under FOIA;
- (b) transfer to CITB all requests for information relating to this Agreement that you receive as soon as practicable and in any event within two (2) working days of receipt;
- (c) provide CITB with a copy of all information belonging to CITB requested in the request for information which is in your possession or control in the form that CITB requires within five (5) working days (or such other period as CITB may reasonably specify) of CITB's request for such information; and
- (d) not respond directly to a request for information unless authorised in writing to do so by CITB.

3.3 In the event that CITB processes personal data, such processing will be carried out in accordance with the principles in [CITB's Privacy Policy](#).

4. Accuracy of information and liability of CITB

- 4.1** The information contained in the bid and/or any document accompanying it and/or issued as part of this bid process at any time ('bid information') has been prepared by CITB in good faith without purporting to be comprehensive or to have been independently verified. Nothing in the bids including in any bid documentation is, or should be, construed as a promise or representation as to the future. The subject matter of the bids shall only have contractual effect if, when and to the extent contained in the terms of a contract signed by both CITB and the bidder.
- 4.2** None of CITB, its officers, employees, agents and/or advisers make any representation or warranty as to, or (save in the case of fraudulent misrepresentation) accept any liability in relation to the adequacy, accuracy, reasonableness or completeness of the bid information (including, but not limited to, loss or damage arising from reliance by the bidder on all or any part of the bid information).

5. Conflicts of interest

- 5.1** CITB requires all actual or potential conflicts of interest including (without limitation) those arising where a member of the bidder's supply chain and/or any of its advisers is the same firm or company or is a member of the same group of companies as that put forward by another bidder as part of its supply chain or is an adviser to that second bidder and/or is working for CITB on this or any similar project to be disclosed to CITB.
- 5.2** Any actual or potential conflict of interest must be resolved to CITB's satisfaction before bids are submitted.
- 5.3** Failure to declare the existence of and/or resolve any conflicts of interest to CITB's satisfaction could lead to disqualifying a bidder and rejecting any submitted bid response.

6. Preparation of bids

- 6.1 CITB will not be liable for any costs or expenses borne by the bidder and/or their sub-contractors, suppliers and/or advisers in this bid process.
- 6.2 Any contract entered into, its formation, interpretation and performance shall be subject to the law of England and Wales and the jurisdiction of the courts of England and Wales.

7. Rejection of bids

- 7.1 Bidders must complete and provide all information CITB requests in accordance with the bid guidance document. Failure to comply with the bid guidance document may lead CITB to reject a bid.
- 7.2 Bids shall not be qualified or accompanied by statements that render any part of the bid contradictory. Only unqualified bids will be considered. Amendments to the contract documents will not be accepted. CITB's decision as to whether a bid is in an acceptable form will be final.
- 7.3 CITB reserves the right to disqualify any bidder if any material misrepresentation is made in any part of its bid response and/or in any other information submitted by that bidder and/or if that bidder does not inform CITB of any change in circumstances.
- 7.4 CITB reserves the right to reject any bid if there are any outstanding issues or queries relating to any other application for funding.
- 7.5 CITB will retain unsuccessful or rejected applications in accordance with CITB's retention policy.

8. Submission of bids

- 8.1 The bidder shall complete all of the questions set out in and provide all of the information and documents requested in the bids in the order they appear, in the format required and in full under each question. Any missing information will render a bid incomplete.
- 8.2 Responses that are contradictory may fall short of bid requirements.
- 8.3 CITB shall carry out its assessment of the information provided in the bids in accordance with the methodology set out in Section 11 of this document, Bid assessment methodology.
- 8.4 In respect of a bid document, a statement that a particular requirement will be met is not, in itself, sufficient; you must be prepared to provide supporting information.
- 8.5 The bid must be submitted by the organisation that it is proposed will enter into a formal contract with CITB if appointed. It must be signed by persons authorised to submit bids and enter into contracts on behalf of the organization submitting the bid. Where the bidder is:
 - a) A partnership, the bid must be signed by two duly authorised partners;
 - b) A company, the bid must be signed by two directors or by a director and the secretary of the company, such persons being duly authorised for that purpose. Where a company has a sole director and no company secretary,

it is sufficient for the form of bid to be signed by that sole director provided that signature is witnessed by an independent individual.

- 8.6 Bids must be received via one of the prescribed routes detailed within the application form.
- 8.7 CITB reserves the right to close the Fund and stop accepting bids at its sole discretion.

9. Bid validity

- 9.1 Your bid must remain open for acceptance for at least 90 days. A bid valid for less may be rejected.

10. Bidder's warranties

- 10.1 In submitting its bid, the bidder warrants and undertakes that:
 - a) All information, representations and other matters of fact communicated (in writing or otherwise) to CITB by the bidder, its staff or agents in connection with or arising out of the bid are and shall at the date of submission be true, complete and accurate in all respects and that CITB will only evaluate the bid on the basis of what has been submitted at the date of submission.
 - b) It has the full power and authority to enter the contract and perform the obligations in the contract documents and will, if requested, produce evidence to CITB
 - c) It is of sound financial standing and has and will have sufficient working capital, skilled staff, equipment and other resources available to it to perform the obligations specified in the contract documents.

11. Bid assessment methodology

- 11.1 CITB shall carry out an evaluation of the bids in accordance with the criteria as set out in the Application Form and Application Guidance Notes.
- 11.2 CITB does not undertake, and shall not be bound, to accept any bid.
- 11.3 Eligibility checks will be carried out and bids will be rejected if they are found not to meet the eligibility criteria including providing a letter of endorsement to CITB's satisfaction.
- 11.4 For bids that are confirmed as eligible, an assessment of the bid will be performed, based on the applicant's responses to all the sections of the application form. The assessor of the bid will use reasoned professional judgement to deem whether a response is acceptable including ensuring that the applicant has accurately included all appropriate information as requested in the guidance notes.
- 11.5 CITB may at its sole discretion undertake further due diligence into the applicant or the application including, for example, requesting copies of insurance policies, reviewing financial accounts, undertaking credit checks, asking for access to speak to suppliers and customers of the applicant, requiring additional references, engaging with the proposed training providers etc.

- 11.6** The applicant needs to provide acceptable responses to all sections of the application form and CITB needs to be satisfied with the responses to its due diligence enquiries in order for the funding to be awarded. Responses deemed insufficient will be rejected.
- 11.7** CITB will select successful bidders who CITB have determined, at its sole discretion, to have met the criteria set out in the Application Form and Application Guidance Notes.
- 11.8** If following evaluation of the application and the bid response, CITB considers that the bid does not fulfill the bid criteria, it may not make an award.
- 11.9** CITB reserves the right to accept parts of a bid and to reject other parts. CITB may reject part or all of a bid on the basis that provision is being made elsewhere for the proposal or the proposal is receiving or has received alternative funding.
- 11.10** If CITB accepts part of a bid, CITB may negotiate the amount of the funds to be paid, with regard to market rate, which may not be the sum proposed for that portion of the bid in the bid. This is to ensure value for money for CITB and the ultimate beneficiary, the construction industry.
- 11.11** If an application is progressed to the fund agreement stage, any information requested by CITB must be provided promptly to CITB and the award of the funds will be subject to the terms and conditions of the fund agreement.