

## **Century Power Generation Ltd.**

### **Design, Procurement and Construction of :**

- 330kV Okija Power Plant Switchyard**
- 330/132 kV Nnewi sub-station Extension**
- 330 kV Onitsha sub-station Extension**

### **Request for Prequalification Documents Volume 0: Invitation & Instructions to Applicants**

**July 2013**



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### **Application Forms:**

1. Annex\_ Application Submission Form
2. Annex\_ Applicant Information Sheet
3. Annex\_ Party to JVCA Information Sheet
4. Annex\_ Historical Contract Non Performance
5. Annex\_ Financial Situation
6. Annex\_ Average Annual Turnover
7. Annex\_ General Experience
8. Annex\_ Specific Experience
9. Annex\_ Specific Experience in Key activities

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# 1 GENERAL

## 1.1 Introduction

In response to the liberalization of the power sector and a general call by the Federal Government of Nigeria for investors in the Nigerian Electricity Supply Industry (“NESI”), Century Power Generation Limited (hereinafter called “CPG” or the “Employer”) is developing a Greenfield combined cycle gas fired power plant and the associated transmission infrastructure in Anambra State, Nigeria. CPG is the developer of the project, which is planned to be the first of several Greenfield independent power projects (“IPPs”) in Nigeria. CPG intends to utilise the Engineering Procurement and Construction (“EPC”) turnkey approach in the implementation of this project.

Financing for the Combined Cycle Power Plant (“CCPP”) and the transmission line is being arranged by the African Development Bank (“AfDB”). The AfDB is acting as the Global Coordinators for the fund raising. AfDB will arrange 70% of the total project cost via debt, while the remaining 30% will be provided in form of equity by the sponsor of the project – Nestoil Plc (“Nestoil”).

CPG is a private company incorporated at the Corporate Affairs Commission, Abuja, Nigeria, with its registered office at 4<sup>th</sup> Floor, Africa Re Building, Plot 1679, Karimu Kotun Street, Victoria Island, Lagos, Nigeria. CPG intends to build, deliver and operate the CCPP consisting of 2 x 750 MW capacity in Okija, Ihiala Local Government Area in Anambra State, Nigeria. Within the 1<sup>st</sup> construction phase of the project, the 500MW capacity Open Cycle Power Plant (“OCPP”) is to be brought into operation by September 2015. In addition, transmission facilities are to be constructed within this phase of the project.

Consequent to the Power Evacuation studies done by CPG and approved by the Transmission Company of Nigeria Plc (“TCN”), the parties have become aware of the insufficiency of power evacuation facilities available to evacuate the Electrical Output from the IPP onto the national transmission grid (the “National Grid”) owned and operated by TCN, and have agreed that CPG should, for and on behalf of TCN, upgrade the Nnewi- Onitsha section of the 330kV grid, by the:

- (i) Construction of a new 330kV Okija Power Plant Switchyard
- (ii) Extension of the 330/132 kV Nnewi sub-station.
- (iii) Extension of the 330 kV Onitsha sub-station.

required to facilitate the delivery of the Electrical Output from the Okija IPP to off-takers, via the National Grid.

The Employer wishes to prequalify Switchyard and sub-station EPC companies for the Engineering, Procurement and Construction of the Okija Switchyard construction, Nnewi and Onitsha SS Extension, as specified in this Prequalification Document (“PQD”).



Eligible companies, fulfilling the eligibility requirements of the AfDB and interested in bidding for the works (hereinafter called the “Applicants”) are herewith invited to submit their prequalification documents on a turnkey EPC Contract basis, for the Okija Switchyard construction, Nnewi and Onitsha sub-station Extension works.

All Applications shall be submitted in full accordance with the terms, conditions and specifications described in this PQD.

## **1.2 General Project Information**

In 2010, the current administration of Dr. Goodluck Jonathan launched the road map for power sector reform (the “Roadmap”). The Roadmap stated that 40,000MW available generation was targeted for the year 2020, a goal that will require an investment of “3.5 billion USD per annum for the next 10 years.” The Roadmap further states that: “These sums cannot and will not be funded and directed by the Federal Government. Rather, central to the development of the sector will be the need to incentivize the private sector to partner with Government in this endeavor.” In essence, the Federal Government of Nigeria has invited the private sector to partner with it to drive investment in the power sector.

In accordance with the laws and regulations governing the NESI, which allow the construction and the operation of private power plants, CPG intends to construct a power plant, associated 330kV switchyard and transmission lines, Nnewi and Onitsha sub-station extension works, close to Okija, Anambra State, with the purpose of increasing the available generation capacity in Nigeria. The project complements the Nigerian Energy Strategy up to the year 2020 with respect to ensuring the security of the national energy supply. Nigeria has a strong need of domestic electricity generation facilities in order to address the significant shortfalls in domestic power production.

CPG is a member of the Obijakson Group, with Nestoil as the most prominent subsidiary in the group. In response to the Federal Government’s call for improved power generation through private sector participation, the Obijakson Group registered CPG as an investment vehicle for power related development and acquisitions. The aim is to deploy the group’s vast experience in handling large projects in the Oil and Gas sector to the NESI for the benefit of Nigerians. As at today, CPG has obtained a generation license from NERC and is in the process of signing on partners for various aspects of the power plant project.

In line with its on-grid generation license, CPG intends that the output of the plant will be sold on the National Grid through the newly created Nigerian Bulk Electricity Trading Plc (“NBET”). It follows that NBET will execute a Power Purchase Agreement (“PPA”) with CPG. The PPA will detail the conditions for the power sale transaction.



## 2 Invitation

The Employer now invites sealed Applications from eligible Applicants for the EPC of the Design, Procurement and Construction of 330kV Okija Power Plant Switchyard, 330/132 kV Nnewi sub-station Extension and 330 kV Onitsha sub-station Extension.

Sealed Applications shall be delivered to the address below on or before Prequalification Closing Date as shown below.

## 3 Tentative Time Schedule

Request for PQD Available for EPC contractors	July 29. 2013
<b>Request for PQD Closing Date</b>	<b>August 19. 2013</b>
Presumable announcement of Pre-qualification Evaluation Results	August 28. 2013
Presumable Issue of Request for Tender Documents	September 9. 2013
Presumable Award of EPC Contract	December 9. 2013
<b>Presumable Commencement Date for EPC Contractor</b>	<b>December 16. 2013</b>

### 3.1 Addresses

The Employer's address for communication is:

Company:	Century Power Generation Ltd.
Name:	Dr. Chukwueloka Umeh (the "Employer's Representative")
Title:	Managing Director
Address:	Africa Re Building 4 <sup>th</sup> Floor Plot 1679, Karimu Kotun Street
City:	Victoria Island, Lagos, Nigeria
Phone (Office)	+234 (0) 1 2770715
Mobile:	+234 809 7067036011
E-Mail:	<a href="mailto:c.umeh@nestoilgroup.com">c.umeh@nestoilgroup.com</a>

The Employer's Consultant's address is as follows:

Company:	AF-Consult Switzerland Ltd/ Colenco Consulting Nig.
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Representative's Name: Sandeep Bhowmick  
Title: Project Manager  
Address: 8 Aguata Close, Garki II, FCT Abuja, Nigeria  
Phone: +234 803 9437969  
e-mail: [sandeep.bhowmick@afconsult.com](mailto:sandeep.bhowmick@afconsult.com)

The Employer must be copied on all communications to the Employer's Consultant.

### 3.2 Description of the Works

The scope of works overview for the EPC Contract is as follows:

#### **330kV OKIJA POWER PLANT SWITCHYARD.**

Engineering Design, Procurement, Installation and Construction of Switchyard consisting of:

1. Eight (8) diameters
2. Bus bar 1&2 with aluminium tubes – 200 mm<sup>2</sup>
3. Over-fly connections with conductor AAAC 2x800mm<sup>2</sup>
4. Outdoor equipment connection with conductor AAAC 2x800mm<sup>2</sup>
5. Control building with necessary Control/Protection/Automation/AC/DC panels
6. Relay house for each diameter with necessary Control/Protection/Automation and AC/DC panels.
7. Communication connection between Control building/Switchyard, Relay houses and Control Room of Power Plant will be by fibre optic cables.
8. AC/ DC supply connection between Control building/Switchyard and Relay houses will be provided by Low voltage cables.
9. AC/DC supply connection between Equipment and Relay house will be provided by Low voltage cables and Control cables.
10. Testing and Procurement of all HV and MV equipment
11. Survey, bush clearing, soil investigation, construction of foundations, earthing erection of steel structures and equipment, testing and commissioning along with associated buildings.





### **330/132kV NNEWI SUB-STATION EXTENSION**

As addition of 132kV switchyard which is under construction, 330/132kV Nnewi Sub-station Extension works will consist of 330kV switchyard and 132kV Autotransformer diameter with connection on 132kV Bus bar under construction:

330/132kV switchyard will consist of:

1. One (1) diameter to connect 330kV; 2xTL Okija –Nnewi
2. One (1) diameter to connect 330kV side of Autotransformer
3. 330/132/34.4kV; 300 MVA Autotransformer
4. One (1) diameter to connect 132kV side of Autotransformer
5. Connection to 132kV Bus bar under construction
6. Control building with control/protection/AC/DC panels
7. Over-fly connections with conductor AAAC 2x800mm<sup>2</sup>
8. Outdoor equipment connection with conductor AAAC 2x800mm<sup>2</sup>
9. Testing and Procurement of all HV and MV equipment
10. Survey, bush clearing, soil investigation, construction of foundations, earthing erection of steel structures and equipment, testing and commissioning along with associated buildings.

### **330kV ONITSHA SUB-STATION EXTENSION**

1. Existing diameter for 330kV TL Alaoji-Onitsha to be reconstructed.
2. Additional connection gantry will be required.
3. HV voltage equipment with civil work will be provided under this scope of work. Control/Protection/ AC/DC panels will also be provided.
4. Low voltage and control cables will be used as connection between equipment and Control building.
5. Replacement of 2x800mm<sup>2</sup> AAAC conductors with thermo resistant conductor.
6. Testing and Procurement of all HV and MV equipment.



7. Survey, bush clearing, soil investigation, construction of foundations, earthing erection of steel structures and equipment, testing and commissioning along with associated buildings.

### 3.3 Source of Funds for financing the project

Financing for the CPG-Okija IPP is being arranged by the AfDB. The AfDB is acting as the Global Coordinators for the fund raising. AfDB will arrange 70% of the total project cost via debt, while the remaining 30% will be provided in form of equity, by the sponsor of the project – Nestoil , (Nigeria’s foremost indigenous upstream oil & gas service company) and its equity partners. Nestoil’s financial highlights based on its audited financials are presented below:

P&L	AUDITED		
	2011 US\$'000	2010 US\$'000	2009 US\$'000
Turnover	110,741	140,044	150,828
Gross Profit	52,803	47,626	48,667
Opex	38,661	38,806	44,700
PBT	14,141	8,820	3,966
PAT	9,758	6,397	1,471
BALANCE SHEET	2011 \$'000	2010 \$'000	2009 \$'000
Fixed Assets	274,467	244,822	249,626
Current Assets	165,684	77,694	132,781
Short Term Liability	131,340	49,818	139,014
Long Term Liability	129,395	90,921	54,523
Net Assets	179,416	181,776	188,870

## 4 PREQUALIFICATION FOR PROCUREMENT OF WORKS

This PQD comprises all the sections indicated below, and should be read in conjunction with any addendum subsequently issued.

### Part 1 Prequalification Procedure

#### Section 3.2 Scope of Works

#### Section 5 Instructions to Applicants (ITA)



## **Section 7.8 Evaluation and Qualification Criteria**

### **Section 8 Application Forms**

The Applicant is expected to examine carefully the contents of all the above sections for contradictions and/or ambiguities (also with applicable regulations). The Applicant shall immediately notify the Employer of any such contradictions and/or ambiguities prior to the submission of the Application.

Unless the Applicant has given such notification, he shall not be entitled to rely upon any contradiction and/or ambiguity in the documents after conclusion of the pre-qualification exercise.

#### **4.1 Clarification of Prequalification Document**

A prospective Applicant requiring any clarification of the PQD shall contact the Employer in writing at the Employer's address indicated in Section 3.1. The Employer will respond in writing to any request for clarification provided that such request is received within 15 calendar days prior to the deadline for submission of Applications. The Employer shall forward copies of its response to all Applicants who have formally notified the Employer of their intention to participate in this application process, including a description of the inquiry, but without identifying its source. The Employer reserves the right to amend the prequalification document as a result of any clarification, without prior notice to Applicants.

#### **4.2 Amendment of Prequalification Document**

At any time prior to the Pre-qualification Closing Date, the Employer may, without prior notice to Applicant, and for any reason, whether at his own initiative or in response to a clarification requested by an Applicant, modify this PQD by issuing addenda. Any addendum issued shall be part of the Prequalification Document and shall be communicated in writing to all who have obtained the prequalification document from the Employer as published on the Employer's website and have formally notified the Employer of their intention to participate in this application process. Each Applicant shall acknowledge the receipt of such addendum.

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.



## 5 INSTRUCTIONS TO APPLICANTS

### 5.1 Eligibility of Applicant

Participation in the Application process is open worldwide to all legal persons or to consortiums (joint ventures) or partnerships from eligible countries (*i.e.* member countries of AfDB<sup>1</sup>)

An Applicant may be a natural person, private entity, government owned entity 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”)

The Applicant shall provide sufficient evidence that he is qualified for this type of project. In his Application he shall describe his references of similar projects, the strength and organization of his project management and engineering team and shall give any other relevant background information. He shall have adequate financial resources to undertake and complete the works and to cover all cases of indemnity and or liability. Relevant annual reports with audited financial statements must be submitted where applicable.

Where the Applicant is a JVCA:

- a. 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. The roles of each partner shall be defined in the Application.
- c. An Applicant, and all parties constituting the Applicant, shall have the nationality of an eligible country, in accordance with the AfDB’s Rules and Procedures for Procurement of Goods and Works<sup>1</sup>, and as listed in Section V- Eligible Countries (including eligibility criteria for participation in the supply of goods, works and related services). 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.
- d. 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:
  - (1) They have controlling parties in common; or

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<sup>1</sup> Please refer to [www.afdb.org](http://www.afdb.org).



- (2) Any Applicant receives or has received any direct or indirect subsidy from another Applicant; or
  - (3) They have the same legal representative for purposes of this prequalification; or
  - (4) 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 to influence the decisions of the Employer regarding this prequalification process; or
  - (5) 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 the inclusion of the same subcontractor, not otherwise participating as an applicant in more than one application; or
  - (6) An Applicant participated as a consultant in the preparation of Section VI- Scope of Works, which is the subject of the prequalification process; or
  - (7) 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.
- e. An Applicant that is under a declaration of ineligibility by the AfDB, at the date of the deadline for submission of the application or thereafter, shall be disqualified.
  - f. Government owned entities in the Employer's 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.
  - g. Applicants shall not be under execution of a Bid Securing Declaration in the Employer's Country.
  - h. Applicants shall provide such evidence of their continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.
  - i. Applicants from an eligible country shall be excluded if;
    - (1) As a matter of law or official regulation, the Employer's country prohibits commercial relations with that country; or
    - (2) By an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Employer's country prohibits any import of Goods from that country or any payments to persons or entities in that country.



## 5.2 Covenant of Integrity

The Applicant shall execute and submit with its Application, the Covenant of Integrity – Section 8.9 of this PQD.

## 5.3 Applicants' Responsibility

- (1) The “Invitation for Prequalification” issued by the Employer is not part of the prequalification document.
- (2) 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.
- (3) 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.

## 5.4 Notification of Employers' Representative

Applicants who have downloaded the PQD from CPG's bidding website, are requested to give notice in writing to the Employer's Representative immediately and not later than 7 calendar days prior to the Request for PQD closing date, stating the following:.

1. Confirming Applicants' intention to submit a firm Application in accordance with this PQD.
2. Providing full contact details for Applicants' Representative.

Applications from Applicants who fail to submit the required confirmation/contact details may be rejected.

## 5.5 Cost of Application

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.

## 5.6 Qualification of the Applicant

Any successful Application must fulfill **ALL the Employer's qualification criteria**. Applicants that do not fulfill **ALL Employers' qualification criteria** will not be considered in the bidding process.



To qualify to be invited to participate in the Technical and Commercial bidding process, the Applicant shall provide all documents and information requested in the PQD chapter 8 and shall meet all of the following minimum qualifying criteria:

- (a) Applicant/ each partner of joint venture is a registered firm from eligible Bank's member country; and the country has not been excluded by Nigerian Law or UN Security Council resolution
- (b) Government entities shall meet the requirement condition in chap 5.1 (f)
- (c) In the case of a Joint Venture ("JV") arrangement, the JV must have been in place prior to the submission of its Application.
- (d) In case of single Applicant/JVCA, the EPC company shall have a minimum average turnover of USD 20 million, J, calculated as total certified payments received for contracts in progress or completed, within the last three (3) years. . The Applicant/JVCA shall enclose all relevant financial and corporate documentation as evidence.
- (e) In case of a JV, the leader of the JV shall meet 40% of the requirement; and its local subsidiary shall be registered in Nigeria prior to submission of the bids.
- (f) The Applicant/ each member of a JV must be able to demonstrate the soundness of his financial position.
- (g) The Applicant / JV leader shall clearly demonstrate its capacity to run operations of USD 10 million at any point in time in the course of the project.
- (h) The Applicant or a member of the JV has completed at least 2nos substation projects over the last 3 years and the substations have been in operation with good references for at least 2 years at tender closing date. The entity should have completed at least one 2nos substations and above, in Nigeria or similar countries by geographical location, level of development etc.
- (i) All pending litigation of the Applicant or any member of the JV shall in total not represent more than 50% (Fifty percent) of the Applicant's net worth and shall be treated as resolved against the Applicant.
- (j) The Applicant / JV has the construction capability necessary to execute the project in the required scope, terms and quality.
- (k) The Applicant should have a technical partnership agreement or similar legally binding arrangement with a company having the necessary expertise in substation design.
- (l) The Applicant / all members of joint venture together have suitably qualified personnel (wherein the majority of the staff for site works shall be expected to be resident in Nigeria) to perform, manage and supervise the project. The tender shall include the following:



- the organizational chart and number of permanent employee groups (engineers, designers, management) that is appropriate and sufficient to perform the project within the proposed time schedule, and guaranteed backup personnel in case of urgency;
  - key staff (project managers, resident project managers (if any), engineering managers, site managers) having at least 10 years of adequate experience and proven qualification relevant to projects of a similar nature to this project, and at least 6 years' experience in managing similar projects. All key staff must be competent in both verbal and written English; and
  - at least two (2) alternatives of each key staff.
- (m) The Applicant / each member of joint venture has introduced a Quality Assurance System implemented according to the requirements of the ISO 9001 standard or equivalent.
- (n) The Applicant / each member of joint venture has in place an adequate Environmental Health & Safety Policy and their safety statistics for the last 5 years do not show consistent breaches of the requirements for safety and environmental protection.

Applications submitted by a JV or consortium comprising of two or more partners shall additionally fulfill the following requirements:

- (o) The Application shall be signed in a way that legally binds all partners.
- (p) One partner shall be appointed as the Leading Partner responsible for the Application and such appointment shall be confirmed by the other partner(s) by submission of irrevocable Powers of Attorney signed by a legally authorized signatory representing each individual partner;
- (q) The Application shall include a preliminary agreement or a letter of intent stating that all partners shall be legally responsible, jointly and severally, for the bid, that the Leading Partner shall be authorized to obligate and receive instructions for and behalf of each and all partners; and
- (r) All partners in the JV /Consortium shall be bound to remain in the JV /Consortium for whole period of the execution of the bid and contract. Any change in composition of the JV Venture must be with the prior consent of the Employer

The Application will be rejected by the Employer at any stage of the pre-qualification process without the Employer having to bear any responsibility, in the following instances:

- (s) an Applicant or any partner of JVCA is found guilty by a court for participation in a criminal organization or enterprise, corruption, fraudulent actions in





financial matters or money laundering or any breach of the Covenant of Integrity or included in the AfDB's List of Debarred Entities<sup>2</sup>;

- (t) an Applicant or any partner of JVCA is announced or otherwise found to be insolvent, is in the process of liquidation; its economic activities have been suspended or terminated or the court proceedings have been initiated for the termination of the Applicant's economic activities for the announcement of its insolvency or bankruptcy;
- (u) an Applicant or any partner of JVCA has tax or social security payment default in the State where it is incorporated;
- (v) a legal finding is made that the Applicant or any partner of JVCA has violated the rules of professional conduct in any of the 3 years immediately prior to the date of submission of the Application; or
- (w) Applicant/JVCA has deliberately provided false or misleading information in the Application.
- (x) an Applicant or any partner of JVCA has any conflict of interest with the assignment as stated in chapter 5.1 (d)
- (y) an Applicant or any partner of JVCA has record of non-performance of a contract which has occurred within the last three (3) years prior to the deadline for Application submission based on all information on unsettled disputes or litigation.

Applicant's references for current/recent/similar projects shall contain minimum data such as:

- Client in relation to the project (including contact person: name and telephone)
- Name, location and type of project
- Applicant's position in such project (e.g., general contractor, supplier, partner in joint venture, subcontractor)
- Value of the project and percentage of the Value undertaken by the Applicant
- Brief description of the works, services or supplies provided by the Applicant
- Start and completion (or planned completion) date of project

Applicant's statement under the request for information for his Litigation History shall contain the following information:

- Client in relation to the project which is the subject of Litigation

<sup>2</sup> Please refer to: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-related-Procurement/List%20of%20Debarred%20Entities.pdf>



- Cause of litigation
- Matter in dispute
- Disputed amount
- Award made

Applicants are requested to provide a binding list of experienced key experts intended to execute the Contract. Such list shall include information about the following positions:

- Project Manager
- Resident Project Manager
- Site Manager
- Engineering Managers

Furthermore, for all of the experts above, data such as below shall be included:

- Name of expert
- Position in reference projects
  - Name, country of reference projects
  - Value of reference projects
  - Date of completion (scheduled and actual) of reference projects
- Project partners, if any, involved in executing above reference projects
- Language abilities (written and spoken)
- Years of experience
  - Within company
  - In the relevant field
  - In the proposed position

Where Applicant intends to substitute a person other than the person originally proposed for any of the above positions, the substitute must possess at least the level of qualification and experience, as the initial person.



## **5.7 Confidentiality**

Information relating to the evaluation of Applications, and recommendation for prequalification, shall not be disclosed to Applicants, or any other person(s) not officially concerned with such process, until the notification of prequalification is made to all Applicants.

From the deadline for submission of Applications, to the time of notification of the results of the prequalification, any Applicant that wishes to contact the Employer on any matter related to the prequalification process, may do so, but only in writing.

## **5.8 Complaints**

The Applicant is entitled to submit a written complaint to the Employer, if he considers that certain aspects of the PQD might limit international competition or introduce an unfair advantage to some Applicants. Such complaint shall only be valid and a response provided, if the complaint contains sufficiently detailed information backing up Applicant's reasons for his complaint.

Such complaints must be received by the Employer within 7 calendar days of receipt of the PQD. Complaints not submitted within this period may not be considered. The Employer will provide an answer to the Applicant within 7 calendar days of receiving the complaint.

Complaints on the evaluation process must be received by the Employer within 7 calendar days after the publication of the results of the pre-qualification. Complaints submitted later may not be considered. The Employer will provide an answer to the Applicant within 7 calendar days of receiving the complaint.

## **5.9 Tentative Time Schedule**

The Employer's intention is to execute the project according to the milestones as defined in the Request for Pre-qualification documents.



## **6 PREPARATION OF APPLICATIONS**

### **6.1 Language of Applicants**

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 English. 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 English, in which case, for purposed of interpretation of the Application, the translation shall govern.

### **6.2 Cost of Applications**

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 pre-qualification process.

### **6.3 Tax and Duties**

The Applicant shall bear all taxes, fees or duties for the Application process that may be charged to him or his personnel.

### **6.4 The Application shall comprise the following:**

- a) Application Submission Forms, in accordance with Section 8 of this PQD.
- b) Documentary evidence establishing the Applicant's eligibility, in accordance with the forms included in Section 8 of this PQD.
- c) Documentary evidence establishing the Applicant's qualifications, in accordance with the forms included in Section 8 of this PQD.

#### **6.4.1 Application Submission Form**

The Applicant shall prepare an Application Submission Sheet using the form furnished in Section 8 – Application Forms. This Form must be completed without any alteration to its format.

#### **6.4.2 Documents Establishing the Eligibility of the Applicant**

To establish its eligibility in accordance with Section 8.10 of this PQD, the Applicant shall provide sufficient evidence that he is qualified for this type of project, as part of his application.



### **6.4.3 Documents Establishing the Qualifications of the Applicant**

To establish its qualifications to perform the contract(s) in accordance with Section 7.8 – Evaluation and Qualification Criteria, the Applicant shall provide the information requested in the corresponding Information Sheets included in Section 8 – Application Forms.

## **6.5 Signing of the Application and Number of Copies**

The Applicant shall prepare one original of the documents comprising the Application as described in this PQD 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 authorised to sign on behalf of the Applicant.

The Applicant shall submit **3 (three) print copies** of the signed Application and clearly mark them “COPY” making a **total of 4 sets, plus 2 complete sets of documents on electronic data carriers as pdf files**. In the event of any discrepancy between the original and the copies of the Application, the original shall prevail.

## **6.6 Modification and Withdrawal of Applications**

The Applicant may modify or withdraw its Application, provided that written notice of the modification and withdrawal is received by the Employer prior to the Application Closing Date. Any modifications of the Application or notices of withdrawal received after the Application Closing Date will not be taken into account.

The Applicant’s modification or withdrawal notice shall be prepared, sealed, marked and submitted in the same way as the Application but marked respectively as “Application Modification” or “Application Withdrawal”.

## **6.7 Clarifications Period of Applications**

The Applicant shall submit all “requests for Application clarifications” in written form to the Employer not later than 7 calendar days prior to the Application Closing Date. Any requests for Application clarifications received later than 7 calendar days before Application Closing Date may be disregarded. Only genuine requests shall be considered by the Employer.

## **6.8 Sealing and Marking of Applications**

All submitted Applications must be inserted in double envelopes or boxes.

The **outer envelope** must be sealed and marked as follows by:

1. The Tender title, (“CPG-Okija IPP- Okija 330kV Switchyard Construction, Nnewi and Onitsha 330kV Sub-Station Extension”)
2. The indication “Not to be opened before [Application Closing Date; time]”



3. The indication “To be opened only in the presence of the Evaluation Committee.”

The **inner envelope** must be sealed and marked as follows by:

4. The Tender title, (“CPG-Okija IPP- Okija 330kV Switchyard Construction, Nnewi and Onitsha 330kV Sub-Stations Extension”)
5. Name and address of Applicant
6. Name and telephone number of the Applicant’s Representative

If the Application is not sealed and marked as required under this Clause, the Employer will assume no responsibility for the premature opening of the Application, but such event will not necessarily constitute grounds for a rejection of such Application.

#### **6.9 Application Closing Date**

Application Closing Date shall be the date as provided within this Request for Prequalification Documents.

#### **6.10 Application Submission**

The Applicant is requested to hand over their applications prior to or by the Application Closing Date:

The Applicant may be sent by registered post, as well as delivered by courier or by hand and acknowledged by the Employer.

Any Application received after the Application Closing Date prescribed in this PQD or any request for an extension thereof will be rejected, notwithstanding the grounds for the delay.

#### **6.11 Opening of Applications**

The opening procedure for the Applications will take place in the presence of the Applicant’s Representatives who choose to attend. The Evaluation Committee shall open the Applications, modifications, amendments and withdrawals. The Application opening will take place on the Application Closing Date at Employer’s Representative’s premises.

For late Applications and those Applications for which the withdrawal has been accepted, only the outer envelope shall be opened to read the name of the Applicant, and the Application shall be returned unopened to the address specified on the inner envelope.



## **7 EVALUATION AND QUALIFICATION PROCESS**

### **7.1 Confidentiality**

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.

From the deadline for submission of Applications, to the time of notification of the results of the prequalification in accordance with this PQD, any Applicant that wishes to contact the Employer on any matter related to the prequalification process, may do so but only in writing.

### **7.2 Clarification of Applications**

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 made in response to the request shall be in writing. An Application may be rejected where the concerned Applicant fails to provide clarifications on the information requested, by the date and time set in the Employer's request for clarification.

### **7.3 Responsiveness of applications**

The Employer may reject any Application which is not responsive to the requirements of this PQD.

### **7.4 Domestic or Regional Preference**

Unless otherwise stipulated in the PQD, a margin of preference for domestic or regional Applicants shall not apply in the bidding process resulting from this prequalification.

### **7.5 Subcontractors**

Applicants planning to subcontract any of the key activities indicated in Section 3.2 – Scope of Works, 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. Such proposed specialist subcontractor(s) shall meet the corresponding qualification requirements specified in Section 7.8 –Evaluation Qualification Criteria.

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).



## 7.6 Evaluation of Applications and Prequalification of Applicants

The Employer shall use the criteria, and requirements defined in Section 5.6, of this document 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.

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.

## 7.7 Employer's Right to Accept or Reject Applications

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.

## 7.8 Evaluation Criteria

The Employer shall subject to the outcome of the evaluation, determine the Applicants who shall be admitted to Contract Technical and Commercial bidding Phase. The Employer's decision shall take into cognisance the outcome of the Application evaluation process. The Applicants shall not be entitled to any claim vis-à-vis the Employer and any of his affiliates for damages, costs, and any other expense of any kind whatsoever incurred by the Applicants.

Without prejudice to the above, the Employer indicates that the Applications shall be evaluated on the basis of the following criteria:

### (i) Formal Application Criteria

1. Applications are compliant, i.e. they are complete, if obvious clerical errors have been made, whether the documents have been properly prepared and signed, and the Applications are generally in order and substantially responsive to the requirements of the PQD.
2. Applicants must comply with the provisions regarding participation and eligibility specified under section 5.1. "Eligibility of Applicants" of this PQD.
3. Applicants **must substantially be responsive to all the qualification criteria specified under section 5.6** of this Request for this PQD.

### (ii) Technical Application Criteria

1. Overall completeness and compliance with the PQD.
2. Experience of the Application in the construction of 330kV transmission line in Nigeria or similar countries by geographical location, level of development etc
3. Suitability of the facilities offered in relation to the environmental and climatic conditions prevailing at the site.





4. Quality, function and operation of any process control concept included in the Application;
5. Proposed subcontractors and vendors, their experience and competence in dealing with local laws, regulations, licensing, certification etc. necessary for the execution of the Works;

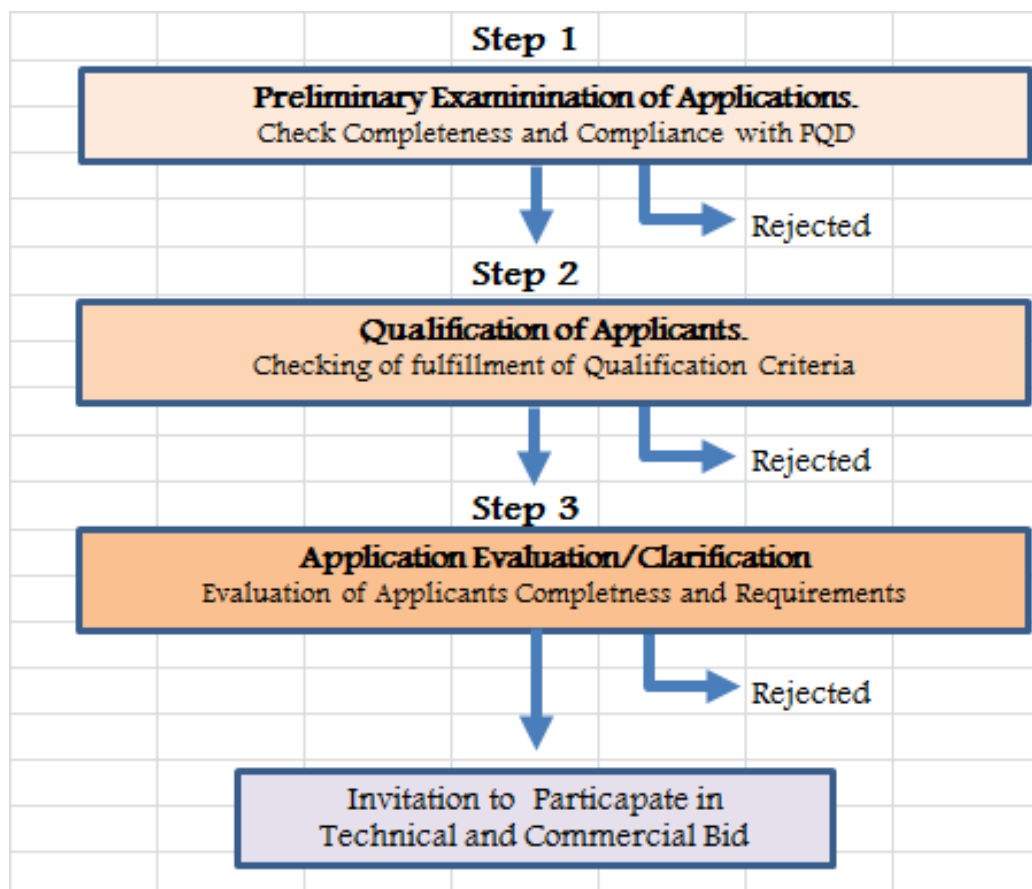
### 7.9 Prequalification of Applicants

All Applicants who's Applications have met or exceeded ("passed") the specified threshold requirements will, to the exclusion of all others, be prequalified by the Employer.

### 7.10 Notification of Prequalification

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.

Each step of the following evaluation process might lead to the rejection of an Applicant. Only Applicants which have successfully passed an evaluation process step will proceed to the next evaluation step as listed below:





## **7.11 Bidding Process**

### **7.12 Tender Security to be submitted at the time of bidding,**

Please note that if a tender is pre-qualified for the bidding process, the Applicant shall furnish, as part of his Tender, a Tender Security for the scope of EPC Contract in the amount of **USD 2,000,000 or equivalent amount in other convertible currencies.** The Tender Security must be issued by a reputable international bank or local bank having correspondence banks globally, acceptable to the AfDB and the Employer. The Tender Security shall be furnished and shall be valid as of the Tender Closing Date.



## 8 APPLICATION FORMS

### 8.1 Application Submission Form

<b>APPLICATION SUBMISSION FORM</b>
------------------------------------

Date: \_\_\_\_\_  
ICB No. and title: \_\_\_\_\_

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 Section-5 of this PQD:  
\_\_\_\_\_
- (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 \_\_\_\_\_;
- (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 Section-5.1 of this PQD;
- (d) We, including any subcontractors or suppliers for any part of the contract resulting from this prequalification, have not been declared ineligible by the Bank, 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 Section-5.1 of this PQD, respectively;
- (e) *[Insert either "We are not a Government owned entity" or "We are a Government entity, and we meet the requirements of Section -5.1(f)];*
- (f) We, in accordance with section-7.5 of this **PQD**, plan to subcontract the following key activities and/or parts of the works:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



(g) 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: ( if none has been paid or has to be paid indicate it)

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

(h) *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.*

(i) 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 this **PQD**.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Duly authorized  
To sign the  
Application for  
and on behalf of: \_\_\_\_\_

Applicant's  
Name: \_\_\_\_\_

Date: \_\_\_\_\_



## 8.2 Applicant Information Sheet

### 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:  Applicant webpage :
7. Attached are copies of original documents of: <ul style="list-style-type: none"><li>• Articles of Incorporation or Registration of firm named in 1, above, in accordance with section-5.6. of this <b>PQD</b>.</li><li>• In case of JVCA, letter of intent to form JVCA including a draft agreement, or JVCA agreement, in accordance with section-5.6 of this <b>PQD</b>.</li><li>• 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 Section-5.1 (f) of this <b>PQD</b>.</li></ul>



### 8.3 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:  Applicant webpage :
7. Attached are copies of original documents of: <ul style="list-style-type: none"><li>• Articles of Incorporation or Registration of firm named in 1, above, in accordance with this section-5.6 of this <b>PQD</b>.</li><li>• In case of JVCA, letter of intent to form JVCA including a draft agreement, or JVCA agreement, in accordance with -section-5.6 of this <b>PQD</b>.</li><li>•</li><li>• 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 section-5.1 (f) of this <b>PQD</b>.</li></ul>



## 8.4 Financial Information

### FINANCIAL INFORMATION

#### 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 .....	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: <ul style="list-style-type: none"> <li>• Must reflect the financial situation of the Applicant or partner to a JVCA, and not sister or parent companies</li> <li>• Historic financial statements must be audited by a certified accountant</li> <li>• Historic financial statements must be complete, including all notes to the financial statements</li> <li>• Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted)</li> </ul>							



**8.5 Average Annual Turnover**

**AVERAGE ANNUAL TURNOVER**

Form FIN – 3.2

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

Annual turnover data (construction only)		
Year	Amount and Currency	US\$ equivalent
Average Annual Construction Turnover		

\*Average annual turnover calculated as total certified payments received for work in progress or completed over the number of years specified in Section 7.8-Evaluation and Qualification Criteria, divided by that same number of years.





**8.6 General Experience**

**GENERAL EXPERIENCE**

Form EXP – 4.1

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

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:  Email of Employer :	
			Contract name:  Brief Description of the Works performed by the Bidder:  Name of Employer:  Email of Employer :	

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



**8.7 Specific Experience**

**SPECIFIC EXPERIENCE**

Form EXP – 4.2a

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

<b>Similar Contract Number:</b>	<b>Information</b>		
Contract Identification			
Award date			
Completion date			
Role in Contract	Contractor	Management Contractor	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:			

<b>Similar Contract No.:</b>	<b>Information</b>		
Description of the similarity in accordance with Evaluation and Qualification Criteria:			
<i>Amount</i>			
<i>Physical size</i>			
<i>Complexity</i>			
<i>Methods/Technology</i>			



<i>Physical Production Rate</i>	
---------------------------------	--



**8.8 Specific Experience in Key activities**

**SPECIFIC EXPERIENCE IN KEY ACTIVITIES**

Form EXP – 4.2b

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

<b>Similar Contract Number:</b>	<b>Information</b>		
Contract Identification			
Award date			
Completion date			
Role in Contract	Contractor	Management Contractor	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:			

<b>Similar Contract No.</b>	<b>Information</b>
Description of the similarity in accordance with Evaluation and Qualification Criteria:	
<i>Amount</i>	
<i>Physical size</i>	
<i>Complexity</i>	
<i>Methods/Technology</i>	



<i>Physical Production Rate</i>	



8.9

## 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:	_____





## 8.10 Covenant of Integrity

Date: \_\_\_\_\_ 2013

To: \_\_\_\_\_ From: Tenderer

Century Power Generation Ltd.  
Dr. Chukwueloka Umeh  
Africa Re Building 4. Floor  
Plot 1679, Karimu Kotun Street,  
Victoria Island, Lagos, Nigeria

“We declare and covenant that neither we nor anyone, including any of our directors, employees or agents, acting on our behalf with due authority or with our knowledge or consent, or facilitated by us, has engaged, or will engage, in any Prohibited Practice (as defined below) in connection with the tender process or in the execution or supply of any works, goods or services for the “Okija Integrated Power Project” (the “**Contract**”) and covenant to so inform you if any instance of any such Prohibited Practice shall come to the attention of any person in our organization having responsibility for ensuring compliance with this Covenant.

We shall, for the duration of the tender process and, if we are successful in our tender, for the duration of the Contract appoint and maintain in office an officer, who shall be a person reasonably satisfactory to you and to whom you shall have full and immediate access, having the duty, and the necessary powers, to ensure compliance with this Covenant.

If (i) we have been, or any such director, employee or agent acting as aforesaid has been, convicted in any court of any offence involving a Prohibited Practice in connection with any tender process or provision of works, goods or services during the five years immediately preceding the date of this Covenant, or (ii) any such director, employee or agent has been dismissed or has resigned from any employment on the grounds of being implicated in any Prohibited Practice, we give details of that conviction, dismissal or resignation below, together with details of the measures that we have taken, or shall take, to ensure that neither this company nor any of our directors, employees or agents commits any Prohibited Practice in connection with the Contract.”

For the purpose of this Covenant, Prohibited Practice is defined as:

- (i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party<sup>3</sup>;

---

<sup>1</sup> For the purpose of this sub-paragraph, “another party” refers to a public official acting in relation to the selection process or contract execution. In this context, “public official” includes staff of the Employer and employees of other organizations taking or reviewing selection decisions





- (ii) "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party<sup>4</sup> to obtain financial or other benefit or to avoid an obligation;
- (iii) "collusive practice" is an arrangement between two or more parties<sup>5</sup> designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (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 party<sup>6</sup>;
- (v) "obstructive practice" is
  - (aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank 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
  - (bb) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 1.22(e) below.

Signature of Tenderer's authorised person: \_\_\_\_\_

Name and position of Tenderer's authorised person: \_\_\_\_\_

Name of Tenderer: \_\_\_\_\_

<sup>2</sup> For the purpose of this sub-paragraph, "party" refers to a public official; the terms "benefit" and "obligation" relate to the selection process or contract execution, and the "act or omission" is intended to influence the selection process or contract execution.

<sup>3</sup> For the purpose of this sub-paragraph, "parties" refers to participants in the procurement or selection 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 contract prices at artificial, non-competitive levels, or are privy to each other's bid prices or other conditions.

<sup>4</sup> For the purpose of this sub-paragraph, "party" refers to a participant in the selection process or contract execution.



## 8.11 Eligible Countries

### **Eligibility for the Provision of Goods, Works and Related Services in Bank-financed Procurement**

#### A. **Provision at Paragraph 1.6 of the Bank's *Rules and Procedures for Procurement of Goods and Works***

1.6 The African Development Fund permits firms and individuals from all countries to offer goods, works and services for ADF funded projects. However, the proceeds of any Financing undertaken in the operations of the African Development Bank and the Nigeria Trust Fund shall be used for procurement of goods and works, including the related services, provided by bidders from Eligible<sup>7</sup> Countries.<sup>8</sup> Any conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfill the contract in question. In the case of ADB and NTF, bidders from non-Member Countries offering goods, works and related services (including transportation and insurance) are not eligible even if they offer these from Eligible Member Countries. Any waiver to this rule will be in accordance with the Articles 17(1) (d) of the Agreement Establishing the African Development Bank and 4.1 of the Agreement Establishing the Nigeria Trust Fund.

#### B. **Provision at Appendix 4 of the Bank's *Rules and Procedures for Procurement of Goods and Works***

### **Overview**

1. The eligibility criteria for participation in the supply of goods, works and related services, to be procured through the ADB and NTF Financing, derive from the requirements of the Agreement Establishing the African Development Bank, Article 17.1.d, and the Agreement Establishing the Nigeria Trust Fund, Article 4.1. The foregoing requirements basically prescribe two types of eligibility criteria:

- (a) The eligibility of the bidder;
- (b) The eligibility of the goods, works and related services.

### **Eligibility of the Bidder**

2. The eligibility of the bidder shall be based on nationality, in accordance with the following rules:

- (a) **Natural Persons**: A natural person is eligible if he or she is a national of a Member Country of the Bank, or a State Participant of the Fund. Where a person has more than one nationality, such a person shall be eligible if the nationality indicated in his or her bid is that of a Member Country of the Bank, or a State Participant of the Fund.

<sup>7</sup> Refer to Appendix 4 for additional information on Eligibility.

<sup>8</sup> "Eligible Countries" shall mean: (a) in the case of the African Development Bank and the Nigeria trust Fund, the Member Countries of the African Development Bank.



- (b) **Corporations:** A corporation is eligible if it satisfies the following criteria:
1. it is incorporated in a country that is a Member of the Bank, or State Participant of the Fund;
  2. it is a national of a country that is a Member of the Bank, or State Participant of the Fund, as determined by the law of its place of incorporation;
  3. it has its principal place of business in a country that is a Member of the Bank, or State Participant of the Fund.
- (c) **Joint Ventures and Associations:** An unincorporated joint venture, partnership, or association, shall be eligible if at least 60% of its individual, or corporate members, satisfy the eligibility requirement for individuals or corporations.

### **Eligibility of the Goods, Works and Related Services**

3. In order to be eligible, the goods to be procured must have been mined, grown, or produced, in the form in which they are purchased, in an Eligible Member Country.
4. For works contracts, which may include civil works, plant construction, or turnkey contracts, the contractor must satisfy the nationality criteria of eligibility, either as a natural person, or corporation, or joint venture and association. Labour, equipment, and materials needed for carrying out the works contract, shall be supplied from Eligible Member Countries.
5. For contracts, which have been awarded on the basis of Cost, Insurance and Freight (CIF), or Carriage and Insurance Paid (CIP), bidders shall be free to arrange for ocean and other transportation, and the related insurance, from any Eligible Member Country. On the other hand, where goods are shipped on FOB basis, and the Bank has agreed to finance transportation and insurance separately, which are arranged by the purchaser, under a separate contract, the Bank shall be satisfied that the services are supplied from Eligible Member Countries.