
MOLDOVA ROADS IIIB

NATIONAL ROAD ADMINISTRATION

**CLARIFICATION DOCUMENT No.2
CONSULTANTS' QUESTIONS ON RFP**

**Consulting Services for Construction Supervision of M3 Cimișlia
Bypass, km 18+700 – km 26+138
(client's reference RSP/CS/M3/02/2026)**

Issued on August 26th, 2026

Question 1

Form Tech 4 of RFP: *Maximum Number of Pages – 15 Nos. for Approach and Methodology including Charts & Diagram*

The Approach and Methodology for any Technical Proposal consists of a detailed narrative inclusive of task lists and charts/diagrams to explain the understanding of the bidder on the basis of ToR/ consultants findings about the project.

Kindly consider a minimum of 30 to 40 pages in place of the given limit of 15 pages for Form Tech 4 for this assignment to allow the consultant to express a detailed methodology for the understanding of the client.

Answer 1

The maximum limit of 15 pages specified for Form TECH-4 – Approach and Methodology shall be maintained. The Consultant is expected to present a concise and focused Approach and Methodology addressing the requirements of the Terms of Reference, including the proposed approach, key tasks, work methodology, and relevant charts and diagrams, within the prescribed page limit.

~~The Consultant may use the available space at its discretion to present the information considered most relevant for demonstrating its understanding of the assignment and the proposed approach to its implementation.~~

Question 2

Terms of Reference: *Provision of Short-term Experts in addition to Non key Staff*

The Consultant understand the duration of these short-terms experts may be decided by the bidder as per requirement in the project to total of minimum 24 person-months. Kindly clarify.

Further, Topographic Surveyor may also be included in the list of short-term experts. Kindly consider.

Answer 2

The total provision for Short-Term Experts under the Terms of Reference is **15 person-months**.

The Topographical Surveyor is included under the **Non-Key Staff/Technical Support Staff** and shall not be considered as a Short-Term Expert.

Question 3

Clause No.20.1 and 26.1 of SCC, “*If the Consultant fails to meet his obligations under Section 4 [Scope of Work] and Section 5 [Deliverables] of Appendix A [Terms of Reference], the payment for the respective time spent by the Consultant’s expert(s) in a task which is not delivered satisfactorily or with undue delay will be withheld for each occurrence cited in the above-mentioned sections may be deducted from payments due to the Consultant under Appendix C [Remuneration Cost Estimates]. The time spent by the Consultant in revising the output (report or analysis, etc.) to the satisfactory level won’t be paid and will be at the cost of the Consultant*”.

It is understood that no deduction shall be made from the Consultant's payments where any shortfall in the performance of the Consultant's experts is attributable to the Client, the Contractor, or Force Majeure. It is understood that no deduction shall be made from the Consultant's payments where any

shortfall in the performance of the Consultant's experts is attributable to the Client, the Contractor, or Force Majeure events. In such cases, the Consultant shall be entitled to full payment.

The Client is requested to kindly confirm this understanding and amend the Clause accordingly.

Answer 3

The Consultant shall immediately inform the Client where and when it anticipates to encounter difficulties to deliver on its obligations, and shall propose mitigating measures. Obligations will otherwise be delivered by the consultant to the expected professional quality and standard (entirely at the opinion of the Client). Documents not meeting the expected quality or standard shall be returned for amendment of the Consultant (with or without comments) until meeting requirements. Payment may be affected or delayed in the process to the discretion of the Client. The quality and standard should be defined in the proposed Quality Assurance manual to be provided by the Consultant and approved by the Client.

The relevant provisions of the SCC shall remain unchanged.

Question 4

Clause 24.1 of SCC Professional liability insurance: *Professional liability insurance, with a minimum coverage of contract amount equivalent. The professional liability insurance must be issued by reputable insurance company acceptable to the Client and it shall have the Client as beneficiary.*

It appears that the requirement to designate the Client as the sole "beneficiary" may not align with standard insurance practices, under which the Consultant remains the insured and the Client is generally named as an additional insured or loss payee, as applicable under the policy. It is therefore requested that the provision be clarified and amended accordingly.

Answer 4

The requirement under Clause 24.1 of the SCC is intended to ensure that the Client is adequately protected against professional liability arising from the Consultant's performance of the Services.

The Consultant shall therefore maintain professional liability insurance with a minimum coverage equivalent to the Contract Amount, issued by a reputable insurance company acceptable to the Client.

The reference in Clause 24.1 to the Client as the "beneficiary" is intended to ensure that the Client has the benefit of the insurance coverage in respect of losses or liabilities covered by the policy arising from the Consultant's professional activities. However, the language of the clause does not require that the Client shall be exclusive beneficiary.

The Consultant may propose an insurance structure consistent with the applicable insurance legislation and standard insurance practice, provided that such structure provides the Client with equivalent protection and does not reduce or otherwise prejudice the coverage required under the Contract.

Accordingly, Clause 24.1 shall remain unchanged, and the Consultant shall ensure that the insurance policy submitted for approval provides the Client with the protection and rights required under the Contract.

The wording of PI insurance shall be submitted by the Consultant for review and acceptance prior to the commencement of the Services, for Client's review before issuance by Insurance company.

Question 5

Clause No. 42.3 of SCC, Price Adjustment on Remuneration: *As per Clause No. 42.3 of SCC, Remuneration paid in foreign currency on the basis of the rates set forth in Appendix C shall be adjusted every 12 months (and, the first time, with effect for the remuneration earned in the **18th** calendar month after the date of the Contract Effectiveness Date) by applying the formula.*

In this regard, it is submitted that all projects funded by renowned agencies such as World Bank, ADB, AfDB etc., the Client provide Price Adjustment on the Remuneration rates paid in foreign and local currencies after every 12 months (and, for the first time, with effect for the remuneration earned in the 13th calendar month after the date of the Contract).

In view of the above, the Client may kindly consider to modify this clause by stating that "Remuneration paid in foreign currency on the basis of the rates set forth in Appendix C shall be adjusted every 12 months (and, the first time, with effect for the remuneration earned in the **13th** calendar month after the date of the Contract Effectiveness Date) by applying the formula".

Answer 5

The relevant provisions of the SCC 42.3 shall remain unchanged.

Question 6

Clause 43 "Taxes and Duties"

Please clarify that the client shall directly pay the taxes to the Consultants or deposit to the Revenue Authority on behalf of Consultants.

If client directly deposit to the Revenue Authority then the client shall provide the withholding tax deduction certificate to the consultant duly issued by the Competent Revenue Authority.

Whether the compliance of Social Security Contributions and Fringe Benefit Tax applicable to payout of Professionals (other than permanent employee).

Kindly clarify.

Answer 6

The provisions of Clause 43 of the GCC, as supplemented by the SCC, shall apply.

The Consultant, Sub-consultants and Experts shall remain responsible for complying with all applicable tax obligations arising from the Contract, except for the specific tax exemptions expressly provided under the SCC.

In accordance with the SCC, the Consultant, Sub-consultants and Experts shall be exempt, in the Client's country, from VAT without the right to deduct, customs duties, excise duties, customs procedure taxes and the tax on goods which, in the process of use, cause environmental pollution, subject to the conditions

and procedures established by the applicable legislation. The list includes all exemptions provided by the applicable law, some of which might not be relevant to the contract at hand.

The Client will not be responsible for directly paying or depositing to the Revenue Authority taxes for which the Consultant, Sub-consultants or Experts are legally liable. Any applicable withholding or other tax obligations shall be handled in accordance with the applicable legislation of the Republic of Moldova.

With regard to social security contributions, personal income taxes and other statutory obligations related to payments to Experts, including Experts who are not permanent employees of the Consultant, these shall be the responsibility of the respective Consultant, Sub-consultant or Expert, as applicable, in accordance with the legislation of the Republic of Moldova. The Consultant shall clarify tax obligations with the proposed experts individually and subsequently ensure compliance with all applicable statutory requirements in this regard.

Question 7

Clause 45: “Mode of Billing and Payment”

The international consultant requests that there should be a clause in contract that “the payment shall be directly remitted by the client to the consultants in their respective home country’s bank account”.

This may be considered.

Answer 7

Clause 45(e) already specifies that: “All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.” The applicable bank account details and payment arrangements are specified in the SCC.

Therefore, payments shall be made in accordance with the provisions of the Contract and no additional provision regarding the location of the Consultant's bank account is required.

Question 8

Additional Point No.1 “Registration”: *Requirement of Registration of Branch Office (BO) and related compliance.*

Whether the Branch Office/Entity registration is mandatory for foreign entity to carry out the business operation for the said project.

If yes, then what will be minimum capital limit for registration of Branch Office.

Whether the registration of Business License and TIN are mandatory for Foreign Entity to carry out the business operation for the said project.

Kindly clarify.

Answer 8

According to Article 5, point 15), letter b) of the Tax Code of the Republic of Moldova, a permanent establishment of a non-resident includes a construction site, a construction, assembly or installation

project, or activities of technical supervision, servicing and operation related thereto, provided that such site, project or activities continue for a period exceeding 6 months.

Accordingly, considering the expected duration of the Project, the activities of a non-resident Consultant may constitute a permanent establishment in the Republic of Moldova for tax purposes, subject to the specific circumstances of the activities performed and, where applicable, the provisions of the relevant double taxation treaty.

The existence of a permanent establishment for tax purposes should not, however, be construed as meaning that the establishment of a branch office is the only legally possible form of registration. A branch of a foreign legal entity is a separate registration mechanism under the legislation of the Republic of Moldova and does not constitute a separate legal entity.

Therefore, the Consultant shall comply with the applicable registration and tax requirements arising under the legislation of the Republic of Moldova in connection with the activities performed under the Contract. The Contract does not, by itself, prescribe the establishment of a separate Moldovan subsidiary (such as an LLC).

With regard to the identification number, a branch of a foreign legal entity registered in the Republic of Moldova is subject to registration with the State Register in accordance with the applicable legislation. The identification number assigned upon state registration serves as the fiscal identification number in accordance with the applicable legislation.

There is no statutory minimum share capital requirement for the registration of a branch of a foreign legal entity in the Republic of Moldova. A branch does not have a separate legal personality or separate share capital from the foreign legal entity that established it.

As regards licences, permits or other authorisations, these shall be obtained where required by the legislation of the Republic of Moldova for the specific activities to be performed under the Contract.

Question 9

Section 7. Terms of Reference

*Separate drafting point, for correction: Part 5, lit. (d), **Bridge Engineer**, lit. a) requires “at least fifteen (12) years of experience in bridge design, construction and/or supervision”.*

The figure expressed in words and the figure expressed in numerals are inconsistent. Please confirm which prevails — **fifteen (15)** or **twelve (12) years**.

Answer 9

The Candidate should have at least twelve (12) years of experience in bridge design, construction and/or supervision.

The updated requirements are provided under the Amendment No. 2 where this matter is being addressed.

Question 10

Section 7. Terms of Reference

Project Scheduling/Control Expert (PS/CE)

Short-term experts may be required in the following areas:

- *highway engineer*
- *pavement engineer*
- *geology and geotechnical expertise;*
- *social expertise;*
- *specific equipment expertise;*
- *hydrology;*
- *hydraulics;*
- *claim expertise;*
- *legal adviser;*
- *financial experts;*
- *road safety auditor;*
- *road safety engineer;*
- *health and safety;*

Etc.

“Specific Credentials and Job Description for the Project Scheduling/Control Expert” are stated in the ToR. However, this position is not specifically mentioned in the list of “areas” where short-term experts may be required. Does the position of **Project Scheduling/Control Expert** have to be considered as “Short-term Expert”?

Do candidates have to incorporate the position of Project Scheduling/Control Expert to the Consultant’s team?

If we do and this position is to be considered as “Short-term Expert”, is it allowed to propose more than the minimum 15 person-months estimated for the total input of “short-term experts” in the technical proposal?

Answer 10

The Project Scheduling/Control Expert is considered as a Short-Term Expert and shall be included in the Consultant’s proposed team.

The Short-Term Experts will be mobilized as required for the implementation of the Services. The Short-Term Experts will not be evaluated at this stage.

The total provision for Short-Term Experts under the Terms of Reference is 15 person-months.

Question 11

Section 2: Instructions to Consultants, Clause 16.1. Price Adjustment

According to this clause, “A contingency for price adjustment, as a notional amount, shall be included, as a Provisional Sum, in Form FIN-2, at a rate of 3% of the Sum of the Total Fees plus Reimbursable Expenses”.

In view of the annual inflation rates registered in Moldova the previous years, the envisaged Provisional Sum would seem insufficient to cover the entire contract duration.

Therefore, in case this **Provisional Sum** was completely executed before the end of the contract, would the client approve an amendment to the contract amount, in order to provide the necessary funds to cover further price adjustments until the end of the contractual obligations, if such **extra funds** were necessary?

Additionally, and according to this clause, “Price Adjustment is applicable to remuneration paid in the foreign currency of the Contract (Particular Conditions of Contract 42.3). **The source of Index must relate to the source of the currency.**”.

Since the Financial Proposal shall be stated in **EURO** (ITC-Clause 16.3), and the EURO rules in many different countries, we request you to clarify **what source of Index should/will be applied.**

Answer 11

The Provisional Sum for price adjustment included in Form FIN-2 at a rate of 3% of the Sum of the Total Fees plus Reimbursable Expenses is a **notional/estimated amount** provided for the purpose of the Financial Proposal.

Price Adjustment shall be calculated and paid in accordance with the provisions of the Contract, including the applicable price adjustment formula and the relevant indices specified under Sub-Clause 42.3 of the SCC.

With regard to the source of the index for remuneration paid in foreign currency, in accordance with Sub-Clause 42.3 of the SCC, the Consultant shall state in its Financial Proposal the name, source institution and identifying characteristics of the official salary index to be used for If and Ifo.

The source of the index If and Ifo shall be Eurostat Labour cost Index by NACE REv.2 - Index (2020=100) found at the following link.

[teilm140] Labour cost index by NACE Rev. 2 - Index (2020=100) - Line 4 of data set = Euro Area - 21 Countries from 2026.

Question 12

General Conditions of Contract Clause 8.1. *In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.*

According to this clause, we understand that the **lead member** of the consortium must establish a **permanent establishment (branch office) in Moldova** for the execution of the contract. Furthermore, we understand that the rest of consortium members are exempted of establishing a branch office in Moldova.

Regarding invoicing and other administrative procedures, we also understand that the **lead member** will be entitled to carry out all these tasks through its branch office on behalf of the consortium and towards

the client, and that it will not be necessary to create or legally establish a Joint Venture in Moldova for the execution of the contract. Could you confirm that our understanding is correct?

Answer 12

The provisions of GCC 8.1 is understood to authorize the member designated in the SCC as the lead member to act on behalf of the Joint Venture in exercising the Consultant's contractual rights and obligations towards the Client, including receiving instructions and payments from the Client.

The establishment of a permanent establishment or branch office in the Republic of Moldova is not a requirement arising from GCC Clause 8.1 itself. Any such requirement is subject to the applicable legislation of the Republic of Moldova.

In this regard, under the Moldovan Fiscal Code, a permanent establishment of a non-resident is determined by the nature and manner of the activities carried out in the Republic of Moldova and does not necessarily mean the establishment of a branch office. In particular, the provision of services or other activities in the Republic of Moldova for a period exceeding the applicable statutory threshold may constitute a permanent establishment. The applicable tax treatment may also depend on the provisions of the relevant double taxation treaty between the Republic of Moldova and the country of residence of the respective non-resident entity.

Accordingly, the fact that one JV member is designated as the lead member does not, by itself, establish that the other JV members are exempt from any registration, tax or other obligations that may arise under the legislation of the Republic of Moldova. Such obligations shall be determined in accordance with the applicable legislation and, where relevant, the applicable double taxation treaty for each non-resident member.

At the same time, GCC Clause 8.1 does not, by itself, require the Joint Venture to be incorporated as a separate legal entity in the Republic of Moldova. The lead member may act on behalf of the Joint Venture towards the Client to the extent provided for in the Contract and the Joint Venture arrangements.

With regard to invoicing, payments and other administrative matters, the lead member may perform the functions expressly assigned to it under the Contract, including receiving payments from the Client on behalf of the Joint Venture. However, the invoicing arrangements and the tax treatment of payments to the respective JV members shall comply with the applicable legislation of the Republic of Moldova and any applicable double taxation treaty.

Therefore, we confirm that no separate legal entity for the Joint Venture in the Republic of Moldova is required solely on the basis of GCC Clause 8.1. However, we cannot confirm that the lead member is necessarily required to establish a branch office, nor that the other JV members are automatically exempt from any registration or tax obligations in the Republic of Moldova. These matters are governed by the applicable legislation.

Question 13

Special Conditions of Contract Clause 24.1. Insurance coverage

Will the awarded Consultant be required **to take out an insurance policy with a local insurance company**, even if it already has a global insurance policy issued by an insurance company in the Consultant's country that covers all the risks specified in Article 24.1 of the Special Conditions of Contract?

Answer 13

The Consultant is not required to obtain the insurance policies from a local insurance company solely on the basis that the insurance company is located in the Client's country.

An existing global insurance policy may be accepted, on the condition that it provides the required protection and coverage for the Services performed under the Contract fully compliant with the requirements of Clause 24.1 of the SCC, is issued by a reputable insurance company acceptable to the Client.

The Consultant shall provide the Client with the relevant insurance policy and supporting documentation for review and acceptance prior to the commencement of the Services. The Consultant shall also provide evidence that the insurance remains valid and that the applicable premiums have been paid, as required under Clause 24.1.

Where the existing global policy does not fully satisfy the requirements of Clause 24.1, the Consultant shall obtain appropriate additional or supplementary insurance coverage to ensure full compliance with the Contract.

Question 14

Section 2: Instructions to Consultants DATA SHEET

ITC Clause Reference: 17.7 and 17.9 *The Proposals must be submitted no later than: Date: September 7, 2026, Time: 13:00 local time*

Four (4) out of the six (6) weeks allocated to candidates for the preparation of their proposals are those of August, which is traditionally the month when most workers take summer holidays, thus reducing in practice their availability to work in the proposal's preparation. In addition, many public and private companies (such as banks, insurance companies, fiscal cabinets) also take holidays this month, making it more difficult to contact them and get relevant information for the proposal's preparation.

For these reasons, we kindly ask if it would be possible to extend the deadline for the submission of proposals by two (2) weeks, fixing the new deadline on **September 21, 2026, Time: 13:00 local time**.

Answer 14

Please refer to Amendment No. 2.

Question 15

Subject: *Section 7 — Terms of Reference, Part 5 (Consultant's Qualification, Team Composition, Staffing Input & Qualification Requirements): request for clarification and, if appropriate, for the issue of a corrigendum, concerning the recognition of professional experience acquired under the general conditions of contract approved by Decision of the Government of Romania No. 1/2018 as equivalent to experience acquired under the FIDIC Conditions of Contract.*

We respectfully request the Employer to **confirm that professional experience acquired under the general and specific conditions of contract for works contracts approved by Decision of the Government of Romania No. 1/2018 of 10 January 2018** ("HG 1/2018", known in Romanian practice as the *Contractul Național de Lucrări* — the National Works Contract) is **recognized as satisfying those**

requirements of the Terms of Reference which refer to experience under “the FIDIC Conditions of Contract”.

This request is made in a spirit of co-operation and with the sole purpose of ensuring that the Employer receives the widest possible field of genuinely qualified experts. It is submitted without prejudice to, and with full reservation of, all of our rights under the tender documents and the rules applicable to this procurement.

This request concerns the following provisions of Section 7 — Terms of Reference, Part 5:

Ref.	Provision of Part 5	Requirement, in substance
(a)	Key Expert No. 1 — Team Leader / Engineer’s Representative, lit. b), point a)	<i>Mandatory</i> : a minimum of 2 projects of similar size and complexity carried out under the FIDIC 1999 Red Book, the FIDIC 2017 Red Book or the FIDIC MDB 2006/2010 Pink Book, with a minimum of 2 years’ involvement in each
(b)	Key Expert No. 1 , lit. b), point b)	<i>Advantage only</i> : at least 1 project under the FIDIC 2017 Red Book, minimum 2 years’ involvement
(c)	Key Expert No. 3 — Quantity Surveyor, lit. b)	At least 2 projects of similar size and complexity “under FIDIC Conditions of Contract”, minimum 2 years’ involvement in each
(d)	Key Expert No. 4 — Bridge Engineer, lit. b)	At least 2 projects of similar size and complexity “under FIDIC Conditions of Contract”, minimum 2 years’ involvement in each
(e)	The “Engineer” / Project Director (head-office back-stopping)	Chartered Engineer with demonstrated understanding and experience (> 15 years) in the management of “ FIDIC based Contracts ”
(f)	Short-term Claims / Contract Specialist	At least 8 years’ experience in analysing claims in accordance with the FIDIC Conditions of Contract; experience of Dispute Board procedures
(g)	Shortlisting criteria (Part 5, first table)	Company Experience 90%: “Experience of consultant in similar assignments” 80%; “Experience of consultant in similar locations” 10%

We note, and rely upon, the fact that the Terms of Reference impose no FIDIC-specific requirement upon **Key Expert No. 2** (Materials Engineer / Quality Assurance Manager), whose specific experience is defined solely by reference to the position held and the nature of the works. That, in our respectful submission, confirms that the Employer’s concern is the substantive competence of the expert rather than the identity of the standard form under which that competence was acquired.

Factual and legal background: HG 1/2018:

HG 1/2018 approved, and rendered **mandatory**, the general conditions, the specific conditions and the framework contract agreement for public and sectoral works contracts relating to investment objectives financed from public funds (including reimbursable and non-reimbursable funds) whose total estimated value equals or exceeds the threshold laid down in Article 7(1)(a) of Romanian Law No. 98/2016 on public procurement. Annex No. 1 governs contracts whose object is **exclusively the execution of works**

— the direct counterpart of the FIDIC Red Book; Annex No. 2 governs **design-and-build** contracts — the counterpart of the FIDIC Yellow Book. HG 1/2018 entered into force on 11 January 2018, applies to procedures initiated after that date, and has been subsequently amended, inter alia by HG No. 297/2022 and HG No. 965/2023.

HG 1/2018 was expressly modelled upon the FIDIC forms and reproduces their architecture and risk allocation. In particular, Annex No. 1 provides for:

- an **independent contract administrator**, the Supervizor (Supervisor), appointed by the Beneficiary but exercising defined contractual functions vis-à-vis both parties — the direct counterpart of the FIDIC “Engineer”;
- the same instruments of contract administration: instructions, approvals and no-objections, review of the Contractor’s programme, notices to correct, suspension, valuation and certification of interim payments, taking-over / reception, and a subsequent defects and warranty period;
- a formal **claims regime** (revendicări) built upon notification, substantiation within contractual time limits, assessment, and a reasoned Soluție în principiu, Decizie or Notificare de respingere issued by the Supervisor (Clause 69), followed, in the event of disagreement, by amicable settlement, arbitration or the competent courts (Clause 70);
- extension of the duration of the contract upon grounds materially identical to the FIDIC extension-of-time regime (Clause 35).

It is relevant, and we submit decisive, that under HG 1/2018 the Supervisor absorbs both the functions of the FIDIC Engineer and, in part, the dispute-avoidance function performed under the FIDIC forms by the Dispute Adjudication / Avoidance Board, since the Supervisor’s decisions bind the parties and are immediately applicable until revised by amicable settlement or arbitration. An expert who has discharged the role of Supervisor, or has worked within the Supervisor’s team, has therefore performed a function which is not narrower, but broader than that of the FIDIC Engineer.

We further note that immediately prior to HG 1/2018 the Romanian road infrastructure sector applied FIDIC-based conditions implemented by administrative act (Order No. 915/2008; HG No. 1405/2010 and Order No. 146/2011, as amended by Order No. 600/2017). The Romanian regulatory line is therefore one of unbroken FIDIC lineage: senior Romanian road-sector experts characteristically hold experience under the FIDIC forms as such until 2017–2018, and experience under the FIDIC-derived national conditions thereafter.

Grounds of the request:

The mandatory character of HG 1/2018 produces an exclusionary effect. Since 11 January 2018, an expert engaged on a Romanian public road contract above the relevant threshold **could not lawfully have worked under the FIDIC forms as such**, because the contracting authority was obliged to use the HG 1/2018 conditions. A literal reading of the Terms of Reference therefore disqualifies, in respect of the last eight and a half years, the entire national road sector of an EU Member State — including those experts most likely to satisfy the Employer’s own regional and linguistic requirements. A criterion which is neutral on its face but which, by operation of the mandatory law of a given State, excludes experience acquired in that State, operates as indirect discrimination and is difficult to reconcile with the principles governing this procurement.

Proportionality and connection with the subject-matter of the contract. Qualification and selection criteria must be proportionate to, and related to, the subject-matter of the contract. The object of the requirements at 2.1(a), (c), (d) and (f) above is plainly to secure experts who are fluent in the mechanics of administering a supervised works contract: the giving and receipt of notices, review of the programme,

approval of materials and method statements, valuation and certification of interim payments, valuation of variations, the operation of time-bars, and the assessment and determination of claims for time and cost. That competence is fully and demonstrably acquired under HG 1/2018. To insist upon the identity of the standard form, rather than upon the substance of the function performed, exceeds what is necessary in order to achieve the Employer's legitimate objective.

The principle of equivalence. Under the public procurement acquis to which the Republic of Moldova has committed itself, a reference in tender documents to a specific standard, specification, make or source must be accompanied by the words "or equivalent" and must not have the effect of favoring or eliminating particular economic operators (cf. Article 42(4) of Directive 2014/24/EU, and, as regards selection criteria, Article 58(4) thereof), those principles being reflected in Law No. 131/2015 on public procurement of the Republic of Moldova and in the public procurement commitments undertaken under the EU–Moldova Association Agreement. The point applies a fortiori here: **FIDIC is not a public standard at all**, but a suite of proprietary standard forms published by a private federation. A requirement expressed exclusively by reference to it, unaccompanied by any equivalence clause, operates in the same manner as a reference to a brand.

The principles applicable to EIB-financed procurement. This assignment is financed by the European Investment Bank. Procurement in EIB-financed operations is governed by the principles of transparency, proportionality, equal treatment, non-discrimination and open competition, and by the requirement that qualification criteria be no more restrictive than is necessary in order to secure the proper performance of the contract. Recognition of experience acquired under a body of mandatory national conditions of contract in an EU Member State is, we respectfully submit, precisely what those principles require.

The Terms of Reference already adopt an equivalence-based approach. Three internal indications support the reading which we ask the Employer to confirm:

- (a) in respect of the "**Engineer**" / **Project Director**, Part 5 requires experience in the management of *"**FIDIC based Contracts**" * — a formulation which, upon any ordinary reading, extends to conditions of contract derived from and modelled upon the FIDIC forms, which is precisely what HG 1/2018 is;
- (b) throughout Part 5 the academic requirement is a degree in Highway or Civil Engineering "**or an equivalent** technical qualification", which demonstrates that the Employer does not intend formal labels to defeat substantive suitability; and
- (c) as noted at 2.2 above, **Key Expert No. 2 is subject to no FIDIC-form requirement whatsoever**, although quality management is no less contract-specific than quantity surveying or bridge supervision.

The Employer's own operational interest. The Terms of Reference require every report to be delivered in Romanian as well as in English (Part 6), treat knowledge of the local language as an asset (Part 5), encourage association with local firms, and reward experience "in the European Region and/or former Soviet Union countries". Romanian experts holding HG 1/2018 experience satisfy the regional criterion, are native speakers of the reporting language, and are drawn from a neighboring jurisdiction whose road-construction technology, standards and climatic conditions closely resemble those of the Republic of Moldova. To exclude that pool would reduce competition while removing from consideration candidates who are, upon the Employer's own criteria, particularly well suited to the assignment.

Clarification requested:

We respectfully request the Employer to confirm, in writing and by way of clarification or corrigendum notified to all [tenderers / candidates], the following:

Q1. That, for the purposes of the requirement applicable to **Key Expert No. 1** (Part 5, lit. (a), b), point a)), a project carried out under the general conditions of contract approved by HG 1/2018 (Annex No. 1 and/or Annex No. 2), as amended, qualifies as a project carried out under the FIDIC General Conditions of Contract, provided that the remaining conditions as to similar size and complexity and as to the minimum duration of involvement are satisfied.

Q2. That the same recognition applies to the requirement of experience “under FIDIC Conditions of Contract” in respect of **Key Expert No. 3 (Quantity Surveyor)** and **Key Expert No. 4 (Bridge Engineer)**.

Q3. That the same recognition applies to the general experience of the short-term **Claims / Contract Specialist**, it being understood that experience of the claims and dispute procedure under HG 1/2018 (Clauses 69 and 70) is accepted as experience of the analysis of claims under the FIDIC Conditions of Contract, and that Dispute Board experience will continue to be assessed upon its own terms.

Q4. That the requirement of experience in the management of “**FIDIC based Contracts**” applicable to the “**Engineer**” / **Project Director** includes contracts governed by HG 1/2018.

Q5. In the alternative, should the Employer not accept full equivalence, that experience under HG 1/2018 be accepted **in respect of at least one of the two projects** required for Key Experts Nos. 1, 3 and 4, the other project being one carried out under a FIDIC form.

Q6. That the evidence required in order to demonstrate such experience shall be (i) the statement of the applicable conditions of contract in the expert’s signed curriculum vitae and (ii), at the Employer’s option, a reference or recommendation letter from the beneficiary of the relevant contract, or an extract from that contract identifying the applicable general conditions; and to confirm whether documents in Romanian require [certified] translation into English.

Q7. That the advantage stipulated for Key Expert No. 1 in respect of the **FIDIC 2017 Red Book** (Part 5, lit. (a), b), point b)) remains specific to the FIDIC 2017 form and is unaffected by the equivalence sought above.

Proposed wording for the corrigendum:

Should the Employer agree, we respectfully suggest the following wording for insertion in Part 5 of the Terms of Reference:

“For the purposes of the specific experience requirements set out in this Part 5, any reference to the ‘FIDIC Conditions of Contract’, to the ‘FIDIC General Conditions of Contract for Construction’ or to ‘FIDIC based Contracts’ shall be read as including any general conditions of contract which are substantially based upon, or functionally equivalent to, the FIDIC Conditions of Contract, and in particular the general and specific conditions of contract for works contracts approved by Decision of the Government of Romania No. 1/2018 of 10 January 2018 (Annex No. 1 — execution of works; Annex No. 2 — design and execution of works), as subsequently amended, provided that under such conditions: (i) the administration of the contract is entrusted to a contract administrator (Engineer / Supervisor) distinct from the Employer and the Contractor; (ii) that administrator is empowered to issue instructions, approvals and no-objections, notices to correct and interim payment certificates; (iii) variations, extensions of time and claims for time and/or cost are subject to a formal procedure of notification, substantiation, assessment and determination or decision, subject to contractual time limits; and (iv) completion is effected through a taking-over or reception mechanism followed by a defects notification or warranty period.”

Procedural requests:

We request that the Employer's reply be issued **in writing to all tenderers / candidates**, without disclosure of the source of this request.

Should the Employer decide to amend Part 5 of the Terms of Reference, **we request a corresponding extension of the deadline** for the submission of proposals, so that all participants may adjust their team composition accordingly.

Annex — Indicative concordance of functions

The table below is provided for the Employer's convenience. Clause references to HG 1/2018 are to be verified against the consolidated text in force (as amended by HG No. 297/2022 and HG No. 965/2023) before signature and dispatch of this letter.

Function under the supervised works contract	FIDIC Red Book (1999 / 2017)	Counterpart under HG 1/2018, Annex No. 1
Contract administrator	The Engineer — Clause 3	The <i>Supervizor</i> (Supervisor) – Clause 5
Parties	Employer / Contractor — Clause 1	<i>Beneficiar / Antreprenor</i> – Clause 1
Instructions, approvals, no-objections	CL. 3.5 / 3.7; 4.1; 7.2	Instructions, approvals and no-objections of the Supervisor – Clause 5.5, 37.6
Programme and its review	CL. 8.3	Programme of execution (Clause 17), reviewed by the Supervisor (see e.g. CL. 8.3 as to drawings and instructions)
Extension of time	CL. 8.4 (1999) / 8.5 (2017)	Extension of the duration of the contract — CL. 35
Variations	CL. 13	<i>Modificări</i> — variation instruments and their valuation (Clause 37)
Interim and final payment certification	CL. 14	Interim payment certificates issued upon the Supervisor's verification (Clause 50)
Taking-over / completion	CL. 10	Reception at completion of works under the applicable reception regulations (Clause 60)
Defects notification / warranty period	CL. 11	<i>Perioada de garanție</i> — defects / warranty period (Clause 61)
Notice to correct; termination by Employer	CL. 15	Notice to correct and termination by the Beneficiary (Clause 64)
Claims for time and/or money	CL. 20	<i>Revendicări</i> — CL. 69, incl. <i>Soluție în principiu, Decizie, Notificare de respingere</i>
Dispute resolution	DAB / DAAB and arbitration — CL. 20 (1999) / 21 (2017)	Binding decision of the Supervisor, then amicable settlement, arbitration or the courts — CL. 70

Answer 15

The Client has reviewed the requirements in light of the comments received and has further considered the specific roles and responsibilities of the Key Experts concerned.

The requirement for the Team Leader/Engineer's Representative (Key Expert No. 1) is intended to demonstrate previous experience not only in road construction or supervision, but specifically in the role of Engineer/Engineer's Representative under the contractual framework applicable to the assignment. This role includes, inter alia, responsibilities related to contract administration, determinations, instructions, variations, extensions of time, claims, payment certification, contractual communications

and dispute administration. Therefore, the Client considers previous experience under the specified FIDIC Conditions of Contract to be directly relevant to the functions to be performed under the present assignment.

The Client also considers that the fact that a contractual framework is described as being “based on”, “derived from” or “inspired by” FIDIC does not, in itself, establish equivalence with the relevant FIDIC Conditions of Contract, as different contractual frameworks may contain material differences in the functions and responsibilities of the Engineer and in the applicable contractual mechanisms.

Accordingly, the requirement for previous experience under the specified FIDIC Conditions of Contract is maintained for the Team Leader/Engineer’s Representative.

For the Quantity Surveyor and Bridge Engineer, relevant experience acquired under contractual frameworks other than FIDIC may be considered, provided that such experience demonstrates the functions, responsibilities, scope and level of involvement required by the Terms of Reference.

Please refer to Amendment No. 2 for the adjusted requirements applicable to the Quantity Surveyor and Bridge Engineer.

All other requirements specified in the Terms of Reference shall remain unchanged.

Question 16

Section 7. Terms of Reference

Key Experts:

Materials Engineer / Quality Assurance Manager (ME /QAM) – Key Expert no.2

Content in RFP: b) Specific experience and expertise related to the task: The candidate shall have previous experience in the position of Quality Assurance Manager on at least two similar projects, with minimum involvement of 2 years on each such project. **At least one of these projects shall have been performed under a supervision consultancy assignment.**

Requested Clarification: With reference to the requirement, “At least one of these projects shall have been performed under a supervision consultancy assignment,” we understand that, for at least one of the relevant projects, the candidate should have served as a Quality Assurance Manager (QAM) on the supervision consultant's side, rather than on the contractor's side. Could you please confirm whether our understanding is correct? Alternatively, would this requirement also be considered satisfied if the candidate served as a QAM on the contractor's side for a project supervised by a supervision consultant?

Answer 16

Confirmed. For at least one of the two required projects, the candidate must have held the position of Quality Assurance Manager as part of the Supervision Consultant's team (i.e., engaged by/reporting to the Supervision Consultant), not as part of the Contractor's team. Experience gained solely on the Contractor's side of a supervised project does not satisfy this requirement.

Question 17

Section 7. Terms of Reference

Key Experts:

Bridge Engineer (BrE) – Key Expert no.4

Content in RFP: b) Specific experience and expertise related to the task: The Candidate is expected to have a minimum of (8) years in **design and supervision** of highway bridge works in major projects.

Requested Clarification: Would it be possible to change the following sentence:

“The Candidate is expected to have a minimum of (8) years in **design and supervision** of highway bridge works in major projects.”

to:

“The Candidate is expected to have a minimum of (8) years in **design and/or supervision (or design review and supervision)** of highway bridge works in major projects.”

Answer 17

The updated requirements are provided under the Amendment No. 2 where this matter is being addressed.

Question 18

Please confirm the current status of the Works Contract for the M3 Cimișlia Bypass and its Particular Conditions of Contract. In addition, please indicate whether land acquisition/right-of-way availability and the main authorizations required for commencement of the Works are expected to be completed for the entire alignment by the intended commencement date, or whether any sections are expected to become available at a later stage.

Answer 18

The information requested concerning the current status and Particular Conditions of the Works Contract, as well as the detailed status of land acquisition/right-of-way and authorizations for commencement of the Works, is not considered necessary for the preparation and submission of the Consultant’s proposal under the present procurement.

The Consultant is required to prepare its proposal and methodology on the basis of the requirements and information provided in the Request for Proposals and the applicable procurement documents.

Question 19

TERMS OF REFERENCE - 5. CONSULTANT’S QUALIFICATION, TEAM COMPOSITION, STAFFING INPUT & QUALIFICATION REQUIREMENTS - Key Experts: (d) Bridge Engineer (BrE) – Key Expert no. 4

Under the qualification requirements for KE4, [Bridge Engineer], the ToR states that “The Candidate should have at least fifteen (12) years of experience in bridge design, construction and/or supervision.” Please confirm whether the required minimum general professional experience is twelve (12) years or fifteen (15) years.

Answer 19

Please refer to Answer to Question No. 9.

Question 20

TERMS OF REFERENCE - 5. CONSULTANT'S QUALIFICATION, TEAM COMPOSITION, STAFFING INPUT & QUALIFICATION REQUIREMENTS - Non-Key Staff/Technical Support Staff

Please clarify whether the person-month inputs stated in the ToR for each individual NKE position are mandatory minimum inputs, or whether they are indicative and may be redistributed by the Consultant among the required NKE positions as per its methodology and staffing plan. In the latter case, please confirm whether the total estimate of 153 NKE person-months must be maintained.

Answer 20

The person-month inputs specified in the Terms of Reference for each Non-Key Staff (NKE) / Technical Support Staff position represent the **minimum required inputs** for the respective positions.

Accordingly, the Consultant shall provide at least the specified person-month input for each individual NKE position. The person-month inputs may not be redistributed between the NKE positions in a manner that would result in a reduction of the minimum input specified for any individual position.

The total minimum input for Non-Key Staff/Technical Support Staff shall therefore be maintained at **153 person-months**.

The Consultant may propose additional inputs, where considered necessary for the proper performance of the Services, but the minimum inputs specified in the ToR for each position and the overall minimum of 153 person-months shall be complied with.

Question 21

NON – KEY EXPERTS:

I. Please confirm: (i) whether the Non-Key Experts must be individually identified by name in Forms TECH-6 and FIN-3 at Proposal stage; (ii) whether CVs are required at Proposal stage only for the four Key Experts, with NKE CVs to be submitted subsequently for the Employer's approval prior to mobilization; and, (iii) which NKE positions are required to hold Moldovan professional accreditation and whether such accreditation must already be held at Proposal submission or only prior to mobilization.

II. With reference to footnote 1, please specify whether even for non-key experts the input should be indicated individually.

III. Please confirm our understanding that short-term experts will not be considered.

Answer 21

I. Non-Key Experts (NKEs) are not subject to evaluation at the Proposal stage. Accordingly, the NKEs are not required to be individually identified by name, and their CVs are not required to be submitted as part of the Proposal for evaluation purposes.

The Consultant shall identify and propose suitable NKE personnel in accordance with the requirements of the Terms of Reference and its staffing plan. The proposed NKE personnel shall be subject to the Client's approval prior to mobilization, in accordance with the Contract/Terms of Reference.

Where Moldovan professional accreditation is required for a particular NKE position, the respective expert shall obtain and hold the required accreditation prior to mobilization and before performing the relevant regulated activities in the Republic of Moldova. Such accreditation is not required to be held at the Proposal submission stage.

II. The input for NKE positions shall be indicated individually for each NKE position, in accordance with the person-month requirements specified in the Terms of Reference. The NKE inputs constitute minimum required inputs as clarified above.

III. Short-term experts will not be evaluated or considered at the Proposal stage as part of the Consultant's evaluated expert team. The evaluation at the Proposal stage is limited to the experts and criteria specified in the RFP for evaluation purposes.

Question 22

CLARIFICATION DOCUMENT NO. 1:

Further to Answer 3 of Clarification Document No. 1, please confirm whether the Client's approval of an additional local sub-consultant must be obtained before Proposal submission, and, if so, please specify the information and documentation that should be submitted for such approval.

Answer 22

The Client's prior approval of an additional local sub-consultant is not required before submission of the Proposal.

Where the Consultant intends to engage an additional local sub-consultant, the relevant information shall be provided in the Proposal in accordance with the requirements of the RFP.

Any additional sub-consultant proposed after submission of the Proposal, or any change to the sub-consultant arrangements, shall be subject to the Client's prior approval in accordance with the Contract.

Question 23

CLARIFICATION DOCUMENT NO. 1:

Further to Answer 2 of Clarification Document No. 1, confirming that UNIVERSINJ shall be retained exclusively for the Designer's Representative role, please clarify the allocation of responsibility between the Consultant and the Client-nominated Designer. In particular, please confirm that the Consultant will not assume liability for errors, omissions or deficiencies in the original design existing prior to commencement of the Consultancy Services, nor for any liabilities attributable to the original Designer.

Please also clarify the contractual mechanism applicable in the event of delay, non-performance, or professional default by the Client-nominated Designer, and confirm that the Consultant's review and verification of revised Construction Drawings as "Approved for Construction" does not transfer the original Designer's design responsibility to the Consultant.

Answer 23

Further to Answer 2 of Clarification Document No. 1, the responsibility for the original design, including errors, omissions or deficiencies attributable to the Client-nominated Designer, shall remain with the respective Designer and shall not be transferred to the Consultant solely as a result of the Consultant's review or verification of the design documentation. In the event of delay, non-performance or professional default by the Client-nominated Designer, the matter shall be addressed by the Client in accordance with the contractual arrangements applicable to the Designer.

The Consultant shall remain responsible for the proper performance of its own contractual obligations, including the review and verification of design documentation to the extent specified in the Terms of Reference. The Consultant's review and verification of revised Construction Drawings as "Approved for Construction" shall not, in itself, transfer the original Designer's design responsibility to the Consultant.

However, the Consultant remains fully responsible for the proper performance of its own contractual obligations in relation to the review and verification of such documentation.

Question 24

TERMS OF REFERENCE - 7. IMPLEMENTATION ARRANGEMENTS - 7.3 Project Data and Documents:

Please confirm that the provisions concerning the Employer's ownership of project materials and PMIS software do not apply to the Consultant's pre-existing intellectual property, proprietary methodologies, corporate systems, software tools or third-party software/SaaS licenses used in performing the Services, and that the Employer's ownership rights will be limited to project-specific documents, data, configurations and deliverables created specifically under the Contract.

Answer 24

The Employer's ownership rights under the Contract shall apply to project-specific documents, data, configurations and deliverables created specifically for the performance of the Services. Such provisions shall not transfer ownership of the Consultant's pre-existing intellectual property, proprietary methodologies, corporate systems, software tools or third-party software/SaaS licenses, which shall remain subject to their respective ownership and licensing arrangements.

Where pre-existing or third-party intellectual property, software or tools are incorporated into or used for the project deliverables, the Consultant shall ensure that the Employer is provided with the rights and access necessary for the proper use of the project-specific deliverables in accordance with the Contract.

Question 25

TERMS OF REFERENCE - 4. SCOPE OF SERVICES, TASKS (COMPONENTS) AND EXPECTED DELIVERABLES - Task 1: Support to the Client:

Regarding the provision requiring the Consultant to extend its Services without additional payment where delay to the Works is caused by a slow response, initiative, determination or other action expected of the Engineer, please clarify that this provision applies only where the relevant delay is directly attributable to a failure of the Consultant within its reasonable control. Please also confirm that it will not apply to concurrent delays or delays attributable wholly or partly to the Employer, Contractor, Designer,

authorities, utilities, the Bank or other third parties, and that extensions of the Consultancy Services resulting from such causes will be remunerated in accordance with the Contract.

Answer 25

The provision shall apply where the delay to the Works results from a failure, omission or delayed action of the Consultant in performing its contractual duties, to the extent attributable to the Consultant and within its reasonable control. It shall not apply to delays attributable to causes beyond the Consultant's reasonable control, including delays caused by the Employer, Contractor, Designer, authorities, utilities, the Bank or other third parties, subject to the provisions of the Contract.

Question 26

III. Special Conditions of Contract:

With reference to SCC 20.1 and SCC 26.1, please clarify the objective criteria to be applied in determining whether a task or deliverable has been “delivered satisfactorily” or has been subject to “undue delay”.

Please confirm that any withholding or deduction will be preceded by written notification identifying the specific deficiency or delay and allowing the Consultant a reasonable opportunity to remedy it, and that any deduction will be limited to the remuneration directly attributable to the affected task or output, without affecting undisputed amounts otherwise due to the Consultant.

Answer 26

The assessment of whether a task or deliverable has been delivered satisfactorily or with undue delay will be made by the Client against the requirements of the Contract, including Sections 4 and 5 of Appendix A [Terms of Reference], the applicable reporting requirements, deliverable specifications and agreed time schedule. The Consultant will be informed of any identified deficiency or undue delay and will be required to address and correct the respective issue in accordance with the Contract.

Any withholding or deduction under SCC 20.1 and SCC 26.1 shall be applied in accordance with the respective provisions and shall relate to the payment attributable to the time spent by the Consultant's expert(s) on the affected task. Time spent by the Consultant's expert(s) in revising or correcting an unsatisfactory output shall not be remunerated, as expressly provided in the relevant SCC provisions. Undisputed amounts otherwise due to the Consultant shall not be affected.

Question 27

III. Special Conditions of Contract:

SCC 23.1 states that the proposed limitation of the Consultant's liability may be subject to Contract negotiations. For the purpose of assessing and pricing the contractual risk, please confirm that the provisions currently stated in SCC 23.1, namely the exclusion of indirect or consequential loss and the limitation of direct liability to one time the total Contract value, subject to the stated exceptions, represent the intended basis for the final Contract and subsequent negotiations.

Answer 27

The provisions currently set out in SCC 23.1 represent the language of the standard tender documents with proposed basis for the limitation of the Consultant's liability and may be taken into account by the Consultant for the purpose of preparing and pricing its Proposal. In particular, the proposed limitation provides for the exclusion of indirect or consequential loss and a limitation of liability for direct loss or damage to one time the total Contract value, subject to the exceptions expressly stated in SCC 23.1.

As expressly provided in SCC 23.1, the limitation of liability remains subject to Contract negotiations. Accordingly, the final terms and extent of the Consultant's liability shall be established during Contract negotiations, in accordance with the RFP and the applicable law.

Question 28

Section 2: Instructions to Consultants – Data Sheet - 17.7 and 17.9

Considering that the RFP was issued at the end of July and most of the Proposal preparation period falls during August, when the availability of experts, sub-consultants, and relevant local contacts is significantly reduced due to the summer holiday period, we kindly request that the Proposal submission deadline currently set for 7 September 2026 be extended by at least two weeks, preferably until 21 September 2026. Such an extension would allow the shortlisted Consultants to provide more reliable expert commitments, complete the identification and approval process for the required local resources, and prepare better substantiated Technical and Financial Proposals.

Answer 28

Please refer to Answer to Question No. 14

Question 29

We request for permission to enhance our capabilities for the above-mentioned project by associating with the below firm:

- Sub Consultant: SC "Transproiectconsult" SRL, having its registered office at 12A Bucuriei street, Chisinau MD2004, Republic of Moldova

Answer 29

Please refer to the Answer to Question No. 22.

Question 30

This is further to our Clarification vide letter no. ICT:114:AN:5137 dated 12th August 2026 for the captioned project. We would like to humbly submit that the current deadline for Proposal submission is approaching; however, we have not yet received the Replies to queries submitted by us.

We keenly look forward to receiving the replies to queries at the earliest as this will have a significant impact on the compliance and overall quality of the Proposal.

Considering the courier takes more than 10 days from India to reach Chisinau, Moldova and we have only 3 working days left to prepare, print the proposal, we earnestly request your good office to kindly grant an extension of at least two weeks' from the date of issuance of reply to queries for preparation of qualitative Proposal, travel arrangements and submission of proposal.

Answer 30

Please refer to Answer to Question No. 14