**TERMS OF REFERENCE**

**for selection of the investor for the construction**

**of 40-60 MW photovoltaic power station (PPS)**

**for the needs of Almalyk MMC JSC**

Almalyk – 2023

# **TABLE OF CONTENTS**

1. [I](file:///%5C%5C%5C%5C192.168.4.89%5C%5C%D1%81%D0%B5%D1%82%D0%B5%D0%B2%D0%B0%D1%8F%5C%5C%D0%90%D0%B3%D0%B7%D0%B0%D0%BC%5C%5C%D0%98%D1%81%D0%BB%D0%B0%D0%BC%D0%BE%D0%B2%20%D0%A4%D0%AD%D0%A1%5C%5C27.01.2023%5C%5C%D0%98%D0%BB%D0%BE%D0%B2%D0%B0%20-%203%20%28%D0%A2%D0%97%29.docx%22%20%5Cl%20%22%D0%98%D0%A3%D0%A2)nformation on the selection.
2. Instructions for the selection participant
3. [Technical part of selection.](file:///%5C%5C192.168.4.89%5C%D1%81%D0%B5%D1%82%D0%B5%D0%B2%D0%B0%D1%8F%5C%D0%90%D0%B3%D0%B7%D0%B0%D0%BC%5C%D0%98%D1%81%D0%BB%D0%B0%D0%BC%D0%BE%D0%B2%20%D0%A4%D0%AD%D0%A1%5C27.01.2023%5C%D0%98%D0%BB%D0%BE%D0%B2%D0%B0%20-%203%20%28%D0%A2%D0%97%29.docx#разд_2_техчасть)

# **INFORMATION ON THE SELECTION**

|  |  |
| --- | --- |
| **Customer** | Almalyk Mining and Metallurgical Combine Joint Stock Company (Almalyk MMC JSC) |
| **Subject of the selection** | Selection of the investor for the construction of solar 40-60 MW photovoltaic power station for the generation and sale of electric energy for the needs of Almalyk MMC JSC at the agreed tariff |
| **Selection period (month)** | February - March 2023 |
| **Offer validity period** | At least 90 days from the date of the deadline for submitting offers |
| **Requirements for the participants of the selection** | Legal entities – residents and non-residents of the Republic of Uzbekistan who have fulfilled the conditions for participation in this selection can take part in it |
| **Deadline for submitting offers** | March "12", 2023, until 21:00 Tashkent time |
| **Email address for submitting technical and commercial offers** | info@agmk.uz |

## INSTRUCTIONS FOR THE SELECTION PARTICIPANT

1. **GENERAL PROVISIONS**
	1. Definitions:
2. “**Affiliated person** (persons)” ‒ natural or legal person directly or indirectly controlling, or controlled, under common control together with the participant.
3. **"Applicable law"**‒ adopted and current laws and any other instruments that have the force of law and are in force in the Republic of Uzbekistan.
4. **“Customer”** ‒ Almalyk MMC JSC, which organizes the selection.
5. “**Participant**” ‒ legally established legal entity or consortium of legal entities that is a resident or non-resident of the Republic of Uzbekistan, which has the ability to perform work on the subject of selection.
6. “**Contract**” ‒ a legally binding written agreement signed between the Customer and the selected Participant.
7. “**Commission**” ‒ commission consisting of at least seven people, which conducts the selection and makes a decision based on the results of this selection.
8. “**Working group**” – group of specialized selection specialists specially created by the decision of the Commission in order to study and evaluate the offers of the participants
	1. This terms of reference was developed by the Customer in order to select the investor for the construction of 40-60 MW photovoltaic power station for the generation and sale of electric energy for the needs of Almalyk MMC JSC
	2. This terms of reference defines the procedure for selecting the investor for the construction of 40-60 MW photovoltaic power station for the generation and sale of electric energy for the needs of Almalyk MMC JSC (hereinafter referred to as the “Selection”).
	3. In a timely manner and without charging a fee, the Customer, upon request, will provide the selection participants with the initial data (via e-mail and other agreed methods) necessary for the preparation of the Participant's offer.
9. **CORRUPTION AND CONFLICT OF INTEREST**
	1. The Anti-Corruption Policy requires the parties involved in the selection process to comply with the highest standards of ethics during the selection process and the execution of the contract. For the purposes of these terms of reference, the terms given below are defined as follows:

(i) “**corruption practice**” ‒ offering, giving, receiving or extorting, directly or indirectly, anything of value to exert undue influence on the actions of the other party;

(ii) “**fraudulent practices**” ‒ any act or omission, including misleading, which knowingly or negligently misleads or attempts to mislead a party in order to obtain financial or other benefits or evade obligations;

(iii) “**coercive practices**” ‒ causing damage or harm, or threatening to cause damage or harm, directly or indirectly, to any party or property of the party in order to exert undue influence on the actions of the party;

(iv) “**collusion practices**” ‒ agreement between two or more parties aimed at achieving the improper goal, including exerting undue influence on the actions of the other party;

(v) “**abuse**” ‒ theft, embezzlement or improper use of assets committed intentionally or negligently;

(vi) “**conflict of interests**” ‒ any situation in which personal interest, direct or indirect, affects or may affect the proper performance of a person's duties and in which there is or may be a contradiction between personal interest and the rights, as well as the legitimate interests of the selection participants;

(vii) “**obstructive practice**” ‒ (a) intentionally destroying, falsifying, altering or concealing evidence essential to the investigation, or intentionally making false statements to investigators with the intent to obstruct the investigation; (b) threatening, harassing or intimidating any party in order to prevent it from disclosing its knowledge of matters relevant to the investigation or continuing the investigation; or (c) deliberate actions aimed at preventing the exercise of contractual rights to audit or inspection or access to information;

(viii) “**integrity violation**” ‒ any action that violates the Anti–Corruption Policy in accordance with the legislation of the Republic of Uzbekistan, including (i) - (vii) above and the following: violation of sanctions, harassment of informants or witnesses, and other violations of Anti-Corruption Policy, including non-compliance with the highest ethical standards.

* 1. The Customer will reject the Participant's offer for selection if it determines that the Participant, directly or through an agent, participated in corrupt, fraudulent, collusive, coercive or obstructive practices or other violations of good faith in the fight for the selection of his offer.
	2. The participant must comply with the requirements to avoid involvement in the conflict of interest within the framework of this selection.
	3. The Participant is obliged to notify the Customer of any situation of the existing or potential conflict of interest that may affect his ability to act in the best interests of the Customer. Failure to provide information about the presence of such situations may result in disqualification of the Participant.
	4. Without limiting the general nature of the above, the Participant **cannot be selected** if he has a conflict of interest and in the following circumstances

2.5.1 The participant (including its key employees and all beneficiaries) who has a close business or family relationship with the Customer's specialist employees who are directly or indirectly involved in any part of (i) the preparation of the assignment for this selection, (ii) the process of this selection, is deprived of the right to selection if a conflict of interest arising from these relationships, was not resolved in a manner acceptable to the Customer throughout the selection process.

2.5.2 The participant and the company affiliated with it participate simultaneously in two or more offers in this selection.

1. **PROCEDURE FOR SELECTION**
	1. The Participant has the right to:

- full access to public information about the selection;

- send written requests to the Customer no later than 5 days before the deadline for submitting offers and receive clarifications on the procedures, requirements and conditions of the selection. Within 2 working days from the date of receipt of such a request, the Customer is obliged to send explanations in the prescribed form to all Participants of the selection. Explanations should not change the essence of this technical assignment.

* 1. The Participant undertakes to:

- comply with the requirements specified in this terms of reference;

- provide a offer and information, including the necessary initial data, in accordance with the requirements of this technical specification and be responsible for their reliability;

- disclose information about all beneficiaries of the Participant (*if the payment is supposed to attract funds from the founder and/or beneficiary, indicating the corresponding shares and size in the authorized capital of the Participant*);

- comply with the requirements for avoiding conflicts of interest and compliance with the Anti-Corruption Policy within the framework of this selection;

- fulfill all the obligations assumed within the framework of its offer.

* 1. The Participant's offer will be rejected if the Participant:

- did not provide the necessary selection documents before the deadline for submitting offers;

- provided documents and/or information that do not meet the requirements of this technical assignment for selection;

- is at the stage of reorganization, liquidation or bankruptcy on the date of submission of its offer;

- and/or its founders (natural person), is under the sanctions of third countries;

- is in the state of judicial or arbitration proceedings with the Customer.

1. **OFFER AND PROCEDURE FOR ITS REGISTRATION**
	1. The Participant is responsible for the preparation of his offer, including the accuracy and completeness of the information included.
	2. The offer must specify the values in the metric measurement system (SI). If a different system is used, the Participant must indicate the corresponding equivalent in the SI measurement system.
	3. The offer must be prepared and submitted in one of the languages – Uzbek or Russian languages. It is not allowed to submit the offer in two languages at the same time. If the required information and documents are available in the offer in the language other than the language of the offer, the Participant must provide the appropriate translation of such information and documents into the language of the offer. In case of different texts in different languages, the language of the sentence will have the advantage. All correspondence between the Participant and the Customer will be carried out in Uzbek or Russian languages.
	4. The offer must be submitted electronically to the e-mail address specified in these Terms of Reference.
	5. The Participant's offer must be submitted to the Customer at the specified address before the deadline for submitting offers. Upon receipt of the offer, the Customer must send an appropriate confirmation of receipt of the offer, indicating the date and time of receipt of the offer. All responsibility for the timely and complete provision of the offer to the specified address of the Customer lies with the Participant.
	6. The Customer is responsible for the acceptance and consideration of offers, informing Participants on the results of the selection.
	7. The Customer has the right to extend and specify a different deadline for submitting offers. At the same time, the Customer must notify all participants about this and post this information on the information resources in which the announcement of the selection was placed.
2. **PROCEDURE FOR THE SELECTION AND QUALIFICATION OF OFFERS**
	1. . The selection of offers will be carried out at the address: 53, Amir Temur str., Tashkent region, Almalyk, Republic of Uzbekistan.
	2. The announcement of the selection is posted by the Customer on the official website at [www.agmk.uz](http://www.agmk.uz) and other open sources.
	3. The selection will be carried out in one stage with simultaneous study and evaluation of all documents submitted in the offers of the Participants.
	4. During the study of the offers, the Customer has the right to send a request to the Participants related to the confirmation or explanation of any information provided in the offer. Upon receipt of such a request, the Participant must provide his response within no more than two days. Such a request and a response to it must be sent in writing. During such correspondence, it is not allowed to make any changes to the original offer of the Participant.
	5. In order to review the documents, the Selection Commission has the right to create a working group on evaluation with the involvement of relevant specialists, including from other interested ministries and departments. The Working Group, based on the results of studying the offers of the Participants, prepares an appropriate Evaluation report and conclusion, and submits it to the Selection Commission for consideration.
	6. Selection offers (documents) submitted by the Participants are reviewed by the Customer and will be evaluated based on the following criteria:

completeness of the qualification documents required for participation in the selection (availability of all documents specified in this paragraph without exception);

financial condition of the Participant (financial statements of the Participant for at least 2020-2021, confirmed by the auditor's report);

providing information about the founders and final beneficiaries (Constituent documents);

absence of affiliation (list of founders and beneficiaries);

absence of registration of the participant and his bank in offshore zones (certificates of state registration of the Participant and his bank);

availability of state registration of the Participant or beneficiary before January 1, 2021 (certificate of state registration);

absence of court proceedings and bankruptcy/reorganization/liquidation procedures (letter of guarantee of the Participant in form No. 1);

availability of statement signed by the first head of the organization on compliance with the Anti-Corruption Policy (application form No. 2);

* 1. If one or no offers are received at the first stage, the selection is considered invalid and the Commission may decide to re-conduct the selection.
	2. In case of submission of 2 or more offers, the Commission accepts documents for study.
	3. The technical and commercial documents submitted by the Participants are reviewed by the Commission, which will determine the winner (reserve winner) or the recognition of the selection failed on the basis of the following criteria:

| **Criteria** | **Score scale** | **Note** |
| --- | --- | --- |
| **Technical criteria** |  |  |
| The experience of the participant's technology partner in the construction and operation of at least 100 MW photovoltaic power station (at least 1 facility built over the past 10 years) | от 0 до 10 | Decrease in the number of facilities as a percentage of the largest number is estimated as a similar decrease in percentage of the points given for the largest number of facilities |
| The participant is the owner of at least 50 MW PPS  | 0 or 5 | If available – 5 points, if absent – 0 points |
| At the time of submission of the offer, at least one PPS built by the Participant has been in operation for at least 12 months | 0 or 5 | If available – 5 points, if absent – 0 points |
| The total period of commissioning of the PPS is no more than 12 months from the date of signing the contract for the purchase of electricity | от 0 до 10 | More than 12 months – 0 points.The increase in the term as a percentage of the shortest period is estimated as a similar decrease in the percentage of the points given for the shortest period |
| The energy efficiency class of the photovoltaic module is not less than class A | 0 or 10 | If available – 10 points, if absent – 0 points |
| The efficiency of the photovoltaic module is not less than 21% | от 0 до 10 | Less than 21% – 0 points.The decrease in efficiency as a percentage of the highest indicator is estimated as a similar decrease as a percentage of the points given for the highest indicator |
| The temperature range in which photovoltaic modules can be operated (from -40°C to +85°C) | 0 or 10 | If available – 10 points, if absent – 0 points |
| The network inverter must be high-frequency with an efficiency of at least 98%, have protection against reverse polarity of direct current, short circuit in the AC load. The display is provided to display the information of the generated energy. | 0 or 10 | If available – 10 points, if absent – 0 points |
| Availability in the scope of work of the power lines construction of AMC networks | 0 or 10 | If available – 10 points, if absent – 0 points |
| Providing the guarantee on the degradation of panels for a 25-year period of operation by no more than 20% | 0 or 10 | If available – 10 points, if absent – 0 points |
| Providing the guarantee for the inverter for the period of at least 10 years | 0 or 10 | If available – 10 points, if absent – 0 points |
| Providing information about the panel manufacturer | 0 or 5 | If available – 5 points, if absent – 0 points |
| Providing information about the manufacturer of inverters | 0 or 5 | If available – 5 points, if absent – 0 points |
| **Commercial criteria** |  |  |
| Providing the enlarged financial and economic model of the project (in the editable format) with the display of the entire life cycle of the PPS, the volume of electricity generation, capital investments, etc. | 0 or 5 | If available – 5 points, if absent – 0 points |
| Providing information about the sources of financing for the PPS construction  | 0 or 5 | If available – 5 points, if absent – 0 points |
| The participant is not under direct US sanctions | 0 or 10 | If available – 5 points, if absent – 0 points |
| Electricity sales tariff (fixed for 25 years of operation) | от 0 до 20 | The increase in the tariff as a percentage of the lowest indicator is estimated as a similar decrease as a percentage of the points put down for the lowest cost |
| **TOTAL:** | **150** |  |

* 1. Within 3 working days from the date of the final decision of the Commission on the results of the selection, the Customer via the official website of the Customer at [www.agmk.uz](http://www.agmk.uz) informs all participants of the selection about the results of the selection.
	2. The Customer reserves the right not to disclose the details of making a decision.
	3. If arithmetic or other errors are available, the Commission has the right to reject the offer or determine other conditions for their further consideration by notifying the participant.
1. **CONCLUSION OF THE CONTRACT BASED ON THE RESULTS OF THE SELECTION**
	1. Based on the results of the selection, the Commission decides on the selection of the selected Participant to conclude the contract with him.
	2. The Contract comes into force after approval by the authorized body of the Republic of Uzbekistan in accordance with the legislation of the Republic of Uzbekistan.
2. **RESPONSIBILITY OF THE PARTIES AND CONFIDENTIALITY**
	1. The Participant is responsible for the authenticity and reliability of the information and documents provided.
	2. The participant who does not fulfill his obligations within the framework of the conducted selection according to quantitative, qualitative and technical parameters is liable under the legislation of the Republic of Uzbekistan.
	3. The Customer suspends the Participant from participating in the selection if such Participant has the unfair competitive advantage or conflict of interests.
3. **MISCELLANEOUS**
	1. The Customer has the right to make a decision on making changes to this documentation no later than three days before the deadline for submitting offers.
	2. The Commission has the right to cancel the selection at any time before making the decision on determining the winner of the selection.
	3. The Commission has the right not to consider the proposals received from interested companies (investors) if the tariff for a unit of electricity supplied exceeds the tariff determined at tenders held by the Ministry of Energy of the Republic of Uzbekistan.

*Form No. 1*

*ON THE PARTICIPANT'S LETTERHEAD*

*No.:\_\_\_\_\_\_\_\_\_\_\_*

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

**JSC “Almalyk MMC”**

WARRANTY LETTER

The Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereby confirms that:

 *(name of the Company)*

- it is not in the stage of reorganization, liquidation or bankruptcy;

- it is not in the state of judicial or arbitration proceedings with the Customer, or with another plaintiff on the date of offer submission;

- the company and its ultimate beneficiaries (individuals) are not included in the sanctions lists of third countries;

- neither the company nor its bank is registered in the offshore zone.

Signatures:

Full name of the first Head \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Full name of the Chief Accountant (Head of the Finance Department) \_\_\_\_\_\_\_\_\_\_\_\_

Full name of the Lawyer \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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*Form No.2*

*ON THE LETTERHEAD*

**JSC “Almalyk MMC”**

APPLICATION

on the compliance with the Anti-Corruption Policy

 The Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereby confirms that: *(name of the Company)*

* 1. The Anti-corruption Policy requires the parties involved in the selection process to comply with the highest standards of ethics during the selection process and the execution of the investment contract. For the purposes of this regulation, the terms given below are defined as follows:

(i) "corruption practices" means offering, giving, receiving or extorting, directly or indirectly, anything of value to improperly influence the actions of the other party;

(ii) "fraudulent practice" means any act or omission, including deception, that knowingly or negligently misleads or attempts to mislead a party in order to obtain financial or other benefits or evade obligations;

(iii) "coercive practice" means causing damage or harm, or threatening to cause damage or harm, directly or indirectly, to any party or property of a party in order to exert undue influence on the actions of the party;

(iv) "collusion practice" means the agreement between two or more parties aimed at achieving an improper goal, including exerting undue influence on the actions of the other party;

(v) "abuse" means theft, embezzlement or improper use of assets committed intentionally or negligently;

(vi) "conflict of interest" means any situation in which a party has interests that may improperly affect that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations;

(vii) "obstructive practice" means: (a) the deliberate destruction, falsification, alteration or concealment of evidence essential to the investigation, or the deliberate provision of false statements to investigators with the intent to obstruct the investigation; (b) threats, harassment or intimidation of any party in order to prevent it from disclosing its knowledge of matters related to investigate, or continue to investigate; or (c) deliberate actions aimed at impeding the exercise of contractual rights to audit or inspection or access to information; and

(viii) "integrity violation " is any action that violates the Anti—Corruption Policy in accordance with the legislation of the Republic of Uzbekistan, including (i) - (vii) above and the following: violation of sanctions, harassment of informants or witnesses, and other violations of Anti-Corruption Policy, including non-compliance with the highest ethical standards.

* 1. The Customer will reject the Participant's offer for selection if he determines that the Participant, directly or through the agent, participates in corrupt, fraudulent, collusive, coercive or obstructive practices, or other violations of good faith in the fight for the selection of his offer, or is in the conflict of interests.
	2. Undertakes to comply with the legislation of the Republic of Uzbekistan in the field of Anti-Corruption policy.

Signatures:

Full name of the first Head \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Full name of the Chief Accountant (Head of the Finance Department) \_\_\_\_\_\_\_\_\_\_\_\_

Full name of the Lawyer \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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1. **TECHNICAL PART**

The project is aimed at providing environmentally friendly electric energy for the production of copper and zinc at the enterprises of Almalyk MMC JSC, with a view to reducing emissions into the atmosphere and obtaining a "green certificate".

Within the framework of the project, the winning participant will design, finance, operate and maintain a solar 60 MW AC photovoltaic power station with or those having more capacity in Almalyk town, Tashkent region for at least 25 years.

The selection of the selection winner is carried out according to the tariff proposed by the participants for electric energy generated by a newly built solar photovoltaic power station.

Almalyk MMC JSC will act as a guaranteed buyer of electric energy generated by the solar photovoltaic power station for 25 years at the tariff agreed upon at the conclusion of the contract.

For the construction of this facility, Almalyk MMC JSC will lease its own territory with the area of up to 300 hectares, located in the city of Almalyk near the industrial zone.

To be used in the calculations, the cost of rent should be accepted in the amount of 2 million UZS per year for each hectare of the leased territory.

As a part of the project, the investor-developer will also have to build the power transmission line to the nearby substation of Almalyk MMC JSC.

The offer should take into account the issue of the PPC owner after the expiration of the contract (25 years).

Based on the composition of the facility, it is allowed to send offers that include various PPS capacities, including those having more than 60 MW (when determining such capabilities), but not less than 40 MW. The offers will be evaluated for compliance with the requirements of this technical specification and the selection criteria defined in this regulation.

The participant has the right to participate in the selection alone or as a part of the consortium.

**Description of the selected construction site**

The selected territory for the construction of photovoltaic power station is on the balance sheet of Almalyk MMC JSC.

The total area is up to 300 hectares. Engineering-geological and other surveys were not carried out at this site. For this reason, the Investor, at his own expense, on the basis of entrepreneurial risk, undertakes to ensure that environmental, geological and engineering studies, and other necessary studies and surveys are carried out.

In the immediate vicinity (50 meters to the north) the construction of new copper processing plant's tailing dump is being carried out and will be carried out over the next 10 years from the selected territory. These construction works and the future facility (tailings dump) are the source of dust.

At the distance of about 2-3 kilometers there are existing and will be new industrial facilities of the plant as well:

* Copper Processing Plant No. 2 (CPP-2) (existing facility);
* Copper Processing Plant No. 3 (CPP-3) (new facility, construction is underway with completion in 2024);
* Copper Processing Plant No. 4 (CPP-4) (planned facility, will be located to the south from CPP-3 in the immediate vicinity, construction has not begun, the planned start of work is in 2023, completion is in 2026).

These facilities are also the constant source of dust and vibrations (drilling and blasting operations will be carried out during the construction of CPP-4, then there will be dust from the ore warehouse during the operation of factories).

The selected site has the uneven hilly surface.

PPS will be connected directly to the networks of Almalyk MMC JSC, to the nearest networks of the 500/110/10 kV "Technologicheskaya" substation and 220/110/35/6 kV "Kara-Kiya-Say", located at the distance of 4-4.5 km to the north.

All electricity generated from PPS will be fully consumed by Almalyk MMC JSC.

**Requirements for the composition of the technical and commercial offer.**

The technical and commercial proposal of the Participant should include:

1. The concept of the project implementation with the description of the mechanisms and ways to achieve the goal.
2. The project implementation schedule is broken down by stages.
3. Electricity tariffs, considering the provision of land for rent on the paid basis and free of charge.
4. The matrix of the division of responsibility between the Customer and the Investor in the project implementation.
5. Specification of equipment indicating the main manufacturers and suppliers (it is allowed to specify several suppliers).
6. Offers of the Participant for the further operation of the PPS after the expiration of the contract for the purchase of electricity (continued operation, transfer of the PPS to the ownership of the Customer, etc.).
7. The cost of capital investments of the project, broken down by main types of work, indicating their volume.
8. The scheme of the project financing, indicating their sources.
9. The plan of survey work to be carried out by the Investor.
10. Description of the main raw materials and resources required for the operation of the PPS, indicating their volumes.
11. List of approvals with the state bodies of the Republic of Uzbekistan, which are necessary for the Investor to start operating the PPS.
12. Financial and economic model for the entire life cycle of PPS operation.
13. The volume of electricity generation throughout the entire life cycle of PPS operation.