

**Design and Construction  
of the Third Set of Locks**

**Tender Receipt and  
Evaluation of  
Technical Proposals**

**Contracting Officer's Report**



July 2009

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# Chapter 1



## PROLOGUE

The intent of this report is to explain, in detail, the most relevant aspects of the Technical Evaluation process, beginning with the selection of the Tenderers' Shortlist and ending with the score obtained by each of the Tenders submitted by the three participating consortia: Bechtel-Taisei-Mitsubishi; Consorcio C.A.N.A.L. and Grupo Unidos por el Canal, for each of the factors described in Parts 1 through 9 of Volume IV - Employer's Evaluation Criteria of Request for Proposals 76161.

The reports issued by each of the following groups that were involved in the evaluation process have been incorporated as appendixes to this report in full, without changes or editing of any kind:

- External Auditors - Deloitte
- Financial Analysis Committee
- Legal Counsel
- Risk Management Office
- Technical Evaluation Board

With the technical evaluation process completed, a second public ceremony was held on July 8, 2009, during which the final scores for each of the consortia's technical evaluation results were disclosed. The Price Proposals were also opened and the amounts were announced and presented in the order in which the proposals arrived at the Tender Receipt ceremony on March 3, 2009. The non-negotiated best value proposal was the one that obtained the highest combined score for Price Proposal and Technical Proposal and was awarded the contract.

I hereby certify that the Technical Proposal Evaluation process for the Design and Construction of the Third Set of Locks was conducted in accordance with Request for Proposals (RFP) 76161, Panama Canal Authority (ACP) Acquisition Regulations and the Tender Evaluation and Contractor Selection Plan.

  
Adriano H. Espino C.  
ACP Contracting Officer

## INTRODUCTION

The completion of the Request for Proposals (RFP) for the contract to Design and Build the Third Set of Locks for the Panama Canal marked the beginning of a thorough and complex process to select, from the best-rounded companies in the world, the consortium that would undertake the task of building the Third Set of Locks at both ends of the Isthmus.

The Panama Canal Authority (ACP) pledged to conduct a Contractor selection process that would be marked by its thoroughness, fairness, impartiality and transparency, strictly governed by the requirements and criteria set forth in the RFP and ACP's Acquisition Regulations. All that was achieved during a process conducted uninterruptedly and in the strictest confidentiality throughout almost four months. It was completed as scheduled thanks to the support and contributions of everyone assigned to the task. The professionalism and camaraderie shared was the daily reminder of everyone's commitment to give their best to lead the effort to completion.

From the appointment of the Technical Evaluation Board (TEB) to the selection of the expert advisors, to the setting of the infrastructure that would become headquarters to the effort, the ACP left nothing to spare when assigning the necessary resources to guarantee the required confidentiality and transparency of the process. The detailed annexes included in this report attest to this fact and serve as evidence of the thoroughness of the entire process.

At the end of this period, and after the many hours of dedicated and uninterrupted work, all those involved in the process agree that having been able to take part of such a magnificent undertaking was a once-in-a-lifetime opportunity and an invaluable learning experience.

The current acknowledgement of the internal and external auditors confirm the importance of implementing the best practices to achieve a job well done.

## CANAL EXPANSION PROGRAM OVERVIEW

Following the completion of a series of studies conducted both by in-house experts and foreign and local consultants, the Panama Canal Authority (ACP) presented the nation on April 13, 2006 with a proposal to expand the Canal through the construction of a Third Set of Locks. By legal mandate, a national referendum was ordered and, on October 22, 2006, Panamanians cast their vote approving the proposal by a large majority.

From that moment, the ACP assumed the responsibility of leading and executing the nation's most extensive and comprehensive engineering feat in its history, with the express commitment of absolute transparency throughout the entire process.

The Canal Expansion Program was divided into different projects including a myriad of activities, among them dry excavation and dredging works to build the new navigation channels and accomplish widening and deepening in specific areas; environmental management; legal and financial consultancy; and the most extensive and comprehensive project of them all - the Design and Construction of the Third Set of Locks - the two structures that would enable the passage of post-Panamax vessels from one ocean to the other through Panama.



# TECHNICAL EVALUATION PROCESS

## TENDERERS SHORTLIST

### HISTORY ON THE MAKE

With the world aware of the plans Panama had set forth for its near future, the Panama Canal Authority (ACP) issued an international Request for Qualifications for the locks project on August 27, 2007. On December 14, 2007, after evaluating their Statement of Qualifications, the ACP announced that four consortia, made up of more than 30 world-renown companies, had been pre-qualified to submit Tenders for the project. These consortia were:

- Consorcio C.A.N.A.L.
- Bechtel, Taisei, Mitsubishi Corporation
- Grupo Unidos por el Canal
- Atlantico - Pacifico de Panama

Shortly after, on December 21, 2007, the ACP drafted its Request for Proposals – the document prepared by ACP experts and retained consultants, which stated in detail the components of the project, the locks performance specifications, and all contractual rules and regulations the selected Contractor would have to abide by during the entire construction.

During the tendering process, a series of homologation meetings with all consortia and individual meetings were held with each consortium, as well as field visits and pre-tender meetings. The ACP responded to consortia questions and requests for clarification through modifications and clarifications to the Request for Proposals, in a total of 24 amendments.

March 3, 2009 was the date set to receive the proposals from the pre-qualified Tenderers.



## TENDER STIPULATIONS

The contract for the Design and Construction of the Third Set of Locks is the non-negotiated best-value type, as described in Article 89C of the Panama Canal Authority Acquisition Regulations, which establishes that the best value is obtained by the proposal with the highest combined score between the Technical Proposal, which was assigned 55 percent of the total score, and the Price Proposal, which was assigned 45 percent of the total score.

As established during the Request for Qualifications process, the contract was awarded to the consortium whose proposal:

- complied with all the requirements specified in the contract
- obtained the highest combined scores for technical and price aspects
- guaranteed that the composition and conditions of the consortium had not suffered substantial changes from the time of pre-qualification

The process was carried out uninterruptedly and in the strictest confidentiality, and was completed as scheduled with the support of all the staff assigned to the task.

In abiding by the dispositions of this non-negotiated tender based on best-value, the pre-qualified Tenderers submitted their Technical and Price Proposals in individually closed and sealed envelopes and bundles during a public ceremony. As stated in the RFP, the Tenderers also submitted a Tender Security issued by an Acceptable Bond Issuer or Financial Institution.

The envelopes and bundles with the Technical Proposals were transferred to the location where the Technical Evaluation process was held, while the Price Proposals were kept closed and sealed under strict custody in the vault of Panama's National Bank until the conclusion of the Technical Evaluation and were opened during the public ceremony held to announce the Tenderer with the highest combined score.

# GENERAL ASPECTS OF THE EVALUATION PROCESS

## DESIGNATION OF THE TECHNICAL EVALUATION BOARD MEMBERS AND EXPERT ADVISORS

In preparation for the receipt of the Tenders by the pre-qualified consortia, the ACP began the process of organizing the evaluation of the technical aspects of the proposals. In September 2008, the Contracting Officer, in accordance with Article 89C, paragraph 6 of ACP's Acquisition Regulations, designated a Technical Evaluation Board (TEB) formed by 15 ACP engineers from a wide array of fields of expertise. The Board was assigned the task of reviewing, analyzing and scoring the different technical aspects of the proposals.

Most of the ACP engineers selected for the Technical Evaluation Board had previously participated in the drafting of the RFP and were, therefore, familiar with the specifications required for the locks project. They also contributed to the project their vast expertise in engineering fields and critical aspects for the evaluation including structural engineering, construction, design, locks components and operative systems, among many others. Their highly-specialized and extensive knowledge of the issues involved in the evaluation were decisive, and the fact that most of them had participated in major Canal projects in the past - including waterway widening and deepening projects, and major projects within the Republic of Panama and overseas - were also advantages that were considered when appointing the members of the TEB.

The TEB Team leaders, members and the technical aspects assigned to them for evaluation are shown in Figure 1.



		Leader	Members
<b>Technical Team 1</b>		<b>Juan Wong</b>	<b>José Reyes</b>
1	Overall Execution Plan		<b>Wilfredo Yau</b>
2	Design-Build Execution Methodology		<b>Gustavo Rivas</b>
3	Construction plan		<b>Itzel Ulloa</b>
4	Operations and Maintenance		
		<b>Leader</b>	
<b>Technical Team 2</b>		<b>Henry Stec</b>	<b>Rodrigo Chanis</b>
1	Design plan. Electrical		<b>Ernst Schnack</b>
2	Design Plan. Control and Communications		<b>Rolando Josephs</b>
3	Design Plan: Tender Design for the Works		<b>Antonio Raven</b>
4	Design Plan. Valves		
5	Training of ACP personnel		
6	Key Personnel		
		<b>Leader</b>	
<b>Technical Team 3</b>		<b>Cheryl George</b>	<b>Edelberto Castillo</b>
1	Design Plan. Approach Channels		<b>Miguel Lorenzo</b>
2	Design Plan. Locks Civil		<b>Rigoberto Delgado</b>
3	Design Plan. Fender systems		<b>Rogelio Pinilla</b>
4	Design Plan Lock gates design and fabrication		

**FIGURE 1 - TECHNICAL EVALUATION BOARD TEAMS**

The TEB’s first task was to develop the methodology and evaluation matrixes for each of the elements included in Volume IV, Parts 1 to 9 of the Request for Proposals. This methodology was included in the Tender Evaluation and Contractor Selection Plan and submitted before the receipt of the proposals.

The TEB was divided into three teams for the evaluation of the Technical Documents. Each TEB member was only part of one TEB.

In addition to the Evaluation Team, the Contracting Officer and his staff, the following groups took part in the evaluation process, each with specific roles and responsibilities as described in the Tender Evaluation and Contractor Selection Plan attached to this report in Annex 8:

- A group of more than 50 ACP and international experts that provided technical advice to the Technical Evaluation Board;



- The ACP Inspector General's Office tasked with the validation of the entire process;
- The external auditing firm Deloitte which audited the process; and,
- An appointed Notary Public who served as witness, certifying all actions involved in the process and attesting to all milestones along the process.

The group of ACP and technical advisors was identified in February 2009. They were chosen from a pool of names of local and international experts put together by the ACP, CH2M Hill and members of the TEB according to their areas of expertise and following the requirements previously identified by the designated TEB members. They were permanent ACP employees, most of whom had also contributed in the drafting of the RFP, or consultants under contract with the ACP prior to or during the evaluation process who provided technical advice on the contents of the Technical Documents.

Their experience and expertise covered a wide array of areas that were paramount to the technical evaluation including gates, valves, corrosion, structures, controls, electronics, electricity, personnel management and training, environmental management, programming, quality control, filling and emptying systems, navigation channels, and many more. In average, many of these experts had between 20 and 25 years of experience in their respective fields.

These experts were called to participate in the process in compliance with Article 89C, paragraph 7 of ACP's Acquisition Regulations.



## INFRASTRUCTURE AND ORGANIZATION

### THE BUILDING

Due to the magnitude of the project to evaluate the Technical Proposals, the ACP had anticipated that a significant staff would be required to complete the task, with an average 60 to 80 people working together in the same installation at any given time. A quiet, highly-secured area in which technical evaluation team members, local and foreign experts, support engineers, contract specialists, internal and external auditors and support staff could carry out their tasks without interruption was required, especially for the experts who would come and go to provide the Technical Evaluation Board (TEB) with necessary advice on specific issues.

Building 712 in Corozal West was selected for this purpose. It was the perfect location – isolated from the rest of the buildings within the Corozal compound and with enough capacity for the number of people who would be conducting this major undertaking.

Taking into account the building plant, the Contracting Officer's (CO) office and the area occupied by his staff were located at the front of the building, to help monitor all entries and exits to and from the installation. The conference room was located across from the CO's office.

Offices where sensitive and confidential information was to be handled were located at the end of the building, farthest away from the entrance. This was done so as to achieve the required privacy and avoid potential interruptions to the work being conducted by the TEBs and experts.

### SPECIAL SECURITY MEASURES

Special security measures were implemented in the building to guarantee the safety and confidentiality of the information through the installation of cameras to monitor access to the different areas within the building; access-control devices to limit access to certain areas, especially those where the experts and auditors were located; and highly-strict controls for computer-based information.



Entrance to Building 712, Corozal, was only allowed through the main door, with all entries and departures monitored 24 hours a day. Surveillance cameras were located at the main door and all through the installation. The recordings from all those cameras are kept in the offices of the Canal Protection and Emergency Response Division.

Access to Building 712, Corozal was limited to those persons who were part of the Technical Evaluation Boards, the Contracting Team, internal or external experts and ACP support personnel. Before conducting any type of work related to the evaluation, everyone was required to sign a Confidentiality Agreement and Conflict of Interest Disclosure Statement.

Upon entering the building, employees, experts, staff and visitors were required to turn off and hand over their mobile phones, laptops and any other type of electronic and recording devices. All those equipments remained in the custody of the Secretary. Then, before leaving the lobby, everyone was required to sign the daily entry-exit log by recording their name, ID number, time of arrival/departure, signature and purpose of their visit.

Visitors and experts were escorted to specific rooms or locations, depending on the purpose of their visit. No bags or briefcases were allowed in the building past the common areas, which included the hallways and the kitchen. This strict control was conducted day-in, day-out.

#### **CONTRACTING OFFICER'S SAFE**

A safe was installed in the office occupied by the Contracting Officer (CO) to keep all confidential information submitted to him by the TEBs and auditors. It also contained the second key required to open the safe in the vault of Panama's National Bank, where the Tenderers' Price Proposals and the Canal's Amount of Allotted Funds were kept under strict security.

#### **IT CONTROL**

Due to the level of security and confidentiality required for the evaluation process, a specific computer network and equipment was requested for Building 712, Corozal. This special setup provided security for the information handled by all parties involved and allowed interaction only among those strictly involved in specific tasks.



A secluded and secured telecommunications room was set up to house the servers and telecommunications hardware required to keep the internal network running. Several security measures were implemented to restrict the network and computers. The network in Building 712, Corozal was completely isolated from other ACP networks and aside from the Contracting Officer's staff, computers used by evaluators, auditors, experts and staff had no e-mail or Internet connection.

The Tender evaluation process required a document management system that enabled strict tracking and recording of the flow of information. To accomplish this task, the Contracting Officer implemented a document control management protocol to control outside information entering the building and internal information leaving it. To achieve this, either the CO or a contract specialist had to approve the information, which could only be transferred to the internal network using an officially designated portable USB memory device.

The document was then downloaded from the CO's or contract specialist's computer to a computer connected to the internal network and then internally e-mailed or stored in SharePoint, depending on the purpose of the document and the intended recipient. The reversed process was conducted for information leaving the building.

Not only was the internal network isolated from the outside - Technical Evaluation Teams and auditors were also isolated from each other in the internal network. They could neither share information with other teams, auditors, or anyone else in the building, nor share printers.

As an additional security measure, USB ports, CD/DVD burning options and wireless communications were completely disabled. A screen saver policy was also implemented so that machines would automatically lock if a user left his or her computer unattended. A quad-band cell phone blocker was also installed to disable cell phone use in the building.

Additionally, to strengthen the security of e-mailed RFIs between the Contracting Officer and the Tenderers participating in the process, the ACP implemented the use of e-mail encryption and digital signatures during the evaluation process. E-mail encryption ensured data confidentiality and integrity, while the e-mail digital signature provided proof of origin. These tools helped to



mitigate the risk of third parties reading, modifying, or faking e-mails containing clarification requests issued by the ACP or Tenderer's responses.

Support personnel working in Building 712, Corozal shared information through the use of the internal e-mail service and SharePoint. A special group structure was implemented to limit e-mail and SharePoint access only to those who needed it. Experts called in to provide advice on a specific subject were granted computer access only to those pages of the documents they were required to see.

The information which was to be made public after the awarding of the contract was saved in the internal SharePoint site to later be transferred to the external SharePoint Portal.

#### **DOCUMENT CONTROL VAULT**

The document control vault was also a controlled-access area and was considered the most important area in the building, where all documents of the Tenderer's Technical Proposals were stored.

The room had surveillance cameras recording movement 24-hours a day and access control devices on the door. No one, aside from the document control specialists, had access to the vault without previous authorization and escort.

The Tenderers' Technical Proposals were stored in separate areas assigned to each consortium inside the vault. Since the Tenders were already catalogued following the requirements of the RFP, whenever TEBs needed documents for their evaluations they were required to fill out a request form and sign a log with the name of the document or binder number, and the date and time the document was retrieved. Once finished with the document, the date and time of return was also registered in the log.

The same process was followed for printed or copied material. Computers used by the TEB were connected to printers inside the vault. Every time a TEB member sent a document to print, he or she had to register the document in the log and sign for it. It was given a code number depending on the type of document and once returned, the date and time of return was entered in the log.

These documents were catalogued into three different categories.

**Record Documents** were those documents that were directly part of the evaluation process or directly supported the evaluation. They became part of the official record of the evaluation and were collected for filing purposes or use during the execution of the contract. Hard copies of original record documents had to be returned to the document vault for hard copy filing.

**Reference Documents** were those non-confidential documents that were not part of the evaluation and were not directly related to evaluation materials, but supported the evaluation process. These did not have to be logged or returned to the document vault for filing.

**Working notes** included the TEB individual or team notes used to formulate the consensus opinion of the team. These notes were returned to the vault, logged as documents to be destroyed, and destroyed by the document control specialists at the conclusion of the evaluation.

Upon the conclusion of the Tender Evaluation Process, the following procedures were followed for filing, deleting or shredding documents:

- TEB members and contract specialists made sure all files were treated appropriately in accordance with the Tender Evaluation and Contractor Selection Plan.
- Vault personnel made sure all logged materials were returned to the vault. They sent memos addressed to each incumbent, listing those working notes and record documents pending their return to the vault.
- All documents printed or copied and logged as working notes were returned to the vault upon completion of the evaluation process to be shredded. A new log was created to register documents that were shredded, which included document name, date, time, and signature.
- Working notes in electronic files or those stored in the SharePoint site were deleted at the conclusion of the evaluation process.

#### **TEB, EXPERTS, FINANCIAL ANALYSIS COMMITTEE AND AUDITORS' ROOMS**

Private and secure meeting rooms were designated by the CO for the Technical Evaluation Board (TEB) teams, the External Auditor teams, the Inspector General's personnel, the Financial Analysis Committee and the Expert Advisors. Upon his approval, electronic passes were activated for the staff assigned to

work in the building, depending on their level of responsibility in the process and taking into consideration the sensitivity of the information. Electronic access-control devices were installed outside the doors to each of the TEB team rooms, and the rooms reserved for auditors, experts and members of the Financial Analysis Committee were kept locked at all times. All occupants were required to register the retrieval and return of the assigned keys on a form prepared for that purpose, which was controlled by the Secretary.

Access to the different areas was determined by need. Access to TEB, external expert and auditors' areas was limited to only members of each TEB, external experts according to their area of expertise, internal and external auditors, the Contracting Officer and the contract specialists assigned to each of the TEBs.



The background of the page is a large, semi-transparent image showing a construction site for a lock. The site is a deep, excavated area with concrete walls and various pieces of construction equipment, including cranes and scaffolding. The ground is a mix of dirt and concrete. In the distance, there are some buildings and a body of water under a clear sky.

# RECEIPT OF TECHNICAL PROPOSALS

## TENDER RECEIPT CEREMONY

During a highly-anticipated ceremony held on March 3, 2009 at the ACP Ascanio Arosemena auditorium, attended by Panama's highest authorities, consortia representatives, foreign and local personalities associated to world shipping, ACP officials and special guests, three of the four pre-qualified consortia presented their proposals, thus making official their participation in the process to select the Contractor for this major undertaking.

The time established for the submission of Tenders by the pre-qualified consortia was between 8:00 a.m. and 11:00 a.m., ACP official time. A total of 468 persons attended the ceremony, open to media coverage and the general public, including the following special guests:

- The President of the Republic of Panama
- The members of the Ad Hoc Board established by Law 28, 2006
- The members of Panama's Legislative Assembly Canal Affairs Committee
- The members of the ACP Board of Directors
- The authorized representatives of the pre-qualified Tenderers

As representatives of each consortium arrived at the ceremony, ACP contracting officials assigned each a different color and a specific area in which they were to place the thousands of documents validating their participation. The Price Proposals were placed in a safety deposit box, along with the ACP Amount of Allotted Funds and transferred to the vault of Panama's National Bank, where they remained in custody until the date in which the results of the technical evaluation were disclosed to the public.

The entire ceremony was presided by the ACP Contracting Officer and certified by ACP's Inspector General; the external auditing firm, Deloitte; and a Notary Public, all of whom verified that the Technical Proposals were duly stamped and sealed and that the envelopes containing the Price Proposals remained under custody and were placed in the bank's safety vault, along with the envelope containing ACP's Amount of Allocated Funds for the project.



Sitting at the main table were:

- Mr. Adriano H. Espino C., ACP's Contracting Officer
- Mr. Eduardo Lee, External Auditor - Deloitte
- Mr. Victor Diamond, ACP's Inspector General
- Ms. Tere Abadia, ACP's Contract Specialist
- Mr. Mario Velasquez, Notary Public

Following stipulations in Part C-10, Format of Tenders, of the Instructions to Tenderers, Volume I of the RFP, the proposals were divided into two distinct parts - the Technical Proposal and the Price Proposal. The Technical Proposal was then subdivided into:

- Technical Proposal - Tender Documents, and
- Technical Proposal - Technical Documents



Once the time for the submittal of Tenders had expired, the Contracting Officer announced the names of the pre-qualified consortia whose Tenders had been received and the number of bundles they had submitted, as follows:

TENDERER	TIME OF RECEIPT	No. of BUNDLES
<b>BECHTEL, TAISEI, MITSUBISHI CORP.</b>	<b>8:57a.m.</b>	<b>27 bundles</b>
<b>CONSORCIO C.A.N.A.L.</b>	<b>9:24 a.m.</b>	<b>78 bundles</b>
<b>GRUPO UNIDOS POR EL CANAL</b>	<b>10:16 a.m.</b>	<b>26 bundles</b>

Upon closing of the ceremony, the Notary Public drafted, signed and stamped the Minutes that describe the entire Tender Receipt Ceremony. All officers at the main table, as well as the authorized representative of each Tenderer signed the Minutes.



# CHAPTER 2

## EVALUATION OF TECHNICAL PROPOSALS

### TENDER DOCUMENTS

## OPENING AND VERIFICATION OF THE TENDER DOCUMENTS

None of the Technical Proposal documents were disclosed during the ceremony. Once concluded, all documentation related to each Tenderer's Technical Proposal was officially transferred to Building 712, Corozal, where the Contracting Officer and his staff along with the previously appointed Technical Evaluation Board, conducted an inventory of all documents included in each proposal in the presence of the Notary Public, the external auditors, and the Inspector General.

To be fully compliant, a Tender had to include a Technical Proposal that fully conformed to all terms and conditions established in the RFP, without deviation or reservation, and include a valid Tender Security. Aside from the Tender Security, the Tender Documents had to be accompanied by the following documents duly completed and executed, as stated in paragraph C-1, Volume I [*Instructions to Tenderers*] of the RFP:

- the Letter of Tender
- the Appendix to Tender
- the Certification Letter
- the Confirmation Letter
- the Tender Signature Authority Documents

The Contracting Officer and his team, along with the Office of the Inspector General's representative, verified that Tenderers complied with the submittal of a valid Tender Security, as established in the RFP, Instructions to Tenderers, Paragraph C-8 and the ACP Acquisition Regulations, Chapter XI, Article 103. Validation of these submittals was attested to in the process Minutes.

The Contracts Legal Counsel Section (IACL) verified that the Tender Documents complied with all legal requirements established in the RFP and ACP Acquisition Regulations, and the Risk Management Section (IACR) confirmed that each Tender Security was valid and issued by a qualified guarantor or entity.

IACL and IACR submitted a memorandum to the Contracting Officer with their findings and conclusions, which is included in Appendix 2 of this report.

Submittal of a valid Tender Security as part of the proposal, was of utmost importance as this Tender Security became the instrument to guarantee the ACP that the successful Tenderer would maintain the offer and carry through with the signing of the contract. Once the contract is awarded, the Tender Security is returned to the unsuccessful Tenderers in compliance with the terms established in the RFP. However, the Tender Security is not returned to the successful Tenderer until the execution and submittal of the Contract Agreement and furnishing of the Performance Bond and Payment Bond.



# CHAPTER 3

## EVALUATION OF TECHNICAL PROPOSALS

### TECHNICAL DOCUMENTS

## OPENING OF TECHNICAL DOCUMENTS

Immediately after the verification of the Tender Security, a thorough inventory of all Technical Documents was initiated by the Contracting Officer, contract specialists, members of the Technical Evaluation Board, the Notary Public, representatives of the external auditing firm and auditors from the Inspector General's Office.

The Contracting Officer and his team prepared minutes documenting the opening process, which included the date, time, and place of the opening process. All those involved in the opening and inventorying process signed the corresponding Minutes, with the Notary Public co-signing and stamping the document.

The inventory of the proposals received was performed as follows:

- **First level inventory** - The Contracting Officer's designated team opened the bundles, one at a time, and checked the contents against inventory forms prepared in advance by the Evaluation Teams. Completeness of the first level inventory was based on specifically identifiable and required information included in the RFP.
- **Second level inventory** - Team members opened each binder or collection of materials, examined and interpreted the contents against the required, expected, or anticipated materials identifiable by a Technical team.

In cases where supplemental, non-requested information was submitted by the Tenderers, the information was inventoried and/or reported to the Contracting Officer.

After the inventory, the TEB teams prepared and submitted a schedule of the tasks to be conducted and the time it would take to complete them. Attesting to the commitment and professionalism of the members of the evaluation process, all three final evaluation reports were ready by the date established in the schedule.

## EVALUATION OF THE TECHNICAL DOCUMENTS

The Technical Documents' evaluation process was conducted in a uniform and transparent manner, with the equitable and uniform application of the procedures described in the Employer's Evaluation Criteria, Volume IV of the RFP, and in accordance with and subject to the process established in Article 89C of the Employer's Acquisition Regulations. Auditors from the Inspector General's Office and external auditors retained by the ACP participated in the entire process to certify it was duly followed and that the dispositions of the Technical Evaluation and Contractor Selection Plan were implemented.

The dedicated, uninterrupted work conducted by the members of the Technical Evaluation Team was overseen by ACP's Contracting Officer.

### TEB TEAMS AND SUPPORT ENGINEERS

The 15 members of the Technical Evaluation Board were divided into three teams of five members each, grouped together according to their expertise. Each team was assigned a set of documents made up of one third of the documents in each Technical Proposal and all three teams worked separately, without influencing each other. The documents were assigned based on the areas of expertise of the members of each TEB.

The evaluation process was conducted independently and the evaluation details and scores were not shared with members of other teams. Each team was responsible for scoring their assigned sections, while the final score resulted from putting together the scores assigned to each element by the three teams.

The following were the main duties and responsibilities of the TEB teams and their members:

- Evaluating the Technical Documents based solely on the criteria established in the Employer's Evaluation Criteria, Volume IV of the RFP and assigning the scores in an impartial, transparent, expeditious and fair manner.
- Verifying whether any of the Technical Documents contained any conditions, exceptions, provisions, restrictions, explicit or implicit reservations regarding the terms and conditions set forth in the RFP, and immediately reporting them to the Contracting Officer in the event one

such condition might result in the disqualification of a Tenderer from further consideration.

- Verifying that the Technical Documents complied with and/or responded to the Employer's Requirements established in Volume II of the RFP.

At the end of their evaluations, each TEB organized their official files and submitted them to the Contracting Officer, who stored them in the safe located in his office.

Support Engineers were appointed to provide support to each of the TEBs in all matters directly related to the evaluation process. They processed requests for information issued by TEB members and made sure they were handed to contract specialists in a timely manner so they could be sent to Tenderers for response. They kept a log of all Requests for Information (RFIs) sent and the responses received by their TEBs.

#### **INSPECTOR GENERAL AUDITORS AND EXTERNAL AUDITORS**

A total of 13 auditors from the Inspector General's Office and four auditors from the external firm, Deloitte, participated in the evaluation process. The Office of the Inspector General conducted audits of the Technical Documents evaluation process to confirm that all Tenderers were allowed participation under equal conditions, and that the evaluation process was conducted with transparency and in compliance with the criteria established in the RFP and ACP Acquisition Regulations.

Auditors from retained firm Deloitte reviewed and audited the process to corroborate, by way of an audit opinion, the objectivity, integrity, impartiality and transparency with which the evaluation of the Technical Proposal was performed. See Appendix 1 for external auditor's opinion.

Auditors had full access to hard copy and electronic data used in the evaluation process, which they used to review and make sure that TEB opinions and consensus justifications were adequately documented. In the event they were not satisfied with such justifications, auditors reported to the CO any comprehensive findings of process inconsistencies or score justifications that appeared lacking.

Auditors also participated in daily and weekly meetings with the TEBs along with the CO, the Contract Specialists and members of the legal team to assess and take note of progress reports, issues and concerns informed by the teams or team leaders.

Before the TEB’s final reports were submitted to the CO, auditors had already reviewed all included documentation and overseen the processes through which the teams had reached to their conclusions.

**STAFF SUPPORT**

Contract Specialists were the only staff members with e-mail, Internet and telephone access to communicate with the rest of the ACP and send RFIs to Tenderers and receive their responses via e-mail as part of the process.

All information leaving this area was encrypted, meaning the information was transformed from plain text using an algorithm or cipher to make it unreadable to anyone, except those possessing special knowledge, usually referred to in computer jargon as key.

One Contract Specialist was assigned to each TEB team to help in

BUILDING 712 STAFF	
Name	Responsibility
Adriano H. Espino C.	ACP Contracting Officer
Celina Cubilla	Secretary
Mario Asin	Contract Advisor
Tere Abadía	Contract Specialist
Kerube Oduber de Sinclair	Contract Specialist
Elis A. Vargas G.	Contract Specialist
Francisco Artola	Clerical Support
Luis Moral	Support Engineer – TEB1
Emerson Barahona	Support Engineer – TEB2
Lilibeth López	Support Engineer – TEB3
Miriam Mejía	Support Engineer – TEB3
Joel Sáenz	IT Support
Jorge Abadía	Document Control
Manuel Barrera	Document Control
Yira A. Flores Naylor	Technical Writer/Editor
Lil C. Torres	Clerical Support
Berta Briceño	Administrative Assistant



overseeing compliance of the process with stipulations of the RFP and all applicable contractual regulations. They participated in daily meetings held by each team, in which an assigned auditor participated as well. During those meetings, issues such as progress in the evaluation process, particular issues requiring contractual opinion, processing of RFIs, and coordination of expert visits were discussed.

They also attended weekly meetings held by the Contracting Officer along with TEB leaders, legal advisors, and internal and external auditors to discuss and resolve issues related to the proposals, assess the evaluation plan for effectiveness and document lessons learned.

Contract Specialists coordinated all meetings and consultations between TEB teams and experts and coordinated all ACP official communications with the Tenderers, assuring adherence of the text to contractual requirements. They also coordinated, organized, reviewed and oversaw the work conducted by the TEBs and expert advisors and reported to the CO any issues that merited correction or change.

After the TEBs submitted their reports, Contract Specialists reviewed them and made pertinent observations, as necessary, to ensure compliance with the RFP.

The contract advisor was responsible for reviewing all documentation requested to, received from, and exchanged with Tenderers during the evaluation process to guarantee that contractual requirements were honored and that the information exchanged would not jeopardize the evaluation process.

He also reviewed those sections of the final reports prepared by the members of the TEBs at the completion of the process that did not include scores.

Support Engineer provided support to TEB team leaders or members. Whenever a TEB member made the specific request, the support engineer assigned to the team filled out a request form and document control specialists processed the request at the document vault. Expert advisors reviewed only the specific information assigned to them by the leaders or members of the TEB teams.

Documents related to the evaluation process such as consensus reports, were not shared with individuals outside each TEB, except for the auditor assigned to each TEB, who made sure all evaluation material was kept confidential.

#### **RECTIFICATION, CORRECTION OR CLARIFICATION OF TECHNICAL PROPOSALS**

Throughout the evaluation process, the Contracting Officer requested Tenderers to provide additional information, clarification, rectification, and confirmation of certain facts included in the proposals as deemed appropriate to ensure accuracy in the evaluation of the Technical Proposals.

Most of the RFIs submitted by the Contracting Officer were prompted by queries raised by the TEBs, while other requests were issued to fulfill specific requirements of the RFP. A total of 317 requests were issued to the three Tenderers during the course of the evaluation, with 317 responses received and immediately forwarded to the corresponding TEB Teams for further consideration. This process was smooth, with requests and responses sent and received in a timely manner, contributing to the completion of the process as originally scheduled.

The formal process required TEB team members to request additional information or clarification by filling out a form especially prepared for this matter with the information required and submitting it through the contract specialist assigned to each team. The contract specialist then sent the queries to the representatives that each consortium had previously assigned for this task, who were authorized to receive and respond to the Requests for Information.

Among the most common queries submitted to the three consortia were those related to the construction, operation and administration of gates, valves, filling and emptying systems, key personnel and personnel training, control systems, design-build methodology, culverts, quality standards, safety, structures and system redundancy.

Compilations of the RFIs sent to each Tenderer and the responses received have been inventoried and filed separately<sup>1</sup>. A list with the contents of the compilation corresponding to the selected Non-negotiated Best-Value Proposal will be appended to the Contract Agreement.

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<sup>1</sup> All Requests for Information have been filed by Tenderer and by date. The compilations of RFIs processed for unsuccessful Tenderers will not be disclosed and will remain property of the ACP as stated in Volume I, paragraph A-5, Cost of Tenders and Payment of Stipends of the Instructions to Tenderers of the RFP.

### TECHNICAL DOCUMENTS EVALUATION REPORTS

Upon completion of their reviews and analyses, each TEB Team Leader submitted a confidential Evaluation Report to the Contracting Officer with the results of the evaluations conducted and the final scores agreed upon among the members of each team. The reports include the validation of the scores assigned to each part of the Technical Documents evaluated. Each evaluation report was dated and signed by the team members who participated in the evaluation.



## TENDERERS' FINANCIAL CAPACITY ANALYSIS COMMITTEE

In addition to ACP's assessment of the Tender Documents submitted by the Tenderers, the ACP designated a Tenderers' Financial Capacity Analysis Committee that was assigned the responsibility of verifying the financial health of the consortia participating in the tendering process. The Committee was formed by four ACP financial experts.

To support the work conducted by the Committee, the ACP also contracted two external financial experts holding Ph. Ds in International Economy and Finance and in Financial Analysis, respectively, from INCAE, one of the leading MBA program universities in Latin America. These experts contributed to this thorough analysis and provided their own advice on the analysis of the financial condition of the consortia involved in the process.

The ACP Financial Committee concluded that given the general categories used to assess the consolidated position of the consortia (optimal, acceptable, or compromised), all consortia exhibited an acceptable condition at the time of pre-qualification; no substantial change was detected regarding compliance with the minimum requirements established for the pre-qualification process that could impede them to perform the contract; and also that no significant change in the overall condition of the consortia was observed from the time of pre-qualification, which was one of the requirements established in the RFP.



# CHAPTER 4

## TECHNICAL EVALUATION RESULTS



## CONSOLIDATION OF TECHNICAL PROPOSAL SCORING

To evaluate the Technical Proposals, the Technical Evaluation Board teams were assigned sections of the three proposals presented by the Tenderers to the ACP. After conducting the evaluation of the assigned sections, each TEB team prepared a document stating the scores of each Tenderer for the sections they evaluated. Once all the Technical Proposals were evaluated, the TEB Teams were required to submit a summary consensus report for each Technical Proposal.

The reports were separated into parts and sub-parts relevant to each TEB team. Each TEB team reviewed its portion of the consolidated report for the parts and sub-parts assigned to it. The objective of this evaluation was to verify that the TEB teams had applied the evaluation criteria consistently throughout the evaluation process for all Technical Proposals.

TEB team leaders then consolidated all individual final TEB team scores and evaluations of all the parts and sub-parts assigned to their teams into complete team consensus reports for each Technical Proposal. Consensus team reports contain the results of the teams' consensus evaluation, consensus scores for each factor, and a substantiated written consensus validation. The individual TEB teams then dated, reviewed, and signed a document stating that the consolidated Team Report represented the entire Team's opinion. Auditors then made sure that the summary consensus team reports were adequately documented.

TEB team leaders and lead auditors were required to sign their portion of the Final Report for each Tenderer. Team Leaders then forwarded their portions of the Final Report to the CO. Using a table that included all the elements that required evaluation in compliance with Volume IV, Employer's Evaluation Criteria, of the RFP, the CO was then responsible for consolidating the individual Team Reports into a comprehensive report for each Tenderer. Upon assembly, the auditors were required to confirm that the assembled final report for each Technical Proposal included the correct summary for the individual TEB team reports.

## FINAL SCORES

The score for each of the evaluation factors was the result of consensus among all members on each TEB. The consensus was reached by agreeing to a concise adjectival score for each of the factors being evaluated based on the maximum points assigned to each factor in compliance with RFP Volume IV, Employer's Evaluation Criteria.

The adjectival scores were defined as follows:

**Excellent (E):** Whenever the proposal significantly exceeds the Employer's Requirements and provides exceptional added value to the Employer. There is little or no risk for the Tenderer to fail to satisfy the requirements of the Contract.

**Very Good (VG):** Whenever the proposal exceeds the Employer's Requirements and provides added value to the Employer. There is little or no risk for the Tenderer to fail to satisfy the requirements of the Contract.

**Good (G):** Whenever the Tenderer demonstrates good approaches that comply with the Employer's Requirements. There is a slight potential risk for the Tenderer to fail to satisfy some of the requirements of the Contract.

**Marginal (M):** Whenever the approaches offered by the Tenderer have deviations from the Employer's Requirements. There is doubt that the Tenderer may succeed to satisfy the requirements of the Contract.




**Deficient (D):** Whenever the Tenderer demonstrates approaches that contain major weaknesses. The Tenderer's proposal failed to comply with the Employer's Requirements, or lacked clear, relevant and critical information. There is a high risk that the Tenderer may fail to satisfy the requirements of the Contract.

Each of the adjectival scores had an equivalent percentage as follows:

TENDER EVALUATION REPORT	
TECHNICAL PROPOSALS – EVALUATION RESULTS	
Adjectival Descriptions for Qualitative Technical Criteria	
Evaluation Levels	Percentage
Excellent (E)	100%
Very Good (VG)	90%
Good (G)	70%
Marginal (M)	60%
Deficient (D)	20%

Once the TEB team members had reached a consensus on the adjectival scores, the total points assigned to each factor on RFP Volume IV, Employer’s Evaluation Criteria, were multiplied by the percentage assigned to each adjectival score (shown on the table above), which resulted in the score for each of the factors being evaluated. A table with the detailed score per evaluation factor is included in Appendix 2.



TECHNICAL PROPOSALS – EVALUATION RESULTS		TOTAL SCORE
TOTAL OVERALL SCORE		
CONSORTIA		TOTAL SCORE
	BECHTEL, TAISEI, MITSUBISHI CORPORATION	3789.5
	CONSORCIO C.A.N.A.L.	3973.5
	GRUPO UNIDOS POR EL CANAL	4088.5



# CHAPTER 5

## SELECTING THE BEST-VALUE PROPOSAL

## CHOOSING THE NON-NEGOTIATED BEST VALUE PROPOSAL

After a process distinguished by its transparency and the commitment of all who took part of it, on July 8, 2009, the ACP revealed the results of the Technical Evaluation and opened the envelopes containing the Price Proposals and the ACP Amount of Allotted Funds for the Project to select the contractor with the best combined Technical and Price Proposal who would design and build the new Third Set of Locks at the Panama Canal.

The Tender submitted by Grupo Unidos por el Canal (GUPC), identified with the color green, obtained the highest technical score with 4088.5 points. Upon opening the envelopes with the Price Proposals during the ceremony, the consortium, with a Price Proposal of \$3,221,631,384.00, including the provisional sum (please see detailed price proposal at the end of this document), was officially selected as the Tenderer with the non-negotiated best value proposal. The provisional sum includes the cost of additional works that complement the construction of the Third Set of Locks, which are the construction of lock approach structures and maintenance. ACP's Amount of Allotted Funds for the project totaled \$3,481,000,000.00. When assessing the Price Proposals, the maximum score was awarded to the proposal with the lowest price and the lowest provisional sum.

### SELECTION OF NON-NEGOTIATED BEST-VALUE PROPOSAL

	55%	40%	5%		45%	100%			
Pre-qualified Tenderers	Points Technical Proposal Max. 5,500	Base Price Proposal	Points Base Price Max. 4,000	Provisional Sum Price Proposal	Points Provisional Sum Max. 500	Total Price Proposal	Total Points Price Proposal Max. 4,500	Total Points Max. 10,000	Best Value Proposal
Bechtel, Taisei, Mitsubishi Corporation	3789.5	\$4,185,983,000.00	2980.3	\$93,836,670.00	n/a	\$4,279,819,670.00	2980.3	6769.8	2
Consorcio C.A.N.A.L.	3973.5	\$5,981,020,333.00	2085.9	\$	500	\$5,981,020,333.00	2585.9	6559.4	3
Grupo Unidos por el Canal	4088.5	\$3,118,880,001.00	4000.0	\$102,751,383.00	n/a	\$3,221,631,384.00	4000.0	8088.5	1
ACP - Amount of Allotted Funds		\$3,481,000,000.00							



# CHAPTER 6

## PRICE VERIFICATION

## PRICE VERIFICATION COMMITTEE

Once the non-negotiated best value proposal was selected, the ACP Price Verification Committee, formed by a team of experts from the Engineering Division with vast experience in major engineering projects cost estimation, verified that the Price Proposal was fully compliant with the requirements established in the RFP and that no conditions had been included in any of the price items that were part of the Price Proposal. The price verification was supported by ACP's contracts legal team.



## REITERATING THE WINNING CONSORTIUM'S FINANCIAL CAPACITY

Additionally, and following the recommendations of the Financial Analysis Committee, the Contracting Officer requested the winning consortium to provide their latest financial statements and details of their most current financial activity; expand on aspects of their operations, financial health and contingencies; and inform about the actions taken to mitigate any potential risks. A team from ACP's Inspector General's Office met with representatives from the institution that issued the Tender Security for GUPC and representatives from Sacyr Vallehermoso, S.A., and Impregilo S.p.A., leading members of the winning consortium. Among the topics discussed during their meeting were the surety's assessment of the members' current financial situation and the basis for its decision to issue the Tender Security and the subsequent Payment Bond and Performance Bond.

After examining the requested information, receiving proper documentation, and the surety's assessment of the consortium's financial and technical capacity to carry out the task of designing and building the Third Set of Locks, and after once again corroborating the consortium's financial standing, the Contracting Officer, in compliance with the Canal's Contracting Regulations, awarded the contract to Grupo Unidos por el Canal on July 15, 2009.

