



**MOMBASA PORT AREA ROAD DEVELOPMENT PROJECT**

**CONSTRUCTION OF MTEZA – KIBUNDANI SECTION (PACKAGE 3) – TENDER NO**

**KeNHA/1520/2017**

**BID CLARIFICATIONS**

<b>No</b>	<b>Question</b>	<b>Client Response</b>
1.	Bidders sought to know if there is any Preferences for Japanese Bidders.	There are No preferences for any Bidders.
2.	Bidders sought to know how the interphase between Package 2 and 3 would be managed.	The Employer responded that the Supervising Consultant for both Package 2 and 3 is the same. They will coordinate and harmonize the Construction schedules.
3.	Bidders sought to know the status of Land Acquisition.	The Employer will avail the land for construction at the time of project implementation.
4.	Bidders sought to know if the Employer would consider the Edge of Mteza Bridge as the interphase between Package 2 and 3.	The Southern approach to Mteza Bridge to be done by Package 2 Contractor.
5.	Bidders sought to know when the revised Drawings would be available.	The revised Drawings will be availed as part of Addendum No.1.
6.	Bidders requested to know if the Materials and EIA Reports were available and how they can be accessed.	The Employer has provided the Materials & EIA report in its Website.
7.	Bidders requested to know if the Materials report included Laboratory Test results and Geo-technical investigations.	The Employer has provided a Factual Materials report on its website which includes laboratory test results. Bidders are however reminded that in accordance with the Special Specifications, it is their responsibility to identify sources of materials.
8.	Bidders requested to know if they were to only consider the sources listed in the Materials report or they could explore additional sources.	The Employer responded that the materials sources indicated in the Materials report were for information purposes only. It's the responsibility of the Bidders to identify sources of materials.
9.	Bidders requested to know if the CESS charges in Mombasa were uniform and whether they are likely to change with time.	Bidders are advised to familiarize themselves with the County regulations and any fees that may be charged.
10.	Bidders sought to know if there were any spoil areas available for the project.	It's the Bidder's responsibility to identify spoil areas.

No	Question	Client Response
11.	Bidders sought to clarify the mode of submitting questions or clarifications	As indicated in the Instructions To Bidders (ITB) clause 7.1, Bidders were allowed to present their questions or clarifications verbally during the Pre-Bid meeting, by hardcopy through the address provided or electronically by email.
12.	Bidders sought to know the deadline for submitting questions or clarifications	The Deadline is as indicated in the Instructions to Bidders (ITB) clause 7.1.
13.	Bidders sought to know if there was land available for setting up their Camp Site	It is the responsibility of the Bidder to identify land to setup their camps site, Engineer's Housing, laboratory and offices.
14.	Bidders noted that the Bid Document indicated that Japanese Companies would be exempted from Tax. How would this affect the evaluation of the Bids?	Further to ITB Clause 36, Bidders are advised that evaluation of the Financial Proposals and award of the Contract will be done exclusive of indirect Taxes.
15.	Bidders sought to know if European Bidders could submit their Bids in Euro currency.	Bidders are referred to ITB 15.1 which allows for three (3) currency Kenya Shillings, Japanese Yen and Dollars.
16.	Bidders sought to know the submission method for both Technical and Financial Proposals	Bidders are referred to provision of ITB 21 Sealing and Marking of Bids.
17.	Bidder sought to know if they can be issued the BOQ in Ms Excel format.	Bidders are advised to download the BoQ in Ms Excel format from Kenya National Highways Authority (KeNHA) website or Alternatively pick the same from KeNHA, Procurement Office, Ground floor during the Normal Working Hours (Monday – Friday)
18.	Bidders sought to know who will provide security during the implementation of the Project	Bidders are referred to the Provision in the Standard Specification -Section I General which requires the Contractor to provide security for the Site, Camp and the Engineer's Laboratory, Office and Housing.  In addition in the Bill of Quantities Item 1.37 the Employer has provided a Provisional Sum for enhanced security to be utilized with approval of the Engineer.
19.	Bidders sought to know if there is any Preferences for Japanese Bidders.	There are No preferences for any Bidders.
20.	Will the withholding tax be deducted from payment in this project?	Bidders are invited to familiarize themselves with the provisions of the Kenya's Income Tax Act in order to understand the tax regimes and rates that apply.

No	Question	Client Response
21.	Import duties and value-added tax are exempted for Japanese Company. Please advise on the procedure of this tax exemption.	Bidders are advised to familiarize themselves with the procedures for tax exemptions, however applications shall be done through the Employer.
22.	For Non-Japanese Companies, the customs duties and VAT are required. Is it possible to be exempted?	Bidders are referred to the provisions of Sub-Clause 14.7 of the ITB
23.	Will the successful Bidder required to prepare a master List for Task exemption	Further to the provisions of Sub-Clause 14.7 of the ITB, such firms would require to prepare a Master list for tax exemptions.
24.	For the project execution, do Bidders need to have construction license in Kenya?	Bidders are required to familiarize with National Construction Authority (NCA) requirement with regard to Foreign Firms.
25.	To execute the project, do Bidders need to set up the project office or branch? Is this project office or Branch treated as PE (Permanent establishment)? In case of PE, how we can receive the exemption?	<p>Bidders are invited to familiarize themselves with the Kenya's Companies Act in order to fully understand the regulation of foreign companies operating in Kenya.</p> <p>Bidders are also invited to familiarize themselves with the provisions of the Kenya's Income Tax Act in order to understand the tax regimes and rates that apply.</p>
26.	Which banks are acceptable to issue the Bid bond?	Bidders are advised that they can obtain Bid Security from any local Bank or an International Bank with a correspondent local Bank.
27.	With regards to ITB 34.1 which exchange rate will be applied, Mean, Selling or Buying?	Bidders are advised that the Mean exchange rate will be applied.
28.	What is the exchange rate to be applied on this form of Average Annual Construction Turnover?	Bidders are referred to EQC-4 Note No.2 Qualification (i) Exchange Rate for Qualification Criteria. Bidders are further advised that the Mean Exchange Rate will be applied.
29.	For a foreign company to obtain a construction license in Kenya, there is a condition that the contractor should place an order to Kenya local company for 30% of contractual amount. However, there is no applicable condition for this project. Is this correct understanding?	Bidders are advised to familiarize themselves with the requirements of the Public Procurement and Asset Disposal (PPAD) Act 2015.
30.	Under Special Conditions of Contract Sub-Clause 4.8, Bidders are required to comply with safety measures as provided for in the Kenya laws. Please indicate the applicable Kenyan laws.	Bidders are required to familiarize themselves with the safety requirements as provided for in the Laws of Kenya and in particular Occupational Safety and Health Act.
31.	Please confirm that not attending the original Pre-Bid Meeting and site visit will not affect a Bidder's tender submission	Bidders are referred to ITB 7.6 (...Non-attendance of the Pre-Bid meeting will not be a cause for disqualification of a Bidder)
32.	Please confirm which documents require certification and who is approved to do so?	Bidders are advised that the following documents must be Certified by a

No	Question	Client Response
		<p>Notary Public or equivalent;</p> <ul style="list-style-type: none"> <li>• Power of Attorney</li> <li>• Academic credentials of Key Personnel (EQC-2, No. 1.1.2)</li> </ul> <p>Bidders are further required to provide certified copies of Completion certificates for contracts referred to in the General/Specific Construction Experience (EQC-7-10, 2.4 Experience)</p>
33.	<p>Could the Employer consider an extension to the submission date?</p>	<p>Refer to Addendum No.1. Pursuant to Sub-Clause 22.1 the Deadline for Bid submission is : Date: 6<sup>th</sup> September 2017 Time: 11:00am EAT</p> <p>Pursuant to Sub-Clause 25.1 Opening of the Bids shall be held on : Date: 6<sup>th</sup> September 2017 Time: 11:00am EAT</p>