



Kenya National Highways Authority

Quality Highways, Better Connections

REQUEST FOR QUALIFICATION (RFQ)
FOR THE
SELECTION OF THE INDEPENDENT EXPERT
FOR

NAIROBI – NAKURU – MAU SUMMIT HIGHWAY
DESIGN, BUILD, FINANCE, OPERATE, MAINTAIN AND TRANSFER

Tender Number: KeNHA/PPP/2355/2020

Addendum/Clarifications No. 1

16th December, 2020

Rift Valley Highway Limited
9th Floor, Williamson House, 4th Ngong Avenue,
Post Office 40111 – 00100
NAIROBI

THE DIRECTOR GENERAL
KENYA NATIONAL HIGHWAYS AUTHORITY
P. O. Box 49712
NAIROBI

Date: 16th December, 2020

Tender No: KeNHA/PPP/2355/2020

Assignment: Request for Qualification (RFQ) For the Selection of the Independent Expert for Nairobi – Nakuru – Mau Summit Highway

To: All Applicants

Addendum / Clarification No: 1

Pursuant to Clause 2.8 of the RFQ dated 17th November 2020, all Applicants are advised of:

- (i) The responses of KeNHA/Rift Valley Highway Limited to the queries raised on the Request for Qualification Document (RFQ); and
- (ii) Other changes made to the RFQ.

All other terms and conditions of the RFQ shall remain unchanged. All Applicants shall take note of the same.

For: Director General
Kenya National Highways Authority

1. RESPONSE TO QUERIES ON THE RFQ

	Issue	Query/Clarification	Response
S/No	Issues Relating to RFQ and Tendering Process		
1.	2.2.1 c) Eligibility of Applicants	<p><i>The statement of this clause: “Applicants must have no conflicts of interest which may impair their ability or perceived ability to act independently in the provision of IE services. Accordingly, the Applicants must disclose all ongoing and recent (within the last 3 (three) years) relationships and engagement with any of the Contracting Authority and the Project Company or any of its shareholders or its affiliates or its proposed construction or O&M contractors...”</i></p> <p>Q: Could you kindly clarify how these contracts will be taken into account in the evaluation?</p>	<p>Disclosure of ongoing and recent (within the last 3 (three) years) relationships and engagement with any of the Contracting Authority and the Project Company or any of its shareholders or its affiliates or its proposed construction or O&M contractors is for information purposes. The evaluation committee will determine whether the Applicant is conflicted with respect to this assignment.</p>
2.	2.2.1 c) Eligibility of Applicants	<p><i>Further up, in this section, it states that (extracts) “Applicants shall be considered to have a conflict of interest impairing their ability – or perceived ability- to act independently in the provision of IE services under any of all of the following circumstances: (...)</i></p> <ul style="list-style-type: none"> - <i>An Applicant has been directly engaged as a consultant or independent expert by the Contracting Authority or the Project Company in the preparation of the bidding documents or any other relevant design or technical document or in the provision of</i> 	<p>Refer to clause 2.2.1 c), under circumstances where Applicant will be considered to have Conflict of Interest (third bullet).</p> <p>Given that the Traffic and Revenue Advisor agreement was signed with the Sponsors of the Project Company, the evaluation committee is likely to determine that The Traffic and Revenue Advisor is conflicted in this assignment.</p>

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		<p><i>certification, review, monitoring and supervision services in connection with the Project</i></p> <p><i>(...)</i></p> <p>Q: Could you kindly clarify if the agreement for Traffic and Revenue Adviser signed on the 29th August 2017 between setec international as lead of a JV and the consortium composed of Vinci Highways SAS, Vinci Concessions SAS and Meridiam SAS, may be considered as a provision of services impairing our ability to perform the IE services?</p>	
3.	2.2.2 (B) Financial Capability	<p>The Applicant shall have (i) a minimum annual turnover of USD 100 million over each of the last 3 (three) financial years preceding the Application Due Date</p> <p><i>(...)</i></p> <p><i>Q: Could you kindly clarify if a consolidated turnover of a group of parents/sisters companies, and all these companies sharing a common capitalistic company, may be considered for evaluation purposes as Lead Member</i></p>	<p>Please refer to clause 2.2.7 of the RFQ which states that “In computing the Financial Capacity of the Applicant/ Lead Member under Clauses 2.2.2, 2.2.3 and 3.4, the Financial Capacity of their respective Affiliates would not be eligible hereunder. “</p> <p>Therefore, the minimum annual turnover has been amended to be for USD 75 million over each of the last 3 (three) financial years preceding the Application Due Date</p> <p>Section 2.2.2 is therefore amended</p>

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			accordingly.
4.	Section 2.2.2 (B) Financial Capability	<p>The budgeted construction cost is KSh180 billion (US\$1.8 billion) and estimated consultancy fees for Independent Engineer will be 1.5-2% of the construction cost i.e. US\$ 27- 36 million.</p> <p>Hence, we request you to modify the clause as “The Applicant shall have (i) a minimum annual turnover of USD 30 million over each of the last 3 (three) financial years preceding the Application Due Date, and (ii) a professional liability insurance policy covering its professional activities in on-going projects, as well as those of its employees and any person working on its behalf, the quantum of such insurance shall be no less than USD 6 million (the “Financial Capacity”). In case of an Applicant which is a Consortium, only the annual turnover and the professional liability insurance policy of the Lead Member shall be evaluated.”</p>	<p>The minimum annual turnover has been amended to be for USD 75 million over each of the last 3 (three) financial years preceding the Application Due Date.</p> <p>The Professional liability insurance shall remain USD 20 Million</p> <p>Section 2.2.2 is therefore amended accordingly.</p>
5.	Section 3.2.1 Category -2	We believe capital expenditures of at least USD 500 million mean project cost of at least USD 500 million. Please confirm.	Capital Expenditure of at least USD 500 Million means Construction Cost only (Capex) of at least USD 500 Million.
6.	Section Introduction Item 1.2.1 (Y- Financial Capacity)	<p>'The Applicant shall have a Minimum Annual Turnover of USD 100 Million for each of the last 3 (three) financial years preceding the Applications Due Date'.</p> <p>This amount is too high and we request for it to be revised downwards.</p>	<p>The minimum annual turnover has been amended to be for USD 75 million over each of the last 3 (three) financial years preceding the Application Due Date.</p> <p>Section 2.2.2 is therefore amended</p>

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			accordingly.
7.	Section Introduction Item 3.2 (3.2.1)- Category 2	<p>‘Experience on Eligible Projects successfully implemented and completed in the Highways Sector with Capital expenditure of at least I-ISD. 500 Million.</p> <p>This amount is too high and we request downward revision of the same.</p>	The value for Eligible Projects under Category 2 Shall be of capital expenditures of at least USD 500 Million.
8.	Page 12, 2.2.2 (B) Financial Capacity A professional liability insurance policy...	<p>Professional Liability insurance policy value of USD 20 Million is very much on the higher side. We kindly request you to consider a lower value.</p> <p>Could you please Confirm.</p>	The Professional liability insurance shall remain at minimum USD 20 Million.
9.	Page 17, 2.10.2 Preparation and Submission of Application All documents issued or executed in a foreign country must be notarized by a notary public in that country...	<p>We understand all the documents which will be part of RFQ application has to be notarized by a notary public before submission.</p> <p>We kindly request you to consider relaxing this requirement and keep notarization for Legal documents i.e. Power of Attorney in favour Authorized representative to sign the RFQ document or appointing Lead Member in case of consortium members.</p> <p>Could you please confirm?</p>	<p>The requirement to notarize all documents issued or executed in a foreign country has been removed due to the current pandemic.</p> <p>The following documents shall however be required to be notarized I.e. Form Annex QD-1B in favor of an authorized representative and Form Annex QD-1C consortium member's authority to participate in consortium and apply to pre-qualify, and designate lead member and other consortium members.</p>

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			Section 2.10.2 is therefore amended accordingly.
10.	Page 18, 2.11.2 Format and Signing of Application The Applicant shall prepare 1 (one) original set of the Application (together with originals/ copies of documents required to be submitted...	We understand that only “One” Original set of application together with supporting documents to be uploaded online and no hard copies are required. Could you please confirm.	Submissions shall be made online (vide the link provided under clause 2.11.2) only and No hard copies shall be required.
11.	Page 25, 3.2.1 Technical Capacity; Category 2 Experience on Eligible Projects successfully implemented and completed in the Highways Sector with capital expenditures of at least USD 500 million...	Projects with capital expenditures of at least USD 500 Million is on higher side, we request you to consider capital expenditures of USD 300 Million executed in last 10 years. Could you please consider.	The value for Eligible Projects under Category 2 Shall be of capital expenditures of at least USD 500 Million.
12.	Page 25, 3.2.1 Technical Capacity; Category 3	As there are very few qualifying projects in Kenya which consist in Detailed design <u>and</u> Construction Supervision, could you please confirm that either	Category 3 projects must have construction supervision component for consideration for eligibility.

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	Experience on Eligible Projects successfully implemented and completed in the Highways Sector located in Kenya...	detailed design <u>or</u> construction supervision will be considered as eligible for Category 3 projects? Could you please confirm.	Design review and construction supervision or detailed design and construction supervision projects shall be eligible. Section 3.2.1 Category 3 is therefore amended accordingly.
13.	1.5 Schedule of bidding process	We draw your attention to the fact that companies are facing worldwide restrictive administrative decisions taken by public authorities for preventing further spread of COVID-19. These measures, which are independent from companies' will, have an impact on companies ability for the preparation of a competitive Expression of Interest within due date. As a consequence, we would kindly ask for time extension of two weeks for submission of application.	The deadline for submission of the RFQ has been extended by two (2) weeks i.e. 18th January 2021 . Owing to the tight project timelines, we do not anticipate any further extensions.
14.	2.10 Language and foreign documents	Section 2.10.2 requires that all documents issued or executed in a foreign country must be notarized by a notary public. This requirement is heavy, especially in the COVID19 context where travels are constrained and physical exchanges of documents complicated. As such, we would kindly ask you to reconsider this requirement.	The requirement to notarize documents issued or executed in a foreign country has been removed. The following documents shall however be required to be notarized i.e. Form Annex QD-1B in favor of an authorized representative

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			<p>and Form Annex QD-1C consortium member's authority to participate in consortium and apply to pre-qualify, and designate lead member and other consortium members.</p> <p>Section 2.10.2 is therefore amended accordingly.</p>
15.	3.2. Technical capacity for purposes of evaluation	Eligibility for projects of category 3 requires that the applicant has completed detailed design and construction supervision on the same project, could you confirm that projects wherein the applicant has completed design review and construction supervision are eligible?	<p>Design review and construction supervision or detailed design and construction supervision projects shall be eligible.</p> <p>Section 3.2.1 Category 3 is therefore amended accordingly.</p>
16.	1.5 Application Due Date	Considering the requirements and the end of the year holiday season consider extending the RfQ application due date by 1 month. Also request the due date is stated as a date and tie for clarity.	<p>The deadline for submission of the RFQ has been extended by two (2) weeks i.e. 18th January 2021. Owing to the tight project timelines, we do not anticipate any further extensions.</p> <p>Submissions to be made not later than 10:00 Hrs (EAT) on the Application Due Date</p>
17.	3.2 Category 3	It is unusual for projects in Kenya to have the same consults for detailed design and supervision,	Design review and construction supervision or detailed design and construction

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		<p>Therefore, please confirm if a project where the applicant has carried out design review and supervision qualify.</p> <p>Also confirm if a project where the applicant has carried out detailed design only qualifies.</p>	<p>supervision projects shall be eligible.</p> <p>Section 3.2.1 Category 3 is therefore amended accordingly.</p>
18.	3.2.3 Technical Capacity for purposes of evaluation	Consider reducing the requirement for 400 lane Km	The minimum lane requirement for project under Category 1 and 2 shall be 400 Lane-Km.

END