



**PUBLIC PRIVATE PARTNERSHIP (PPP) PROJECT**

**2<sup>nd</sup> NYALI BRIDGE  
Mombasa**

**DESIGN, FINANCING, CONSTRUCTION, OPERATION, MAINTENANCE AND  
TRANSFER**

**Tender Number: KURA/PPP/HQ/002/2017-2018**

**REQUEST FOR QUALIFICATION (RFQ)**

**ADDENDUM / CLARIFICATION NO. 1**

**13<sup>th</sup> September 2017**

**The Director General  
Kenya Urban Roads Authority  
PO Box 41727 – 00100  
NAIROBI**

13<sup>th</sup> September, 2017

**Tender No:** KURA/PPP/HQ/002/2017-2018

**Project:** Public Private Partnership (PPP) for the design, financing, construction, operation, maintenance and transfer of 2<sup>nd</sup> Nyali Bridge

**To:** All Prospective Bidders

**Addendum/Clarification No: 1**

### **Pre-Qualification Conference**

Pursuant to Section 3 n (i) of the RFQ, together with Table 1 (*RFQ Schedule*) in Section 2 a, Prospective Bidders should note that the Pre-Qualification conference scheduled for 26<sup>th</sup> September 2017 shall held in Nairobi, Kenya and not in Mombasa, Kenya as previously stated. The conference will be at the Crowne Plaza Hotel, Kenya Road, Upper Hill, Nairobi and shall commence at 10am. Registration shall commence at 9am.

Further, in the light of the planned election timetable for a new presidential election to be held in accordance with the ruling of the Supreme Court of Kenya, the RFQ Submission Date shall be extended to 9<sup>th</sup> November 2017.

*The RFQ shall be amended to define the RFQ Submission Date as 9<sup>th</sup> November 2017. Table 1 of the RFQ Section 2a shall be amended to show the RFQ Submission Date, and Opening of all Qualification Documents received both on 9<sup>th</sup> November 2017; and Notification of results of evaluation of the Qualification Documents, and Publication of the prequalified bidders both on 4<sup>th</sup> December 2017.*

Prospective Bidders are also advised of the following questions and responses:

<b>SR. No.</b>	<b>Section /Annex / Schedule /Appendix Number</b>	<b>Question or comment</b>	<b>Response</b>
1	n/a	We would like to get the result of the feasibility study from KURA	KURA intends to release most sections of the Feasibility Study to Pre-Qualified Bidders at the Requests for Proposal stage.
2	n/a	We would like to know whether the financing of the project is to be done entirely by the successful bidder? Will it be in form of a loan or grant?	The successful bidder will be responsible for determining the financial structure and for raising the finance for the Project.
3	3 j ii	<p>In the PQ document it is underline that a non-refundable Participation Fee, in the form of a banker's cheque or through electronic funds transfer, for an amount of 100,000 Kenyan Shillings shall be paid by the Prospective Bidder prior to the RFQ Submission Date.</p> <p>Could you please precise to whom should the cheque be made payable</p>	<p>Instructions for payment are set out in RFQ Clause 3 j ii:</p> <ul style="list-style-type: none"><li>• electronic funds transfer should be to:<ul style="list-style-type: none"><li>○ Kenya Urban Roads Authority – A.I.A. Account</li><li>○ Account number 1130723704</li><li>○ Kenya Commercial</li></ul></li></ul>

SR. No.	Section /Annex / Schedule /Appendix /Number	Question or comment	Response
		and/or the bank account to proceed to an electronic fund transfer.	<p>Bank, Moi Avenue Branch, Nairobi</p> <ul style="list-style-type: none"> <li>○ Branch Number 01100</li> <li>○ Swift Code: KCBLKENX ;</li> <li>○ With Reference: “Nyalı PPP – [Prospective Bidder company/ consortium name]”; and/or</li> </ul> <ul style="list-style-type: none"> <li>• a bankers’ cheque should be made payable to “Kenya Urban Roads Authority – A.I.A” <ul style="list-style-type: none"> <li>○ the reverse of the cheque should state the Reference: “Nyalı PPP – [Prospective Bidder company/ consortium name]”;</li> </ul> </li> </ul> <p>Prospective Bidders wishing to check that their bankers’ cheque is properly made out may submit their bankers’ cheque in advance of the deadline for RFQ Submission to the finance department of the Kenya Urban Roads Authority during normal working hours at 1<sup>st</sup> Floor, Tower B, IKM Place, 5<sup>th</sup> Ngong Avenue, Nairobi. An official receipt will then be issued for any properly made out bankers’ cheque, and the Prospective Bidder should then include such official receipt with its Qualification Documents.</p> <p><i>Accordingly the following shall be added to RFQ Paragraph 3 j ii :</i></p>

SR. No.	Section /Annex / Schedule /Appendix Number	Question or comment	Response
			<p><i>'Official receipts for properly made out bankers' cheques may be obtained from the Kenya Urban Roads Authority's finance department at 1<sup>st</sup> Floor, Tower B, IKM Place, 5<sup>th</sup> Ngong Avenue during normal working hours at any time prior to the RFQ submission deadline.'</i></p>
4	4.2.1 A (PPP Experience)	<p>It is stated in the RFQ document that the prospective bidder shall demonstrate the experience of at least four (4) eligible PPP Projects in last five (5) years.</p> <p>With regard to the above requirement, we would like to clarify if the PPP Projects of which shares have been sold out within five (5) years shall be counted and accepted as eligible PPP Projects.</p> <p>For example, a prospective bidder completed a PPP Project holding 40% of shares in the SPV and the Project has been in operation for five (5) years. However, during the operation period, the prospective bidder sold out the shares in the SPV three (3) years ago. In this case, please clarify if the subject PPP Project will be counted as acceptable PPP Experience.</p>	<p>The shareholding criterion within the definition of Eligible PPP Projects relates to shareholdings held "...at any time during the five (5) year period preceding the RFQ Submission Date." An Eligible Project where the operational period commenced more than five years ago, and the Prospective Bidder sold its shares in the SPV three (3) years ago would thus count towards the required PPP experience.</p> <p><i>There is no change to the wording of the RFQ.</i></p>
5	3 b ii b	<p>According to section 3: Terms and Conditions, Clause b: Conflict of Interest, b): a Prospective Bidder, any Consortium Member, or any of the Affiliates or Eligible SPVs of the Prospective Bidder or that of the Consortium Members, or a Contractor has common shareholder(s) that hold in excess of ten percent (10%) of the shares or voting rights of another Prospective Bidder or a Consortium Member or any of the Affiliates or Eligible SPVs of such other Prospective Bidder or Consortium Member, or the Contractors.</p> <p><b>But in certain countries, most companies are state owned</b></p>	<p>Only a maximum of one bid may qualify from companies owned by a common entity, whether that common entity be an individual, another company or a state. Submission of multiple requests for qualification from companies owned by the same entity risk all submissions being disqualified.</p> <p><i>There is no change to the wording of the RFQ.</i></p>

SR. No.	Section /Annex / Schedule /Appendix Number	Question or comment	Response
		<p><b>companies, and the government holds 100% shareholding. Does it mean that all of the companies from that country will be disqualified because of the conflict of interest?</b></p>	
6	3 I (ii)	<p>In section 3: Terms and Conditions, Clause I: Language and attachments/documents, (ii):Supporting documents and printed literature furnished by Prospective Bidders along with the Qualification Documents may be in any other language provided that they are accompanied by an accurate English translation of such document duly translated into English by a translator who shall certify the translation as true and genuine.</p> <p><b>What kind of document should be attached? Whether we need to provide the translation certificate of the translator?</b></p>	<p>The supporting documents referred to are all documents requested in other sections of the RFQ.</p> <p>The translator must specify the translation as true and genuine. Also, under Form QD-1A paragraph 3, Prospective Bidders/ Lead Members must confirm that 'all statements made and the information and documents provided..... in or as any part of the Qualification Documents, are true and correct.....'.</p> <p>It is not mandatory to provide a certificate of the qualifications of the translator.</p>
7	QD-1A	<p>In section 5: Qualification Documents, a. Notarized Application to Pre-Qualify, Form Annex QD-1A.</p> <p><b>About the notarization, do we have to follow the format in QD-1A as follow exactly:</b></p> <p><b><i>SUBSCRIBED AND SWORN TO before me this (__) day of (month and year) at (place), each affiant exhibiting to me his/her (proof of identity acceptable under the applicable laws) issued at (city) on (date) in support of his identity?</i></b></p>	<p>The format in QD-1A shall be followed exactly.</p> <p><i>There is no change to the wording of the RFQ.</i></p>

SR. No.	Section /Annex / Schedule /Appendix Number	Question or comment	Response
8	4.2.1 (B) ii,  QD-2A,  QD-2B	<p>In the form of QD-2A and QD-2B: Business Structure. About the Construction Experience, there is a form for Qualifying Shareholder(s) and a form for Construction Contractor, but there is no form for company's subsidiaries.</p> <p><b>So can we use the construction experience of our company's subsidiaries? And can we regard our company's subsidiary as a Construction Contractor?</b></p>	<p>As set out in the RFQ 4.2.1 (B) ii, the construction experience of Subsidiaries does not automatically count towards Construction Experience.</p> <p>Prospective Bidders may nominate up to 2 (two) companies as Construction Contractor(s). It is permissible for a company's Subsidiary to be a nominated Construction Contractor and, if this is the case, The Construction Contractor form should be used.</p> <p>Please however note that such Subsidiaries must also meet the turnover requirements specified under the Financial Qualification Requirements.</p> <p><i>There is no change to the wording of the RFQ.</i></p>
9	4.2.3  QD-9A	<p>As the requirement of Clause 4.2.3: Other Qualification Requirements, section (ii), and the definition of Relevant Bank and Financial Institutions in the RFQ document, <b>what kind of documents shall be attached as the evidence to prove that these banks and institutions can meet the requirement?</b></p>	<p>There is not a set format. A description by the Relevant Bank and Financial Institution of how it meets the requirement shall suffice.</p> <p>The bank or financial institution shall confirm that it meets the criteria of a Relevant Bank, in accordance with form QD-9A.</p> <p><i>There is no change to the wording of the RFQ.</i></p>
10	<p>Definition of Eligible O&amp;M Project.</p> <p>4.2.1 C: O&amp;M Experience</p> <p>5 g: O&amp;M Experience</p> <p>g. O&amp;M Experience,</p>	<p>According to the RFQ, the period for which that Entity has to operate and maintain the Eligible O&amp;M Project road is not less than five (5) years.</p> <p>We kindly ask whether the O&amp;M period is based on aggregate or each single project basis.</p>	<p>The five (5) year period relates to the minimum time period for which the Entity proposed to meet the O&amp;M Experience is contracted under a performance based contract on a single project. If the other conditions set out in the RFQ are satisfied, that project can then be an Eligible O&amp;M Project that can count towards the Prospective Bidder's O&amp;M Experience.</p>

SR. No.	Section /Annex / Schedule /Appendix Number	Question or comment	Response
	using the form in Annex QD-6.		<p>The project must have been in operation at some point in the ten (10) years preceding the RFQ Submission Date.</p> <p><i>There is no change to the wording of the RFQ</i></p>
11	PIM	<p>Project Structuring</p> <p>- Risk Allocation According to the Information Memorandum provided by Deloitte in Nov. 2016, the payment mechanism is based on the Availability Payment.</p> <p>By the way, according to the table of Risk Allocation, there is a mention that the risk allocation regarding the "Traffic Volume-Cost Implications" is on Project Co.</p> <p>Please provide us the kind explanation what is the meaning of "Traffic Volume-Cost Implications".</p>	<p>The volume of traffic, especially volumes of heavy goods vehicles, typically has an impact on the frequency and extent of maintenance (particularly major maintenance) required in order to keep a road in its required condition.</p> <p>The risk of changes in maintenance costs as a result of changes in projected traffic volumes will be allocated to Project Co.</p>

This Addendum/Clarification No. 1 (One) shall be deemed to be part of the RFQ. All Prospective Bidders shall take note of the same and shall submit their queries and requests for clarifications accordingly. All other conditions in the RFQ remain the same.

Procurement Manager

For: Director General