



PUBLIC PRIVATE PARTNERSHIP (PPP) PROJECT

**2nd 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. 3**

2nd November 2017

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

2nd November, 2017

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

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

To: All Prospective Bidders

Addendum/Clarification No: 3

In continuation to Addendum/ Clarifications 1 and 2, Prospective Bidders are advised of the following questions and responses:

SR. No.	Section /Annex / Schedule /Appendix Number	Question or comment	Response
41.	Section 3 - Terms and conditions paragraph d. iv - page 14	We would like to confirm that any change in the structure of the bidding consortium is acceptable during the RFP stage meaning that any member of the consortium could decrease or increase its participation depending on the new structure proposed for the tender phase provided that it complies with the provisions stated in Section 3 (Terms and Conditions) - paragraph d. iv (page 14)	Section 3 d of the RFQ is a summary of the rules and procedure that will be followed if there is a change in the structure of the bidding consortium during the RFP stage. Please note that 3 d iv. (b) refers also to 'all other terms and conditions specified under this RFQ' which will include 3 d vii and 3 d viii. For the avoidance of doubt, if any change occurs in the shareholdings of Consortium members, then any resultant increase or dilution of the shareholding of the members of the Consortium as committed by them in the Project Company should be done in such a way that the Lead Member still holds at least 26% of the equity shares and all of the Qualifying Shareholders still hold at least 10% of the equity shares in the Project Company. In the event that the shareholding of an originally Qualifying Shareholder falls below 10% the experience of

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			such Qualifying Shareholder will no longer be accepted and this may affect the Qualification of the Consortium. This will be taken into account by KURA when deciding whether to accept such a change. <i>There is no change to the wording of the RFQ.</i>
42.	Section 3 - Terms and conditions paragraph d. iv - page 14	Is it allowed that one of the companies within the bidding consortium transfer its participation to any subsidiary or affiliate provided that it complies with the provisions stated in Section 3 (Terms and Conditions) - paragraph d. iv (page 14)	Any transfer of participation in the Consortium to a Subsidiary or Affiliate will be subject to the same criteria, and processed in the same way as a transfer to a third party entity. Where a Pre-Qualified Bidder wants to substitute an Affiliate/ Contractor/ Eligible SPV/ Subsidiary whose credentials and experience such Pre-Qualified Bidder relied upon to be qualified at the Pre-Qualification Stage under the RFQ, it shall make an application in writing to KURA to enable KURA to fully evaluate the consequences of such change and to determine whether the proposed new/ substitute Entity meets and the Pre-Qualified Bidder continues to meet the Minimum Qualification Requirements. <i>There is no change to the wording of the RFQ.</i>

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43.	Section 4 - Minimum Qualification Requirements (B) Construction Experience - page 22	We understand that the Construction Joint Venture can be formed of more than two contractors however only two contractors that are part of the Consortium can provide credentials , we would kindly ask Kura to confirm that our understanding is right and that the more than two contractors are acceptable	The Contracting Authority confirms that it is acceptable for there to be more than two Construction Contractors. However only two contractors may provide credentials towards meeting the Construction experience criteria. <i>There is no change to the wording of the RFQ.</i>
44.	Section 4 - Minimum Qualification Requirements (B) Construction Experience - page 22	In case that the Prospective Bidder itself act as Construction Contractor, is it possible to nominate two additional Construction Contractors as part of the Construction Joint Venture?	Please see the response to Question 43. Only two entities' qualifications may count towards the Construction experience criteria. There is no change to the wording of the RFQ.
45.	Section 4 - Minimum Qualification Requirements (A) PPP Experience	Is the Prospective Bidder able to fulfill the PPP Experience required (4 Eligible Projects) completely through Affiliates or Subsidiaries?	There is no restriction on the number of Eligible Projects that may be fulfilled by Subsidiaries of the Prospective Bidder. As set out in RFQ 4.2.1 (A) (ii), Affiliates (other than Subsidiaries) may not fulfil more than one Eligible PPP Project. <i>There is no change to the wording of the RFQ.</i>
46.	Section 4.2.1 B	Can you (please) advise if it is the Authority's decision/ intent to exclude "Affiliate" from the list of parties that may be a Satisfying Party for Construction experience? And, in the event that the Affiliate can be used, if it is possible to learn of further details as to the Deed of Guarantee?	As set out in the response to question 12 in Addendum / Clarification No. 2, the Contracting Authority requires to have the confidence that the entity undertaking the construction of the 2 nd Nyali Bridge project has relevant construction experience. The experience of a group company that will not be participating in the project

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			does not provide the required experience. Thus, the Contracting Authority has decided that an Affiliate's experience may not be used to demonstrate Construction experience. <i>There is no change to the wording of the RFQ.</i>
47.	3j	We bought the tender document and attended the Pre-qualification conference in the name of [Subsidiary Company Name]. However, according to new regulations of our parent company, this type of PPP project must bid in the name of [Parent Company] instead of [Subsidiary Company]. Therefore, could you please help to change the bidder name from [Subsidiary Company] to [Parent Company] or allow us to buy another tender document in the name of [Parent Company]?	As set out in the RFQ 3 n iii, attendance at the Pre-Qualification conference was not mandatory for Prospective Bidders, so it does not matter whether attendance at the Pre-Qualification Conference was registered under the name of [Subsidiary Company] or [Parent Company]. The Contracting Authority wishes to clarify that the Participation Fee relates to the submission of Qualification Documents, rather than being a fee for obtaining the RFQ (which was available to all Prospective Bidders at no charge). [Subsidiary Company] has not submitted Qualification Documents. In order to clarify that the payment of the Participation Fee relates to the submission of Qualification Documents by [Parent Company], the submission should include a joint letter from [Parent Company] and [Subsidiary Company] to KURA. This letter, which should be signed by authorised representatives of both

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			[Parent Company] and [Subsidiary Company], should state that the Participation Fee already paid relates to the submission of Qualification Documents by [Parent Company], and should be attached to the proof of payment.

This Addendum/Clarification No. 3 (Three) 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.


for

Saadia A. Khalif

Procurement Manager

For: Director General