



**BID CLARIFICATION MATRIX NO.1**

**FEASIBILITY STUDY, DESIGN, AND SUPERVISION OF ROADS AND YARDS, BUILDINGS,  
TRADE AND LOGISTICS INTER MODAL HUBS, AND BORDER POSTS INCLUDING  
ASSOCIATED ELECTRICAL AND MECHANICAL FACILITIES**

**TMA/FWA/INFRA/05/2024**

**FINANCED & PROCURED BY**

**TRADEMARK AFRICA**

**29<sup>TH</sup> JANUARY 2025**

## BID CLARIFICATION MATRIX NO.1

**TENDER TITLE: FEASIBILITY STUDY, DESIGN, AND SUPERVISION OF ROADS AND YARDS, BUILDINGS, TRADE AND LOGISTICS INTER MODAL HUBS, AND BORDER POSTS INCLUDING ASSOCIATED ELECTRICAL AND MECHANICAL FACILITIES**

**TMA/FWA/INFRA/05/2024**

This **Bid Clarification Matrix No. 1** forms an integral part of the Request for Proposals and therefore, ***must be considered*** carefully by service providers in preparation and submission of bids.

It is divided into two sections: -

1. Section 1 contains clarifications to queries raised through the official bidding clarification email address (that is [procurement@trademarkafrica.com](mailto:procurement@trademarkafrica.com)).
2. Section 2 contains general tips on how to prepare and submit a competitive bid.

All communications must be directed to the procuring entity, TradeMark Africa through [procurement@trademarkafrica.com](mailto:procurement@trademarkafrica.com) as provided for in the tender document.

## SECTION 1: QUERIES AND RESPONSES

These clarifications are for those queries sought by bidders in line with Invitation to Tender (ITT) of the tender document:

**Table 1: Queries and responses as received and responded to by the procuring entity.**

Sl. No.	Our Comments / Clarifications required	Clarification	Status
1.	could you please inform us about the total budget at disposal for each one of the two above mentioned Framework Contracts during the expected three (03) years duration?	Budget for the assignment will be determined by specific scope of work per site and the project delivery period. It is not for disclosure at this stage.	Closed
2.	Is it possible to know the average estimated budget allocated for the “mini competitions” under each one of the above Framework Contracts?	Budget for the assignment will be determined by specific scope of work per site and the project delivery period. It is not for disclosure at this stage.	Closed
3.	Paragraph “19. Documents Comprising the Bid” requires “An authorized representative of the Bidder shall sign the original Bid submission form in the required format”. Could you please send the Bid Submission Form?	Procurement to provide/Lorna as its not in the tender document.	Open
4.	In paragraph “3.9 Environmental and Social Safeguards”, sub-para “Environmental Risks”, it is required to “Comply with national legislation and regulations regarding the protection of the environment”. Considering the wide range of African countries involved in these Framework Contracts and considering that TMA has adopted the Standards based on the World Bank’s Environmental and Social Framework (ESF), could you please clarify the compliance with national legislation and regulations regarding the protection of the environment?	Bidders shall be required to comply with national legislation and regulations regarding the protection of the environment for the country where the project will be based. World Bank’s Environmental and Social Framework (ESF) is superior to many national legislation and regulations regarding the protection of the environment.	Closed

5.	<p>In paragraph 9.0 Proposal Submission , it is required: “Proposal Submission Interested consultants are invited to submit their proposals, including: • Company profile and relevant experience. • Proposed methodology and approach. • Team composition and qualifications”. In paragraph “3.0 Evaluation process and criteria”, it is required:</p> <p>- in Table1: part A Preliminary Requirements (document for compliance: Audited books of account 2021-2022-2023; Tax Registration Certificate; Letter of intent to form a JV and signed TMA Supplier Code as per Annex 2);</p> <p>- in Table 2 – part B (Firms Qualification and experience totalising 50 points; personnel Qualification and competence (CVs according to Annex 1+ copies of academic qualifications) totalising 40 points and Methodology totalising 10 points for a total of 100% points.</p> <p>In line with the above, we understand that the proposal must be composed of the above mentioned documentation (including Annex 1 and Annex 2) and that the following annexes will not be submitted during this framework tender stage:</p> <p>Annex 1A: Bidders Conflict of Interest Form Annex 3: PARTY TO JV INFORMATION SHEET SECTION 5 – FEES</p> <p>Please confirm or amend</p>	<p>Clause 3.2.8 The proposal should be submitted as two secure PDF documents, one containing the Part A response and one containing the Part B response.</p> <p>What not to submit is listed on <b>3.2 Calling off from the Framework agreement and mini-competition.</b></p> <p>Fees are note required at this stage.</p>	Closed
6.	<p>In case the format in SECTION 5 –fee rates schedule, is required during this framework tender stage, we please you to confirm that the Column “Maximum number of days” of professional fees and the Column “Number” of reimbursable expenses must be let empty at this stage. Moreover, please clarify if additional technical support staff must be quoted.</p> <p>Please confirm or amend</p>	<p>The bids submitted will be evaluated based on the criteria PART A &amp; PART B set in the tender document. Bidders who pass technically will then be shortlisted for the framework call off assignments. Financials will be submitted as per the needs of the specific project assignment during the framework call-off. For this tender, kindly focus on demonstrating your technical prowess.</p>	Closed

7.	Please confirm that one or more of the key experts can be proposed for both the frameworks tenders;	TMA/FWA/INFRA/05/2024 is one tender, and will be awarded separately from TMA/FWA/INFRA/06/2024. Kindly bid for the tenders separately. See matrix 1.	<b>Closed</b>
8.	Both Frameworks includes “roads and yards”. We please you to clarify if yards are construction sites or are squares.	TMA/FWA/INFRA/05/2024 is one tender. Sites.	<b>Closed</b>
9.	<p>Table 1: Part A - Preliminary Requirements:  “Audited books of account – for 2021, 2022 and 2023 (applicable to bidding firms and all consortium parties)”</p> <p>The above requirement disqualifies firms with less than three years of operation from participating in the framework tenders as subconsultants to more experienced firms, despite some of them (younger firms) having qualified staff with the relevant experience.</p> <p>In view of the above, and in the spirit of nurturing the younger firms, we suggest that the above requirement be relaxed to allow firms with less that three years of operations participate in the tenders as subconsultants without requiring them to provide 3 years Audited books of account. The relaxation may mean the younger firm provides Audited books of account for 2022 and 2023 or just for 2023/2024.</p>	Firms without the required audited accounts are encouraged to join sub-consultancy or joint venture to boost their capacity. However, the lead firm of the joint venture should meet the three year requirement as per criteria.	<b>Closed</b>
10.	<p>1. Eligibility for New Contractors Without Prior TMA Experience:</p> <p>o Can contractors who have not previously worked with TMA participate in this procurement process, provided they meet the other qualification criteria?</p> <p>o Will similar projects completed for other organizations or entities (local or</p>	There is no clause stopping new contractors/consultants to participate in this tender.	<b>Closed</b>

	international) be considered equivalent to TMA-specific experience?	Relevant experience with TMA or other organisations is acceptable.	
11.	<p>2. Relevant Experience for New Contractors:</p> <ul style="list-style-type: none"> <li>o Can new contractors substitute prior direct experience with partnerships or subcontracting arrangements with more experienced firms?</li> <li>o Will similar construction experience outside the specified scope (e.g., OSBP) but within related fields (e.g., commercial or institutional buildings) be considered?</li> </ul>	<p>Table 2: Part B – Evaluation Criteria item No. 4 allows for firms with experience in the countries where TMA operates.</p> <p>Subcontracting or joint ventures is allowed.</p>	<b>Closed</b>
12.	<p>3. Evidence of Completed Projects:</p> <ul style="list-style-type: none"> <li>o For contractors without TMA experience, can evidence of successful completion include certifications or recommendations from project partners, employers, or consultants outside of TMA in addition to the listed requirements (Approved Purchase Orders, Certificates of Completion)?</li> </ul>	Evidence of successful completion from projects funded by others is acceptable.	<b>Closed</b>
13.	<p>4. Contract Sum Requirement:</p> <ul style="list-style-type: none"> <li>o Does the USD 100,000 minimum contract sum per assignment apply strictly to the prime contractor, or can it include cumulative subcontracts under a larger project?</li> </ul>	It applies to the main contractor plus joint venture members	<b>Closed</b>
14.	<p>5. Participation in Similar Projects:</p> <ul style="list-style-type: none"> <li>o For contractors without TMA experience, will participation as a subcontractor in at least three similar projects (outside TMA) be sufficient to meet the requirement?</li> </ul>	Relevant experience in TMA projects as well as other projects is acceptable.	<b>Closed</b>
15.	<p>6. References and Recommendations:</p> <ul style="list-style-type: none"> <li>o Can references and recommendation letters include those from supervisory consultants, employers, or project managers involved in</li> </ul>	Recommendations from letters from past clients is required, not limited to public or private sector.	<b>Closed</b>

	<p>assignments outside TMA?</p> <p>o Will references from reputable entities in the private or public sector be considered valid?</p>		
16.	<p>7. Geographical Scope of Assignments:</p> <p>o Will experience in countries outside the TMA region be considered, provided the scope of work aligns with the evaluation criteria?</p>	See evaluation criteria.	<b>Closed</b>
17.	<p>8. Demonstrated Experience in Similar Assignments:</p> <p>o Will projects currently under execution, but with substantial progress and documented performance, be acceptable evidence?</p>	Yes. Evidence of successful execution is required.	<b>Closed</b>
18.	<p>9. Flexibility for Startups:</p> <p>o Are there provisions for startup contractors demonstrating technical capability and financial strength, even if they lack direct experience with TMA or the specified project types?</p>	No. Evaluation criteria stipulates the requirements.	<b>Closed</b>
19.	<p>In Par. 4.0 Instructions to Tenderers and Bidding Data Sheet / B - Preparation of Proposals / 19. Documents Comprising the Bid (p. 24), it is indicated that an authorized representative of the bidder shall sign the original bid submission form in the required format. Could you provide us with the requisite format ?</p>	Bid Submission form provided.	<b>Closed</b>
20.	<p>In TABLE 2: PART B – SELECTION CRITERIA / Firm’s Qualifications and Experience item 1 (p. 12), it is mentioned that the consultant should prove 10 years experience in feasibility study, design and supervision of roads and yards, buildings, trade and logistics intermodal hubs, and border posts including associated electrical and mechanical facilities. Would undertaken similar assignments in only</p>	No.	<b>Closed</b>

	design or works supervision be considered as appropriate experience ?		
21.	In TABLE 2: PART B – SELECTION CRITERIA / Firm’s Qualifications and Experience item 1 (p. 12), it is mentioned that the consultant should prove 10 years experience in feasibility study, design and supervision of roads and yards. What are the main components and characteristics to be highlighted by the consultant for the component « yards » ?	Demonstrate experience in that area is required.	<b>Closed</b>
22.	In TABLE 2: PART B – SELECTION CRITERIA / Firm’s Qualifications and Experience items 2 and 3 (p. 12), it is mentioned that the consultant should have three (3) similar or related assignments within the last 5 years. Would two (2) separate assignments, one in design and the second in works supervision, be considered together as a similar experience ?	Yes.	<b>Closed</b>
23.	In TABLE 2: PART B – SELECTION CRITERIA / Personnel Qualifications and Competence (p. 12), it is indicated that the consultant should provide comprehensive CVs of proposed personnel to undertake the assignment. Could we propose CVs of experts for the design and supervision phases separately with specific qualifications and experience to each phase ?	Bidders are free to separate or combine the experience on design and on supervision.	<b>Closed</b>
24.	Should the Bidders Conflict of Interest Form (p. 55) be part of the bid even if the consultant has no conflicts of interest to declare ?	Yes.	<b>Closed</b>
25.	Could you clarify if the ANNEX 3: PARTY TO JV INFORMATION SHEET (p. 56) is the JV form to be filled in case the consultant is a joint venture?	Yes.	<b>Closed</b>



26.	Clause 1.3.2 mentions a maximum of 10 service providers in the framework agreement. Does this imply that even if we are successful, we would then compete against other service providers, effectively making this an EoI rather than a framework agreement?	A round-robin approach will be used for the framework call off contracts.	<b>Closed</b>
27.	Could you clarify the location of the OSBP/the hub and the size of the facilities and buildings you are planning to establish?	In the countries TMA has offices. Size will vary from one location to another.	<b>Closed</b>
28.	RFP Clause:-Table 2: Part B-Selection Criteria No.2-“Demonstrated experience of undertaking three (3) similar or related assignments within the last 5 years-each assignment undertaken to a minimum contract sum of USD 50,000”- We kindly request you to consider revising the experience criteria to include demonstrated experience of undertaking three similar or related assignments within the last 10 years, rather than within the past 5 years. This adjustment would foster broader competition and provide an opportunity for more qualified bidders to participate. We believe this change will enhance the quality of submissions and ensure a more competitive selection process	Revision to this criteria is not envisaged.	<b>Closed</b>
29.	RFP Clause:-Table 2: Part B-Selection Criteria No.3- “Participation in at least 3 similar projects in the last 5 years.” – Kindly consider Participation in atleast 3 similar projects in the last 10 years, rather than within the past 5 years. This adjustment would foster broader competition and provide an opportunity for more qualified bidders to participate.	Not envisaged.	<b>Closed</b>
30.	21. Law Governing Contract and Language The Contract shall be governed by the laws of Kenya but in the event of a conflict between Kenyan laws and any other Law, then the laws of Kenya prevail. The language of the Contract shall be English. Considering the consultant is an international being an Indian firm, an independent law should govern the contract. Hence, we request the Authority to consider and allow "Laws of England and Wales"	The initial Framework Agreement shall be domiciled in Kenya, TMA’s headquarters. However, once agreements are established with eligible and qualified firms, TMA will invite the firms to submit fee rates, clearly indicating the jurisdiction of the host country of assignment. A contract will then follow based on these submissions.	<b>Closed</b>

	being under neutral jurisdiction, for governing the contractual commitment under this contract and courts of London having exclusive jurisdiction over the contract		
31.	<p>We would like to highlight that the Authority has accepted the below-mentioned modifications/additions in a signed contract between TMA and consultant as a part of special conditions. We request the Authority to kindly consider the same. The modifications/additions are as follows:</p> <p>A. 5. Indemnification  “Subject to Clause 23, the Consultant shall indemnify, protect and defend, TMA, from and against all actions, claims, losses or damage arising from any proven act of gross negligence, wilful misconduct by the Consultant during the performance of the services. Should the act or omission originate from TMA, then TMA will indemnify the Consultant”.</p> <p>B. 23 Liability:  The Consultant's aggregate liability arising out of or in connection with this Contract shall be limited to the amount of the Financial Limit. The Consultant shall not be liable for any failure to perform or delay in performance of any of its obligations arising out of or in connection with this Contract where such failure or delay is caused by TMA or any of TMA’s agents, employees, contractors and any third party, except for a third party engaged by the Consultant. The limitation of liability shall not apply where the loss or liability is occasioned because of any proven act of fraud or connivance on the part of the consultant.</p> <p>C. 16 Bribery, Conflict of Interest, Corruption and Fraud Code of conduct  Kindly add Each Party represents, warrants and undertakes that:(a) It has not and shall not offer, promise, give, encourage, solicit, receive or otherwise engage in acts of bribery or corruption in relation to this Agreement (including without</p>	<p>Contract clauses are standard and cannot be amended at this stage. Special conditions to contracts can only be discussed with eligible and qualified bidders at contracting stage. These proposed contract amendments are not applicable at the tendering stage.</p>	<b>Closed</b>

<p>limitation any facilitation payment), or to obtain or retain business or any advantage in business for any member of its group, and has and shall ensure to the fullest extent possible that its employees and agents and others under its direction or control and directly involved in providing Services under the Agreement do not do so. For the purposes of this clause it does not matter if the bribery or corruption is (i) direct or through a third party; (ii) of a public official or a private sector person; (iii) financial or in some other form; or (iv) relates to past, present, or future performance or non performance of a function or activity whether in an official capacity or not, and it does not matter whether or not the person being bribed is to perform the function or activity to which the bribe relates, or is the person who is to benefit from the bribe. For the purposes of this clause, a “person” is any individual, partnership, company or any other legal entity, public or private.</p> <p>(b) Each Party shall, adhere to applicable anti bribery and corruption laws.</p> <p>(c) Each Party shall, immediately upon becoming aware of them, give the other Party all details of any non-compliance with sub clauses (a) and (b).</p> <p>(d) It is a condition of this Agreement that each Party fully complies with this Clause. If it does not do so, without prejudice to any other remedy available to a party, the nonbreaching party shall have the right (but not the obligation) in its absolute discretion to terminate the whole of this Agreement, or that part of this Agreement to which the bribery or corruption relates. For the avoidance of doubt, any breach of this Clause shall be deemed to be incapable of remedy</p>		
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## **SECTION 2: TIPS ON SUBMITTING A WINNING BID**

### **Administrative**

- Correct language (with translation/s where different language is used);
- Timelines complied with.
- Full response to tender requirements.
- Attachment of required documents as per the bid instructions such as:
  - o Registration certificate/s;
  - o Tax compliance/ registration.
  - o Professional registrations such as that for engineers, architects, environmentalists, accountants, supply chain experts, etc.,
  - o Power of attorney; and
  - o Audited accounts for the years requested.
- Accurate sealing/ naming of bids envelopes; and
- Timely submissions (no last-minute rush!).
- Separate Technical and Financial proposal.
- Bid security to be in technical proposal.

### **Technical**

- Availability of equipment and personnel
- Very good methodology.
  - o Good work-plan.
  - o Understanding of TORs
- Evidence based experience.
- Proposed excellent team of experts/ personnel.
- Compliant structure of bid.
- Signed CVs of proposed experts/ personnel alongside declaration by individual of her/ his CV not being used by any other firm within the same bid especially where cross-bidding is barred.
- Keen attention on high/ important technical requirements/ qualifications areas & scoring more.
- Quality assurance of the bid.
- Well arranged, titled and easy to read proposal.
- Defined jargon where used.
- Demonstrated creativity and uniqueness of the technical bid/.

### **Financial:**

- inclusion of taxes when advised to.
- fair pricing.
- signed submission form/s.

### **Post-award:**

- positive due diligence.
- accurate bid information.
- good performance (quality, cost, quantity, etc.) on award of contract.