



BID CLARIFICATION MATRIX NO.1

**DESIGN AND SUPERVISION OF ROADS AND YARDS, BUILDINGS, TRADE AND LOGISTICS
INTER-MODAL HUBS, MARINE, HARBOUR, AND PORT CONCEPTS AND ASSOCIATED
FACILITIES SERVICES**

TMA/FWA/INFRA/06/2024

FINANCED & PROCURED BY

TRADEMARK AFRICA

29TH JANUARY 2025

BID CLARIFICATION MATRIX NO.1

TENDER TITLE: DESIGN AND SUPERVISION OF ROADS AND YARDS, BUILDINGS, TRADE AND LOGISTICS INTER-MODAL HUBS, MARINE, HARBOUR, AND PORT CONCEPTS AND ASSOCIATED FACILITIES SERVICES

TMA/FWA/INFRA/06/2024

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).
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 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.	FRAMEWORK NUMBER: TMA/FWA/INFRA/06/2024: The total points amount to 99, we please you to clarify and amend,	Amend firm qualification item No. 1 from 5 points to 6 points and total for firm be 55 and not 54. This will give the total points to 100 and not 99.	Closed
2.	TABLE 2: PART B – SELECTION CRITERIA (3. Equipment) Provide evidence of ownership or lease agreement 1. a) Tippers – 5no. 2. b) Excavator – 2no. 3. c) Concrete mixer – 2no. or batching plant 1no. 4. d) Poker vibrator – 4no. 5. e) Compressor - 1no. 6. f) Water bowser - 2no. Are we, as consultants, required to provide the above information at this stage?	NO SUCH REQUIREMENT IN THIS TENDER IN THE SECTION QOTED.	Closed.
3.	Concerning table 2, page 14 of the attached file: 1.What is the difference between "#1 proven experience" - "#2 demonstrated experience" - "#3 participation in"? 2.Can we provide the same references under points/sections #1 - #2 - #3? 3.In Italy, Contracting Entities are not used to provide Contractors with references and/or recommendations for assignments. We can only provide	1. Same reference in interpretation 2. Yes, same reference for #1, #2 and #3 is acceptable. 3. Certificate of completion alone is still adequate. Recommendation is an	Closed

	certificates for completion of previous assignments. Do you think it would work anyway?	added advantage.	
4.	We consequently need clarification on clause 1.3.1 of the tender documents allowing for only one proposal bidder. Does this cover all framework contracts? The grouping of tenders referred to in this clause is unclear. Can we submit proposals for both IFRA 05 & 06?	TMA/FWA/INFRA/05/2024 and TMA/FWA/INFRA/06/2024 are separate tenders. Bids for either or both tenders is acceptable.	Closed
5.	Clause 3.0.2 of Section 3 states, "For individual consultancy frameworks or input-based assignments, potential service providers shall be required to provide their daily rates in line with the fee rate schedule provided as Annex 3 of this document. Failure to comply with the rate card provided may lead to your submission being declared non-responsive." The schedule is NOT provided in Annex 3 in the documents.	Financial information is not required at this stage. Demonstrate your technical capacity.	Closed.
6.	Kindly clarify the country/ countries in which the Design and Supervision of Roads and Yards, Buildings, Trade and Logistics Inter-Modal Hubs, Marine, Harbour, and Port Concepts and Associated Facilities Services will be conducted.	The countries where TMA has operations.	Closed
7.	Concerning Table 2: PART B - SELECTION CRITERIA at page 14 What is the difference among: "Proven experience" at point 1. - "Demonstrated experience" at point 2. - "Participation" at point 3. Can we consider reporting the same experiences/works in such points?	YES. See response no.3 above.	Closed
8.	a question regarding the proposal and specifically if there are templates and what are the two expectations for the two parts of the proposals, as identified: Part A – Preliminary Requirements of the Evaluation Criteria in Section 3.0; and Technical Proposal (Where required).	No templates, tenderer to respond as per instructions.	Closed

9.	On Bid Data Sheet, it says that the maximum size of the technical proposal must not exceed 10MBs, but professional working experience has high magnitude, so we only submit professionals cv's and educational certificates to minimize our technical proposal size? Also on the supplier code of conduct where do we sign? Kindly clarify	You can share your documents via google drive links, or as zipped folders. Kindly ensure that you submit every requirement as stated in the tender document and the evaluation criteria. Regarding the supplier code of conduct, kindly provide the necessary details and append your signature on the final 4 pages of the Code.	Closed
10.	Can you confirm for us, on this proposal we only submit the technical proposal then after evaluations firms who are getting minimum pass marks are invited for the framework negotiations.	Yes, kindly provide your technical proposal alongside other requirements as stated in the tender document. TMA will then invite qualified firms to submit their financial bid for a specific project when an assignment arises.	Closed.
11.	The contract shall be governed by the laws of Kenya but the bidding data sheet mentions "Call-off contract; The laws of the relevant country in which the assignment will be carried out and issued at the time." Since there is ambiguity between Article 21 and data sheet, kindly confirm which laws to be applicable for the contract to be executed and also, we would like to propose that any dispute not amicably solved will be submitted to international arbitration such as ICC Arbitration.	Considering that the Framework Agreement may be established at both regional and/or country levels, it will incorporate relevant market-specific requirements where necessary and appropriate. 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 or assignment. A contract will then follow based on these submissions.	Closed
12.	We would like to propose the following change in the Liability clause: "Except where there has been wilful misconduct, gross negligence, dishonesty or fraud on behalf of the consultant or the consultant's Personnel, 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 or contractors or any other third party. Notwithstanding any other stipulation in the contract, liability for indirect/consequential damages (including operating losses, loss of profit, damage to corporate image, immobilization of personnel or equipment or the consequences arising from any action taken against the client by a third	Please note, these are standard clauses as per TMA guidelines. Hence the additions are not acceptable at this time.	Closed

	party) shall be excluded.”		
13.	<p>We would like (i) to clarify that each Call-Off has its own Financial Limit and (ii) to add the following clause: “Notwithstanding the Financial limit stipulated in the contract, in the event of a change in the conditions of the performance of the services (e.g. planning) for a reason not adjustment to the consultant, the consultant shall be entitled to prepare and send to the client a request for adjustment on the contract price and/or delivery date. Both parties shall discuss such request for adjustment in good faith.” It is stipulated that the financial limit is inclusive of all applicable taxes, we would like to clarify the following: The prices are inclusive of direct taxes applicable in the country of the consultant but exclusive all taxes applicable in the country of the client and/or in the countries of the projects(s). The said excluded taxes will be finalised under each call off projects, added to the price(s) agreed in the framework Agreement and invoiced by the consultant at the rate in force on the date of the invoice.</p>	<p>Please note, these are standard clauses as per TMA guidelines. Hence the additions are not acceptable at this time.</p>	Closed

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.