

Our Ref: KETRACO/PT/045/2023

15th February 2024

Notice to all Bidders.

TENDER ADDENDUM AND CLARIFICATION No. 1 (TAC 1)

RE: Procurement of Plant, Design, Supply and Installation of the 220kV Mariakani - Dongo Kundu Transmission Line and Associated Substations (KETRACO/PT/045/2023)

The following amendments are made to the specified provisions for the bidding documents for procurement of plant, design, supply and installation of the 220kV Mariakani - Dongo Kundu Transmission Line and Associated Substations (KETRACO/PT/045/2023).

Save where expressly amended by the terms of this clarification, the Principal Tender Document shall continue to be in full force and effect.

Find herein the ADDENDUM and CLARIFICATION No. 1, consisting of eight (8) pages into the Principal Tender Documents as attached. This document should be returned along with dully filled Form of Tender.

All other terms and conditions of the Request for Proposal document remains the same.



PETER NJEHIA
SENIOR MANAGER, SUPPLY CHAIN

Tender Addendum and Clarification No. 1 of Tender No. KETRACO/PT/045/2023 has been received and incorporated in the Tender Documents.



Name of Tenderer (*in block letters*):

Signature:

Date:

Signed for the Tenderer by (*Name in block letters*):

In the office bearer capacity of:

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Addendum No. 1

Section VI-1C (Supplementary information) in Vol II of VII of the bidding documents has been amended as follows:

PROPOSED COORDINATES OF ANGLE POINTS

The proposed coordinates of angle points of the Mariakani - Dongo Kundu 220 kV transmission line are shown in the Table 1.1 below. The coordinate system referred is UTM (Zone 37M) Arc -1960.

Table 1.1 Proposed Coordinates of Angle Points

ANGLE POINT	NORTHING	EASTING
AP1	9580665	545823
AP2	9579949	546242
AP3	9579402	545647
AP4	9578516	545500
AP5	9576588.965	546017.943
AP6	9570616.952	547813.984
AP7	9569652.935	547918.019
AP8	9568792.009	548064.835
AP9	9568140.051	548330.987
AP10	9562132.965	548555.991
AP11	9560416.007	549511.033
AP12	9556995.901	552504.052
AP13	9554208.985	555905.023
AP14	9554021.982	556014.034
AP15	9553721.913	556505.041
AP16	9551958.958	556224.018
AP17	9550654.981	555715.016
AP18	9548796	555261
AP19New	9547246	556033
AP20	9546546.996	557646.976
AP21	9544360.969	564058.995
AP22New	9545151	566056
AP24 New	9545850	566659
AP25	9546360.997	566754.029
AP26	9546695.003	566507.990
TT	9546683.039	566429.984

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Clarification No. 1

Sr. No	Reference/ Clause	Description	Bidder's Clarification	KETRACO's Response
1	PART 1: Section V: Eligible Source	The eligible bidder	Can Chinese companies JV with another Chinese companies to bid?	No. For more details on eligibility Refer to Part 1 Section V, "Eligible source countries of ODA Loans".
2	Countries of Japanese ODA Loans		As a Chinese company, is it a must that we JV with a Japanese company and the Japanese company is the leader party if we want to participate in the project?	Lead partner of a JV shall be a Japanese company. Other partners except Japanese partners shall be incorporated and registered in Kenya. Refer to Part 1 Section V "Eligible source countries of ODA Loan".
3	Section V. Eligible Source Countries of Japanese ODA Loans, PROCUREMENT CONDITIONS	Section V. Eligible Source Countries of Japanese ODA Loans, PROCUREMENT CONDITIONS	<p>As per clause 5.1 For goods and services, we understand that " The prime contractor shall be either of the following:</p> <p>(a) A Japanese company. Specifically, the company must satisfy all of the following conditions:</p> <p>(i) The company shall be a juridical person incorporated and registered in Japan.</p> <p>(ii) The company shall have its appropriate facilities for producing or providing goods and services in Japan; and</p> <p>(iii) The company actually conducts its business in Japan.</p> <p>(b) A Joint Venture (JV) composed of a Japanese company(ies) and a company(s) in a recipient country. Specifically, the JV must satisfy all of the following conditions:</p> <p>(i) The lead partner shall be a Japanese company.</p> <p>(ii) The total share of work of Japanese partners in the JV is more than fifty (50%) of the contract amount ; and</p> <p>(iii) The partners except Japanese partners shall meet all of the following conditions.</p>	<p>Other partners except Japanese partners shall be incorporated and registered in Kenya. Refer to Part 1 Section V "Eligible source countries of ODA Loan".</p>

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			<p>-The partners shall be juridical persons incorporated and registered in a recipient country or Japan. -The partners shall have their appropriate facilities for producing or providing goods and services in a recipient country or Japan. The partners actually conduct their business in a recipient country or Japan."</p> <p>We are the company incorporated in India, having our branch office registered in Kenya. We intend to participate in this bid in Joint venture with a qualified Japanese company. Please advise whether we will be qualified to bid and execute the project as per the laid down qualification requirement.</p>	
4	<p>Section I Instruction to Bidders Article 2.3</p>	<p>The above Loan Agreement will cover only a part of the project cost. As for the remaining portion, the Borrower, the Project Executing Agency and the Employer will take appropriate measures for finance through other sources specified in the BDS</p>	<p>Please kindly clarify how the project cost can be covered if this Loan Agreement cover only a part of the project.</p>	<p>Project cost in this context includes both works and other project activities. This contract shall be financed by JICA. However, the costs not covered or not eligible under the Loan Agreement and the costs that exceed the allocation of the loan will be borne by the Government of Kenya (Gok). The costs that go into other project aspects such as wayleave acquisition for the transmission line will be borne by Gok.</p>
5			<p>Please kindly clarify the current RAP(Resettlement Action Plan) status for the route of transmission lines (between Mariakani Substation and Dongo Kundu Substation) as well as new substation and distribution lines in Dongo Kundu.</p>	<p>RAP process is ongoing. RAP report will be disclosed by end of May 2024.</p>

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6	Part IBidding ProceduresBDS-3 Section IIBid Data SheetTB 11.2 (j)	The Bidder shall submit the following additional documents in its Technical Bid:1. Documents proving their eligibility for registration with NCA (National Construction Authority) class 1 in Kenya.	<p>What are the documents establishing the eligibility to register with National Construction Authority (NCA) for class One (NCA 1) category? Does equivalent qualification from other countries suffice?</p> <p>Foreign contractors: https://nca.go.ke/foreign-contractors Local contractors: https://nca.go.ke/local-contractors</p>
7			<p>Please clarify the progress of the EIA (Environment Impact Assessment) required to proceed with this work and the status of the required licenses and their validity.</p> <p>EIA has been conducted and a valid EIA licence issued by NEMA. The contractor is obligated to comply with the conditions of the ESIA report (attached) in addition to other environmental and social aspects as stipulated in the Employer's requirements. The following documents are attached ESIA report, ESIA Addendum Report & Ecological Report</p>
8	Bidding Forms Form of Declaration under STEP	<p>"Our Bid proposal satisfies JICA's STEP condition, i.e., proportion of the materials and services from Japan is not less than thirty percent (30%) of the total bid price."</p> <p>How is the definition of the 30% Japanese component articulated? Specifically, in cases where the proposed equipment originates from a Japanese-brand factory situated outside of Japan, and the said factory is not entirely owned by the Japanese parent company, how is the Japanese component determined? Furthermore, do civil works, installation, and design activities associated with Japanese equipment factor into the calculation of the Japanese component?</p> <p>In instances where the supplier holds 100% Japanese shareholding, but the factory itself does not boast complete Japanese ownership (eg. Japanese 35%, Foreign companies 65%), can it still be regarded as having a 100% Japanese component?</p>	<p>Refer to SECTION V "Eligible Source Countries of ODA Loans". (STEP, tied loan).</p>

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9	1.1.3 Subcontractor for major item of the Works	The operational experience shall be supported by end-user certificates from at least three (3) utilities/clients with comprehensive contact details.	The criteria for qualifying as a major equipment manufacturer necessitate the submission of end-user certificates from a minimum of three (3) utilities or clients. Could you please provide clarification on the definition of "Clients"?	Clients shall mean owner of major equipment.
10	In accordance with Sub-Clause 14.1 of the Conditions of Contract, Contractor's Equipment, including essential spare parts therefor, imported by the Contractor for the sole purpose of executing the Contract shall be exempted from the payment of import duties and taxes upon importation.	Is Pre-Export Verification of Conformity (PVOC) mandated for imported equipment into Kenya?	It is bidder's responsibility to establish requirements with regards to imports and get requisite details to inform its bid. All related costs with respect to exports into Kenya in compliance with Kenyan regulations shall be borne by the successful Contractor. Seek consultation at Kenya Bureau of Standard.	
11	Schedule of Specified Provisional Sums	1 Cost of Dispute Board (DB) Amount Local Ksh 10,000,000 Foreign USD 1,500,000	Concerning Dispute Board (DB) fees, is the allocation evenly distributed between the Main Contractor and the Employer, or are these fees encompassed within the Provisional Sums?	Refer to Specific Provisions Sub-clause 20.2 on allocation of payment obligations. The provisional sum shall only cater for the portion to be paid by the employer.
12	Section VII. General Conditions (GC)	Regarding Value Engineering, is the Main Contractor entitled to the entirety of the cost optimization resulting from Value Engineering, or is there a specific percentage stipulated?	Refer to Clause 13 of General Conditions.	
13	Price Schedules & Technical Data Sheets	May we request an Excel version of the Price Schedules/Bill of Quantities (BOQ) and a Word version of the Forms for convenient accessibility and utilization?	Editable version of bid document uploaded in KETRACOS website, link: https://www.ketraco.co.ke/index.php/procurement/tenders/open-tenders	
14	Section III. Evaluation and Qualification Criteria (without prequalification)	The subcontractor shall meet the minimum requirements and experience for registration with National Construction Authority (NCA) for class two (NCA 2) category under building engineering works. Evidence of this eligibility must be provided at the bidding stage. Proof of successful registration shall be provided by the successful bidder upon commencement of the contract.	What are the documents establishing the eligibility to register with National Construction Authority (NCA) for class two (NCA 2) category? Does equivalent qualification from other countries suffice?	Same comment as above item 6 to be applied hereto.

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15	Section III. Evaluation and Qualification Criteria (without prequalification)	The civil works subcontractor must have proven experience in civil works contracts. The subcontractor MUST have carried out major foundation and structural works in at least two (2) new substations and transmission line projects of 132kV and above in the last ten (10) years, evidenced by completion certificates and/or end-user testimonials/references.	To prove eligibility of subcontractor, besides the experience documents, are statutory documents of subcontractor also necessary? If yes, what are the documents?	All legal documents required to operate a construction company in Kenya inclusive but not limited to certificate of incorporation, registration with NCA (at least NCA Class 2) etc.
16			Request of editable soft copies of CAD data of substration layout and editable bidding forms	Editable versions of drawings are not available. Editable version of bid document uploaded in KETRACO's website, link: https://www.ketraco.co.ke/index.php/procurement/tenders/open-tenders
17	Clause No. 2.4.1 Section-III	Continuous experience in construction works and /or in plant and installation services, as appropriate, in the role of prime contractor (single firm or JV member) or subcontractor between 1st Jan 2013 and the bid submission deadline.	In relation to the specified criterion regarding continuous experience in construction works and/or plant and installation services, we seek clarification. Would experience in construction works related to Solar Park/Plant projects be considered eligible for meeting this requirement? Your clarification will help ensure our understanding aligns with criteria outlined.	Refer to provision set out in section 3 Evaluation and qualification criteria.
18	Clause No. 2.4.2 (a) & (b) Section – III EQC Note No. (V)	v) In case of a JV, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. Instead, each contract performed by each member shall satisfy the minimum value of a single contract as required for single entry. In determining whether the JV meets the requirement of total	In reference to this clause, we understand that in case bidders are participating in JV, then the aggregate value of contracts completed by JV members shall not be considered to meet the minimum value of a single contract as asked in the tender documents. Instead of that to meet the criteria any one member of the JV should meet the requisite value of contract, which is equal, or more than the minimum value	Refer to Eligibility & Qualification criteria 2.4.1 & 2.4.2

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		<p>number of contracts, only the number of contracts completed by all members, each of value equal or more than the minimum value required, shall be aggregated</p>	<p>required. And it is not necessary that both the partners of JV must have to meet the required technical QR as specified in clause No. 2.4.2 (a) and (b). Kindly clarify.</p>	
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