

REPUBLIC OF KENYA



MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT
State Department for Housing and Urban Development

ADDENDUM 3: CLARIFICATION NO.1
AFFORDABLE HOUSING PROGRAM PROJECTS

This is in reference to the tender advertisement appearing in the Daily Nation and The Standard Newspapers of **Friday, 4th November 2022**, the State Department's Website and the Boma Yangu Portal.

Clarifications to queries raised by prospective bidders are herewith issued as shown in the table below:

S/No	Query	Clarification
1.	Request for extension of closing date of the above-mentioned tenders due to delay in uploading of tender documents. We trust this will meet with your favorable consideration and look forward to receiving your response.	The extension of submission date has been granted with bids now due on Friday 6th January 2023 at 11.00 am.
2.	Regarding the Affordable Housing Program projects, because the tender documents are delayed to upload to your website and the two weeks for preparation is too short, we hereby apply for extension of submission date by one month.	The extension of submission date has been granted with bids now due on Friday 6th January 2023 at 11.00am.

3.	<p>We, hereby, would like to request an extension of time of the closing date of the tender, currently 22nd November 2022. The returnable documentation required is extensive and detailed in nature and the time period allotted for doing so very short. The tender document was available on 9th Nov 2022 and the closing date is the 22nd Nov 2022 which effectively affords the tenderer 10 working days to assemble all documentation for the tender. The security to be included in the submission in the form of a Demand Bank Guarantee may in itself take over a business week to obtain. Once complete the notarized Power of Attorney will be required for the submission. Given the constraints in completing and submitting the tender document, we hereby humbly request an extension of time of two weeks,</p>	<p>The extension of submission date has been granted with bids now due on Friday 6th January 2023 at 11.00am.</p>
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S/No	Query	Clarification
	<p>whereby the closing date of the tender be extended to the requested date of 6th December 2022.</p>	
4.	<p>We are grateful for the bid opportunity referenced above and wish to point out that the tender period given is rather short and not practical to respond well to such requests. We would like you to consider a period extension to a possible 2 months</p>	<p>The extension of submission date has been granted with bids now due on Friday 6th January 2023 at 11.00am.</p>
5.	<p>There is need to share the email address and contact information for the Technical team. We need clarification from the Technical Dept on this tender (Proposed Design, Build, Finance And Sell of Housing Units and Construction of Associated Infrastructure for Thika Municipality BLK 11/449, Thika, Kiambu County)</p>	<p>As indicated in the advertisement and the RFP documents, all clarification questions are to be addressed to procurementhousingandurban@gmail.com</p>

6.	<p>Clarification on RFP for Proposed Design, Build, Finance and Sell of Housing Units and Construction of Associated Infrastructure for Shauri Moyo B, Nairobi County Tender No. MLPWHUD/SDHUD/AHP/016/2022-2023:</p> <p>a) Organization and Legal Submission:</p> <ul style="list-style-type: none"> Kindly advise what consists of the ownership structure. This seems to have been covered by CR 12 document, RFP document, Page 6/27; What document will suffice to show tax compliance if the document is not released by submission date by KRA, Page 6/27; <p>b) Project Personnel:</p> <ul style="list-style-type: none"> Is it allowed to have the same personnel appearing in different developer consortia, Page 31. 	<ul style="list-style-type: none"> For the description of the ownership structure, please provide a description of who the owners of the Bidder's company are indicating shareholding. Bidders are advised that this description must take due account of the Shareholder Agreement that will be requested of a successful bidder at a later stage. Bidders are advised that Tax Compliance Certificates for the Bidder's company must be valid at the time of submitting the RFP. It is not allowed/advisable for the same personnel to appear in different developer consortia.
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S/No	Query	Clarification
7.	<p>Regarding to the Affordable Housing Program projects amendment which were uploaded to the website this Monday, there are some NPS projects which adopt the Design, build, finance and transfer model.</p> <p>According to Paragraph 2.2.5 project financing provision, "<i>The Contracting Authority will ensure that the Revenue Collection Account has amount adequate to make capital contributions to the Project during construction and meet regular quarterly payment fees (Regular Quarterly Fee) to the Strategic Partner after construction</i>", how many years will it take to pay the total development cost to the Strategic Partner.</p>	<p>The details of the financial structure for the Design, Build, Finance, and Transfer bids will be determined at the negotiation stage of this tender process. This includes details on the repayment structure and tenure (i.e. how many years it will take to pay the total development cost).</p>

8.	Clarification on RFP for Proposed Design, Build, Finance and Sell of Housing Units and Construction of Associated Infrastructure for Eldoret Kapsuswa Housing Project, Uasin Gishu County Tender No. MLPWHUD/SDHUD/AHP/018/2022-2023:	
	a) General: Kindly share the GPS coordinates for each of the sites listed in the tender notice. This will help immensely in doing due diligence and site visits to enable pre-feasibility;	Details on project sites, including GPS coordinates, will be provided at the negotiation stage.
	b) General: Is there a provision for delayed payment damages due to the delay by the Off-taker;	The off-take framework for projects will vary depending on the project context and details. Provisions for structuring off-take for projects will be determined at the negotiation stage.
	c) Introduction: We would appreciate a preliminary guidance as to the number of units proposed per site, page 7;	The requirements for design and build will vary among projects and will be determined at the negotiation stage where bidders will have the opportunity to present design concepts having received the design brief from the Client and even conducted site visits, as required.
d) Project Financing: Is it possible for you to share the off-take guarantee agreement sample format so that we share with financiers, page 13;	The off-take framework for projects will vary depending on the project context and details. Provisions for structuring off-take for projects will be determined at the negotiation stage.	

S/No	Query	Clarification
	<p>e) Engagement Structure:</p> <ul style="list-style-type: none"> • Please clarify who the signatories will be for the Independent Escrow account. Structure of access should be detailed, page 10; • What are the timelines for vacant occupation of sites, page 9; 	<ul style="list-style-type: none"> • The details for the Independent Escrow will be provided in the Escrow Agreement that will form part of the Project Agreement. The provisions under that agreement will be finalized at the negotiation stage. However, the Developer/Strategic Partner and Contracting Authority will both be signatories. • The timelines for vacant occupation will vary from site to site depending on the project context and details. However, the Contracting Authority will provide vacant site.

	f) Project Development Structure: Please confirm that Contracting Authority will be responsible for the Project Manager fees, page 11;	Yes, the Contracting Authority will appoint a Project Manager whose roles and duties will be explained in the Project Agreement. The payment structures, if any, will be detailed in that section of the Project Agreement.
	g) VAT Exemption: It is not possible to apply for VAT exemption under 2.2.6.2 immediately upon award. Such exemption requires that detailed design bills of quantities and material schedule to have been done, page 14;	The process for application for VAT exemption will be done following successful award of contract (meaning post award of contract). This process is clear and Strategic Partners/Developers will be provided with appropriate guidance including when the application will be commenced having fulfilled all the requirements.
	h) Process of Engaging Home Buyers: The TPS scheme with the Contracting Authority needs to be detailed further and process elaborated, page 15;	The TPS application process shall be discussed and agreed upon at the negotiations stage.
	i) Organizational and Legal submission: What if the bidders are foreigners from a country that does not provide a Tax Compliance Certificate. What can we submit, Page 16;	Bidders from foreign countries are required to provide a letter indicating that Tax Compliance Certificates are not issued in the respective country but should provide a commitment that they do honor their tax obligations in their country of registration.
	j) Preparation and submission of the bidders response: There is no clear bid validity period in 3.6.7 and execution of the Project Agreement can take very long.	The bid validity period is 365 days.
9.	Kindly clarify the form of bid security that you require. The tender notice allows for two options, bank guarantee and/or bid bond from an accredited insurance company.	The form of bid security required is an on-demand bank guarantee as provided for in the bid document.

S/No	Query	Clarification
	However the RFP page 48 has only provided a format for a demand bank guarantee	
10.	According to the Addendum 1. "Extension of submission date of the tenders from Tuesday 22 Nov 2022 at 11 am to Tuesday 6 December, 2022 at 11:00 am.", the preparation period is still too urgent. We need to wait for the authorization and internal approval from head office in Beijing. And due to Covid-19 restriction, the approval process is very slow. Therefore, we request to extend the submission time Four weeks for the Projects in caption.	The extension of submission date has been granted with bids now due on Friday 6th January 2023 at 11.00am.

11.	According to Project Development Information Item 2.2.5.4 "Once the Strategic Partner reaches financial close for the project, the Contracting Authority will open and maintain a Revenue Collection Account for remittance of monthly housing allowances for the number of housing units under construction." Could you please clarify to us the amount of monthly housing allowances. How many housing units are planned for this project?	<ul style="list-style-type: none"> • The details of the financial structure for the Design, Build, Finance, and Transfer bids will be determined at the negotiation stage of this tender process. This includes details on the monthly housing allowances and housing units within a particular project. • The housing units planned for the projects will be determined on a project-by-project basis at the negotiation stage.
12.	According to Project Development Information Item 2.2.5.5 "The Contracting Authority will ensure that the Revenue Collection Account has amount adequate to make capital contributions to the Project " Could you please clarify the financial resources of the Revenue Collection Account?	The details of the financial structure for the Design, Build, Finance, and Transfer bids will be determined at the negotiation stage of this tender process. This includes details on the financial resources for the Revenue Collection Account.
13.	According to Project Development Information Item 2.2.5.7. "The Strategic Partner will have access to capital contributions from the Revenue Collection Account and other funds as per the Project Agreement and Escrow Agreement, respectively." Could you please clarify to us the financial resources of the funds? What is the refund period after construction and transfer to the client? Will the Contracting Authority provide letter of support from Treasure [National Treasury] to the Strategic Partner before sign [signing] the contract?	The details of the financial and contracting structure for the Design, Build, Finance, and Transfer bids will be determined at the negotiation stage of this tender process. This includes details on the financial resources for the Revenue Collection Account, the repayment structure and tenure, as well as provision of other support measures from the Government.

S/No	Query	Clarification
14.	<p>I request for clarification on the issue of Tender Security. The tender notice indicated that tenderer's could submit with their tenders, a tender security in form of an on demand guarantee from either a bank or an insurance company.</p> <p>Most of the documents we have downloaded do NOT talk of a guarantee from an Insurance Company but refer to a bank Guarantee. Please confirm if we can submit our tenders with an Insurance on Demand- Guarantee.</p>	Bidders are advised to follow the format provided in the RFP document. Accredited insurance companies providing bid security must provide an on-demand bid security fulfilling the requirements in the RFP.

15.	<p>Clarifications for Affordable Housing Pipeline Projects</p> <p>Organization and Legal Submission: We are a foreign entity and our experience is not in Kenya. Is it ok we furnish housing experience from another country?</p> <p>Organization and Legal Submission: Our documents are all in Arabic. What document is required to meet the RFP criteria in terms of translation? Is a stamp from the Ministry of Foreign Affairs adequate to show proof that it is the original and unaltered document?</p> <p>Financials: What is the exchange rate we should apply in determining that we meet the annual turnover KES criteria in the RFP?</p> <p>Project Delivery model: We need more details on the off-take agreement/framework under 2.2.5.4</p>	<ul style="list-style-type: none"> ● Yes, it is alright to furnish housing experience from another country. ● As noted in the Request for Proposal document, Bidders are advised that responses shall be written and submitted in the English language. Any requested and/or other supporting documentation provided in any other language must be accompanied by certified translations. Certifications from the Ministry of Foreign Affairs on the translated documents being true, original, and unaltered will be acceptable. ● Bidders are advised to utilize the average foreign exchange rate for the particular year as per the Central Bank of Kenya's published on https://www.centralbank.go.ke/rates/forex-exchange-rates/ ● The off-take framework for projects will vary depending on the project context and details. Provisions for structuring off-take for projects will be determined at the negotiation stage.
16.	<p>Affordable Housing Programme TENDER NO. MLPWHUD/SDHUD/AHP/016/2022-2023 - Tender Validity Period</p> <p>Confirm the tender validity period. More specifically, we require an expiry date for the Bid Bond / Demand Bank Guarantee.</p>	<ul style="list-style-type: none"> ● The bid validity period is 365 days.

S/No	Query	Clarification
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17.	<p>Request for Clarification on Tender for Design, Build, Finance and Transfer of Housing Units and Associated Infrastructure for National Police Service National Police College, Kiganjo Campus Housing Project Kiganjo, Nyeri County & Design, Build, Finance and Transfer of Housing Units and Associated Infrastructure for National Police Service Rapid Deployment Unit (RDU) Housing Project, Embakasi, Nairobi County</p> <p>According to 4.1.7 Tender Security, this guarantee will expire: (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after the end of the Tender Validity Period. There is not specified the exact period of the Tender Validity Period. Because it's not allowed to issue a Security no Tender Validity Period, please confirm the Tender Security Validity Period.</p>	<ul style="list-style-type: none"> ● The bid validity period is 365 days.
18.	<p>Proposed Design, Build, Finance and Sell of Housing Units and Construction of Associated Infrastructure for Shauri Moyo B, Nairobi County Tender No. MLPWHUD/SDHUD/AHP/016/2022-2023</p> <p>a) How many originals and copies do we need to submit at the time of tender submission?</p> <p>b) Is it necessary to provide tax compliance certificate for all bidding consortium members?</p> <p>c) Validity of tender security not provided, kindly clarify.</p>	<ul style="list-style-type: none"> ● Bidders are advised to submit one (1) original and one (1) copy of the original in hard copy. ● Associations and bidding consortiums are not eligible to respond to this Request for Proposal (RFP). ● The bid validity period is 365 days.
S/No	Query	Clarification

19.	<p>Affordable Housing Programme TENDER NO. MLPWHUD/SDHUD/AHP/016/2022-2023 - Tender Validity Period</p> <p>Herewith, please find a request to confirm the banking details for State Department for Housing and Urban Development, Republic of Kenya:</p> <p>Bank: Account Number: Branch Code: SWIFT: IBAN:</p> <p>We require these details in order to complete the Demand Bank Guarantee.</p> <p>Confirm the tender validity period. More specifically, we require an expiry date for the Bid Bond / Demand Bank Guarantee.</p>	<ul style="list-style-type: none"> ● Bidders are advised to utilize the format of the “Form of Tender Security” provided in the Request for Proposal (RFP) document. ● The bid validity period is 365 days.
20.	<p>I would like to raise the issue on tender security (Bank Guarantee) as stipulated in clause 4 (b) of the tender security form as below:</p> <p>(b) if the Applicant is not the successful Tenderer, upon the earlier of:</p> <p>(i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or</p> <p>(ii) thirty days after the end of the Tender Validity Period.</p> <p>Further to the above, tender validity is issued as in clause 3.6.7 i.e. The submissions must remain valid until a Project Agreement is signed with respect to the development.</p> <p>Please clarify the following:</p> <p>1. How many days the tender validity should be so that we can specify the same our bank while requesting that they grant us a bid security.</p>	<ul style="list-style-type: none"> ● The bid validity period is 365 days.
21.	<p>Technical Proposal</p> <p>We note that our Real Estate Developers practising license will expire on 31st December 2022. Will we be penalized for that? or will the Invoice showing payment be efficient, page 18</p>	<ul style="list-style-type: none"> ● You will not be penalized.

All the other conditions remain the same.

**For: The Principal Secretary
State Department for Housing and Urban Development.
P.O. Box 30119 -00100
NAIROBI, KENYA**