

Date: September 2, 2021

To: Tender Participants

E-Tender (Online) No. 15/21 A Framework Tender for the Supply, Integration, Operation and Maintenance for a MTMS (Metropolitan Traffic Management System) and its Modules (the "Tender")

Clarification Notice no. # 7

Ayalon Highways Co. Ltd. (the "**Company**") is hereby publishing a clarification to the Tender Documents, as follows.

The Deadline for Submission of Proposals is extended until October 7, 2021 at 15:00 PM (local Israeli Time).

This notice centralizes the questions raised, unifying similar questions, with no background detail or identifying data.

	Document	Section	Question	Answer
1.	A	General	<p>For the avoidance of any doubt, the following is clarified:</p> <p>1. The Bidder in the Specific Invitation stage must be identical to the Bidder that submitted a Proposal in the Framework Tender and became a Framework Supplier, subject to Section 8.9 (ability to form a Joint Venture at the Specific Invitation stage).</p> <p>2. In Section 8.9, the words "and who are not part of any other proposals" means that the additional entity with whom the Bidder wishes to form a Joint Venture at the Specific Invitation stage, cannot be an entity which is part of another Framework Supplier in the same Category (A or B) in which the Specific Invitation has been conveyed, or is part of another proposal for that Specific Invitation. In this context, "is part" means - as a Bidder, as a member of the Bidder who is a Joint Venture, or as a proposed subcontract via which a Bidder demonstrates its compliance with a threshold condition.</p> <p>3. If the Bidder meets the threshold condition of Section 8.4 or 8.5 by a proposed subcontractor, such subcontractor must be the Bidder's proposed subcontractor in its proposal for a Specific Invitation for the system / same module (or alternatively become a member of the Joint Venture the Bidder shall establish as per Section 8.9).</p> <p>4. A:</p> <p>(i) Bidder,</p> <p>(ii) member of a Bidder that is a Joint Venture, and</p> <p>(iii) a proposed subcontractor via which a Bidder wishes to demonstrate its compliance with a threshold condition, and any entity controlling them, or controlled by them, or controlled by a third entity which controls two of the above, may participate in one proposal only for Category A and in one proposal only for each different Individual module in Category B. "Control" for such purpose shall mean holdings, directly or indirectly, of at least 25%.</p> <p>Such clarification applies both to the Framework Tender stage and each Specific Invitation.</p>	
2.	A	General	Please confirm the entire tender documents with track changes and also clean versions after the round 1 clarifications session will be published.	A marked version and a clean version of Document B (the Framework Agreement), which will include all clarifications in round 1 and 2, will be uploaded to the

				Company's Website in the following days.
3.	A	1.7	The Tender Committee is requested to postpone the Deadline for Submission of Clarification Questions.	Request denied.
4.	A	8.1B + 8.6(i)	The Tender Committee is requested to require the foreign entity (Bidder or subcontractor) to register in Israel, only in case the Bidder is awarded a Specific Task (following the Specific Invitation stage).	Request accepted. A foreign entity (Bidder or subcontractor) will be required to register in Israel as required in Section 8.1B, only after being awarded a Specific Task.
5.	A	8.1B + 8.6(i)	For the fulfillment of the threshold requirements in Section 8.4 or Section 8.5 it might be necessary for a Bidder to rely on several foreign subcontractors. In such case, please confirm that the registration of such foreign subcontractors is not required	Request denied. It is further clarified that the Bidder may demonstrate its compliance with the threshold conditions only through a single subcontractor for each category. The registration requirement of Section 8.1B is only with respect to a subcontractor through which the Bidder meets the threshold requirements 8.4 or 8.5.
6.	A	8.1B + 8.6(i)	Please confirm that the registration in Israel as a Foreign Company is not required for a Sub-Subcontractor	The Bidders are not allowed to demonstrate their compliance with the threshold conditions through sub -subcontractors. Therefore, the question regarding such sub-subcontractor is irrelevant.
7.	A	8.4-8.5	Bidder developed a MTMS Command and Control System in a 50% JV. The other partner wrote the code for high level modules as part of the JV agreement Could the Bidder be considered as the entity which "developed" the MTMS or only the partner who wrote the code is owner of a valid reference?	Bidders are referred to answer no. 17 in Clarification Notice No. 6.
8.	A	8.4 + 8.5 + answer no. 6 to Clarification Notice No. 5	The Tender Committee is requested to revisit its position with respect to the request to demonstrate the required experience through "Related Entities" - different subsidiaries under the same corporation. "Related Entity" - shall mean a legal entity which exercises Control over such entity, is under the common Control of such entity or is Controlled by such entity". "Control" - Shall have the meaning ascribed thereto in the Securities Law 1968.	Request partially accepted. The Company will allow the Bidder to demonstrate its compliance with the threshold conditions through a controlled subsidiary , in which it holds, directly or indirectly, more than 50%. Bidders should note that only a Bidder is allowed to demonstrate compliance through a controlled subsidiary, and for threshold conditions 8.4 or 8.5 only (not for threshold condition 8.6(ii)). If the Bidder meets the threshold conditions of Section 8.4 or 8.5 via a proposed subcontractor, such proposed subcontractor must meet the threshold conditions itself (and not through a subsidiary).
9.	A	8.4-8.6	The Bidder wishes to demonstrate its compliance with the threshold conditions in section 8.4-8.5 through a subcontractor (which meets the conditions of section 8.6(i)).	Request denied, see line 8 above. The subcontractor through which the Bidder meets the threshold conditions in Section 8.4 or 8.5, must itself meet the said threshold

			<p>However, some of the projects required for sections 8.4 and 8.5 were executed by the subcontractor's legal entities/ affiliates and not the subcontractor itself.</p> <p>Please clarify if such projects will be accepted by the Tender Committee in order to demonstrate the Bidder's compliance with the threshold conditions.</p>	<p>conditions (not via experience of affiliates or subcontractors on its behalf).</p>
10.	A	8.4 + 8.7.2	<p>The Tender Committee is requested to amend Section 8.4 to allow the presentation of one National Traffic Control Project which is far larger and more complex than two Metropolitan Traffic Control Projects, as the said national project includes, de-facto, several metropolises within. "National Traffic Control Project" – shall mean a project with the following minimum characteristics:</p> <ul style="list-style-type: none"> ▪ Population of over 20 million residents. ▪ Control and Management of more than 5000 Km highway length with at least 150 interchanges. ▪ Control and management of more than 500 intersections with traffic lights. 	<p>Request denied. However, see answer no. 9 in Clarification Notice No. 5 shall apply to Section 8.5 (Category A) as well.</p>
11.	A	8.5	<p>Please amend Section 8.5 so that a Bidder who developed a module for any traffic control project, not necessarily a "Metropolitan Traffic Control Project" as defined in Section 8.7.2, and its module has been in operation, would qualify with the threshold condition of Section 8.5, as long as it declares the module exists and provides evidence.</p>	<p>Request denied.</p>
12.	A	8.6(i)	<p>We request to cancel the additional requirements in Section 8.6 (i) for the subcontractor.</p>	<p>Request denied.</p>
13.	A	8.6 (i)	<p>The Tender Committee is requested to clarify that if a Bidder who demonstrated compliance with Sections 8.4 or 8.5 through a foreign subcontractor is declared a winning Bidder, the foreign subcontractor shall not be required to register in Israel as a Foreign Company or as a Foreign Partnership, as long as the Bidder itself is either incorporated in Israel or shall be registered as a Foreign Company or as a Foreign Partnership prior to the engagement with the .Company</p>	<p>Request denied.</p>
14.	A	8.6(ii)	<p>Please amend this section to allow 2 projects with an average price of USD 1 million.</p>	<p>Request denied.</p>
15.	A	8.6(ii)	<p>Can a company which developed and implemented a command and control system in 2015, which was upgraded in 2016 and 2019, qualify as a Bidder?</p>	<p>No, such Bidder doesn't meet the 5 year requirement.</p>
16.	A	8.7.2 + Clarification Notice No. 5 answer no. 11	<p>In the "Threshold Conditions marked clarification no.5" document it is mentioned that: "Compliance with sec. 8.7.2.2 can be demonstrated through one project while compliance with section 8.7.2.3 can be demonstrated through a different project, provided that both projects meet the condition in section 8.7.2.1</p>	<p>Not formed as a question and therefore cannot be addressed.</p>

			<p>In addition, in clarification 5 response # 11, the company response: The Bidder may demonstrate a highway directly connecting two metropolitan areas, provided that the total population of the two metropolitan areas is at least 2 million residents and each metropolis has at least 0.5 million residents. The Bidder must demonstrate that the project complies with sections 8.7.2.2 and 8.7.2.3 as well.</p>	
17.	A	8.7.2.2	<p>Please confirm that in an urban environment the highways can be interpreted as main avenues</p>	<p>A "Highway" must have the following characteristics: 1. At least two lanes for motor vehicles only in each direction of travel. 2. Built separation between roads in opposite directions. 3. There is no access to it from narrow paths, intersections or from railroad junctions. 4. Entrance and exit only through an interchange with acceleration and deceleration lanes.</p>
18.	A	8.8	<p>(1) the Tender Committee is requested to allow a JV to submit a proposal for Category B in the Framework Tender. (2) Please clarify that although Section 8.7 (new Section 8.8), says that each member of the Joint Venture is entitled to participate in only one Proposal, a Joint Venture will be able to submit a proposal for Category A Core Modules (and its proposal will be deemed to have been submitted for Category B as well according to Section 1.5.4), and a Member of such Joint Venture will be allowed to submit a separate proposal (as a Bidder), for any Non-core Modules under Category B. (3) The Tender Committee is requested to clarify that a Bidder who submits a proposal for Category B, separately from the Joint Venture of which he is a member of, may, in due course, submit a proposal for a Specific Invitation, together with another Bidder (which meets the threshold conditions) which may also be a Joint Venture.</p>	<p>(1) Request denied. However, Bidders are referred to section 8.9, which states that at the Specific Invitation stage, the Framework Suppliers may form and submit a proposal as a Joint Venture with additional entities, provided that certain conditions (specified therein) are met, including that they are not part of any other proposal. Section 8.9 applies to both Categories A and B. Bidders are referred to additional clarifications in line 1 above (2) Request accepted; however, Bidders should note clarification in line 1 above. (3) No, two Bidders in the same Category (A or B) cannot submit a proposal together at the Specific Invitations stage, see clarification in line 1 above.</p>
19.	A	Appendix 5 + answer 21 to Clarification Notice No 6 .	<p>The Tender Committee is requested to revisit its position with respect to the relevancy of the second part of Appendix 5 (an affidavit concerning the appropriate representation of persons with disabilities) to foreign Bidders (or members of a Bidder as part of a JV).</p>	<p>All Bidders are required to submit Appendix 5, however, please note that the affidavit applies to the Bidders' activity in Israel only.</p>
20.	A	Appendix 7a - Section 5.5	<p>Please confirm that all obligations in Appendix 7a and especially Section 5.5 are limited to the Scope of Work of the Subcontractor</p>	<p>Confirmed.</p>

21.	A	Appendix 7a – Sections 5 + 5.5	The Tender Committee is requested to: (1) delete the words “jointly and severally” from the first paragraph of Section 5 to Appendix 7a; and (2) either delete Section 5.5 to Appendix 7a in its entirety or replace it with a requirement for a “back-to back” mechanism between the Subcontractor and the Bidder	Request denied. Bidders are referred to line 15 above.
22.	Clarification Notice No. 6	answers no. 102 + 108	In “Clarification Notice No. 6” there seems to be a contradiction in answer No. 102 and No. 108 regarding the change of the days in clause 23.2.1. Please clarify what change of days will apply regarding clause 23.2.1.	The number of days in Sections 23.1 and 23.2.1 will be 10 business days.
23.	B	4.3 + 4.2 + 4.7 + 7.1 + 4.8 + 7.3 + 7.5 + 7.4 + 8.2 + 8.4 + 8.3 + 8.5 + 9.3 + 9.2 + 11.2 + 11.6 + 12.1 + 12.3 + 12.11 + 13.1 + 13.5 + 15.5 + 16.1 + 16.3	Since the content of the Specific Tasks are unknown on the date of bid submission and on the date of signature of the Framework Agreement, at this stage the Bidder/Supplier can neither make any representations, nor take any commitments with respect to any Specific Task. Please clarify.	Bidders are referred to answer No. 26 in Clarification Notice No. 6.
24.	B	8.10 + answer no. 44 to Clarification Notice No. 6	The Tender Committee is requested to shorten the 120-day period to a 60 day period.	Request partially accepted. The period will be shortened to 90 days.
25.	B	15.9-15.10 + answer no. 74 to Clarification Notice No. 6	According to the payment procedure as currently drafted, the Supplier is required to submit a monthly bill at the end of each month. Since the approval of the bill by the Company shall most likely take more than just a few days, and, on the other hand, the Supplier is required to submit the approved bill by the 5th the following month, the actual outcome shall be that the Supplier will have to wait a total of 3.5 months after submitting its monthly report before receiving payment. The Tender Committee is therefore requested: (1) to set a maximum period for the approval of the monthly report; and (2) not to limit the submission of the approved bill to a certain day of the month.	Request partially accepted. Section 15.10 of the Framework Agreement, as amended in answer no. 74 of Clarification Notice no. 6 will be further amended as follows: (1) the words "The Company will pay the Supplier within 45 days to be counted from the end of the month in which the approved bill was submitted to the Company" shall be replaced with "The Company will pay the Supplier within 45 Israeli business days from the date the bill was submitted to the Company." (2) The words “by the 5th of the following month” will be deleted.
26.	B	20.1 + 20.4	The Tender Committee is requested to: (1) add the words “and/or other third parties” after the	Both requests accepted.

		answers no. 93 - 94 to Clarification Notice No. 6	words "Any inventions and developments by the Supplier..."; and (2) add the words "and/or by such third parties (as the case may be)" at the end of the sentence, after the words "will be owned by the Supplier".	
27.	B	20.3 + answer no. 97 to Clarification Notice No. 6	The Tender Committee is requested to clarify that should the Company choose to exercise its rights under section 20.3 in circumstances under which the Supplier is in no breach of the Agreement, the Supplier shall be entitled to be compensated for such transfer of performance of the services (without derogating from any other right and/or entitlement it has under the Agreement or in law).	Request denied. Bidders are referred to answer No. 97 in Clarification Notice No. 6.
28.	B	Appendix B (NDA) Section 5	The Tender Committee is requested to delete this section.	Request accepted.
29.	B	Appendix B (NDA) Section 6	The Tender Committee is requested to delete the last sentence in the section, starting with the words "In the event of...". As opposed to indemnification, as this remedy is irrelevant to a case of Recipient's breach of its undertakings.	Request accepted. The sentence will be deleted.
30.	B	Appendix B (NDA) Section 8	The Tender Committee is requested to delete the sentence starting with the words: "Accordingly, the Recipient agrees...".	Request denied.
31.	B	Appendix B (NDA) Section 10	The Tender Committee is requested to limit the timeframe of the undertakings under the NDA to a maximum of 5 years as of its signature.	Request denied. However, it is clarified that the timeframe of the undertaking under the NDA will be limited to two years following the termination of the contractual engagement with the Company.
32.	B	Appendix C-Specific Agreement	Could the Framework Supplier and the Company negotiate, change or add new terms of a Specific Agreement for a Specific Task? or, on the contrary, no changes on Specific Agreement to modify the Framework Agreement will be accepted.	This is a tender process and therefore the terms of engagement are set by the Company in advance (and in a Specific Invitation the Company can make changes to the Specific Agreement which will override any inconsistent provisions of the Framework Agreement). However, as clarified in answer 15 to Clarification Notice no. 6, the Specific Invitation documents as well as the Specific Agreement, will be conveyed to the Framework Suppliers in advance, in which case if a Framework Supplier deems a certain provision of the Specific Invitation to be unreasonable, it can submit clarification questions and/or requests.
33.	D	General	General question regarding the compliance table and examination of the technical proposal: At the same time as evaluating the proposal in accordance with the Threshold requirements (pass/ fail), we ask you to clarify the manner in which you will evaluate and score the technical proposal according to the compliance table.	In the Framework Tender, the Proposals will be examined in order to establish the Bidders' compliance with the threshold conditions, and won't be scored at this stage (but rather during the Specific Invitation stage, in

				<p>accordance with the provisions of such Specific Invitation). However, the Company requires at the Framework Tender stage comprehensive information about the proposed system/module(s), and therefore Bidders are required to fully and comprehensively complete and submit the compliance table. Bidders are referred to section 9.2 of Document A, stipulating that at the Framework Tender stage the "Company may, at its sole discretion, reject a Proposal if its description in the Compliance Table (Document D) is lacking in the Company's opinion, even if it appears that the threshold conditions have been met."</p>
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This document is integral part of the Tender Documents, and the Participant is requested to attach a signed copy thereof to its Proposal.

Name of Participant: _____ Participant's Signature:
 _____ Date: _____