

25/10/2018

To:
Bidders in International Public Tender for Pre-Qualification of
Contractors for the Construction of High-Pressure Natural Gas
Pipeline INGL/TENDER/2018/07

Contract & Procurement
Department
e-mail: c-tender@ingl.co.il
Ref: 390307

Via: e-mail

**Re: Amendment & Clarification no. 2 -
International Public Tender for Pre-Qualification of Contractors for the Construction of
High-Pressure Natural Gas Pipeline (INGL/TENDER/2018/07) (the "Tender")**

1. General

- 1.1. All capitalized terms not expressly defined herein shall have the meaning attributed to them in the Tender Documents.
- 1.2. The clarifications and amendments appearing below replace and supersede all prior correspondence, whether written or oral, and shall constitute the sole binding document with respect to the subject matter hereof and an integral part of the Tender Documents.
- 1.3. Except where expressly stated herein, nothing in this clarification and amendment letter shall be construed to derogate from the Tender Documents.
- 1.4. Bidders are requested to send a confirmed signed copy of this Amendment & Clarification no. 2 immediately upon its receipt and to submit it signed as integral part of their Bid.**

Q – Question, **A** - Answer

GTC - General Terms and Conditions of an Agreement (doc. no. 389388)

ITB - Invitation to Submit Bids (doc. no. 388035)

2. Clarifications

#		DOCUMENT SECTION	CLARIFICATION
1	Q	ITB Clause 5a	We request to extend the last date for submission of queries and request for clarification regarding the tender.
	A		The last date for submitting queries was extended until October 12, 2018 (see Amendment no. 1).
2	Q	ITB Clause 5b	We request to extend the duration of time in which it is possible to pre-rule on the Tender Bond.

#		DOCUMENT SECTION	CLARIFICATION
	A		The last date for submitting drafts was extended. Please see the amendment in section 3.1 below.
3	Q	ITB Clause 6.1	The RFI states that the bids shall be submitted by hand delivery only. Can we consider that DHL or an equivalent transporter is acceptable for Client?
	A		Yes, provided that such transporter submits the Bid as provided for in the ITB, no later than the Last Submission Date.
4	Q	ITB Clause 8	Kindly clarify how to join the "clarification area" in your web site?
	A		All Amendments and Clarifications are available on the Company website under "Tenders" (Tender no. 575) and will be sent by e-mail to all potential Bidders that purchased the Tender Documents.
5	Q	ITB Clause 10.2.1	Non-Israeli Bidder shall apply for an exemption letter from registration under the Contractors Registration Law, 1969. As we are a Non-Israeli Bidder, where and how we should apply for the exemption?
	A		Such exemption can (and has been received in the past) directly from the Israeli Contractors' Registrar. Specific instructions should be received from the above mentioned Registrar. Please note that this procedure is not required at this stage of the Tender procedure- see also Annex A8(4), Clause 2 of the ITB.
6	Q	ITB Clause 10.2.2	The wording "In case of an Israeli Bidder and a non-Israeli Bidder that does not comply with Clause 10.2.1 above – the Bidder shall be registered at the time of submitting the Bid to this Tender as a contractor at the Israeli Registrar of Contractors pursuant to the Contractors Registration Law, 1969, and classified as level 5 or 4 in at least one of the following categories: 150, 200, 400 or 410.". As a Non-Israeli Company, we have confusion with the item 10.2.1 and 10.2.2 document. Please make these items clear?
	A		If you are a non-Israeli contractor that does not have a place of business in Israel, an exemption from registration will be required.
7	Q	ITB Clause 10.3.1	We request to amend the clause such that a contractor that is currently in execution of a natural gas project of more than 5 kilometres and has yet to finish 5 kilometres in said project will be adequate for the requirement.

#		DOCUMENT SECTION	CLARIFICATION
	A		Clause 10.3.1 provides for the participation of such contractor.
8	Q	ITB Clause 10.3.1	The Company was requested to cancel the Threshold Requirement regarding past experience of Israeli contractors.
	A		The request is denied.
9	Q	ITB Clauses 10.4 & 11.3.11	Will a statement from the company accountant affirming the financial data for 2017 suffice in the case that there are no audited financial statements for 2017?
	A		<p>Yes. In case there are no audited financial statements for 2017, Annex A9 of the ITB "Financial Capabilities" can be confirmed by the Bidder's CPA. The Bidder shall specifically indicate this matter in Annex A9.</p> <p>Yet, the audited financial statements for 2017 and an updated Annex A9 confirmed by independent certified public accountants, shall be submitted until March 31, 2019 <u>or</u> as a precondition to participating in any future RFQ procedure, whichever is earliest.</p>
10	Q	ITB Clause 10.4.5.2	Parent Company Guarantee (PCG): Our company is part of a huge group and the timeframe for issuing a parent company guarantee is subject to Board of Directors' approval. The Board of Directors meets according to a pre-established schedule which is out of our control. In case of discrepancies between bid deadline and PCG issuing deal, would it be possible for Contractor to provide a statement about a late PCG submittal or obtain a time extension? Please advice.
	A		The Parent Company Guarantee may be submitted within 30 days after the Last Submission Date.
11	Q	ITB Clauses 10.5.1.3 & 10.5.2.3 & 10.5.4.4	We request to amend the requirement of "working (as an employee or free-lancer) for the Bidder for a period of at least 2 years": We request that this requirement to be cancelled.
	A		The requirements detailed in Clause 10.5.2.3 shall be amended so that the minimal term of employment of the <u>welding engineer</u> with the Bidder shall be 1 year (and not 2 years). The request regarding the other Key Personnel is denied.

#		DOCUMENT SECTION	CLARIFICATION
12	Q	ITB Clause 10.5.2	<p>Qualified Welding Engineer - Please clarify that a Mechanical engineer that works as an Employee of the Bidder since 2007 and holds the following qualifications, complies with the requirements specified in Clause 10.5.2 of the Tender:</p> <p>a) Holds qualification as welding engineer from the IIW (International Institute of Welding) since October 2016; and:</p> <p>b) Certified welding inspector since 2008 by AWS 1.1; and</p> <p>c) Has a 5 years' experience in the position of mechanical engineer in at least 10 projects for the construction of high pressure (at least 45 BAR) natural gas pipeline executed as of 2010; and</p> <p>d) Developed WPS(s) and approved PQR(s) welding processes under the EN, American standard, EN 3834-2 and NEN 3650 standards (Manual and automatic welding); and</p> <p>e) Has experience in the position of welding engineer in at least 2 additional projects of linear pipeline (gas or other) or electro-mechanic infrastructure under relevant international standards (such as EN).</p>
	A		The requirements detailed in Clause 10.5.2 remain unchanged (except for the change in Clause 10.5.2.3 – Please see question 11 above).
13	Q	ITB Clause 10.5.2	Does a person that passed all examination for International Welding Engineer yet is not an engineer and therefore was awarded the diploma of International Welding Technologist qualify for the position of Welding Engineer?
	A		No.
14	Q	ITB Clause 10.5.6	We request to amend the requirement that the Quality Control Expert will be an engineer. We request to amend that a person of a comparable certificate will be sufficient, for example, a certificate from the German Institute of Water and Gas (certificate named DVGW).
	A		The request is denied.
15	Q	ITB Clause 12	Is a Bidder allowed to provide in its Bid instead of the original Tender Bond just a copy of this document? As well, the original one will be sent separately directly from our Bank.

#		DOCUMENT SECTION	CLARIFICATION
	A		No. The original bond must be submitted as part of the Bid (In envelope one as integral part of the Bid). The original bond cannot be submitted separately directly by the Bank.
16	Q	ITB, Annex A14(3)	Regarding Quality Control Expert, the questionnaire in Annex A14(3) "Quality requirements" included a form for detailed information for each project, without additional form for general information for the key personnel as exist for the others Key Personnel.
	A		For the Quality Control Expert only, there is no need for an additional form regarding general information (general information will be provided by the Bidder within the questionnaire relevant to the Threshold requirement Annex A8).
17	Q	GTC Clauses 36.3.7 & 51	<p>Following the definition of Force Majeure, the events such as "War and/or any other violent conflict, including acts of terror, unless and to the extent the Israeli defence Forces instructed to cease works in the areas relevant to the works conducted at that time by the Contractor" are excluded.</p> <p>How would unavoidable physical damage to a material portion of the Work relate to this exclusion in the opinion of Company?</p> <p>Would such damage to a material portion of the work, caused by an act of war or a violent conflict, not be an occurrence that triggers Force Majeure? Furthermore, Contractor would like a further explanation of the stipulation in GTC Article 36.3.7 in relation to GTC article 51 and the ability to calculate the risk that Contractor is exposed to.</p>
	A		<p>Extension of the deadline for the completion of the Works as a result of war and/or any other violent conflict, including acts of terror may be granted (in accordance with the terms of Clause 51 of the GTC only if and to the extent that the Israeli Defence Forces instructed to cease works in the areas relevant to the works conducted at that time by the Contractor.</p> <p>If any part of the Works itself shall be physically damaged as a result of war and/or any other violent conflict, including acts of terror, then such damage shall be repaired, rectified and made good by the Contractor at the Company's cost. No need to any further amendment regarding Force Majeure in Clause 51 of the GTC.</p>
18	Q	GTC Clause 44	In relation to the Company Risks according to article 44.2.1 and the triggers "fault, error, defect or omission in the design" - would any unforeseen geological condition that results in additional execution costs, change of methods or the inability to proceed, qualify under these triggers in the opinion

#		DOCUMENT SECTION	CLARIFICATION
			of Company?
	A		<p>No. Unforeseen geological conditions are not part of the Company Risks.</p> <p>Without derogating of the above, it is hereby clarified that if possible, the Company usually provides to the Contractors a geotechnical report, as integral part of the engineering data for each RFQ procedure. However,, such information is indicative only and not binding upon the Company or any 3rd party on its behalf.</p> <p>Therefore, any unforeseen geological conditions shall not be part of the Company's Risks.</p> <p>The Contractor should take into consideration the following regarding its own responsibility to check and verify the geotechnical conditions:</p> <ul style="list-style-type: none"> • Annex BB1 of the GTC - The General Technical Information (ENG-CSE-SPC-0013), Clause 8 "Checking the work conditions by the Contractor" & sub-clause 8.3 "Soil investigations" • Clauses 4.1.9 & 4.1.10 of the GTC.
19	Q	GTC Clause 44	Following the definition of Contractors Risk and responsibility as per 44.3 - contractor might not be able to fully calculate all impact of the applicable risks. Would Company be open for reducing the exposure of Contractor for these risks by capping these, to enable contractors to make balanced and calculated prices?
	A		No.
20	Q	GTC Clause 48	Following the limitation of Contractors Liability, contractor is exposed to consequential damages from Company in relation to its contractual obligations up to 100% of the Agreement Price. Would Company be open for reducing the exposure of Contractor for this risk?
	A		No.

3. Amendments

3.1. Pre-ruling regarding Tender Bond (voluntary)

The last date for submission Pre-ruling Tender Bond in Clause 5(b) of the ITB is amended to **November 5, 17:00** (Israel time).

3.2. Last Submission Date

The last date for submission of Bids in Clause 5(c) of the ITB is amended to **November 26, 17:00** (Israel time).

Submission of Bids shall be available within working day in Israel (Sunday – Thursday) between 09:00 – 17:00.

3.3. Key Personnel - ITB

The following paragraph shall replace Clause 10.5.2.3 of the ITB:

"Worked (as an employee or free-lancer) for the Bidder or for a Member of a JV Bidder as a welding engineer for a period of at least 1 year as of 2010".

3.4. Company Materials - GTC

The following paragraph shall be added to the GTC as Clause 31.8:

"The Company Materials shall remain at all times property of the Company (including after being takeover by the Contractor) and the Contractor shall not have any right (including right of lien) over such materials".

3.5. Loss and Damage due to Acts of War

The following paragraph shall be added to the GTC as Clause 44.2.3:

"Any physical damage to the Works and/or the System as a direct result of war and/or any other violent conflict, including acts of terror, shall be repaired by the Contractor at the Company's cost".

3.6. Typos corrections - GTC

A typo, reference to clause "0", appears in several clauses of the GTC.

The correct reference shall be amended according to the following table:

The typo, reference to clause "0", exists in the following clauses of the GTC	The correct reference (instead of "0") is to the following clauses of the GTC
1.1	15
1.31	9.5
1.35	15
3.4.2	36.3
8.4	8
9.4.4	9.5
10.2	31
12.2.4	51
13.2	36.3

15.5.4	15
18.4.2	36.3
20.3.2	36.3
23.3.2.4	50.1.2
31.3	31
36.3.7	51
39.2.3	39.2
41.5.3	52
50.1.9	50.1.2
51.3.3.1	51.2
51.3.3.2	51
54.2.3	54

The Bidders are requested to acknowledge receipt of this Amendment and Clarifications No. 2 by returning an executed copy of the attached acknowledgment receipt form.

Sincerely yours,

Israel Natural Gas Lines Company Ltd.

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Acknowledgement of Receipt

We, the undersigned, hereby confirm, that we received **Amendment & Clarification No. 2** to International Public Tender (Pre-Qualification) of Contractors for the Construction of High-Pressure Natural Gas Pipeline (INGL/TENDER/2018/07),

.....
Date

.....
Company

.....
Signature