Government of Nepal
Ministry of Industry, Commerce and Supplies
Nepal Intermodal Transport Development Board
Chobhar, Kirtipur-6, Kathmandu

Name of the Contract: Operation and Management of Bhairahawa ICD
Date of publication of IFB: 30th March 2022
Contract No.: NITDB- O&M- ICB -04 (FY 2021/022)
Clarification No.: NITDB- O&M- ICB -04 (FY 2021/022) / **CLR – 1**
Clarification Date: 7th May 2022 (2079/01/24 B.S.)
Following clarifications have been made:

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
1.	**Clause 4 of Section 1**	**Qualification Criterion**	Clause 4 of Section 1 provides that the financial eligibility criteria for the Project is that the average annual turnover for the last three years should be a minimum of NRs 119,500,000.00 (Neplese Rupees One Hundred Nineteen Million Five Hundred Thousand Only). We suggest that currency conversion into USD may be specified against the turnover requirement, such that any overseas or foreign company participating in the tender document can accordingly present its financial credentials. We request that the above specified financial qualifying criterion may be modified and specified in USD.	Currency conversion shall be as per ITB 32.1.
2.	**Clause 6 of Section 1**	**Pre-Bid Meeting**	Clause 6 of Section 1 provides that the pre-bid meeting shall be held on April 29, 2022 at NITDB, Chobhar, Kirtipur-6, Kathmandu. From the above clause, we understand that bidders are required to attend the pre-bid meeting at Kathmandu. We suggest that the bidders should be allowed to attend the pre-bid meeting through online mode also, as it may	Pre bid meeting completed as scheduled.

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			not be possible for all bidders to attend the pre-bid meeting physically due to travel restrictions and COVID-19 issues.	
3.	**Clause 4 of Section 2**	**Eligibility**	Clause 4.1. indicates that Only the Bidders, as defined in Bid Data Sheet are allowed to submit a Bid in response to the ITB. A Bidder may be a firm that is a private entity, a state owned enterprise or institution subject to ITB 4.6 or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. We wish to understand whether a non-Nepalese company can create a JV with Nepalese entity if the non-Nepalese company has participated as a sole bidder and is adjudicated as the winning bidder per tender terms?	It shall be as per the bidding Document.
4.	**Clause 4.5 (d) of Section 2**	**Conflict of Interest**	Clause 4.5(d) provides that in case any bidder has a relationship with another bidder, that puts it in a position to access information about or influence on the Bid of another Bidder, or influence the decisions of the Employer regarding this bidding process, it will be deemed to have a conflict of interest. In our view two or more bidders may have engaged, consultants and/or advisors in their respective company (s) for some consultancy and/or advisory services prior to floating of this ITB, in such case the bidders under clause 4.5 (d) shall be deemed to have indirect relationship through a common third party and considered to have conflict of interest, hence such clause is deterrent to the spirit of open competitive biddings as bidder would not have access to each other's confidential information. Therefore, in our view considering the Employer has the right to	It shall be as per the bidding document.

Government of Nepal
Ministry of Industry, Commerce & Supply
Nepal Intermodal Transport Development Board

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			disqualify the bidder, it is suggested that Clause 4.5(d) be restricted to access by a bidder to bidding proposals of another bidder only,.	
5.	**Clause 6.3 of Section 2**	**Site Visit**	NITDB to kindly provide details of the contact persons whom the bidders can contact for relevant information and for resolution of queries during Site visit.	Site visit process is clearly mentioned in the ITB 6 of the bidding document. Information for contact person can be obtained from NITDB office, Chobhar.
6.	**Clauses 18.5 and 34 of Section 2**	**Right to unilaterally reject the bids**	Clause 34.1 of Section 2 provides that the Authority reserves the right to reject any Bid on any of the grounds specified thereunder without incurring any liability therefor. Clause 18.5 provides that the Bid Security of unsuccessful bidders shall be returned within three days, **once the successful bidder has furnished the Performance Security and signed the Contract Agreement**. Clause 34.3 provides that in case of annulment, all Bid Securities shall be promptly returned to the Bidders. The Bid Security paid by the bidder as a part of the Bid should also be promptly returned/ refunded by the Authority, in case the Authority unilaterally rejects any Bid, on any of the grounds specified in Clause 34.1 of Section 2, and not on submission of Performance Security by successful bidder.	It shall be as per the bidding document.
7.	**Clause 1.1 (h) of Section 3**	**Contract Period**	We suggest that the contract period should be 10 years (+10 years - first right of refusal) so that TMC can make capital investment for upgrading facilities at Bhairahawa ICD and provided efficient services to customers	It shall be as per the bidding Document.
8.	**Clause 2.5 of Section**	**Terminal Leasing Out**	As per sub Clause 2.5, the Terminal Leasing Out Regulations -2070 shall be provided in Nepali	Currently available in Nepali Language.

Government of Nepal
Ministry of Industry, Commerce &
Nepal Intermodal Trans

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
	3	**Regulations - 2070**	Language. We request that the same may for the convenience of the bidders be provided in officially translated English language also. Since, Clause 7.6 of Appendix G suggests that unofficial translation of the Regulation is available at Employer's office, the unofficial version may cause or result into error in interpretation or issues in having clarity on the Regulations.	
9.	**Clause 4.1 of Section 3**	**Technical Qualification of JV**	Clause 4.1 of Section 3 provides that in case the bidder is a JV company, at least one partner shall be a Nepalese company. However, as per Clause 4.2 of Section 2 a non-Nepalese JV Company is required to submit a self-declaration as per Attachment 5 to the TECH-1. It may be clarified whether a non-Nepalese JV company which does not have a Nepalese company as JV partner shall be deemed to have fulfilled the condition stipulated at Clause 4.1 Section 3, and if so, the condition at Clause 4.1 of Section 3 may suitably be amended or deleted.	It is clearly mentioned in ITB 4.1
10.	**Clause 21 .1 of Section 3**	**Deadline for submission of bids**	We suggest that deadline for submission should be postponed by 4 weeks (i.e. 15/06/2022). This is required for prospective bidders to make necessary study and thorough detailing prior to submission of their bids.	Please see the amendment.
11.	**Clause 27 .2 of Section 3**	**Criteria for the evaluation of the Technical Proposals**	As per bidding document, Capacity of investment in additional facilities, equipment and systems is part of technical evaluation criteria. Kindly share details of capital investment expected to be made by TMC in form of construction of civil structures, office building, warehouses or any other assets (other than equipment).	Capital Investment plan is to be proposed by the bidder in their bid.

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
12.	Form Tech-1 Section 4	Technical Proposal Submission Form	"We remain," Seems like an incomplete sentence. Kindly rectify	It shall be as per the bidding document.
13.	Form TECH 3 of Section 4	Relevant Experience	Adani Logistics Limited (ALL) is an end-to-end logistics services company which is in the business of development and operations of inland container depots (ICD) and transportation of cargo by trains. ALL does not construct or operate ICD for third parties hence information like assignment name, refence number, employer name, etc is not available. We suggest that modification of table headings and columns may be permitted for showing experience of ALL.	It shall be as per the bidding document.
14.	Form TECH 4 of Section 4	Financial Situation	As per format, Available Line of Credit needs to be mentioned. This information may not be readily available for previous years. We suggest that this line item should be dropped.	It should be as per bidding document.
15.	Form TECH 4 of Section 4	Financial Situation	As per format, Invested amounts or participation in equity needs to be mentioned. What are details which are to be show here?	It should be as per bidding document.
16.	Form TECH 5 of Section 4	Current Commitments	Adani Logistics Limited (ALL) is an end-to-end logistics services company which is in the business of development and operations of inland container depots (ICD) and transportation of cargo by trains. ALL does not construct or operate ICD for third parties hence information like assignment name, refence number, employer name, etc is not available.	It is clearly mentioned in the footnote.

Government of Nepal
Ministry of Industry, Commerce
Nepal Intermodal Trans

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			Please advise regarding details to shown here with respect to ALL. Kindly share modified format, if required. Please explain what is meant by Contractual Commitments in Kind.	
17.	**Point d) TECH 7 of Section 4**	**Proposed Business Plan**	Following has to be submitted as mentioned in bidding document - Degree of satisfaction of transport needs – submit Plan for Delays Minimization. Please share details of delays and issues currently faced by customers at ICD.	This need to be identified by the bidder and submit the plan to resolve it.
18.	**Point d) TECH 7 of Section 4**	**Proposed Business Plan**	As per bidding document, bidder needs to provide details regarding "Potential for attracting new business (business type, business volume and amount; significance of new business in terms of scale increase and use of available capacity to add value to and maximizes revenue potentials; Basis of achieving set targets from new business– logical reasoning and documentary evidences)" Bhairahawa ICD is customs point wherein cargo enters Nepal for companies and consumers situated in Bhairahawa or neighbouring regions. Companies situated in distant locations like Kathmandu will always preper customs points which are located in their proximity. TMC has np control on this aspect. Kindly suggest what details which should be shown under "Potential for attracting new business"	Bidder shall propose the potential for attracting new business in their plan themselves.

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
19.	Form TECH 9 of Section 4	Proposed Operation Plan	Following has to be submitted as mentioned in bidding document - Appraisal per facility of horizontal transfer, storage system and port to inland transport interface Kindly suggest what details which should be shown under above heading.	Bidder shall propose this operation in their plan.
20.	Form TECH-10 of Section 4	Financial Resources	Please suggest details to be mentioned here is funding is expected to be provided by Parent / Holding company. Kindly share modified format, if required.	It shall be as per the bidding document.
21.	General Remark	Confidentiality	We note that Section 2: Instructions to Bidders does not provide for a clause on confidentiality obligations of the Lessor and the Lessee. We suggest that confidentiality obligations of both the Lessor and Lessee should be incorporated for any confidential information provided by the Bidder to the Authority during the bidding process. Also, we suggest that the confidentiality obligations should not be applicable to information which is (a) available in public domain prior to the disclosure by a Party to another; or (b) already in the knowledge of the receiving party; or (c) obtained from a third party who had no binder of secrecy in relation to such information; or (d) independently developed by a Party. Further, the Parties should be entitled to disclose such confidential information to its technical, financial and legal advisors or auditors on a need to know basis. This disclosure should be allowed subject to such persons agreeing to be bound by the same confidentiality obligations applicable to the parties.	It shall be as per the bidding document.
22.	Clause C	Minimum	As per bidding document, MLR offered to the Lessor by the bidder	It shall be as per the bidding document.

Government of Nepal
Ministry of Industry, Commerce &
Nepal Intermodal Trans

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
	(1.1) of Section 6	**Lease Rent**	shall not be less than minimum NPR 398,630,140/- in aggregate for the five year period. This is on the higher side and expected to jeopardise the viability of business operations of TMC. We suggest that Bhairahawa ICD is a growing facility. Hence MLR should be reviewed and revised to Rs NPR 50,000,000/- in aggregate for the five year period.	
23.	**Clause C (1.4) of Section 6**	**Sub-leases**	Kindly share details regarding existing area which is currently sub-leased.	Currently the area is subleased to the Commercial Bank.
24.	**Clause C (1.4) of Section 6**	**Sub-lease**	Clause 1.4 provides that the TMC shall not be allowed to outsource its managerial functions for running the facility and in exercising facility control and coordination. Please clarify if TMC can hire staff on 3rd party payroll?	Managerial staff cannot be hired on 3rd party payroll.
25.	**Clause D (1.1) of Section 6**	TMC's Equipment	Please share list of equipments deployed by existing TMC	Currently TMC has deployed forklift only.
26.	**Clause D (1.1) of Section 6**	TMC's Equipment	As per bidding document, TMC shall install at least one weighing bridge of 100MT capacity at their own cost for entire period of contract. We suggest that since weighing bridge is an immovable asset, it should be installed by NITDB. Maintenance can be included in TMC's scope.	It shall be as per the bidding document.
27.	**Clause D**	TMC's	As per bidding document, Fire Fighting Truck (Minimum 3500L(water	Please see the amendment.

Government of Nepal
Ministry of Industry, Commerce & Supplies
Nepal Intermodal Transport

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
	(1.1) of Section 6	Equipment	and foam) Capacity) is mandatorily required. Fire fighting truck is not integral to an ICD and is a community asset. We therefore suggest that it should be procured by NITDB or relevant local authority. Alternatively, NITDB can install fire hydrants in the ICD.	
28.	**Clause D (1.1) of Section 6**	TMC's Equipment	As per bidding document, Top Loader (Reach stacker of 45 MT capacity) is required on call. It may be noted that Top Loader (Reach stacker of 45 MT capacity) is a very costly equipment and not available on call. We suggest that the requirement should be dropped.	Please see the amendment.
29.	**Clause E of Section 6**	**Approval by the Lessor**	What the operations hours at ICD – 8 hour or 12 hours or 24 hours working? Is the ICD operational 7 days a week?	Operation hour are from 6 am to 10 pm (16 hrs). ICD operation is 7 days a week.
30.	**Clause F of Section 6**	**Reporting Requirements**	As per bidding document, The TMC shall establish an IT based Management Information System to capture reliable and efficient data relating to traffic volumes (vehicle entry and exit), tariffs and revenue collections and financial transactions relating to the contract. What is the existing arrangement? Which is the software currently deployed by existing TMC?	Existing TMC has installed IT based Management Information System. Live traffic data are captured and being shared to NITDB.
31.	**Appendix E**	**Joint Venture**	1. The format of the JV Agreement provides that in case the successful	It shall be as per the Government Rules.

Government of Nepal
Ministry of Industry, Commerce & Supplies
Nepal Intermodal Transport Develo

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
	to Part II and Part III	**Agreement**	bidder is a joint venture, then it shall incorporate a Nepalese company registered under the Company Act 63 for execution of the Services. Further, the agreement provides that all the JV members confirm that none of the JV members shall sell their shares in such Nepalese company. 2. Further, kindly clarify if any shareholding thresholds are to be maintained among the JV members in the TMC. It is also to be clarified whether any change in composition of consortium or JV is permitted during the Bidding Process.	
32.	**Appendix G to Part II and Part III**	**Existing Facilities**	Client to undertake due diligence of existing infrastructural facilities including reliability and functionality of such existing infrastructural facilities. It needs to be clarified that in the event it is found that the infrastructural facilities or equipment are faulty, not fit for use or non-functional, then the costs of repairing/ replacing such equipment will be borne by the Authority. Also, the TMC should be given extension of timelines for the period of repair/ replacement of such equipment and should not made responsible/ liable in case it fails to meet the performance standards due to non-replacement of such faulty infrastructural facilities or equipment by NITDB.	Infrastructure will be handed over to the TMC in operating condition.
33.	**Appendix G Clause 4**	**Cost of Operation**	Total Expenses excl. Lease Rent - Please confirm all expenses except lease rent are covered here and no expenses of any kind are missed out.	Prospective bidder are expected to verify the information on the infrastructures, connectivity, activities of other agencies and traffic in and around the terminal.
34.	**Appendix G Clause 4**	**Cost of Operation**	Please share lease rental paid by TMC to NITDB for last 3 financial years.	MLR set for the existing TMC for last 3 years are, as per the agreement (Amount in Thousand NRs.) : 10,700 (for FY 2019/20), 11,000 (for FY 2020/21) and 11,100 (for FY 2077/78).

Government of Nepal
Ministry of Industry, Commerce & Supplies
Nepal Intermodal Transport Development Board

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
35.	**Appendix H to Part II and Part III**	**Supplementary Agreement**	The format of the supplementary agreement with customs office provides that whenever the Customs deems fit, it may inspect any of the sheds being used by the TMC and check any of the consignment therein. To be clarified that such inspection shall be undertaken by the Customs at its own cost and upon prior written notice to the TMC. Further, it should also be clarified that the Customs representatives inspecting the sheds and any consignments therein should strictly follow the safety standards and precautions applicable to the Terminal, failing which the TMC shall not be responsible for any damage to life or property. The format of the supplementary agreement to be amended accordingly.	It shall be as per the current rules, regulation and the custom procedure. The format shall be as per the bidding document.
36.	**Clauses 1.1 and 20.4 of GCC**	**Applicable Law and Applicable Guidelines**	Clause 1.1(a) of the GCC defines 'Applicable Law' as the laws and any other instruments having the force of law in Nepal. Clause 1.1(b) defines 'Applicable Guidelines' as Nepal Intermodal Transport Development Board Formation Order 2054 and Terminal Leasing Regulations 2070 issued in Nepali language. Further, Clause 20.4 provides that the TMC shall perform the Services in accordance with the Contract, Nepal Intermodal Transport Development Board Formation Order 2054, Terminal Leasing Regulations 2070 and Applicable Law. Clause 23 provides that the liability of the TMC under the Contract shall be as determined under the Applicable Law. NITDB to share copies of Nepal Intermodal Transport Development Board Formation Order 2054 and Terminal Leasing Regulations 2070 in English language for the prospective bidder to understand the implications of the Applicable Law and Applicable Guidelines of Nepal on the obligations of the TMC and any related restrictions thereunder.	NITDB formation order and terminal leasing regulation 2070 are currently available in Nepali language.

Government of Nepal
Ministry of Industry, Commerce & Supply
Nepal Intermodal Transport Development Board
2054

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
37.	Clause 1.1(f) GCC and SCC	Contract Period	The Contract Period for performance of Services is five years. The SCC states that in case the ICP at Bhairahawa comes into operation before the expiry of the Contract, then the Lessee shall also operate and maintain the ICP under the same terms and conditions as the Contract for the remaining period of the Contract. NITDB should provide size, volumes, revenues, costs & other details of ICP at Bhairahawa as part of this tender document.	Currently ICP is in the design phase and work has not started yet. Draft drawing are available at the NITDB office. Bidders who wish to study the drawing can obtain the draft design from the NITDB office.
38.	Clause 2.4 of GCC	Restriction on mortgage of the Terminal	Clause 2.4 provides that the TMC shall not sell or attempt to sell, pledge, part with possession, custody mortgage or otherwise transfer any portion of the Terminal. Such a restriction should be taken into consideration while raising debt from lenders for this Project. We suggest that the TMC should be permitted to assign/ create a charge on its rights under the Contract, receivables of the TMC from the Project and assets of the TMC in favour of the lenders. To be clarified.	It shall be as per the contract agreement.
39.	Clause 9 of GCC	Clause Numbering error	Sub-clause (a) under Clause 9 of the GCC is erroneously mentioned as sub-clause 62(a). To be amended accordingly.	Please see the amendment.
40.	Clause 16.6 of GCC	Extension due to Force Majeure	Clause 16.6 provides that in case of Force Majeure event, the period of the Contract shall be extended for a period equal to the time during which such party was unable to perform any action as a result of Force majeure. We request that 'equal' be made 'equitable' under this Clause in order to ensure that time extension is granted after appropriately evaluating the Force Majeure event and its impact on the schedule of the Services (and not just on a day to day basis).	It shall be as per the bidding document.

Government of Nepal
Ministry of Industry, Commerce & S
Nepal Intermodal Transp
Development Board

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
41.	**Clause 18 of GCC**	**Consequences of Termination and Termination payment**	1. Clause 18.1.6 provides that the Lessor shall pay the TMC a reasonable demobilization cost of Equipment and Personnel in case the Contract is terminated by the Lessor for any reason whatsoever. In our view, the Lessor should additionally be responsible for payment of reasonable demobilization cost of Equipment and Personnel to the TMC even in case the Contract is terminated by the Lessor on any of the grounds specified in Clause 18.1.1 of the GCC, or by the Lessee on any of the grounds specified in Clause 18.1.2 of the GCC. 2. Further, in the event of termination of the Contract by the TMC, kindly clarify whether the Lessor will reimburse the equity and pay at least 90% of the debt due in relation to the Project cost or will retain the equipment or pay demobilization costs of Equipment and Personnel in accordance with Clause 18.1.6. 3. Kindly clarify whether the Lessor will retain the Equipment on expiry of the Contract or will pay demobilization cost of Equipment and Personnel in accordance with Clause 18.1.6 to the TMC. 4. Further, the Contract should provide for release of the Performance Security on early termination of the Contract due to Force Majeure event or due to material breach of obligations by the Authority during the period wherein the Performance Security is valid and subsisting. However, if there is a payment due from the TMC to Authority, then such amount can be deducted from the Performance Security and the residual amount to be refunded to the TMC. Kindly confirm if this is the understanding and to this extent, the Contract	It shall be as per the bidding document.

Government of Nepal
Ministry of Industry, Commerce & Supplies
Nepal Intermodal Transport
Development Board

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			should also be amended accordingly.	
42.	**Clause 19 of GCC**	**Indemnification**	1. Clause 19 provides that indemnity obligations of the TMC will survive the expiry or termination of the Contract. It appears that the clause shall survive indefinitely.	It shall be as per the bidding document.
			NITDB should provide limitation on the period for survival clause. 2. Under the contract, no maximum liability / cap on indemnity is provided. It is requested that the liability of TMC under the Contract should be capped to a certain agreed percentage of the contract value. 3. The indemnities are said to be in addition to the insurance(s) that are to be obtained by the TMC. It needs to be clarified that in case Authority receives insurance proceeds for any losses, then the TMC shall not have the obligation to indemnify Authority for losses that are recovered from the insurance proceeds.	
43.	**Clauses 21.1.3 and 28.4 of GCC**	**Conflicting ownership**	Clause 21.1.3 provides that selling the whole business of any of the JV members forming the TMC and selling of any amount of the share of the TMC to a new entity will require the written consent of the Lessor. Kindly clarify that such consent of the Lessor will not be unreasonably withheld. Ideally, divestment should be permissible without the requirement of any approval from the Lessor up to a certain percentage of shareholding in the TMC, for instance, 49%. Only in case of any change in controlling shareholding of the TMC, the approval of the Lessor should be required. In any case, the criteria for deciding whether approval will be given	It shall be as per the bidding Document and applicable law of Government of Nepal.

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			for change in control or not by the Lessor should be objective, such as transferee complying with the eligibility criteria specified for bidders, transfer of liabilities of the TMC, etc.	
44.	**Clause 22 of GCC**	**Confidentiality**	The clause sets out confidentiality obligations on the TMC. We suggest that confidentiality obligations should also be put on the Authority for confidential information provided by the Bidder. Also, we suggest that the confidentiality obligations should not be applicable to information which was (a) available in public domain prior to the disclosure by a Party to another; or (b) already in the knowledge of the receiving party; or (c) obtained from a third party who had no binder of secrecy in relation to such information; or (d) independently developed by a Party. The clause provides that the TMC and its Personnel shall not at any time communicate to any person or company any confidential information acquired in the course of the Services. The TMC should be entitled to disclose such confidential information to its technical, financial and legal advisors or auditors on a need to know basis. This disclosure should be allowed subject to such persons agreeing to be bound by the same confidentiality obligations applicable to the parties.	It shall be as per the bidding document.
45.	**Clause 28.3**	**Sub-contracting**	Clause 28.3 provides that the TMC shall not sub-contract the whole of the Services. The TMC may sub-contract only the Services that require unforeseen technical expertise. Kindly clarify the meaning of the expression 'unforeseen technical	Unforeseen technical expertise means the expert required for the IT infrastructure, equipment maintenance etc which are required during the operation of the ICD but cannot be foreseen at present.

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			expertise'. TMC should be permitted to hire staff on 3rd party payroll for performance under this contract.	
46.	**Clause 29.6 of GCC and SCC**	**Delay Damages**	Kindly clarify that TMC shall, in no event, be made liable for any delay resulting from or contributed to by any negligence and/or breach of duty (statutory or otherwise) of Authority. Further, the clause on delay damages does not provide for a cap on delay damages. It is requested that the liability of TMC because of delay damages should be capped to a certain agreed percentage.	It shall be as per the bidding Document.
47.	**Clause 32 of GCC**	**Access to Project Site**	Clause 32.1 provides that the Lessor warrants that the TMC shall have free of charge unimpeded access to the project Site in respect of which access is required for the performance of the Services. In the event the TMC's peaceful occupation is obstructed due to any reason, then the Authority will be responsible and liable to restore the peaceful occupation of the TMC on the Site at its own cost and expense and the TMC will have the right of specific performance. In case the peaceful occupation is obstructed by any claims and proceedings, then the Authority will defend such claims and proceedings, and the cost of defending such claims and proceedings will be exclusively borne by the Authority. To be clarified. Kindly clarify that there are no third-party contractors of NITDB on the Terminal and the TMC shall be acting as the sole operator of the Terminal.	TMC shall act as the sole operator of the terminal.

Government of Nepal
Ministry of Industry, Commerce & Supply
Nepal Intermodal Transport
Development Board

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
48.	**Clause 35 of GCC**	**Dispute resolution process**	Clause 35 provides for a multi-tiered dispute resolution process comprising mutual consultation, followed by dispute resolution by appointment of Adjudicator, followed by arbitration in accordance with the Arbitration Act, 2055 at Kathmandu. Kindly clarify which courts shall have jurisdiction for any disputes arising out of the contract (including any appeal from arbitration), and that the jurisdiction of such courts will be subject to arbitration as specified in Clause 35 of the GCC.	It shall be as per the law of Nepal.
49.	**General**	**Approvals and clearances**	The Lessor should be responsible for providing assistance to the Lessee for obtaining all the necessary approvals and clearances for performing the Services, by providing a single window clearance for the same. To be clarified.	It shall be as per the bidding Document.
50.	**General**	**Governing Law**	The Bidding Document does not specify or provide for a clause on the governing law of the contract. To be clarified.	Please refer to the GCC 1.1(a) Applicable law of the bidding document.
51.	**General**	**Blank Page**	We note that page 102 of the Bidding Document is blank. Kindly clarify if any provision is missing from the Bidding Document on the said page 102.	Blank Page is not in the signed bidding Doc.
52.	**General**	**Definitions**	We note that certain undefined terms have been used in the Bidding Document out of which some are utilised in provisions which are critical in nature. To avoid misinterpretation of such terms and facilitate the parties to have the same understanding in respect of such terms, kindly clarify the meaning/definition of the following terms: (i) Agreement Date; (ii) Alternative Proposal; (iii) Defect Liability Period; (iv) Evaluation Committee;	It shall be as per the bidding Document.

Government of Nepal
Ministry of Industry, Commerce &
Nepal Intermodal Transp
Development Boa
2054

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			(v) Experts; (vi) Intended Completion Date; and (vii) Lease Agreement.	
53			The tender requires the bidder to submit bid security of Nepalese Rupees 9,966,000.00. Whether third party can give Bank Guarantee on behalf of the bidder?	It shall be as per the bidding Document.
54			Nepal has start e-processing of documents because of which trucks are not required to wait at the border and therefore the Bhairahawa ICD will not be able to generate revenue of parking charges which makes up around 45% of the current revenue of the ICD and the ICD will only be dependent upon entry charges for revenue. In this case if the traffic exceeds the base volume, the lessee will have to pay NITDB NRs 228.24 out of NRs 235.81 which is	It will be as per the bidding document.
55			The ceiling unit rates are given for four years in tabular format. Is it to be assumed that the rates applicable in fourth year shall also be applicable in fifth year? If yes then why is the revenue sharing per unit increasing in the fifth year also?	The ceiling unit rates will be changed in every two fiscal years.
56			Upon review of the ceiling of charges, it appears that only possible charge applicable to all units of freight vehicles is the entry charges and the revenue sharing on the excess of the base case is almost 90% of the entry charges. Is the terminal operator expected to complete the handling of the excess freight vehicles in only about	Revenue sharing rate is based on considering all the specified income generated from entry, parking, warehousing etc.

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			10% of the user fee?	
57			Some of the user charges mentioned in the ceiling of charges in case of export cargo are less than that of import cargo. Will NITDB consider segregation of RSI for import & export cargo? If not then export cargo should also be charged equivalent to import cargo.	It will be as per the bidding document.
58			The Government of Nepal on 13th Baishakh 2079 has published a restriction on import of certain items categorized as luxury goods which form a significant chunk of cargo handled through Road based ICDs of Nepal. This will impact the revenue of any TMC operating such ports. Will NITDB give any relaxation or consider changes in Government Policy regarding Foreign Trade as a force majure condition with respect to payment of MLR & RSI?	It will be as per the bidding document.
59			There is a significant increase in the total number of FEUs handled at ICD Bhairahawa in the last three financial years which forms a major portion of the revenue stream. Could NITDB elaborate the figures more into Bilateral Traffic from India & Third Country Cargo?	Bidders are advised to collect this information on their own.
60			As the proposed terminal operator will have to insure all the assets of ICD, what is the financial value of the physical assets of the ICD which needs to be insured?	Financial value of the physical assets of the ICD will have to be accessed by the lessee themselves.
61			In the bidding document, it has been proposed that the BID SECURITY should be submitted in the name of the single bidder or	It will be as per the bidding document.

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			the JV or all the partners in the case of a JV. However, it was observed during the bidding of ICD Birgunj that NITDB had allowed third party Bid Security despite contrary to the BID Document and objection of the bidders. Will such exemption be allowed in the case of this BID?	
62			What is the definition of Hazardous Cargo? Any standard literature to determine the hazardous nature of the cargo?	It will be as per the national/ international norms.
63			How much time shall be provided to deploy TMC Equipment such as installation of weighbridge, mobile crane, fork lift, fire fighting truck & Reach stacker as deployment of some of these items may take months?	TMC has to manage the required equipment from the commencement day of the ICD.
64			What are the possible conflicting activities referred to in point no. 21.1.1?	It shall be as per the bidding Document.
65			It has been mentioned on page 116 that the payment of RSI shall be made at the end of each corresponding Nepalese Fiscal Year. Would it not be prudent for the payment of the RSI to be made to NITDB within 15 days of the completion of each operational year of the Lease Period as it is not necessary that the new five year contract shall commence upon the start of the next Nepalese Fiscal year? It will also remove ambiguity for RSI Rate to be charged on traffic handled.	It is clearly mentioned in the SCC 29.1(b).

<table>
<tr><th>S. No.</th><th>Clause/Article Reference</th><th>Particulars</th><th>Bidders' Queries</th><th>Clarification</th></tr>
<tr><td>66</td><td></td><td></td><td>Are there any land revenue charges or local taxes to be paid to the Government of Nepal for the land upon which the ICD is built up?</td><td>It is as per the government rules.</td></tr>
<tr><td>67</td><td></td><td></td><td>In the given financial information in Appendix G: Information to bidders, Section 3.1, the traffic volumes have been provided up to Year B. S. 2077/078 which corresponds A. D. 2020-21 which are more than one year obsolete and do not give a fair picture of the current situation at ICD Bhairahawa.

As per the current publication s in the news, government and other sources, import-export trade in the current year has dipped by approx. 36% directly impacting the volumes to have arrive at ICD Bhairahawa.

In this regard, you are requested to please share the traffic flow of the current ongoing year from Sawan 2077 upto the month of Chaitra 2078 (AD July 2021- April 2022) so that the bidders can get better picture of the volume handled at the terminal which is expected to be much lower than the figures projected in tender document of previous years.</td><td><table><tr><th>Particulars</th><th>Traffic From Shrawan 2078 to Chaitra 2078 (No.)</th></tr><tr><td>Truck,Tanker,Tractor</td><td>78,435</td></tr><tr><td>Fixed Container Truck</td><td>13,370</td></tr><tr><td>Container TEU</td><td>1,127</td></tr><tr><td>Container FEU</td><td>27,884</td></tr></table></td></tr>
<tr><td>68</td><td></td><td></td><td>Further, the figures provided under Income from operation section contain revenue figures which are more than a year old and do not give a proper reflection for taking it as base year since in the current year, volumes have dipped by more than 36% as mentioned and as a result of which, we feel that the projected revenue of current year shall be at most NPR 11.50 Crores and that should be</td><td>Income earned in the current ongoing year From Shrawan 2078 to Chaitra 2078 is NRs 105,331,714.19</td></tr>
</table>

Government of Nepal
Ministry of Industry, Commerce &
Nepal Intermodal Tran
Development

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			considered as the base year revenue. You are requested to kindly share the revenue earned in the current ongoing year so that bidders can get the real picture of current revenue instead of historical dated figures.	
69			The MLR seems to have been assumed on the basis of minimum base volumes projected in the document. in this regard, it is brought to your kind notice that under the current situation where Government of Nepal has banned almost 60% of cargo items which was being imported due to depletion of foreign exchange reserve along with restrictions on trade which used to earlier happen through TT/Non-LC mode, it is anticipated that trade will reduce by further 40% in the next 2 years. Currently ICD Bhairahawa is handling at most 200 vehicles daily. you are therefore requested to reduce the Minimum Lease Rent to NPT 20 Crores so that is commercially viable for bidders to participate in this tender. as anything above this will lead to losses for the TMC and they may not be able to sustain services at that expenses.	It shall be as per the bidding Document.
70			The tender document also requires us to place a firefighting water/foam truck of 3500 L capacity which seems to be a steep requirement as these are expected to be provided by Government Agencies like NITDB. For a private company with 5 years tenure only, it is commercially unviable to invest in such assets which do not have much resale value and re-use potential. You are requested to kindly remove such requirements from the tender document and allow the TMC to choose the equipment they deem fit for	Please see the amendment.

Government of Nepal
Ministry of Industry, Commerce
Nepal Intermodal Tra
Development

S. No.	Clause/Article Reference	Particulars	Bidders' Queries	Clarification
			undertaking O&M of the Terminal.	
71			Section 6, Page 2-12 clause 1.1 on TMC's Equipment recommends investment of Fire Fighting Trucks and Mobile Crane one each; regarding Fire Fighting Truck, we would lite to suggest you to remove this equipment from investment list as it will increase not only capex, but operating cost as well as it requires minimum seven additional manpower including drivers and operators as it is 24x7 service. and right now the ICD has fire fighting hydrant system besides fire fighting cylinders to cope up with any untoward incidents. Regarding Mobile Crane, whether it includes Pick and Carry/Hydra	Please see the amendment.
72			In the same clause you are asking for one Weigh Bridge 100 MT capacity but the ICD already has one 100 MT WB; are you asking for one more additional weigh bridge to install.	It shall be as per the bidding Document.
73			Clause a) of the Attachments to TECH-4, section 4 page 1-41 on Financial Situation is asking for Audited and Certified Balance Sheet, Cash Flow and P and L; what does Certified implies.	Please see the amendment.

Government of Nepal
Ministry of Industry, Commerce
Nepal Intermodal Trans
Development Bo
205