

Frequently asked questions during PPP project “Kekava Bypass” Open Day #2

Riga, September 4 – 7, 2018

Disclaimer

Open Day did not constitute an integral part of the Competitive Procedure with Negotiations (CPN). Participation in the Open Day depended on the sole discretion of the interested parties, and granted them with no benefit or advantage, if participating in the CPN. No costs of interested parties are reimbursed for the preparation for and participation in the Open Day.

No interested party shall face any disadvantage at the CPN for having not participated in the Open Day.

This document summarizes list of frequently asked questions raised during the Open Day. Answers listed in this document serve purely an informative purpose and may be subject to change. Nothing in this document shall be used to question or appeal the CPN and/or any of its CPN.

Any discrepancy between this document and any of the CPN documents shall in no case serve a basis for any request for change or appeal of any of the CPN documents. No claims for compensation of any costs or losses shall be addressed to the Authority and satisfied, in case of any discrepancy between this document and any of the CPN documents.

GENERAL ASPECTS OF THE PROCUREMENT

1. Language of procurement documents:

- All procurement documents (Selection Procurement Document (SPD), Award Procurement Document (APD) and PPP Contract) are in Latvian and English, with Latvian prevailing.
- Only Appendix 4 to the Contract (Technical Requirements to the Designing, Construction, Maintenance and Hand Back) is in Latvian, and will not be translated into English by the Authority.

2. Language for submissions; originals and copies:

- All documents should be submitted in Latvian;
- In case original is in any other language, translation into Latvian is required;
- Candidate should certify translations. No notarized translations are required.
- Candidate should certify copies. Authority may request submission of original for comparison.

3. Draft PPP Contract:

- Selection Phase: Draft PPP Contract will not be available. SPD will provide summary of APD and key terms of PPP Contract. Technical Requirements to the Designing, Construction, Maintenance and Hand Back will be attached to the SPD (this document along with other informative materials on the project has already been published on: <https://lvceli.lv/en/projects/#kekava-bypass-ppp-project>). Minor changes may be introduced to the appendix 4 to the PPP Contract prior to the announcement of the Award Phase.
- Award Phase: draft PPP contract will be attached to the APD.

4. Next steps:

- Selection Phase is expected to be announced in October, 2018;
- Please refer to presentation material for more detailed timeline.

5. Legal form of the Candidate/Tenderer:

- No specific legal form is imposed on the Candidates / Tenderers;
- The only restriction is that company, based on whose construction sector abilities Candidate qualifies for the procurement, shall perform Critical Works under the PPP Contract and shall be the one to fulfill all three financial criteria set for the construction companies.

6. Land acquisition:

- Land acquisition risk is fully transferred to the Authority;
- Up to now approximately 85% of the land required has been acquired. 100% of land will be acquired until end of February 2019.

7. CEF grant:

- Authority has applied for the CEF grant;
- Decision on CEF grant is expected in November 2018;
- It is being negotiated with the European Commission, that disbursement mechanism of CEF grant is structured in the way so that it leaves no impact on the PPP project "Kekava bypass" (PPP project) procurement process or project implementation under PPP contract;
- Procurement will continue and PPP project will be implemented irrespective of the resolution on the CEF.

QUALIFICATION PHASE

8. Principles of Qualification Phase:

- Only SPD document will be shared with interested parties;
- All candidates/tenderers that meet minimum criteria will be invited to submit Initial Tender. Along with invitation to participate in the Award Phase, APD and PPP contract will be dispatched.

9. Limitations of the reference projects.

- All reference projects are limited to the EU or EEZ member states.

10. Critical construction works.

- There is a list of critical construction works that will have to be performed by the entity on whose construction experience the candidate/tendered relies to qualify during the Selection phase. The same company has to prove compliance with three of the financial criteria. Construction company can be part of the qualifying consortium or SPV, or be a subcontractor of the qualifying tenderer.
- The list of the critical construction works will be attached to the SPD.
- Critical construction works cannot be subcontracted or outsourced in any form. Thus it is relevant and important to cautiously choose the specific entity that will ensure compliance with 3 of the financial criteria and construction experience;
- No limitation to subcontract or outsource other works.

AWARD PHASE

11. The evaluation of the Initial Tenders and BAFO.

- The Initial Tender and BAFO will be evaluated on the basis of 80% for the price offer and 20% for the technical solution allocated from points awarded. Initial Tender will contain price offer - financial model designed according to pre-defined requirements as described in APD, Technical design and 4 descriptive plans.

12. Scope of the negotiations.

- 3 tenderers will be invited to participate in negotiations. Negotiations are aimed at improving Initial Tenders. Negotiations will cover: technical design (and hence the price) and PPP contract (only sections which are not locked for negotiations and only to the extent that leaves no negative impact on the off-balance sheet treatment). List of items to be negotiated from the contract will be submitted by the tenderer along with the Initial Tender.

13. Shortlisting of the Tenderers proceeding to the negotiations.

- There will be a shortlisting procedure after the Initial Tenders will be evaluated. Three Initial Tenders with the highest grade will proceed to the negotiations.

14. Reserve list.

- All tenderers, who will not be invited to participate in the negotiation, will be offered with a possibility to be included into the reserve list subject to their written consent. In case any of the initially invited tenderers for any reason discontinues negotiations and participation in the CPN, the Tenderer from the reserve list with the highest grade will be invited to start negotiations. Fair time and opportunity for negotiations will be granted to this tenderer.

15. Closed parts of the Contract and the structure of the Contract.

- There are five sections that are closed for negotiations. These are the provisions and terms indicated by the Eurostat as those ensuring the off-balance sheet treatment.
- It is prohibited to trigger any changes that would influence the off-balance sheet treatment, hence the sections are closed.
- The structure is also important for the PPP Contract. No changes can be rearranged in different sections of the Contract if they do not fall under the scope of the respective section.

16. Changes in price.

- Following negotiations process, the upward price change in the financial model is not permitted, except if Authority has identified need to amend requirements listed in the Appendix 4 to the PPP Contract (and hence would apply to all Tenderers participating in negotiations), and in certain modifications to funding costs.

17. Financiers.

- It is at full discretion of Tenderer to select financiers. Authority has initiated discussions with EIB, NIB and EBRD and preliminary project financing approval has been granted. If Tenderer opts for financing from any of these institutions, final approval is subject to due diligence which will take place upon approval of winning bidder.
- No committed debt financing is required for First offer and BAFO.

18. Changes in price after the BAFO.

- After the BAFO is submitted any changes in the funding costs (except for money market rates), that would influence the price will be the risk of the Tenderer.
- No changes to the financial model will be permitted following the BAFO, except fixing of the money market rates.

19. Submitted models are binding.

- Both the financial and technical design submitted, are binding and will form an integral part of the PPP Contract;
- All four descriptions required to be submitted with the Initial Tender and BAFO will be binding and attached as appendixes to the PPP contract, and will have to be performed;
- The scheduled completion date, as indicated into the BAFO, will be inserted into the PPP contract and will have to be fulfilled.

20. Bid Bond.

Along with the Initial Tender, a bid bond shall be submitted. The amount of which shall not exceed the maximum amount permitted by the Public Procurement Law of the Republic of Latvia.