PUBLICATION OF AWARD OF CONTRACT FOR GOODS & WORKS INFORMATION

Publication date: 12TH AUGUST 2014
Country: KENYA
Executing Agency: KENYA URBAN ROADS AUTHORITY (KURA)
Name of Project: NAIROBI OUTER RING ROAD IMPROVEMENT PROJECT
Loan/Grant Number: 2100150030144/2100155026117
Project ID. No: P-KE-DBO-020
Name of Tender: NAIROBI OUTER RING ROAD IMPROVEMENT PROJECT
Procurement Mode: INTERNATIONAL COMPETETIVE BIDDING (ICB)
Domestic preference (Yes or No): NO
Regional preference (Yes or No): NO

Borrower’s Tender Numbers: KURA/AfDB/006/2013-2014
Date of receipt by the Bank of the draft Tender Document: 23TH SEPTEMBER 2013
Date of approval by the Bank of the Tender Document: 2ND OCTOBER 2013
Tender issuing date: 4TH OCTOBER 2013
Closing date of the Tender: 3RD FEBRUARY 2014
Date of Tender opening: 3RD FEBRUARY 2014
Date of receipt by the Bank of the Tender evaluation report: 17TH MARCH 2014
Date of approval by the Bank of the Tender evaluation: 30TH JULY 2014

Name of the winning Bidder: SINOHYDRO TIANJIN ENGINEERING CO., LTD
Nationality: CHINESE
Address: (A) 4-2101, NO.2, RONGYUAN ROAD, HUAYUAN INDUSTRIAL ZONE, TIANJIN, CHINA
          (B) APARTMENT C5, GREEN SHADE, ARGWINGS KODHEK ROAD, P.O. BOX 24446-00100, NAIROBI
Contract Award Price: KES.7, 395,183,298.13
Contract Start date: OCTOBER 2014
Contract Duration: 36 MONTHS
Summary of scope of Contract awarded: CIVIL WORKS CONTRACT FOR NAIROBI OUTER RING ROAD (C59) IMPROVEMENT PROJECT
Total number of Bidders: 9

BIDDER 1
Name: M/S SBI INTERNATIONAL HOLDINGS AG
Nationality: SWITZERLAND
Address: BACHSTRASSE 56, CH-8200 SCHAFFHAUSEN, SWITZERLAND
Bid Price as read out: KES. 11,315,837,506.00
Evaluated Price: KES. 11,167,094,725.22
Bid Accepted/Rejected: REJECTED
Reasons for Rejection: Bid Price higher than the awarded contract

BIDDER 2
Name: M/S M & RH YOUNG JOINT VENTURE
Nationality: SOUTH AFRICA/ KENYA
Address: P.O. BOX 30118, NAIROBI
Bid Price as read out: KES. 12,420,192,961.00
Evaluated Price: KES. 12,280,090,036.64
Bid Accepted/Rejected: REJECTED
Reasons for Rejection: Bid Price higher than the awarded contract

BIDDER 3
Name: M/s QIONGZHOU BUILDING ENGINEERING KENYA CO. LTD
Nationality: CHINESE
Address: PEONY ESTATE, HATHERU ROAD, LAVINGTON, NAIROBI
    P.O. BOX 29610 – 00100, NAIROBI,
Bid Price as read out: KES. 9,774,122,557.50
Evaluated Price: N/A
Bid Accepted/Rejected: REJECTED
Reasons for Rejection: NON RESPONSIVE
(a) The bidder has provided 4 sets of bid documents each with 4 volumes. Two volumes are written in English while the other volumes are in Chinese without translation. Therefore it is not possible to get most of the required information for complete evaluation.
(b) The bidder has indicated that table B of appendix to bid is not applicable hence not filled as required; considered immaterial.
(c) Table C of appendix to form to Bid is not duly filled.
(d) The bid security submitted has omitted the clause ‘This guarantee is subject to Uniform Rules for Demand Guarantees, ICC Publication No. 758’

BIDDER 4
Name: M/S CMC DI RAVENNA – SA BRANCH
Nationality: ITALY
Address: 2ND FLOOR, BLOCK A, EOH BUSINESS PARK, OSBORNE LANE, BEDFORD VIEW, RSA
Bid Price as read out: KES. 14,735,460,496.86
Evaluated Price: KES. 14,302,852,361.30
Bid Accepted/Rejected: REJECTED
Reasons for Rejection: Bid Price higher than the awarded contract

BIDDER 5
Name: M/S SHENGLI ENGINEERING CONSTRUCTION (GROUP)
Nationality: CHINESE
Address: Bei’er ROAD 222# DONYYING DISTRICT, DONGYING CITY, SHANDONG, CHINA
Bid Price as read out: KES. 8,216,105,568.00
Evaluated Price: KES. 8,216,105,568.00
Bid Accepted/Rejected: REJECTED
Reasons for Rejection: Bid Price higher than the awarded contract

BIDDER 6
Name: M/S SINO HYDRO TIANJIN ENGINEERING CO. LTD
Nationality: CHINESE
Address: ADD: NO.2 RONGYUAN RD, HUAYUAN INDUSTRIAL ZONE, TIANJIN CHINA
POSTCODE: 300384
Bid Price as read out: KES. 7,332,199,666.90
Evaluated Price: KES. 7,395,183,298.13
Bid Accepted/Rejected: ACCEPTED
BIDDER 7
Name: M/S NANCHANG FOREIGN ENGINEERING COMPANY (KENYA) LTD IN JOINT VENTURE WITH NANCHANG FOREIGN ENGINEERING CORPORATION SHENGLI ENGINEERING CONSTRUCTION (GROUP)
Nationality: CHINESE
Address: P.O. BOX 21826 – 00505, NAIROBI
Bid Price as read out: KES. 9,384,155,051.63
Evaluated Price: N/A
Bid Accepted/Rejected: REJECTED
Reasons for Rejection: NON RESPONSIVE

(a) Table A and B has been stamped and filled as N/A, therefore details for the tables have not been provided as required; considered immaterial.
(b) Table C and Alternative B of Appendix to Bid has been stamped and filled as N/A, therefore details for the tables have not been provided as required, considered immaterial.
(c) Bid Security provided has omitted the word ‘irrevocably’.
(d) The Bidder has added a conditional statement in the Bid Security as follows;
   ‘Upon expiry this Guarantee shall become null and void whether original is returned to us for cancellation or not and any claims or statement received after expiry date shall be ineffectively’.
(e) The articles of association and compliance certificate of Nanchang Foreign Engineering Corporation is not attached

BIDDER 8
Name: M/S CHICO-CHINA HENAN INTERNATIONAL CO-OPERATION GROUP – CHINA RAILWAY SEVENTH GROUP CO. LTD JOINT VENTURE
Nationality: CHINESE
Address: NO. 11, DONGMING ROAD, ZHENGZHOU, HENAN PROVINCE, CHINA or NO. 1225, EAST – HANGHAI ROAD, ZHENGZHOU, HENAN PROVINCE, CHINA
Bid Price as read out: KES. 10,617,621,388.12
Evaluated Price: N/A
Bid Accepted/Rejected: REJECTED
Reasons for Rejection: NON RESPONSIVE

(a) The Articles of Association for China Railway Seventh Group Corporation was not attached to the bid submitted on 3rd February, 2014. We however obtained the Memorandum and the Articles of Association for China Railways Seventh Group Co. Ltd (CRSG) and it indicated that the major shareholder of CRSG is China Railway Group
Limited contrary to the information obtained from the Department of Registrar of Companies which indicates that the major shareholder of CRSG is China Railway Engineering General Corporation. The shareholding for CRSG is therefore not clear but if we go as per the documents availed from the Department of Registrar of Companies, the major shareholder is China Railway Engineering General Corporation.

(b) In accordance with the articles of association of China Railway No. 5 Engineering Group Co. Ltd dated 8th September, 2011 and the corporate structure of China Railway Engineering Corporation, the two Companies (China Railway No. 5 Engineering Group Co. Ltd and China Railway Seventh Group Co., Ltd) were founded by China Railway Engineering Corporation shareholders. The above information is available in the website China Railway Seventh Group Corporation (www.crgjhw.com) and Wikipedia http://en.wikipedia.org/wiki/China_Railway_Engineering_Corporation.

(c) Further, it was established from the Department of Registrar of Companies that China Railway No. 5 Engineering Group Company Limited submitted the Articles of Association of China Railway WUJU (Group) Corporation during Registration contrary to what they had submitted with the bid on 3rd February 2014 (which indicates it is for China Railway No. 5 Engineering Group Company Limited). The two Articles of Association incidentally indicates that the two companies (China Railway WUJU (Group) Corporation and China Railway No. 5 Engineering Group Company Limited) are owned 100% by China Railway Engineering Corporation.

(d) The similarities of ownership of China Railway Seventh Group which indicates that majority shareholder is China Railway Engineering General Corporation and that of China Railway No. 5 Engineering Group Company Limited owned by China Railway Engineering Corporation gives indication that they have common control which is affirmed by the website of the above three companies even if the same is not an authority. Further, China Railway Engineering General Corporation cannot be traced in the web making us to have an opinion that the company does not exist. The above suggests that companies may have conflict of interest contrary to ITB clause 4.3

(e) Audited accounts attached are only for CHICO-China Henan International Co-operation Group.

BIDDER 9
Name: CHINA RAILWAYS NO. 5 ENGINEERING GROUP CO. LTD
Nationality: CHINESE
Address: P.O. BOX 26754 – 00504 MCHUMBI ROAD, NAIROBI
Bid Price as read out: KES. 7,930,418,915.03
Evaluated Price: N/A
Bid Accepted/Rejected: REJECTED
Reasons for Rejection: NON RESPONSIVE

(a) In accordance with the articles of association of China Railway No. 5 Engineering Group Co. Ltd dated 8th September, 2011 and the corporate structure of China Railway Engineering Corporation, the two Companies (China Railway No. 5 Engineering Group Co. Ltd and China Railway Seventh Group Co., Ltd) were founded by China Railway Engineering Corporation. The above information is available in the website of China Railway Seventh Group Corporation (www.crsghw.com) and Wikipedia http://en.wikipedia.org/wiki/China_Railway_Engineering_Corporation.

(b) It was further established from the Department of Registrar of Companies that China Railway No. 5 Engineering Group Company Limited submitted the Articles of Association of China Railway WUJU (Group) Corporation during Registration contrary to what they had submitted with the bid on 3rd February 2014 (which indicates it is for China Railway No. 5 Engineering Group Company Limited). The two Articles of Association incidentally indicates that the two companies (China Railway WUJU (Group) Corporation and China Railway No. 5 Engineering Group Company Limited) are owned 100% by China Railway Engineering Corporation.

(c) The similarities of ownership of China Railway Seventh Group which indicates that majority shareholder is China Railway Engineering General Corporation and that of China Railway No. 5 Engineering Group Company Limited owned by China Railway Engineering Corporation gives indication that they have common control which is affirmed by the website of the above three companies even if the same is not an authority. Further, China Railway Engineering General Corporation cannot be traced in the web making us to have an opinion that the company does not exist. The above suggests that the two companies may have conflict of interest contrary to ITB clause 4.3.

(d) The bidder has declared that China Railway Wuju (Group) Corporation and China Railway No.5 Engineering Group co., Ltd are the same company. However, the bidder has not attached certificate of change of name to support his declaration and has indicated in form ELI-1.2 (partner to JVCA information Sheet) that it is not in joint venture with any firm and as it is, the two companies exist as two different identities as far as the bid submitted is concern. Companies are normally distinct legal persons and therefore they cannot appear one as two or two appearing as one unless they have been dissolved and merged into one. In form ELI-1.1 (bidder information sheet) the bidder’s legal name is given as China Railway No.5 Engineering Group Co., Ltd. Therefore all the documents used from China Railway Wuju (Group) Corporation are considered to be invalid in this bid.

(e) The documents provided to support the bid for China Railway No.5 Engineering Group co., Ltd from China Railway Wuju (Group) Corporation are for general construction
experience (Form EXP-2.4.1) and specific construction experience (Form EXP-2.4.2(a)) together with specific experience in key activities (Form EXP-2.4.2(b)) which have been erroneously indicated by the bidder as Form EXP-2(a) and Form EXP-2(b) respectively.

(f) Based on the aforementioned findings, it is not clear who are the owners of China Railways Seventh Group Co. Ltd and China Railway No. 5 Engineering Group Company Limited. The two bidders have been rejected on grounds of having a common control and giving inaccurate, false and/or contradictory information.

_N.B.: Any Consultant who wishes to ascertain the grounds on which its proposal was not selected, should request an explanation from the Executing Agency. In any event, the Bank reserves the right to review any complaint of a bidder at any time following the award._