

2. INSTRUCTIONS TO TENDERERS

INSTRUCTIONS TO TENDERERS AND NOTES FOR PARTICULAR ATTENTION

2.1. General

The tenderers attention is drawn to the following notes, which **IF NOT COMPLIED WITH MAY CAUSE THE TENDER TO BE REJECTED.**

2.2. Compliance with Instructions

The tender shall be submitted in accordance with the following Instructions as detailed below.

2.3. Completion of tender Documents

The tender documents shall be completed as issued to the tenderer. The tender shall be signed and witnessed and all information required filled in by the Tenderer.

2.4. Summary Prices/ Price list

The tenderers must insert their price list or summary sheet including all delivered prices of all products specific to Railway. The prices must include all costs. RFP documents should include separate financial proposal in a sealed envelope separate from the Technical proposal.

2.5. Authority of tender

The tender must be signed by a duly authorized representative and the evidence to that effect should be provided in a form of Board Resolution.

2.6. Alterations and Modifications

Tenders shall be completed and submitted as printed. No alterations or medications shall be made to the tender documents. Tenderers shall use the original tender documents, failure to comply, will disqualify the tenderer. Tenderers shall comply entirely with the terms of the tender documents.

2.7. Errors

There shall be no erasing/tip-pexing or over writing. Any mistake made shall be neatly cancelled and initialled by the tenderer.

2.8. Tender Bond

In order to secure due performance by the Tenderer of the obligations undertaken by them, Tenders must be accompanied by a Tender Bond in the sum of the amount as stated on the Form of Tender Bond bound in to the back of this document. The whole of the Tender Bond

shall be forfeited should the Tenderer withdraw the whole or any part of his tender during the Tender validity period. An institution registered or licensed to do business in the Kingdom of ESwatini shall furnish the security. No tender will be considered unless it is accompanied by an approved Tender Bond.

2.9. Qualified Tenders

The ESR reserves the right to only consider tenders that have no conditions and / or qualifications.

2.10. Release of tender Bond

For the unsuccessful tenderers the Tender Bond will be released as soon as the tender has been awarded.

For the successful tenderer the Tender Bond will only be released upon the signing of the Contract and when a performance bond has been received by Eswatini Railways. The successful tenderer shall be required to extend the validity of the Tender Bond accordingly upon award as this may change to become his Performance Bond.

2.11. Issuing of Additional Documents

If for any reason during the tender period it becomes necessary to vary the tender documents an addendum will be issued to all tendering Tenderers (for this reason Tenderers' address, telephone, telefax and contact person should be left with ESR when documents are collected).

Should any Tenderer have any queries about the tender, he should refer them in writing to tenders@swazirail.co.sz not later than the 10th of April 2020. All responses shall be shared with the tenderers by the 17th of April 2020.

2.12. Incomplete Tenders

Tenderers must complete all required information to the tender. Tenders which are incomplete (i.e. leaving blanks and or not supplying information as required will **NOT** be considered.

2.13. Services Required

The Eswatini Railways considers quality of service very important as poor quality service has a lot of hidden operational costs which are costing the Railway a lot of money. Failure to adhere to all the conditions on quality may lead to outright termination of the agreement and blacklisting from further participation in ESR tenders.

2.14. Language of Tender

All correspondence shall be in English.



2.15. Laws of Eswatini

Tendering Companies are advised to familiarise themselves with the Laws of ESwatini e.g. Procurement act, customs, immigration, taxation, and labour laws.

2.16. Tender Validity Period

Tenders shall remain valid and open for acceptance for ninety (90) days from the date of Tender opening.

2.17. Currency

The Tenders shall be priced in Emalangeni. Payment to the successful tenderer will be in Emalangeni only.

2.18. Evaluation of Tenders

Tenderers are advised that in the evaluation of tenders, the ESR is not bound to accept the lowest priced or any tender.

2.19. Expenses of Tender

The ESR will not be responsible for the expenses, which may be incurred by the Tenderer in the preparation of the Tender.

2.20. Tender Price Summary

Tenderers must present their financial proposal separate from the technical proposal and failure to do so shall cause the tender to be rejected.

2.21. Submission of Tender

The Tenderer must return tender document consisting of:

- A VALID ORIGINAL TAX COMPLIANCE CERTIFICATE or Equivalent
- COPY OF THE CERTIFICATE OF INCORPORATION
- ARTICLES OF ASSOCIATION
- LIST OF DIRECTORS AND SHAREHOLDING
- LABOUR COMPLIANCE CERTIFICATE
- POLICE CLEARANCE OR AFFIDAVIT OF NON-CONVICTION FOR DIRECTORS
- AUDITED FINANCIAL STATEMENTS FOR THE PAST 3 YEARS
- DECLARATION OF ELIGIBILITY FORM SIGNED
- GENERAL RECEIPT FOR PURCHASE OF TENDER DOCUMENT,
- A TENDER BOND DULY SIGNED,
- FINANCIAL PROPOSAL IN A SEPARATE AND SEALED ENVELOPE MARKED " FINANCIAL PROPOSAL"
- TECHNICAL PROPOSAL – TO INCLUDE ITEM SPECIFICATIONS.
- BANKING DETAILS – CANCELLED CHEQUE
- A POWER OF ATTORNEY (Letter confirming name(s) of person(s) authorized to sign on behalf of the company).



to arrive not later than the date specified in the tender notice or by hand to the ESR Headquarters, Dzeliwe Street, Mbabane building in at the time and the date indicated. The documents should be forwarded in a plain sealed envelope bearing the Tender Number and Tender title on the top left hand corner and must not bear any name or mark, which would identify the Tenderer.

2.22. Contact Person at Eswatini Railways

Information concerning the tender document can be obtained from: The Secretary of the Tender Board, Eswatini Railways, and P. O. Box 475, Mbabane, ESWATINI. TELEPHONE: 2411 7400; FAX: 404 5009. Emails can be sent to: Tenders@swaziral.co.sz

2.23. Rejection of Tenders

Any Tenderer who does not conform to the above instructions shall be rejected.

2.24. Notice of Intention to Award Contract

An intention to award notice indicating the name of the best evaluated tenderer, the value of the proposed contract and any evaluation scores shall be communicated to all tenderers who submitted tenders. The notice of intention to award will be sent and published to the ESPPRA website at least 10 working days before the contract award.



3. CONDITIONS OF CONTRACT

3.1. Definition

“Purchaser” is Eswatini Railways (ESR).

“Days” refer to calendar days.

3.2. General conditions and notices

Any notice or other communication whatsoever which ESR is required to give or make to the Tenderer in terms of the contract shall, without prejudice to any other method of giving or making it, be sufficiently given or made if it is sent by post in a letter addressed to the Tenderer at the last place of abode or business of the Tenderer and if the letter is not returned through the post undelivered, such notice or communication shall be deemed for the purpose of the contract to have been given or made at the time at which the letter would in the ordinary course of post have been delivered.

3.3. Tenderer not to sublet the contract

The contract shall be considered as a contract made in ESwatini and subject to the “Law of Contract” in ESwatini.

The Tenderer shall not give, bargain, sell, assign, sublet or otherwise dispose of the contract or any part thereof or the benefit or advantage of the contract without the previous consent in writing of ESR.

3.4. Variations

The price per item shall not be subject to any adjustment whatsoever during the contract period.

3.5. Payment Terms and Conditions

Payment will be effected on a monthly or annual basis against statements which should be delivered within 30 days before the elapse of the period of cover. Payment will be made within 30 days for the date of receipt of statement.

3.6. Exchange Rate

Currency fluctuations in the exchange rates between Emalangeni / Rand and the currencies used to purchase imported items quoted in the tender documents shall not affect the prices specified cover.



3.7. Termination by ESR

ESR, may at any time terminate the contract by giving written notice to the Tenderer if the Tenderer becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Tenderer, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the insured.

3.8. Resolution of Dispute

ESR and the Tenderer shall make every effort to resolve amicably by direct negotiation any disagreement or dispute arising between them under or in connection with the contract.

3.9. Mediation or arbitration

If, after fourteen (14) days from the commencement of such negotiations, the purchaser and the seller have been unable to resolve amicably a contract dispute be referred for adjudication or arbitration in accordance with the laws of ESwatini.

3.10. Contractor Liable for all Taxes, Duties, Fees, etc.

The Tenderer shall be entirely responsible for all taxes, duties, licence fees, etc., incurred until delivery of the contracted service to the Insured.



4. TENDER BOND

FORM FOR TENDER BOND

WHEREAS Messrs

Of
(Name and address of Tenderer)

Hereinafter referred to as the "Tenderer" has on (Date)

Submitted his Tender/RFP for Supply and delivery of Concrete Sleepers

AND WHEREAS the said Tenderer has undertaken to abide by his Tender so submitted for a period of forty five (45) calendar days from the date of submission hereinabove stated, or such other period as may mutually be agreed between Eswatini Railways, represented by the Chief Executive Officer of Eswatini Railways and the Tenderer and notified to us by the ESR.

NOW

WE,

(Name and address of Financial Institution registered in the Kingdom of ESwatini) hereby guarantee and undertake to pay to the account of the ESR on first demand in writing and without reference to the Tenderer the sum of EMALANGENI TEN THOUSAND (E10, 000.00).

PROVIDED THAT

- a) This Tender Bond remains valid, and
- b) The ESR declares in writing that the Tenderer has failed to abide by his undertaking that the Tender shall remain open for acceptance within the specified period or that the Tenderer is unwilling for some reason (which shall be clearly stated) to abide by his Tender or enter into a Contract Agreement with the ESR per the RFP document.

This Tender Bond shall remain valid in the first instance until

(calculated as Ninety (90) calendar days from the date of submission of the said Tender), and will be extended upon written application by the ESR at least one (1) working day in advance of the last date of validity.

.....
(Authorised Signature) (Date)

.....
(Name of Signatory) (Seal/Stamp of Financial Institution)

.....
(Position of Signatory)



5. DECLARATION OF ELIGIBILITY FORM

The bidder must provide a signed declaration in the following format in company letterheads:

[Name of Bidder, Address, and Date]

TO: THE CHIEF EXECUTIVE OFFICER
Eswatini Railways
PO Box 475
Mbabane H100
Eswatini

Dear Sir,

RE: Tender No: 2 of 2021 – SUPPLY AND DELIVERY OF CONCRETE SLEEPERS

We, hereby declare that:

- a) We, have a legal capacity to enter into the contract;
- b) We, are not insolvent, in receivership, suspended, bankrupt or being wound up and not subject of any legal proceedings;
- c) We, have not been convicted of any criminal offence related to professional conduct or making of false statement or misrepresentations of qualifications to enter into a contract within a period of five (5) years preceding the commencement of the procurement proceedings;
- d) We, do not have a conflict of interest in relation to the procurement requirement.
- e) We, have fulfilled our obligations to pay taxes and social security contributions; and adhere to basic labour legislation.
- f) We, are not subject to suspension from participating in public procurement; and none of our directors or officers have been involved in a tenderer or supplier currently subject to suspension.

Authorized (Full Name): _____

Signature: _____ Date: _____

