

## **ADDENDUM NUMBER 3 OF TENDER NO. KEBS/T012/17-2020**

### **Question 1:** ITT Clause 2.7 (a), Clause 2.8 and Appendix to ITT Clause 2.11.2– Tender Form

*Please confirm if the tender form is solely to be included in the financial proposal, and therefore should not be included in the technical proposal?*

#### **Answer 1:**

Yes, the tender form to be included solely in the financial proposal.

### **Question 2:** ITT Clause 2.11.2 (b) 1 Evidence of Presence and Location to Provide PVoC Services

*Please clarify on the above-mentioned clause since it can cause misinterpretation. The requirements to provide Evidence of Presence and Evidence of Qualification, the tender document states:*

**"Note:** The tenderers must provide information required above for each of the countries listed in column 5 of the table given in Section VI (Clause 6.3) and for the proposed sub-contractors in the remaining countries for each zone bidder for, in the absence of their own registered office."

*We understand that the Evidence listed in this clause are needed in their integrity for countries in column 5 only; and that the other listed countries do not require the same evidence of presence and qualifications?*

#### **Answer 2:**

The evidence listed in this clause is also required for the proposed subcontractors the tenderer intends to use in the countries not listed in column 5.

### **Question 3:** ITT Clause 2.11.2 (b) 1 Evidence of Presence and Location to Provide PVoC Services

*Assuming our interpretation of this clause is correct (see Question 2 above); we kindly request that the requirements to indicate Evidence of Presence should be amended.*

- physical location by provision of full address details (fax, email, telephone and physical address) and contact details of person responsible for services to be rendered
- Organizational structure,
- Registration/License to operate in the said countries
- Lease/Tenancy agreements or other document of existing physical address endorsed as true by the relevant Kenyan Consulate/or by an affidavit.
- For the case of building ownership, relevant section of valid title of ownership and address.

*It is our view that restriction to provision of tenancy agreements, and relevant translations in English where applicable, removes other avenues evidencing physical presence. In our understanding is the spirit behind this requirement is to assure KEBS of actual presence. Collection and presentation of Leases will create voluminous paperwork, and the time and expense to translate to English would be extremely onerous. We therefore kindly request that this mandatory confirmation of physical presence by submitting tenancy*

*agreements be removed. Contractors as required by the tender should be noted to be truthful and can be reviewed by the client at any stage, for authenticity and could also be verified on tenderer's website. This could also be covered contractually rather than covered in the tender; IE that any false declaration of presence in a country would be a clear breach of contract.*

**Answer 3:**

Please refer Answer 2. Kindly take note that the requested amendment has not been granted.

**Question 4: SECTION VI Clause 6.3 – Distribution of Zones under this Tender**

Column 5 (Mandatory presence of Tenders Registered Offices under Column 5)

*It is our view that this list is restrictive, as it may not take into account the tenderers strategic locations set to meet the contractor's requirements and indeed exports to other similar regions. Whilst the tenderer believes that its coverage of registered offices is wide, covers most of the countries required and indeed covers all the top exporting countries to Kenya, the absence of a registered office in a specific country should be reviewed in consideration of the tenderers proposed ability to adequately cover the said country. It is our view that the mandatory registered offices for each region bear consideration only for the top exporting countries to Kenya. i.e. any country with a share of Kenya's total import; greater than 0.3%. That would mean that the 5th column would have the following countries only: UK, China & Taiwan, Hong Kong, India, Pakistan, Malaysia, Thailand, Indonesia, Japan, South Korea, Singapore, Australia, Brazil, USA, Canada, Russia, Poland, Turkey, Spain, Germany, Netherlands, Italy, Belgium, France, Switzerland, Sweden, Saudi, Israel, Oman, UAE, Egypt and South Africa. A consideration to add smaller countries to this list; if they are key supplier of high risk products such as food (rice, sugar, Wheat, maize, milk etc..) could be taken by adding Vietnam, Brazil, Zambia and New Zealand.*

**Answer 4:**

Proposed amendment is declined.

**Question 5: Section V Clause 5.1 (page 30) – Performance Security**

*There appears to be an error in the rate given under this clause, indicating a numeric figure 5% and a wording of (Ten percent) of the tender price. The computation of performance security indicated as a percentage of the Tender price is unclear. We request clarification on this.*

*Our request is for this to be amended to a specific figure, seeing that it is very challenging to compute a tender price. The performance security also forms part of our commitment in the Tender form.*

**Answer 5:**

Please refer to addendum 1, Answer 13 for the clarification on performance security. Also refer to addendum 2, Answer 3 on computation of tender price.

**Question 6:** ITT Clause ITT Clause 2.11.2 (b) 4 Qualifications and Experience of the Companies Personnel

*For section ii: a Curriculum vitae is requested to be signed by owners and certified by attorney. We kindly request you to delete the section for "certified by attorney" that will be a very difficult task to fulfil within timelines; and add time and significant expense. The tender should be noted to be truthful and can be reviewed by the client at any stage, for authenticity.*

*We also request that the evidence be limited to countries under Column 5.*

**Answer 6:**

Please refer to addendum 1, Answer 4 for clarification on certification of documents. The request to limit the requirement of this clause to countries under column 5 is declined.

**Question 7:** Tender Security Form page 46

Due to Bank specific requirements on wording, we request for consideration of small differences in wording as below.

**KEBS RFP Format**

*Hereinafter called "the Bank") are bound unto Kenya Bureau of Standards in the sum of .....for which payment well and truly to be made to the said Kenya Bureau of Standards, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this day of 2017*

**Tenderer's Request**

Hereinafter called "the Bank") are bound unto Kenya Bureau of Standards in the sum of .....for which payment well and truly to be made to the said Kenya Bureau of Standards, the Bank binds itself, its successors, and assigns by these presents. Signed by persons authorized to bind the bank this.... Day of 2017'

**KEBS RFP Format**

*...This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.*

**Tenderer's Request**

This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the date

DD/Month/Year (insert Expiry date).

If we do not receive any such claim on DD/Month/Year (insert Expiry date)..(EXPIRY DATE)' at the latest, our liability under the guarantee will lapse.

**Answer 7:**

The tender security must be in the format prescribed in the tender document.

**Question 8: Performance Security Form (Page 47)**

Due to Bank specific requirements on wording, we request for consideration of slight adjustment as below.

**KEBS RFP FORMAT**

*THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer,*

*up to a total of .....[amount of the guarantee in words and figures],*

*and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of*

*.....[amount of guarantee] as aforesaid, without your needing to*

*prove or to show grounds or reasons for your demand or the sum specified therein.*

*This guarantee is valid until the \_\_\_\_ day of 20\_\_\_\_*

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*Signature and seal of the Guarantors*

**TENDERER'S REQUEST**

THEREFORE WE, on behalf of the tenderer, hereby guarantee you irrevocably affirm that we are as Guarantor and responsible to you, on behalf of the tenderer for an amount, up to a total of

*.....[amount of the guarantee in words and figures].*

and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of

*.....[amount of guarantee] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.*

*This guarantee is valid until the day of 20 \_*

Where we have received no such claim by ....(EXPIRYDATE) at the latest, we stand released from our liability under this guarantee

Any demand for payment or request for extension under this guarantee must be made via

authenticated SWIFT message through your bank confirming that the signatures on your signed written demand are legally binding upon your company.

We will reduce the guarantee maximum by any such amount, as we have had to pay in order to meet your claim(s) duly made and presented under the guarantee.

Return of this document to us by any person will extinguish our liability as on the date of our receipt of the document.

Unless otherwise defined in the wording of this guarantee, this guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 revision, ICC Publication No. 758.

Signature and (seal) STAMP of the Guarantor

**Answer 8:**

The Performance security must be in the format prescribed in the tender document.

**Question 9:** ITT Clause 2.11.2 (b.4) & 2.22.1 (4) – Evidence to be submitted for Qualifications, competence and roles.

*The request to submit evidence of Management training records for each country where the tenderer needs to be present; as well as Inspection training for supervisory staff and QMS audit training records is a very lengthy and time-consuming procedure; that will also be very costly in translation costs per country. Further, since the ISO 17020 and 17065 certification that we will also submit in our Bid; prove that Intertek have demonstrated such record to the accreditation body per country at the time of audit we do not believe there is an extra value added to re-submit as the accreditation would have met this requirement.*

**Answer 9:**

The requirements of this clause remain as is.

**Question 10:** SECTION VI Clause 6.3 – Distribution of Zones under this Tender

Column 4 (Max. Number of Players in the Zone)

*In some zones the max. number of players is for the moment limited to 2 (two). With respect to our experience as a leading PVoC operator, to the feedback we get from customers worldwide and to economic theory, we do think that duopolies will not serve the interests of a free competition and as a result the Kenyan economy and population.*

*We do believe in the virtues of fair competition and would thus suggest that in all zones at least 3 (three) qualified players be allowed to freely compete.*

**Answer 10:**

The requirements of this clause remain as is.

**Question 11:** Section II ITT Clause 2.11.2 (b) 4 (ii) Qualifications and experience of the company's personnel

*ii. Curriculum vitae for management, supervisory and quality assurance staff directly involved in the management of the service required. The CVs must be signed by the owners and certified by an attorney*

**Tenderer's Request:**

We request Curriculum vitae for management, supervisory and quality assurance staff directly involved in the management of the service required be signed by their managers and certified by an attorney in the event of absence of the staff's signature from some jurisdictions.

**Answer 11:**

Request declined

**Question 12:** Section II ITT CLAUSE 2.16 Deadline for Submission of Tenders

The tender period; between issuance date of 10th October and submission date 31st October is very short considering the amount of documentation, translations and other work that is required

We kindly ask you for an extension of two weeks; making final submission date 15th of November.

**Answer 12**

Request declined.

**Question 13:** Is purchase order sufficient to obtain a tender document and allow participation in the tender.

**Answer 13**

No. Tenderers are required to attach receipt of payment as provided in 2.11.2. EVALUATION (a) -12.

**ALL OTHER CONDITIONS REMAIN THE SAME.**

**MANAGING DIRECTOR**