

Ref No: TCTA-08-030 & 032/ NOTICE 3

3 AUGUST 2020

RFT FOR THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT CENTRAL AND EASTERN BASIN

Dear Tenderer,

TCTA acknowledges receipt of the Requests for Clarification listed below. The applicable response to each request for clarification is provided under each item.

1. CONTRACT CONDITIONS

PAGE	CLAUSE	DESCRIPTION	COMMENT	TCTA RESPONSE
CLARIFICATIONS REQUESTED				
17	8.4	No interest on payment withheld due to dispute	It is normal in contracts of this nature that interest at prevailing prime interest rate plus a percentage (say 3%) be paid on any amount overdue for payment, or when disputed amounts are resolved in favour of the OPERATOR. We request that this clause be amended accordingly.	This clause will not be amended in the RFT; however, the successful bidder is welcome to make this a point of discussion during negotiations. The contract can be amended prior to both parties signing if both parties so agree.
18 104	10.2	Escalation Base Date	Due to the 120 day validity period of the tender, we request an amendment that the base date for the escalation indices be June 2020, so that we do not have to increase our costs to allow for a possible 120 days plus 12 months before the first rate adjustment is made.	This clause will not be changed. This will be the point for discussion with the successful bidder also considering, amongst other factors, the tender closing date of this tender.

19	13.4.4	Payment commitments after termination	Please confirm that TCTA would pay for any costs committed by the OPERATOR in terms of the Agreement prior and up to the termination date together with any costs arising from early termination in terms of the Agreement.	TCTA does not commit to any costs except indicated on the RFT. This point can be carried over to negotiations with the successful bidder prior to signing the contract. Early termination conditions will be agreed between TCTA and the successful bidder with reasonable compensation if required.
20	14.2	Compliance due to changes in Law	Please confirm that the provisions of this 14.2 would also apply where there are changes in regulations, permits or other third-party requirements	TCTA confirms that this clause includes changes in the regulations.
21	15.1	Breach	We request that after "14 (fourteen) business days" in line 7 add "or such longer period as may be agreed in terms of an approved action plan" for any breach, as it is not always possible to remedy non-material breaches within the 14 days.	TCTA will not take a blanket approach on this clause. If the strike is due to workers being treated unfairly by the employer, then the onus is on the employer to remedy the situation. However, where circumstances are beyond the Operator's control then TCTA will take that into account. This point can be discussed further with the successful bidder as part of negotiations.
22	15.2.2	Material Breach Operator Staff Strike	Please confirm that this clause would not apply to strikes by the Operators staff arising from and aligned to Industry or National strikes, these being Uncontrollable Circumstances	TCTA will not take a blanket approach on this clause. In the event where circumstances are beyond the Operator's control then TCTA will take that into account. This point can be discussed further with the successful bidder as part of negotiations.
22	15.2.7 15.2.8	Socio economic OEMPr compliance	Please confirm that both these clauses would not apply if they are caused by Uncontrollable Circumstances.	

23	16.1	Compensation after notice of Termination	As is common contractual practice for termination due to Breach, the OPERATOR should be paid for all services provided up to the date of termination (not the date of notification of termination). Such payment should include for all approved, irreversibly committed costs prior to the date of termination (chemicals, repairs, spares etc). Similarly, any disputed payments withheld after the termination date, are also payable once resolved. Please could this clause be amended accordingly.	This clause will not be amended in the RFT; however, the successful bidder is welcome to make this a point of discussion during negotiations. The contract can be amended prior to both parties signing.
23	16.2	Cost payable by TCTA	Please could you modify this clause to provide for payment of all service charges up to the termination date as well payment of any disputed payment subsequently resolved	This clause will not be amended in the RFT; however, the successful bidder is welcome to make this a point of discussion during negotiations. The contract can be amended prior to both parties signing.
25	19.2.1	Insurance	Please confirm that the OPERATOR is not required to insure TCTA's assets, property or vehicles, and the cross-liability relates only to Third Party Liability.	The bidder's understanding is correct.
31 30 CB	25.1	Force Majeure	We request that this clause be modified to allow for payment of all additional costs reasonably incurred by the	This clause will not be amended in the RFT; however, the successful bidder is welcome to make this a point of discussion during negotiations. The

			OPERATOR in attempting to mitigate Uncontrollable Circumstances	contract can be amended prior to both parties signing.
31	25.2	Force Majeure duration	We request that the opening paragraph be linked to an Uncontrollable Circumstance duration before being invoked	This clause will not be amended in the RFT; however, the successful bidder is welcome to make this a point of discussion during negotiations. The contract can be amended prior to both parties signing.
31	25.2.1	termination	Please could this clause be amended to also allow for payment for all services provided up to the termination date, all disputed amounts subsequently resolved as well as demobilization costs (these including retrenchment costs amongst others)	This clause will not be amended in the RFT; however, the successful bidder is welcome to make this a point of discussion during negotiations. The contract can be amended prior to both parties signing.
50	6.10	Environment	At the end of the first sentence after "(EA)" please could you add" insofar as the Works as designed, constructed and maintained by TCTA is capable of performance compliance".	This clause will not be amended in the RFT; however, the successful bidder is welcome to make this a point of discussion during negotiations. The contract can be amended prior to both parties signing.

PAGE CLAUSE SECTION	SITES	ASPECTS	CLARIFICATION QUESTION	TCTA RESPONSE
25 19.2.1	Both	Insurance	Please confirm that the OPERATOR is not required to insure TCTA's asset, property or vehicles, and the cross-liability relates only to Third Party Liability	The bidder's understanding is correct.

2. FURTHER CLARIFICATIONS

PAGE CLAUSE SECTION	SITES	ASPECTS	CLARIFICATION QUESTION	TCTA RESPONSE
	Both	Payment of students	Please confirm that TCTA will be responsible for the payment and remuneration of the students.	The developmental training of the students will be at the cost of the Operator. Refer to 8.5 of the scope of services in the RFT.
91 Item 2.1 Section 4	Both	Poly skips and hazardous waste are not specifically mentioned under 2.1.	Should this be included under item 2.1?	Waste management and Slaker Waste has been included under section 2.1 already. These include Poly skips and hazardous waste
91 Item 2.1 Section 4	Both	The scope refers only to annual certification of lifting equipment	What about quarterly tagging?	All necessary certifications in line with regulations must be included.
91 Item 2.1 Section 4	Eastern	Access Road Maintenance	Does the scope include for the brush cutting on 2m road servitude?	Road maintenance includes cutting encroaching trees, grass and any potential impeding plants.
91 Item 2.1 Section 4	Both Central	Grass Maintenance	Does the scope include for weed control for 1m outside the boundary fence? Does the scope include for weed control and tree removal 5m either side of the powerlines?	Any grass or trees growing within the area that could potentially cause fire which may damage the facility should be maintained.
92 Item 5.3 Section 4	Both	Environmental Management Programme.	Must the operators allow for the following costs: Noise survey Plant illumination survey Environmental compliance reports and audits Rodent & Pest Control	Yes, as per the current operational procedures.
93 Item 7 & 8 Section 4	Both	Subcontractor deposits	In certain cases, subcontractors require an upfront deposit. Can the operator claim these deposits before the completion of the works?	TCTA is a state-owned entity and the policy is that no payment is released for services that are not rendered. However, there is advance payment that will be released by TCTA which is deemed sufficient to address such items.

94 Item 8.4 Section 4	Both	Condition based monitoring - oil analysis	Please confirm this activity is not be allowed for under item 2.1	Preventative maintenance is part of scope and asset condition monitoring should be included under 2.1
94 Item 8.4 Section 4	Both	Condition based monitoring - IR scanning	Please confirm this activity is not be allowed for under item 2.1	Preventative maintenance is part of scope and asset condition monitoring should be included under 2.1
94 Item 8.4 Section 4	Both	Condition based monitoring - vibration analysis	Please confirm this activity is not be allowed for under item 2.1	Preventative maintenance is part of scope and asset condition monitoring should be included under 2.1
94 Item 8.8 Section 4	Both	Replacement of mechanical and electrical equipment	Please confirm if the markup must allow for the possible design, project management and commissioning of these replacements.	This contract is for Operation and Maintenance not for Design & Project Management. The Successful bidder is expected to provide labour and resources for any replacements taking place including commissioning as part of scope.

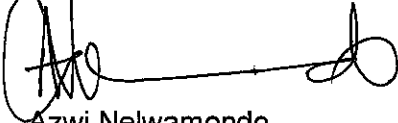
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CLARIFICATIONS REQUESTED				
26	21.1.1	Operator is a company	In the case of a joint venture, must this be an incorporated company established prior to the tender submission date.	Bidders are not compelled to tender as an incorporated company and are not prohibited to do so. Bidders can tender as an unincorporated Joint Venture. Note should be taken that in terms of BBEEE Codes of Good Practice, the unincorporated Joint venture must submit the consolidated BBEEE certificate.

3. May you please assist with the specifications for the polyelectrolyte.

TCTA RESPONSE:

The main aim is to ensure that NTU of the treated water leaving the plant meets the specification (i.e. NTU <30). Therefore, TCTA does not give details of the type of polyelectrolyte to be used, this is left entirely to the potential supplier to do the necessary tests and find suitable polyelectrolyte.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Azwi Nelwamondo', written over a horizontal line.

Azwi Nelwamondo
Senior Manager: Procurement