

CONTRACT NO. EP/SP/107/18
CHEMICAL WASTE TREATMENT CENTRE SECOND FOLLOW-ON CONTRACT

Response to Request for Tender Clarifications - Issue No. 4

In accordance with Clause 4 of the Notes to Tenderers in respect of Contract No. EP/SP/107/18, please find enclosed the Response to Request for Tender Clarifications No. 4.

For any queries, please feel free to contact Mr. Andy Chan at 2601 1000 or chanws@bv.com.

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| No. | Tender Document | Request for Clarifications | Response |
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| 1. | Volume 3 – Conditions of Contract | In line with similar DBO contracts tendered and awarded by EPD recently, please consider including “any Change in Law” as a ground for claiming an extension to the Time for Completion under COC 83.2 | <p>Clause 83.2 of the Conditions of Contract (CoC) will be revised to include “a Change in Law”.</p> <p>The above change to the CoC will be incorporated into a forthcoming Tender Addendum in due course.</p> |
| 2. | Volume 3 – Conditions of Contract | In circumstances where a Radioactive Substances Licence is a required Service Licence, it is reasonable that the Radiation Ordinance (Cap. 303) should also be included in the List of Enactments in Appendix L to COC. Please consider including the Radiation Ordinance (Cap. 303) in the List of Enactments. | <p>Appendix L to the CoC will be revised to include Radiation Ordinance (Cap. 303).</p> <p>The above change to the CoC will be incorporated into a forthcoming Tender Addendum in due course.</p> |
| 3. | Volume 2 – Form of Tender Volume 3 – Conditions of Contract | We refer to the requirements for Care of the Works and the Facility under Clause 22.2 of the Conditions of Contract. Could you please confirm that the costs incurred by the Contractor in complying with Clause 22.2 will not be treated as a Disallowed Cost where such costs are fully covered by insurance, and that therefore, any costs incurred by the Contractor in excess of any insurance proceeds are instead to be treated as Defined Costs as set out in Clause D3.25 in Appendix D of the Form of Tender? | <p>Clause 22.2(a) of the CoC will be amended to reflect the following:</p> <p><i>“22.2(a) Contractor shall promptly make good any such damage, loss or injury to the satisfaction of the Employer and shall, notwithstanding such damage, loss or injury, proceed with the execution of the Design, Works and Operation in all respects in accordance with the Contract and the Employer’s instructions; or”</i></p> <p>In addition, the last paragraph of Clause 23.1 of the CoC will be amended to reflect the following:</p> <p><i>“Without limitation to the generality of the foregoing, the Contractor shall be responsible for all losses and claims in respect of the rectification of or as a consequence of environmental damage, pollution or</i></p> |

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| | | | <p><i>contamination arising as aforesaid whether on or off the Affected Property.”</i></p> <p>There is no change to Clause D3.25 in Appendix D to the Form of Tender (FoT).</p> <p>The above changes to the CoC will be incorporated into a forthcoming Tender Addendum in due course.</p> |
| 4. | Volume 2 – Form of Tender | <p>We refer to the Contract Works Insurance requirements, as per Item 5 of Appendix A to the Form of Tender. With respect to the minimum required coverage of HK\$ 1 billion, could you please clarify if the Contractor is permitted to procure two separate policies in respect of this amount, split between the Existing Facility and the Initial Works respectively? If so, we would be grateful if you could clarify how this amount is to be split between the Existing Facility and the Initial Works.</p> | <p>Item 5 of Appendix A to the FoT refers to Clause 24.1(a) of the CoC, which in turn refers to “..... all risks of loss or damage from whatever cause, other than the Excepted Risks, to the <u>Facility</u>”</p> <p>As such, the minimum insured amount of \$1billion shall cover the “Facility”.</p> <p>Note “Facility” is defined in Clause 1.1 of the CoC and means “the Existing Facility and the Works (and any Sections) carried out and completed by the Contractor and any changes thereto following the completion of the Works (and any Sections)”</p> <p>There is no objection to the Contractor purchasing multiple policies to cover the risks of loss or damage to the Facility to the required amount. However, the CoC does <u>not</u> provide for splitting the Facility (into Initial Works and Existing Facility) for the purpose of insurance coverage.</p> <p>Finally, for the sake of clarity, Item 5 of Appendix A to the FoT will be renamed to <i>Minimum amount of “<u>Facility Insurance</u>”</i>. This change to the FoT will be incorporated into a forthcoming Tender Addendum in due course.</p> |

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| 5. | Volume 3 – Conditions of Contract Volume 4 – Specification (Part B) | We refer to the procedure for the recovery of useful materials set out in Clause 8.3 of Specification B. Given the Employer's intent to encourage the Contractor to recover as much useful material as possible during the Operation, and considering Clause 10.15 of the Conditions of Contract, please confirm that any materials duly recovered under the Operation will become property of the Contractor, and all title, risk and reward with respect to the use or sale of the recovered material will remain with the Contractor. | <p>Clause 10.15 of the CoC will be amended to reflect the following:</p> <p><i>“With the prior written consent of the Employer, the Contractor may sell the materials recovered under the Operation to any third party for use outside of the Affected Property, provided that, without limitation to the generality of Clause 10, the Contractor shall indemnify and keep indemnified the Employer against any claims, demands, proceedings, damages, costs and expenses whatsoever arising in any way out of or connected with such sale. <u>Any payments received for the sale of such recovered materials must be credited to the total Defined Cost in the relevant period.</u>”</i></p> <p>In addition, Clause D3.15 of Appendix D go the Form of Tender will be amended to reflect the following”</p> <p><i>“Any payments received for (a) the disposal of excess Plant and Materials, Mobile Plant, spare parts and consumables or (b) the sale of materials recovered under the Operation must be credited to the total Defined Cost in the relevant period.”</i></p> <p>The above changes will be incorporated into a forthcoming Tender Addendum in due course.</p> |
| 6. | Volume 4 – Specification (Part E) | We refer to Specification Part E Clause 10.7(a) with regards to replacement of cargo/passenger lifts in the Packaged Waste Reception Building. Please clarify the requirement to replace six lifts in total as the Packaged Waste Reception Building does not have six lifts. | The number of lifts indicated in Clause 10.7 (a) of Specification Part E will be revised and issued in due course. |
| 7. | Volume 1 – Conditions of Tender | With reference to Conditions of Tender Clause (3) Part 2 (e) (ii), please confirm whether the referenced <i>Staff Organisation Chart</i> and <i>Schedule of Technical Particulars</i> should be provided in separate sections or incorporated into | We assume you were referring to COT clause 5 Part 2 (e)(ii). The Staff Organisation Chart and the Schedule of Technical Particulars should be provided in separate sections as part of the Technical Proposal. There are no page limits applicable to these two items. |

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| | | <p>their relevant sections (i.e. <i>Staff Organisation Chart</i> in the <i>Outline Technical Resources Plan</i> ; <i>Schedule of Technical Particulars</i> in the <i>Outline Delivery Plan for the Initial Works</i>). Please also confirm that these two items are not included in the page limits as indicated in Conditions of Tender Appendix B Clause B1.5.</p> | |
| 8. | Volume 1 – Conditions of Tender | <p>With reference to Conditions of Tender Clause (3) Part 2 (f) (ii), please clarify whether the proforma submissions should also include Form 1A, 1C & 1D (or included in Part 1c?) as well as Form 2A to 2C (Form 2D does not exist).</p> | <p>We assume you were referring to COT clause 5 Part 2 (f)(ii). To clarify, this clause will be amended to reflect the following:</p> <p><i>“Pro forma submissions (Forms 1A to 1D and 2A to 2C), any supplementary information and documentary evidence, in hard copy format, duly completed, as required under Appendix F to the Notes to Tenderers”.</i></p> <p>Further, “Part A1 Information Required from the Tenderer” of Appendix F to the Notes to Tenderers will be amended to reflect the following:</p> <p><u><i>“Part A1 Information Required from the Tenderer</i></u> <i>General requirements for the setting out of the tender submission are detailed in Clause 5 of the Conditions of Tender. As part of the “Supporting Technical Information”, the Tenderer shall include pro forma submissions as set out in Forms 1A to 1D, and any supplementary information and documentary evidence to substantiate the Tenderer’s experience record as required in Part B2 of this Appendix (i.e., Forms 2A, 2B and 2C). Where the Tenderer is a joint venture (whether incorporated or unincorporated), as part of the “Tender Price Documents”, the Tenderer shall include pro forma submission as set out in Form 1E.”</i></p> <p>The above changes will be incorporated into a forthcoming Tender Addendum in due course.</p> |