



Kenya Power

*Central Office – P.O. Box 30099, Nairobi, Kenya
Telephone – 254-02-3201000
Fax No. 254-02-3514485
StimaPlaza, Kolobot Road
Nairobi, Kenya*

Our ref: - KP1/9A.3/OT/028/21-22/Add 3/VS/bkk

11th April, 2022

M/s

Dear Sir/Madam,

RE: ADDENDUM NO. 3 TO THE TENDER NO. KP1/9A.3/OT/028/21-22 FOR SUPPLY OF DISTRIBUTION TRANSFORMERS (MANUFACTURERS ONLY)

The following amendment has been made to the specified provisions of the Tender document for SUPPLY OF DISTRIBUTION TRANSFORMERS (MANUFACTURERS ONLY) dated March 2022.

1. RELATIONSHIP WITH THE PRINCIPAL TENDER DOCUMENT

Save where expressly amended by the terms of this Addendum, the Principal Tender Document shall continue to be in full force and effect.

The provisions of this Addendum shall be deemed to have been incorporated in and shall be read as part of the Principal Tender Document, addendum 1 and addendum 2.

2. NOTE ON PRICE SCHEDULE

All prospective bidders are hereby informed that the actual unit prices for the Official Purchase Order (LPO) will be a formula based as follows: -

$$P = A + B$$

Where:

P = Price of delivered item to KPLC stores;

$$A = K * (Y_m / Y_b) * (X_m / X_b) * (Z_m / Z_b)$$

Where:

K: Base Delivered Duty Paid (DDP) VAT Exclusive Price in Kenya Shillings to KPLC stores as per Bid submission. **This shall remain fixed throughout the duration of the contract.**

Y_m : LME Copper average price for previous month prior to the month of Official Purchase Order, as published by London Metal Exchange.

Y_b : LME Copper average price for the month prior to publishing of the Tender (February 2022), as published by London Metal Exchange.

X_m : Average mean Exchange Rate for **US dollar or Euro (to apply whichever of the two whose change is lower) as published by Central Bank of Kenya** for the previous month prior to the month of Official Purchase Order.

X_b : The Average mean exchange Rate for the month prior to publishing of the Tender (February 2022).

Z_m : LME Steel Rebar average price for previous month prior to the month of Official Purchase Order, as published by London Metal Exchange.

Z_b : LME Steel Rebar average price for the month prior to publishing of the Tender (February 2022), as published by London Metal Exchange.

For the purpose of Price Quotation, and evaluation, the Previous month is the same as delivered month and therefore $Y_m = Y_b$, $X_m = X_b$ and $Z_m = Z_b$

$B = 16\%$ VAT charged per item

All these cost parameters other than parameter A will remain fixed for the duration of the contract unless B is changed as may be published in Kenya Gazette Notice.

In case of contract extension, the above pricing structure will continue to apply and either party shall be at liberty to reject or accept such an extension.ki

3. ITT- 3.0 - TENDER ELIGIBILITY

The tender is not limited to previous/current manufacturers only. New manufacturers who are still being appraised by KPLC are also eligible to participate in the tender.

4. ITT 32.3 MARGIN OF PREFERENCE

In accordance with Section 157 (2) of the Public procurement and asset disposal act 2015, all prospective bidders are hereby informed that the margin of preference shall be applied as follows;

- i) Pursuant to Regulation 164 (a) of the Public Procurement and Asset Disposal Regulations 2020, a Twenty Percent (20%) margin of preference of the evaluated price of the tender given to bidders offering goods manufactured in Kenya and the percentage of shareholding of Kenyan citizen is more than fifty percent 50%.
- ii) Pursuant to Regulation 148 (2) of the Public Procurement and Asset Disposal Regulations 2020; where a citizen manufacturer has entered into a contractual arrangement with a foreign manufacturer in accordance with R 148 (1) of the Public Procurement and Asset Disposal Regulations 2020, a ten percent (10%) margin of preference in the evaluated price of the tender shall be applied.

NOTE: Only one margin of preference will be applied based on the bidders qualifications and eligibility.

5. RESPONSE TO CLARIFICATIONS

Item	Clarifications sought by bidders	KPLC Response
1	<p>The revised technical specifications specify that secondary windings shall be made of enameled round copper wire or Strips of copper as per IEC 60317-1 .Please clarify if manufacturers can use Copper Foil in the Secondary windings. The new specifications have abolished the use of aluminium and have not mentioned anything on foils if it is Copper</p>	<p>Comply with Tender Specifications. Only enameled round copper wire or strip of copper as per IEC 60317-1 are specified as per clause 4.4.2. Copper foils are not allowed.</p>
2	<p>Technical Data Sheet (TDS) Clause ITT 3.7 , ITT 40 (c) and Evaluation and Qualification Criteria Clause 2.1.15 state that Bidders with more than 50% outstanding KPLC orders shall not be eligible for this tender - Some of the bidders participating in this tender are newly established local manufacturers who are in the processing of servicing orders under the contract for category for newly established local manufacturers awarded in late 2020. The requirements set out in the contract were very stringent and before any new manufacturer was given the greenlight to proceed with full production, they had to manufacture a proto type/representative transformer whose post assembly testing was to be witnessed by KPLC before the prototype was type tested in a third party ISO/ IEC 17025 accredited lab. KPLC would only grant full approval for full production only after a successful type test. We are in this category of newly established local manufacturers and we did joint routine testing of the proto-type transformer with KPLC in our factory in October 2021. However, the timely shipment of the proto type transformer and arrival at the third party accredited lab overseas was overly delayed due to sea vessel unavailability due to disruptions in the shipping industry brought about by COV10-19 pandemic, a factor that is outside the control of the manufacturer. We request KPLC to consider dropping this Evaluation and Qualification Criteria as its implementation will unfairly lock out newly established local manufacturers who are rightfully in the process of complying with KPLC contract requirements. Some of the arising delays are outside the total control of the new local manufacturers.</p>	<p>Comply with the tender requirements as specified on ITT 3.7</p>

3	<p>Age of Type Test Certificates for transformers</p> <p>- The new technical specifications removed the age limit for type test reports. However in the tender document, TDS Clause ITT 15.2 (5) and Evaluation and Qualification Criteria indicate that the type test reports to be submitted by the tenderer should not be more than five (5) years prior to the date of the tender document. Please correct the age limit for type test reports in the principal tender document to match the technical specifications.</p>	<p>There is no age limit for type tests. The type test reports shall be for a transformer of the same core design and construction as the transformer being offered in the bid. The reference standards in the type test reports should correspond with tender specifications requirements.</p>
4	<p>The tender document is explicit that Joint Ventures in this tender are not applicable but at the same time it requires the manufacturers to have a local partner/representative in Kenya to handle after sales services. It also gives 15% margin preference for 40% local content. The only way that foreign manufacturers would qualify for this requirement is for the tender document to allow joint ventures with local firms. This way they would be able to offer the after sales service and also develop local capacity in the country through the 40% local content. Kindly reconsider to allow JV in this tender.</p>	<p>Refer to Addendum 2 where KPLC responded as follows “Joint Ventures (JV) shall be limited to be between two (2) manufacturers only. Bidders must fill and submit form no 8. TENDERER’S JV MEMBERS INFORMATION FORM”</p>
5	<p>Evaluation and Qualification Criteria: Part III Clause 2.2.5.1 (c) ii mentions shareholding and citizenship preference as one of the mandatory requirements that will be considered in the Financial Evaluation criteria though it is not stated in the TDS. Please confirm that shareholding and citizenship preference will be applicable in the evaluation and qualification criteria for this tender.</p>	<p>This is not a mandatory requirement but preferences for Kenya citizen manufacturers will be applicable as stated.</p>
6	<p>Evaluation and Qualification Criteria: Table 3 - Capacity Declaration Form</p> <p>The bottom of the table shows overall Criteria Score and the last column to the right goes on to indicate Pass/Fail. The Evaluation and Qualification Criteria has not defined the pass mark score and it is not clear to the bidders what is the minimum score they must score in the tender to qualify for award.</p>	<p>Overall pass mark is when the bidder complies KPLC requirement. Any parameter that a bidder scores ‘NO’ will mean an overall score of fail. Parameters that require bidders to state are optional and not subject to a score of “YES” or “NO”</p>

7	<p>Bidders are also requested to indicate the ready stock of transformers which is also being evaluated and a score granted against. Considering that KPLC has issued new technical specifications and transformers are manufactured specially to meet the utility company's technical specifications, it does not make economic sense for a manufacturer who is not currently trading with KPLC to keep stock of ready transformers that meet KPLC's technical specification for speculation purposes. This criteria to consider ready stock does not seem right and it will be unfair to manufacturers who are supplying other jurisdictions that do not follow current KPLC technical specifications.. i.e. the manufacturer may have stock of transformers but does it meet the latest KPLC specification. It would not make sense to stock transformers meeting KPLC specifications without an existing contract with KPLC, unless one had prior knowledge of the latest technical specifications. Kindly remove the requirement for ready stocks from the table.</p>	Refer to no 6 above
8	<p>Manufacturers are required to state the minimum number of continents they have exported to. The latest technical specification requires the manufacturer to have supplied to at least 3 of the listed continents. This limitation will unfairly lock out capable manufacturers who are based in Africa and their main market is the local market within their country of origin and exports to other countries solely within Africa and not outside Africa. It will unfairly favor old established overseas manufacturers who have developed muscle over time to export to other continents and lock out African competition. Please consider a review of this requirement and drop it.</p>	<p>Manufacturer experience will be evaluated based on SECTION III - Evaluation And Qualification Criteria -</p>
9	<p>Delivery Terms in view of meeting the 40% local content - Where a foreign manufacturer provides evidence in support of 40% local content, will the delivery terms be DDP or DAP considering that there is value addition in doing the local content which will attract some duties and taxes (like VAT). For such a case where the foreign based manufacturer proves they will meet the 40% through their wholly owned Kenyan registered subsidiary, we request that the tender document be amended to allow the wholly owned Kenyan registered subsidiaries</p>	<p>DAP is only applicable to foreign bidders who are not registered in Kenya or are not in JV partnership with local manufacturers. Any foreign manufacturer with locally registered office will not be subject to DAP terms.</p>

	<p>of the foreign manufacturer to handle the local duty requirements and to deliver to/invoice KPLC under DDP terms on behalf of their mother company (the foreign manufacturer). Or KPLC can accept a written confirmation from the foreign manufacturer that all invoicing and local content logistics will be handled by their wholly owned local subsidiary who would also deliver to KPLC and invoice under DDP terms and handle all the local tax/duty related matters. We hope this would be acceptable</p>	
<p>10</p>	<p>Type test report requirement for pole mounted single phase transformers - The technical specifications specify that a type test report of a transformer in the range of 5kVA - 50kVA transformer as representative of the pole mounted single phase transformer. We request that you allow a type test report of a transformer in the range of 5kVA - 315kVA transformer as representative of the pole mounted single phase transformer.</p> <p>Higher rating type test covers for every lower rating of transformer. That means, a 315kVA 33/0.420kV type test covers for all ratings of 315kVA both 33kV and 11 kV.</p>	<p>Comply with Requirements of respective Tender Specifications.</p> <p>Note 1 of Appendix A.2 of Specification KP1/13D/13/TSP/10/001-01 - Pole Mounted Single Phase Oil Type Distribution Transformer is amended to read:</p> <p>Type Test Reports for a transformer of identical or higher voltage and identical or higher KVA rating and within the range of 11/0.242kV – 36/0.242kV or 11/0.420kV – 36/0.420kV and 5KVA – 50KVA shall be accepted as representative for any of the pole mounted single-phase distribution transformer on tender. The type test reports shall be for a transformer of the same core design and construction as the transformer being offered.</p> <p>Note 1 of Appendix A.2 of Specification KP1/13D/13/TSP/10/001-02 Pole Mounted Three Phase Oil Type Distribution Transformer reads:</p> <p>Type Test Reports for a transformer of identical or higher voltage and identical or higher KVA rating and within the range of 11/0.420kV – 36/0.420kV and 50KVA – 500KVA shall be accepted as representative for any of the pole mounted three phase distribution transformer on tender. The type test reports shall be for a transformer of the same core design and construction as the transformer being offered.</p> <p>Note 1 of Appendix A.2 of Specification KP1/13D/13/TSP/10/001-03 Ground Mounted Three Phase Oil Type Distribution Transformer is amended to read:</p>

		Type Test Reports for a transformer of identical or higher voltage and identical or higher KVA rating and within the range of 11/0.420kV – 36/0.420kV and 630KVA – 1000KVA shall be accepted as representative for any of the ground mounted three phase distribution transformer on tender. The type test reports shall be for a transformer of the same core design and construction as the transformer being offered.
11	Technical Specifications for mineral oil and surge arresters have not been shared. Please share the Technical Specifications for mineral oil and surge arresters.	Technical Specifications shared as below: 1.KP1/6C/4/1/TSP/11/036 -12kV AND 36KV SURGE ARRESTERS – SPECIFICATION Issue 4 Rev0 dated 2021-03-23 2.KP1-3CB-TSP-08-001-Specification for mineral insulating oil (Transformer switchgear oil) Issue 2 Rev 0 dated 2015-07-31
12	Following the late publication of the revised technical specifications for transformers and in order to enable the bidders sufficient time to fully review and understand the new technical specifications and put together substantially responsive bids, we request that you extend the tender closing date by 14 days (2 weeks).	Refer to clause no 3 on extension of closing date.
13	1. ITT 16.2 d - Tenderer shall submit names of previous customers of similar Goods and reference letters or completion certificates confirming completion of orders on schedule by tenderer from KPLC and 1 or at least 4 other previous customers of Transformers.	Comply with the tender requirement as stated in ITT 16.2 d
	ITT 40.2 c Timely Delivery as per delivery schedule and satisfactory performance of at least 50% delivery on previous orders; except where the delays are attributable to KPLC 2.2.5 d - Evaluation of Tenders	Comply with the tender requirement as stated in ITT 3.7.

	<p>2.2.5 d - Evaluation of Tenders Names with full contact as well as physical addresses of previous customers of transformers. One completion certificate issued within the last five years confirming completion of orders on schedule by tenderer from KPLC or from at least/our (4) other previous customers of transformers.</p> <p>There are those new manufacturers that KPLC evaluated previously but due to the stringent conditions set, they have not managed to complete their contract due to factors that cannot be attributed to KPLC neither the manufacturer; First, they were required to produce a prototype which KPLC engineers would then come and test and evaluate and then ship it to a 3rd party laboratory. In as much as this was done, it is worth reporting that it took too long to even get cargo space due to the unavailability of ships. However, due to the global pandemic, the testing laboratories have been operating at below capacity hence there being a long queue waiting for the testing services.</p> <p>As a result of the above, those manufacturers do not meet the condition set and technically are disadvantaged.</p> <p>We suggest there be consideration of those new manufacturers who have been vetted by KPLC and found fit.</p>	<p>Comply with the tender requirement as stated in ITT 16.2 d</p>
<p>14</p>	<p>Margin of preference Pg. 39 item 2.2.5.1 c ii) states; 'For avoidance of doubt a 20% margin will be loaded to the quoted price on non-citizen contractors or entities ...' And Pg 40 item 3.1 states; 'KPLC will grant a margin of preference of 15% (fifteen percent)' Question: Which preference of margin shall apply?</p>	<p>Refer to clause no 4 on</p> <p>CLARIFICATION OF ITT 32.3 – Margin of Preference.</p>
<p>15</p>	<p>From the specification documents, we note that KPLC has requested for copper grade 3 windings only.</p> <p>In as much as this is fine, the condition will greatly affect the price of the transformer being offered. The same specification requirements are and can be achievable using copper grade 2 which is generally used around the world hence it is readily available. Asking for copper grade 3 will require</p>	<p>Comply with Grade 3, super enameled round copper wire as per IEC 60317-0-1 as per tender specifications.</p>

	<p>sourcing it from limited suppliers at a higher premium. Suggestion: Copper grade 2 will still adequately meet KPLC specification requirements hence there is no technical/quality benefit KPLC will get from the use of copper grade 3; only paying more for the same product. Consider the use of copper grade 2.</p>	
16	<p>Pg 37 – Item 4 – Valid Quality Certificates ‘Valid ISO 9001:2015, KEBS SM/DM, or Type Test Reports’ Does the above statement mean that if one has a Type Test Report will necessarily not need to have either a valid ISO certificate or KEBS SM/DM certificate?</p>	<p>Item 4 in form 3.1 is amended to read: Valid ISO 9001:2015, KEBS SM/DM and Type Test Reports’</p>
17	<p>Pg 37 – Item 5 ‘Minimum 10 years or Submit at least one completion certificate from KPLC’ This clause clearly blocks and discriminates any new manufacturer because the chance to ever start and meet that condition is removed. Unless KPLC gives an opportunity to the new manufacturers, they will never get the chance to ever get a completion certificate and hence meet the set conditions. In retrospect, how did KPLC ever apply this same condition to the suppliers who already are supplying them? There was a time those supplier were new manufacturers. Can the approval issued to new manufacturers by KPLC after the assessment of their prototype be considered in place of completion certificate? (Kindly refer to NTM’s clarification request no. 1 for further explanation on this issue) In the past tenders, KPLC had clearly set out a category for new manufacturers which gave them an opportunity to supply KPLC. This has clearly been removed and hence discriminates against new local manufacturers against the government big four agenda; Manufacturing – ‘Buy Kenya Build Kenya’.</p>	<p>Comply with tender requirements</p>

<p>Have a mix of rating in each lot. It is to the benefit of KPLC to have a mix of ratings in each lot. Currently, if one manufacturer delays for one reason or another, KPLC will be greatly affected because they will entirely not have the particular rating. If there was mix of rating in a lot, even if one manufacturer is delayed for one reason or another, KPLC will still receive the rating from other manufacturers and hence KPLC roll out work plan will not be affected. Also, receiving same rating from different manufacturers gives KPLC an opportunity to experience and compare quality from different manufacturers.</p>	<p>Comply with tender requirements</p>
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3. EXTENSION OF TENDER CLOSING DATE

The tender closing date has been extended from 19th April 2022 to 26th April 2022 at 10.00am.

All other terms and condition remain the same.

Yours faithfully,

FOR: THE KENYA POWER & LIGHTING COMPANY PLC



ASHENE ESHITUBI
AG. GENERAL MANAGER SUPPLY CHAIN & LOGISTICS.